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November 17, 2023

**TO:** Advisory Committee on Plants and Animals

**FROM:** Jonathan Ho  
Acting Manager  
Plant Quarantine Branch

**SUBJECT:** Request for Review and Recommendation on the Proposed Changes to Hawaii Administrative Rules, Chapter 4-72, entitled "Plant and Non-Domestic Animal Quarantine Plant Intrastate Rules" to among other things:

- A. Implement Plant Quarantine Interim Rule 23-1, Regarding Quarantine Restrictions on the Coconut Rhinoceros Beetle (CRB) and CRB host materials;
- B. Implement Fees for Inspections and the Processing and Issuance of Permits;
- C. Include Penalties for Non-Compliance; and
- D. Make Other Changes for Clarity or Simplification and Other Non-substantive Changes Correcting Grammar, Punctuation, or Typeface.

A summary of the proposed changes is included below.

## **I. Introduction**

The Hawaii Department of Agriculture (HDOA) Plant Quarantine Branch (PQB) is proposing various amendments to Chapter 4-72, Hawaii Administrative Rules (HAR) primarily to implement Plant Quarantine Interim Rule 23-1 to implement quarantine restrictions on the Coconut Rhinoceros Beetle (CRB) and CRB host materials. The proposed amendments also include implementing inspection fees pursuant to Act 273, SLH 2010; implementing fees for the processing and issuance of permits; inclusion of penalties; and other changes for clarity or simplification and other non-substantive changes correcting grammar, punctuation, or typeface.



## II. Summary of Proposed Changes to 4-72, HAR:

Listed below is a summary of the proposed changes to Chapter 4-72, HAR and the reasons for the proposed amendment.

A copy of the proposed rules detailing the exact changes in Ramseyer format is included as Appendix A. For clarity on Ramseyer format, text that is underlined is a proposed addition and text that is bracketed and ~~strikethrough~~ is a proposed deletion.

1. Chapter 4-72 is amended by adding headings for "Subchapter 1 General Provisions" and "Subchapter 2 Intrastate Restrictions".
2. Amending Section 4-72-1, Objective by clarifying that Chapter 4-72 is implementing Chapter 141, Hawaii Revised Statutes (HRS).
3. Amending Section 4-72-2 Definitions as follows:
  - a. The definition "Board" is corrected.
  - b. The definition of "Chief" is amended for consistency
  - c. The definition "Department" is moved to appear in alphabetical order.
  - d. The definition "Infested" is added.
  - e. The definition "Person" is added.
  - f. The definition "Pest" is added.
  - g. The definition "Restricted area" is corrected.
  - h. The definition "Soil" is added.
  - i. The definition "State " is added.
4. Amending Section 4-72-3 Inspectional requirements. Adds "soil" to items required to be inspected by the Hawaii Department of Agriculture (HDOA) prior to being transported between the islands of the State, unless authorized by section 4-72-4(c). Clarifies that non-propagative plant parts may be inspected, at HDOA's discretion, when being transported between the islands of the State.
5. Amending Section 4-72-4 Prohibited transportations to:
  - a. Clarify that plants, propagative plant parts, and soil not inspected as required by section 4-72-3 may not be transported between islands of the State.
  - b. Add that a commodity that is infested or infected with a pest or that is itself a pest may not be transported between islands of the State unless it has been treated as approved by the chief or the transportation is authorized by the chief.
  - c. Add subsection (c) that the inspectional requirements and prohibitions on transportation do not apply to HDOA moving items for research, testing, or educational purposes or to items moved pursuant to a permit approved by

the chief and issued to an institution approved by the Board, a government agency, or a university for research, testing, or educational purposes.

6. Amending and renumbering Section 4-72-4.5 Designation of infested areas; expansion as section 4-72-10 (see below for proposed changes).
7. Amending and renumbering Section 4-72-8 Restrictions on transport, harboring, rearing, or breeding of pests as Section 4-72-5. Amendments allow the harboring, rearing, or breeding of a pest in the following instances:
  - a. For research, testing, or educational purposes by HDOA, or for a government agency, or a university under safeguards at sites approved by the chief.
  - b. By an institution approved by the Board, pursuant to a permit approved by the chief.
8. Adds new Section 4-72-6, Permit and inspection fees to establish fees as follows:
  - a. The fee for a permit under chapter 4-72 is \$20 per permit for a single shipment within one year and \$100 per permit for unlimited shipments within one year.
  - b. The fee for a site inspection is \$25 per site inspected, plus mileage reimbursement.
9. Adds new Section 4-72-7, Inspection fees to set fees plus mileage reimbursement pursuant to Act 173, SLH 2010 for:
  - a. Inspections and other actions by HDOA carried out beyond regular work hours at \$50.00 per inspection, including applicable charges for overtime, fixed charges, and meals, as appropriate.
  - b. Inspections conducted away from a port or HDOA office at \$50.00 per hour.
10. Adds new Section 4-72-8, Economic loss or damage to clarify that the State is not responsible for economic loss or damages related to actions by HDOA in carrying out Chapter 4-72.
11. Amending and renumbering Section 4-72-4.5 Designation of infested areas; expansion as section 4-72-9 to:
  - a. Make technical amendments regarding press releases and written notices.
  - c. Removes the requirement that the Board's action to expand an infested area occur on the island where a new infestation has occurred, following written notice to industry groups likely to be affected.
12. Adds new Section 4-72-11, Penalties to clarify that violations of Chapter 4-72 are subject to penalties pursuant to Chapters 150A-14 and 141-7, HRS.

