

REPORT TO THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

INTERIM REPORT ON
HAWAII-GROWN COFFEE LABELING AND INSPECTION, AND
ECONOMIC IMPACT OF POTENTIAL CHANGES TO MINIMUM CONTENT
REQUIREMENTS

In response to Senate Concurrent Resolution (SCR) 102, SLH 2007

Prepared by:

THE STATE OF HAWAII
DEPARTMENT OF AGRICULTURE

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Background

In 2007, the Hawaii State Legislature requested through SCR 102 that the Hawaii Department of Agriculture (HDOA) study labeling requirements relating to the use of Hawaii-grown coffee names and study the effectiveness of the Hawaii Administrative Rules relating to inspection, certification, and audit requirements for Hawaii-grown coffee. No funding was appropriated for this study.

SCR 102 also requested HDOA to conduct an economic analysis of the probable impact upon the Kona coffee industry, and each segment of the coffee industry in other parts of the state, of increasing the minimum content requirement from 10% to 50%.

SCR 102 requests HDOA to submit a written report to the Legislature of its findings and recommendations, including any proposed legislation, no later than 20 days prior to the convening of the 2009 Regular Session.

While not required, this interim report was compiled by HDOA staff in order to provide an overview and preliminary understanding of the issues involved in the coffee industry and their complexity. The economic analysis called for in the concurrent resolution is a major undertaking, and will require a significant level of funding.

Labeling

The Measurement Standards Branch within HDOA's Quality Assurance Division is responsible for the enforcement of Chapter 486, Hawaii Revised Statutes (HRS) pertaining to the labeling of Hawaii-grown coffee. Presently, the statute requires the declaration of the Hawaii geographic origin(s) of the coffee if the package contains **10% or more** by weight of Hawaii-grown coffee, and sold locally in the State. Chapter §486-120.6 does not prohibit or restrict the use of trade names or brand names that contain Hawaii-origin coffee names, e.g. "Kona", if the packages contain ten per cent or more coffee by weight from that geographic origin".

The statute describes how an identity statement must be part of the labeling and must include a declaration of the percentage content of Hawaii-grown coffee, and the font size that is required based on the size of the primary display panel.

In its present form §486-120.6 prohibits the use of a Hawaii "geographic origin in "labeling or advertising, including in conjunction with a coffee style or in any other manner, if the roasted or instant coffee contains **less than 10%** coffee by weight from that geographic origin".

Some members of the coffee industry claim the statute and its labeling requirements cause consumers to become confused because the trade name or brand name found on the primary display panel may include a Hawaii geographic origin name and lead consumers to believe that the coffee package contains, e.g., 100% "Kona" or 100%

“Maui” coffee, not the 10% minimum Hawaii-grown coffee, blended with other coffees, as disclosed in the smaller, less prominently positioned identity statement.

HDOA has conducted a preliminary review of an existing California law that was created to protect the quality and reputation of Napa valley wine. HDOA believes that there may be features of the California law that can be used to amend §486-120.6 to regulate the use of Hawaii geographic origins in both trade and brand names. This amendment could affect trade and brand names that are trademarked, and could apply to registered trademarked trade and brand names bought and sold by Hawaii and non-Hawaii coffee companies alike. HDOA and the various segments of the Hawaii coffee industry will work together through 2008 towards a mutually acceptable resolution of this issue.

Another course of action which HDOA will pursue is to include trade and brand names in §486-1's definition of "label," recognizing that this definition will affect the entire chapter. A thorough review of §486 will need to be completed to determine if there are any potential conflicts with this definition amendment. A formal request will be made to the deputy attorney general assigned to HDOA's Quality Assurance Division to complete this review.

Green Coffee Inspection

Act 345 (SLH 1997) established mandatory certification of all green coffee beans produced in the State and shipped outside the area of their geographic origin to any point within the State or outside the State. However, this requirement does not apply to green coffee distributed within the geographic region of origin, or roasted and distributed within or outside the geographic region of origin.

The Hawaii Department of Agriculture was approached by representatives of the Hawaii Coffee Association (HCA) requesting to amend the Hawaii Administrative Rules to require a stricter mandatory certification of all green coffees produced in the State, with no exceptions. HCA felt that the amendment was necessary because currently green coffee is allowed to be sold or roasted within the region of origin without any verification of minimum quality, and when roasted it is difficult to determine its origin or if it meets the minimum quality requirements. Two joint meetings were held with representatives of the Hawaii Coffee Association (HCC), Kona Coffee Council (KCC), and Kona Coffee Farmers Association (KCFA) to discuss issues pertaining to the proposed mandatory certification program. A major concern was the financial burden for the cost of certification placed on many “vertically integrated” small farmers who harvest, mill, roast and distribute their own coffee. Small farmers believe that mandatory certification would only benefit the large coffee roasters who purchase and sell large volumes of coffee. HDOA is considering a certification program for small farmers which will be discussed in 2008 with the various statewide coffee associations and representatives. Subsequent to the two joint meetings, HDOA staff has attended several HCA meetings and two KCC meetings to continue the discussion about mandatory certification and has made a request to KCFA to speak at their next meeting.

Economic Analysis of Minimum Content Requirements

Increasing the minimum Hawaii-grown content requirement from 10% to 50% for Kona-grown and other Hawaii coffee regions may have a significant economic impact on producers, processors and consumers. In order to understand the full economic impact, funds will be required to design and conduct the study. The study will provide the various association members and independent producers with the information needed to make informed business decisions. The Hawaii Coffee Association was given a quote of \$200,000 by the UH-CTAHR for the economic analysis study.

Future Activities

- A survey will be developed and distributed to individual coffee farmers statewide to help identify any other issues and suggestions on improving the certification process.
- Possible amendments to the Hawaii Administrative Rules being considered are:
 1. Tighten up the language on certification exemption for shipments packed in less than wholesale (10 pounds) quantities;
 2. Require the exact grade be marked on all Hawaii-grown green coffee being offered for sale, or transported within or outside of the geographic region of production.
 3. Repeal parchment coffee grade standards because they are not being utilized by the coffee industry.