13. Adds new Section 4-72-12, Scientific and common names to clarify that if a scientific or common name set out in Chapter 4-72 is changed to a new scientific or common name the reference in the chapter shall be construed to refer to the new name.
14. Adds new Section 4-72-13, Severability to clarify that if a provision of Chapter 4-72 is found to be unconstitutional or invalid, the other provisions of the chapter are not affected.
15. Amending and renumbering Section 4-72-5 Examples of regulated pests as Section 4-72-14. Amendments are proposed to make technical changes, including updating scientific and common names, and to add new examples of regulated pests.
16. Amending and renumbering Section 4-72-6 Restrictions on sugarcane as Section 4-72-15. Amendments are proposed to make technical changes and add that a university or government agency may conduct research on sugarcane, pursuant to a permit.
17. Amending and renumbering Section 4-72-7 Restrictions on soil, sand, and animal manure as Section 4-72-16. Amendments are proposed to make technical changes, delete “artificial” and add “soil-less”, and add that a business or institution approved by the chief, a university, or a government agency is eligible for a permit for diagnostic purposes.
18. Amending and renumbering Section 4-72-9 Restrictions on dasheen and taro as Section 4-72-17. Deletes “corms” from the heading and throughout the section.
19. Amending and renumbering Section 4-72-10 Restrictions on papaya and cucurbit as Section 4-72-18. Amendments make technical changes to scientific and common names.
20. Amending and renumbering Section 4-72-11 Restrictions on banana as Section 4-72-19. Amendments make technical changes for clarity.
21. Amending and renumbering Section 4-72-12 Restrictions on coffee as Section 4-72-20. Amendments make technical changes for clarity and allow coffee plants and plant parts for propagation to be quarantined at a facility approved by the board.
22. Amending and renumbering Section 4-72-13 Quarantine restrictions on ohia and soil from rapid ohia death infested areas as Section 4-72-21. Amendments make technical changes, including updating scientific names.

23. Adds new Section 4-72-22, Quarantine restrictions on Coconut Rhinoceros Beetle (CRB) and host material to make permanent Plant Quarantine Interim Rule 23-1. The proposed Section:
  - a. Defines specific materials that are hosts for the CRB.
  - b. Prohibits the interisland movement of CRB host material except by permit.
  - c. Designates the entire island of Oahu as the CRB infested area.
24. Other changes are proposed throughout Chapter 4-72 for clarity, simplification, or to correct format, grammar, punctuation, and typeface.

**ADVISORY COMMITTEE REVIEW:** May we request your recommendation and comments at the next meeting of the Advisory Committee on Plants and Animals.

Amendment and Compilation of Chapter 4-72  
Hawaii Administrative Rules

Date (month day, year)

1. Chapter 4-72, Hawaii Administrative Rules entitled "Plant and Non-Domestic Animal Quarantine Plant Intrastate Rules, Chapter 72, Hawaii Administrative Rules", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 4 DEPARTMENT OF AGRICULTURE

SUBTITLE 6 DIVISION OF PLANT INDUSTRY

CHAPTER 72

PLANT AND NON-DOMESTIC ANIMAL QUARANTINE

PLANT INTRASTATE RULES

Subchapter 1 General Provisions

- §4-72-1 Objective
- §4-72-2 Definitions
- §4-72-3 Inspectional requirements
- §4-72-4 Prohibited transportations
- ~~§4-72-4.5 Designation of infested areas; expansion]~~
- §4-72-5 Restrictions on transport, harboring, rearing, or breeding of pests
- §4-72-6 User permit and site inspection fees
- §4-72-7 Inspection fees
- §4-72-8 Economic loss or damages
- §4-72-9 Designation of infested areas; expansion

|                 |                                    |
|-----------------|------------------------------------|
| <u>§4-72-10</u> | <u>Penalties</u>                   |
| <u>§4-72-11</u> | <u>Scientific and common names</u> |
| <u>§4-72-12</u> | <u>Severability</u>                |
| <u>§4-72-13</u> | <u>(Reserved)</u>                  |

### Subchapter 2 Intrastate Restrictions

|                                 |   |
|---------------------------------|---|
| §4-72- <del>[5]</del> 14        | Examples of regulated pests   |
| §4-72- <del>[6]</del> 15        | Restrictions on sugar[-]cane  |
| §4-72- <del>[7]</del> 16        | Restrictions on soil, sand, and animal manure                                   |
| <del>[§4-72-8]</del>            | <del>Restrictions on transport, harboring, rearing, or breeding of pests]</del> |
| §4-72- <del>[9]</del> 17        | Restrictions on dasheen and taro[ <del>-corms</del> ]                           |
| §4-72-1 <del>[0]</del> 8        | Restrictions on papaya and cucurbit   |
| §4-72- <del>[1]</del> 19        | Restrictions on banana  |
| §4-72- <del>[1]</del> 20        | Restrictions on coffee  |
| §4-72- <u>21</u> <del>[3]</del> | Quarantine restrictions on ohia and soil from rapid ohia death infested areas   |
| <u>§4-72-22</u>                 | <u>Quarantine restrictions on coconut rhinoceros beetle and host material</u>   |

Historical note: Chapter 72 of Title 4 is based substantially upon Regulation 4 ~~[E]~~entitled "Concerning Transportation of Plant or Parts of Same, Plant Materials and Plant Products Between the Hawaiian Islands," of the Division of Entomology, Board of Commissioners of Agriculture and Forestry [Eff 12/12/41 as Reg 14; ren Reg 4 8/30/47; R 7/13/81]; Regulation 4.1 ~~[E]~~entitled "Concerning Transportation of Plants or Parts of Same, Plant Materials or Plant Products from Oahu to Other Islands of the Hawaiian Group," of the Division of Entomology, Board of Commissioners of Agriculture and Forestry [Eff 12/12/41 as §2 of Reg 14; ren Re 4.1 8/30/47; R 7/13/81]; Regulation 4.2 ~~[E]~~entitled "Concerning the Transportation of Soil, Earth or Sand from the Islands of Oahu, Hawaii, Lanai and Kauai to Other Islands of the Hawaiian Group," of the Division of Entomology, Board of Commissioners of Agriculture and Forestry [Eff 12/12/41 as §§4 and 5 of Reg 14; ren

Reg 4.2 8/30/47; R 7/13/81]; Regulation 4.3 [E]entitled "Concerning the Movement of Fern Plants or Parts Thereof Between the Islands of the Hawaiian Group," of the Division of Entomology, Board of Commissioners of Agriculture and Forestry [Eff 12/12/41 as Reg 15; ren Reg 4.3 8/30/47; R 7/13/81]; Regulation 4.4 [E]entitled "Concerning the Giant African Snail (*Achatina Fulica Bowdich*)," of the Division of Plant Industry, Department of Agriculture [Eff 7/1/42 as Reg 18; ren Reg 4.4 8/30/47; am 5/26/64; R 7/13/81]; and Regulation 4.7 [E]entitled "Concerning the Transportation of Cactus or Cactaceous Plants or Parts Thereof from the Island of Hawaii to Other Islands of the Hawaiian Group," of the Division of Entomology, Board of Commissioners of Agriculture and Forestry. [Eff 7/13/81; comp 9/19/91; am 4/13/1998; comp 2/24/12]. (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§ 141-2, 150A-8)

## SUBCHAPTER 1

### GENERAL PROVISIONS

**§4-72-1 Objective.** The objective of this chapter is to implement the requirements of chapters 141 and 150A, Hawaii Revised Statutes, by restricting or prohibiting the interisland and intrainisland transportation of plant pests and their plant or commodity hosts to prevent the spread and establishment of plant pests detrimental to agriculture, horticultural industries and forest lands on uninfested islands and in uninfested localities of the State. [Eff 7/13/81; comp 9/19/91; am 4/13/1998; comp 2/24/12; am and comp ] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

**§4-72-2 Definitions.** As used in this chapter: "Advisory Committee" means the advisory



committee on plants and animals;

"Animal manure" means manure from poultry or livestock;

"Board" means the board of agriculture;

"Department" means department of agriculture;

"Chief" means the chief or manager of the plant quarantine branch;

"Department" means the department of agriculture;

"Infested" means harboring an insect, disease, or pest;

"Infested area" means an island or locality within the State where a specific pest is known to be established; ~~and~~

"Person" means any individual, firm, corporation, association, partnership, or other entity, including a governmental or not-for-profit entity;

"Pest" means any animal, insect, disease agent or other organism in any stage of development that is detrimental or potentially harmful to agriculture, or horticulture, or animal or public health, or natural resources including native biota or has an adverse effect on the environment as determined by the board;

"Restricted area" means an island or locality within the State where a specific pest is not known to be established or where an eradication or control project for a specified pest is being conducted by the ~~[plant pest control branch.]~~ department;

"Soil" means that part of the upper layer of earth in which plants can grow; this material may or may not contain organic matter and includes such planting media as deteriorated peat;

"State" means the State of Hawaii. [Eff 7/13/81; comp 9/19/91; am and comp 2/24/12; am and comp ] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

**§4-72-3 Inspectional requirements.** (a) ~~and~~ Except as provided in section 4-72-4(c), plants, propagative plant parts, and soil shall be inspected prior to being transported between the islands of the

State. A certificate of inspection shall indicate satisfaction of the requirement for inspection.

(b) Cut or harvested flowers, foliage, fruits, vegetable, and other non-propagative plant parts need not be inspected prior to being transported between the islands of the State; provided that these commodities ~~[shall]~~ do not have additional requirements found within this chapter, and may be subject to ~~[periodic random]~~ inspection at either the port of departure or port of entry~~[-]~~, at the discretion of the department. [Eff 7/13/81; comp 9/19/91; am and comp 2/24/12; am and comp ] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

**§4-72-4 Prohibited transportations.** (a) ~~[The]~~ Except as provided in subsection (c), the interisland transportation of ~~[a commodity]~~ plants, propagative plant parts, or soil that is not inspected pursuant to §4-72-3 is prohibited.

(b) A commodity that is infested or infected with a~~[ny]~~ insect, disease, or pest, or that is itself a pest~~[defined in §150A-2, Hawaii Revised Statutes,]~~ shall not be transported between the islands unless it has been subjected to an appropriate treatment~~[-that exterminates the pest]~~, as approved by the chief. Appropriate treatment may include, but is not limited to, pesticide or fumigation treatment. The chief may, however, authorize the transportation of an untreated infested commodity to an island or location where the insect, disease, or pest is known to be established.

~~[(c) Specific commodities shall not be transported pursuant to their respective restrictions in §§ 4-72-6, 4-72-7, 4-72-8, 4-72-9, 4-72-10, 4-72-11, and 4-72-12.]~~

(c) Notwithstanding subsections (a) and (b) and §4-72-3, plants, plant parts, soil, or commodities infested or infected with an insect, disease, or pest may be transported without inspection between islands or between parts or localities of the same island:

- (1) For diagnostics, research, testing, or educational purposes by the department; or  
 (2) Pursuant to a permit approved by the chief and issued to an institution approved by the board, a government agency, or a university for diagnostics, research, testing, or educational purposes at a site inspected and approved by the chief prior to movement.  
 [Eff 7/13/81; am and comp 9/19/91; am and comp 2/24/12; am and comp ] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

~~**§4-72-4.5 Designation of infested areas; expansion.** (a) The area of infestation as designated by rule, including interim rule, may be expanded by the board to reflect the spread of a specific pest infestation in order to implement quarantine measures to prevent movement of the pest and its plant or commodity hosts from the expanded area of infestation to restricted areas, provided that:~~

- ~~(1) The board first obtains advice from qualified persons with relevant expertise, but need not obtain advisory committee review;~~  
~~(2) The board designates the expanded infested area, identifying the revised geographical extent of the infestation;~~  
~~(3) The board's action occurs at a meeting on the island where the new infestation has occurred, following written notice of the proposed board designation to industry groups likely to be affected;~~  
~~(4) The department issues a press release and written notice of the designation of expansion of the infested area to affected industry groups prior to the effective date of designation of expanded infested area; and~~  
~~(5) Notice of the board's action, including its effective date, is posted by the following day on the department's website and is given~~

~~in a daily or weekly publication of statewide circulation or in separate daily or weekly publications whose combined circulation is statewide within twelve days of the board's action.~~

~~(b) The board's designation of an expanded infested area shall be effective the day following the board's action, unless a later effective date is specified by the board's action. [Eff and comp 2/24/12] (Auth: HRS §§141-2, 150A-9, 150A-9.5) (Imp: HRS §§141-2, 150A-8)]~~

**§4-72-5 Restrictions on transport, harboring, rearing, or breeding of pests.** (a) The transport, harboring, rearing, or breeding of any pest is prohibited except:

- (1) For diagnostics, research, testing, or educational purposes by the department;
- (2) Pursuant to a permit approved by the chief and issued to an institution approved by the board; or
- (3) By a government agency, or a university for diagnostics, research, testing, or educational purposes at a site inspected and approved by the chief prior to movement.  
[Eff 7/13/81; comp 9/19/91; am and comp 2/24/12; am and ren §4-72-6; and comp ] (Auth: HRS §§141-2, 150A-9, 150A-53)  
(Imp: HRS §§141-2, 150A-8, 150A-53)

**§4-72-6 User permit and site inspection fees.**

(a) A fee for the processing of an application and issuance of a permit under this chapter is as follows:

- (1) \$20 per permit for a single shipment within one year from the date of issuance;
- (2) \$100 per permit for unlimited shipments within one year from the date of issuance;  
and

(3) All applicable fees shall be paid in full at the time of request and are non-refundable except as approved by the chief.

(b) In addition to the requirements of subsection (a), a fee for a site inspection as required by this chapter or by permit conditions shall be \$25 per site inspection, plus mileage reimbursement. [Eff and comp ] (Auth: HRS §§141-2, 150A-7.5, 150A-7.6, 150A-9) (Imp: HRS §§141-2, 150A-9)

**§4-72-7 Inspection fees.** (a) Fees for inspections pursuant to this chapter are as follows:

(1) A fee of \$50 for any inspection, safeguarding, witnessing treatment, or certification requiring the services of personnel beyond regular work hours, including applicable charges for overtime wages, fixed charges for personnel services, and meals as appropriate;

(2) A fee of \$50 per hour for any inspection conducted away from the port or department office during regular work hours pursuant to requirements for certification, interisland or intraisland movement, or disposition other than release at a port of arrival, such as witnessing departure, destruction, or treatment.

(b) In addition to any fee required by subsection (a), all inspections shall include mileage reimbursement.

(c) The person receiving the inspection shall be responsible for all costs, charges, treatment, destruction, or expenses incident to the inspection of the material, as appropriate. [Eff and comp ] (Auth: HRS §§141-2, 150A-7.5, 150A-9) (Imp: HRS §§141-2, 150A-9)

**§4-72-8 Economic loss or damages.** The State shall not be responsible for any economic loss or damages related to any actions by the department pursuant to this chapter. Actions include treatment, quarantine, or destruction of any item. [Eff and comp ] (Auth: HRS §§141-2, 141-3, 141-5, 150A-9) (Imp: HRS §§141-2, 141-3, 141-5, 150A-8)

**§4-72-9 Designation of infested areas; expansion.** (a) If the infested area of a pest is designated by rule, including interim rule, that area may be expanded by the board to reflect the spread of a specific pest infestation in order to implement quarantine measures to prevent movement of the pest and its plant or commodity hosts from the infested area to restricted areas, provided that:

- (1) The board first obtains advice from qualified persons with relevant expertise, but need not obtain advisory committee review;
- (2) The board designates the expanded infested area, identifying the revised geographical extent of the infestation;
- (3) The department issues a press release describing the expansion of the infested area prior to the effective date of designation of the expanded infested area; and
- (4) Notice of the board's action, including its effective date, is posted by the following day on the department's website and is given in a daily or weekly publication of statewide circulation or in separate daily or weekly publications whose combined circulation is statewide, within twelve days of the board's action.

(b) The board's designation of an expanded infested area shall be effective the day following the board's action, unless a later effective date is specified by the board's action. [Eff and comp

2/24/12; am and ren §4-72-10; and comp \_\_\_\_\_ ]  
(Auth: HRS §§141-2, 150A-9, 150A-9.5) (Imp: HRS  
§§141-2, 150A-8)

**§4-72-10 Penalties.** Any person who violates any provision or requirement of this chapter or of any notice given pursuant thereto, shall be subject to the penalties provided for under section 150A-14, HRS, if appropriate. [Eff and comp \_\_\_\_\_ ] (Auth: HRS §§141-7, 150A-9, 150A-14) (Imp: HRS §§141-7, 150A-14)

**§4-72-11 Scientific and common names.** If the scientific name or common name of a taxon referred to in this chapter is changed to a new scientific name or common name accepted by the International Code of Zoological Nomenclature (ICZN) or the International Plant Names Index (IPNI) the reference in this chapter shall be construed to refer to the new scientific name or common name, as appropriate. [Eff and comp \_\_\_\_\_ ] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-9)

**§4-72-12 Severability.** If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality and validity of the remainder of this chapter and applicability thereof to other persons and circumstances shall not be affected. [Eff and comp \_\_\_\_\_ ] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-9)

**§4-72-13 Reserved.**

SUBCHAPTER 2INTRASTATE RESTRICTIONS**§4-72-[5]14 Examples of regulated pests.**

Examples of [~~pests for the purposes of §4-72-4 shall~~] taxa that are pests include, but are not [~~be~~] limited to the following:

- (1) Oriental beetle - [~~Anomala orientalis~~] Anomala orientalis (Waterhouse), a serious insect pest of sugarcane;
- (2) Fern weevil - [~~Syagrius fulvitarisis~~] Syagrius fulvitarisis Pascoe, an insect pest injurious to fern plants;
- (3) Giant African snail - [~~Achatina fulica~~] Lissachatina fulica (Bowdich), a serious pest of horticultural and vegetable crops;
- (4) Cactus mealybug - [~~Dactylopius opuntiae~~] Dactylopius opuntiae (Cockerell) and other insects feeding on [~~opuntia spp.~~ ~~of~~] Opuntia species of cactus, pests injurious to cactus utilized for forage or ornamental purposes;
- (5) Hunting billbug - [~~Sphenophorus venatus vestitus~~] Sphenophorus venatus vestitus Chittenden, a serious insect pest of turf and range grasses;
- (6) Coconut scale - [~~Aspidiotus destructor~~] Aspidiotus destructor Signoret, a serious insect pest of palms, bananas, and more than 400 more plants;
- (7) Sugarcane smut - [~~Ustilago Scitaminea~~] Ustilago scitaminea Syd., a serious fungus disease of sugarcane;
- (8) Papaya [~~mosaic~~] ringspot virus, a serious virus disease of papaya;
- (9) Orange spiny whitefly - [~~Aleurocanthus spiniferus~~] Aleurocanthus spiniferus



- (Quaintance), a serious insect pest of rose and citrus;
- (10) Bristly rose slug - [~~Cladius differmis~~] Cladius difformis (Panzar), a pest injurious to the rose plant;
- (11) Croton whitefly - [~~Orchamplatus mammaeferus~~] Orchamoplatus mammaeferus (Quaintance and Baker), a serious insect pest of croton and citrus;
- (12) Anthurium whitefly - [~~Aleurotulus~~] Aleurotulus [~~sp.~~] anthuricola Nakahara, a serious insect pest of anthurium;
- (13) An anthurium whitefly - [~~Crenidorsum~~] Crenidorsum [~~sp.~~] aroidephagus Martin & Aguiar, a serious insect pest of anthurium, philodendron, and monstera;
- (14) Eurasian pine aphid - [~~Pineus pini~~] Pineus pini [Koch] (Macquart), a serious insect pest of pine;
- (15) Fiery skipper - [~~Hylephila phyleus~~] Hylephila phyleus (Drury), a serious pest of turf and pasture grasses and ornamental sedges;
- (16) Taro root aphid - [~~Pemphigus~~] Pemphigus [~~sp.~~] populitransversus Riley, a serious pest of dryland taro; [and]
- (17) Eucalyptus canker - [~~Cryphonectria cubensis~~] Chrysoporthe cubensis (Bruner) Gryzenh. & M.J. Wingf. [Hedges], a serious disease of [~~Eucalyptus~~] Eucalyptus [~~sp.~~] species;
- (18) Any taxa designated as a pest for control or eradication pursuant to chapter 4-69A, including any taxa designated as a noxious weed pursuant to chapter 4-68. [Eff 7/13/81; am and comp 9/19/91; comp 2/24/12; am and ren §4-72-15; and comp ] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

**§4-72-~~[6]~~15 Restrictions on sugarcane.** (a)

Transportation of sugarcane plants and parts thereof including leaves, roots, and cuttings which are hosts of the oriental beetle and sugarcane smut disease shall be prohibited from an infested area to a restricted area for the oriental beetle and sugarcane smut disease except by permit pursuant to subsection (b).

(b) A permit may be issued by the chief to the [~~Hawaiian Sugar Planters' Association (HSPA)~~] Hawaii Agricultural Research Center (HARC) and to persons conducting research under the auspices of the [~~HSPA~~] HARC or a university or government agency for the transportation of a limited quantity of sugarcane plants and parts from an infested area to a restricted area for the oriental beetle or sugarcane smut disease. [Eff 7/13/81; comp 9/19/91; comp 2/24/12; am and ren §4-72-16; and comp ]  
(Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

**§4-72-~~[7]~~16 Restrictions on soil, sand, and animal manure.** (a) Transportation of the following is prohibited from an infested island to a restricted island for the oriental beetle~~[-]~~:

- (1) Soil, sand contaminated with visible amounts of soil, and animal manure in bulk shipment or in individual containers except by permit issued pursuant to subsection (b); and
- (2) A plant in soil, sand, or [~~artificial~~] soil-less planting media except~~[-]~~:
  - (A) A plant from a certified nursery;
  - (B) A plant from a commercial nursery located 1/4 mile or further from a field planted in sugarcane;
  - (C) A plant that has been verified by an inspector as grown in a locality 1/4

mile or further from a field planted in sugarcane;

- (D) A plant that has been treated with an appropriate soil pesticide;
- (E) A plant that has been bare-rooted; or
- (F) ~~[Orchid p]~~Plants in cinders, hapuu or other ~~[artificial]~~soil-less planting media.

(b) Permits required pursuant to subsection (a)(1) shall be issued by the chief under ~~[either one of]~~ the following circumstances:

- (1) Fresh or composted animal manure that has not supported any plant growth from an area located 1/4 mile or further from any field planted in sugarcane; ~~[or]~~
- (2) Animal manure, soil, and sand contaminated with soil that has been fumigated, ~~[or]~~ treated with an appropriate pesticide[-], or subjected to a treatment, as approved and witnessed by the chief; or
- (3) For diagnostic purposes by a business or institution approved by the chief, a university, or government agency. [Eff 7/13/81; comp 9/19/91; comp 2/24/12; am and ren §4-72-17; and comp ]  
(Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

~~**§4-72-8 Restrictions on transport, harboring, rearing, or breeding of pests.**~~ (a) ~~The transport, harboring, rearing, or breeding of any pest defined in §150A-2, Hawaii Revised Statutes is prohibited except under safeguards in an area infested by the pest involved for research, testing, or educational purposes by:~~

- ~~(1) The plant pest control branch;~~
- ~~(2) An agency, school, or university via permit issued by the chief. [Eff 7/13/81, comp 9/19/91, am and comp 2/24/12] (Auth: HRS~~

~~§§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)]~~

**§4-72-[9]17 Restrictions on dasheen and taro** ~~[eorms]~~. Transportation of dasheen and taro ~~[eorms]~~ are prohibited from an infested island to a restricted island for taro root aphid except:

- (1) Taro ~~[eorms]~~ consigned to a poi factory or other food processing plant;
- (2) Dasheen and taro ~~[eorms]~~ consigned to produce wholesalers, supermarkets, retail food stores, and restaurants;
- (3) Taro ~~[eorms]~~ verified as wetland taro; and
- (4) Taro consigned to individuals for food preparation with the corm's "huli" removed. [Eff 7/13/81; comp 9/19/91; comp 2/24/12; am and ren §4-72-18 and comp ]  
(Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

**4-72-1[0]8 Restrictions on papaya and cucurbit.** Transportation of papaya, *Carica papaya*, and cucurbit (plants in the family ~~[cucurbitaceae]~~ Cucurbitaceae) plants and plant parts except seed and fruit are prohibited from an infested area to a restricted area for papaya ~~[mosaic]~~ ringspot virus disease. [Eff 7/13/81; comp 9/19/91; comp 2/24/12; am and ren §4-72-19; and comp ] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

**§4-72-[11]19 Restrictions on banana.** (a) Transportation of banana plants and plant parts except fruits is prohibited from the island of Oahu and from the North Kona and South Kona Districts on the island of Hawaii, which are banana bunchy top virus infested areas, or from a *Fusarium* tropical race 4 infested area, to other islands and localities within the State except by permit pursuant to subsection (b).

(b) A permit to allow transportation of banana plants and plant parts from an infested area may be issued by the chief subject to permit conditions established by the board to prevent the movement of banana bunchy top virus from banana bunchy top virus infested areas. The chief may, without submitting a permit application to the board, approve the issuance of a permit with conditions previously mandated by the board upon the chief's determination that, for the proposed transport, the previously established conditions are adequate to preserve the quarantine. [Eff 7/13/81; comp 9/19/91; am 4/13/98; am and comp 2/24/12; ren §4-72-20; and comp ] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

**§4-72-[1]20 Restrictions on coffee.** (a)

Transportation of coffee plants and parts thereof, including unroasted seeds (green coffee beans), used coffee bags, and coffee harvesting equipment, including baskets, sacks, or containers, is prohibited from a coffee berry borer infested area to a coffee berry borer restricted area except by permit pursuant to subsection (b).

(b) A permit may be issued by the chief for the transportation of a commodity or item listed in subsection (a), with conditions established by the chief appropriate for each of the following circumstances:

- (1) Coffee plants and plant parts for propagation when subject to treatment with an approved pesticide, and grown and monitored in quarantine for a period of not less than one year at a [§]State facility;
- (2) Coffee plants and plant parts that have been shipped using safeguards approved by the chief to an approved facility for research purposes;

- (3) Roasting of green coffee beans that have been subjected to treatments approved by the chief;
- (4) Roasting of untreated green coffee beans that have been shipped using safeguards approved by the chief to an approved facility that is located at least 5 miles away from a commercial coffee growing area;
- (5) Used coffee bags that have been subjected to treatments approved by the chief; or
- (6) Coffee harvesting equipment that has been subjected to treatments approved by the chief.

(c) The chief is authorized to approve treatments and mitigative measures as they are scientifically validated and may revise permit conditions accordingly, as necessary to prevent movement of the coffee berry borer from the infested area and to preserve the quarantine. Organic treatment methods are available, as approved by the chief.

(d) Coffee plants, plant parts, green coffee beans, and used coffee bags for export are not subject to quarantine restrictions, provided that they are exported directly from the coffee berry borer infested area and are not transshipped through a coffee berry borer restricted area in the State. Coffee plants, plant parts, green coffee beans, and used coffee bags for export that move from one infested area to another or that are exported via transshipment through a coffee berry borer restricted area must be double-bagged in thick, transparent, non-permeable plastic bags that are sealed and labeled to identify their contents as being from a specific coffee berry borer infested area, provided that the chief is authorized to revise these required safeguards, as necessary.

(e) The island of Hawaii is designated as a coffee berry borer infested area, notwithstanding ongoing control projects on the island, and other islands in the State are designated as coffee berry borer restricted areas. The designated coffee berry borer infested area may be expanded by board action as provided in §4-72-~~[4.5-]~~9. [Eff and comp 2/24/12; am

and ren §4-72-21; and comp ] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

**§4-72-21[3] Quarantine restrictions on ohia and soil from rapid ohia death infested areas.** (a) The board has determined that the disease called ohia wilt (also known as rapid ohia death) presents a serious danger to ohia (*Metrosideros*), the ohia forests of Hawaii, and horticultural and agricultural industries.

(b) Transportation of soil and ohia (*Metrosideros*, all species in genus) plants, plant parts, including flowers, leaves, seeds, stems, twigs, cuttings, mulch, greenwaste, frass, wood, logs, and posts is prohibited from a rapid ohia death infested area to a rapid ohia death restricted area except as allowed by permit pursuant to subsection (c), or as otherwise provided herein.

(c) A permit may be issued by the chief for the transportation of a material or commodity listed in subsection (b), subject to laboratory analysis or other science-based method approved by the chief, as appropriate, to determine whether the material or commodity is free of [~~the fungus, *Ceratocystis fimbriata*,~~]the causal agents of ohia wilt disease, *Ceratocystis lukuohia* and *C. huliohia*, and subject to appropriate conditions established by the chief.

(d) Material or a commodity listed in subsection (b) that tests positive for *Ceratocystis* [~~*fimbriata*~~] *lukuohia* or *C. huliohia*, other than material or a commodity for research or diagnostic purposes, shall not be shipped from a rapid ohia death infested area to a rapid ohia death restricted area, nor shall any material or commodity in the same lot for shipment be shipped, unless an effective treatment to destroy *Ceratocystis* [~~*fimbriata*~~] *lukuohia* and *C. huliohia* is available, is approved by the chief, and the shipment has been subjected to the approved treatment.

(e) Transportation of a material or commodity listed in subsection (b) for research or diagnostic

purposes moving from a rapid ohia death infested area to a rapid ohia death restricted area of the State, shall be under permit, using safeguards approved by the chief, to ~~[an approved]~~ a facility~~[-]~~ inspected and approved by the chief prior to transport.

(f) Soil, including soil as a planting medium, may be shipped from a rapid ohia death infested area to a rapid ohia death restricted area of the State subject to pre-shipment testing as provided in subsection (c) and, if applicable, subject to treatment as provided in subsection (d). A shipper of soil that is an active participant in the department's intrastate compliance agreement program in which the shipper is required to maintain *Ceratocystis* ~~[fimbriata-free]~~ lukuohia and *C. huliohia*-free status as a condition for soil movement from an infested area is subject to testing as required by the compliance agreement and permit.

(g) Finished ohia wood products, such as wood flooring, furniture, bowls, picture frames, carvings, and jewelry that have been subjected to a treatment approved by the chief do not require a permit for intrastate transportation.

(h) The chief is authorized to approve treatments and mitigative measures as they are scientifically validated and may revise permit conditions accordingly, as necessary to prevent movement of ohia wilt disease from the infested area and to preserve the quarantine.

(i) The island of Hawaii is designated as a rapid ohia death infested area, notwithstanding any ongoing control projects on the island, and other islands in the State are designated as rapid ohia death restricted areas. The designated rapid ohia death infested area may be expanded by board action as provided in §4-72-~~[4.5-]~~9.

(j) The shipper is responsible for all costs, charges, or expenses incident to the inspection or treatment of the soil and ohia material or commodity listed in subsection (b), including charges for overtime wages, fixed charges for personnel services, and meals. [Eff and comp 11/27/16; am and ren §4-72-



22; and comp ] (Auth: HRS §§141-2,  
150A-9) (Imp: HRS §§141-2, 150A-8)

**§4-72-22 Quarantine restrictions on coconut rhinoceros beetle and host material.** (a) The board has determined that the coconut rhinoceros beetle, *Oryctes rhinoceros* (CRB), presents a serious danger to the horticultural and agricultural industries and the forests of Hawaii.

(b) As used in this section:

(1) "CRB host material" means the host material of the CRB; and

(A) Includes:

(i) Decaying or decomposing plant material, such as mulch, trimmings, wood or tree chips, stumps, compost, and CRB host palms;

(ii) Plant propagation media or landscaping materials, such as erosion control socks, which contain decaying or decomposing organic plant material; and

(B) Does not include:

(i) Plant products intended for consumption, such as coconuts, fruits, nuts, edible leaves, leaves used for cooking, and spices;

(ii) Plant products preserved from decay by treatment or intended use, such as lumber, woven hats, dried and painted coconuts, wooden posts, wood carvings, and firewood;

(iii) Seeds for planting,

(iv) Cut flowers and foliage for decoration, such as lei, floral bouquets, or arrangements;

- (v) Live propagative plants, including associated soil-less plant propagation media (except CRB host palms); and
  - (viii) Rock, coral, sand, and gravel.
- (2) "CRB host palms" means all live palm plants in the genera *Cocos*, *Livistona*, *Phoenix*, *Pritchardia*, *Roystonea*, and *Washingtonia* that have trunks not greater than 48 inches in height, measured from the ground to the lowest frond, and does not include unsprouted seeds.
- (c) Transportation of CRB, CRB host material, or CRB host palms is prohibited from a CRB infested area to a CRB restricted area, except as allowed by permit, or as otherwise provided herein.
  - (1) A permit may be issued by the chief to allow transportation of CRB host material or CRB host palms from a CRB infested area to a CRB restricted area, subject to permit conditions, treatments, or other mitigation methods established by chief to prevent the movement of the CRB from an infested area to a restricted area.
  - (2) A permit may be issued by the chief for the transportation of CRB, CRB host material, or CRB host palms for research or diagnostic purposes from a CRB infested area to a CRB restricted area under permit conditions and safeguards approved by the chief, to an approved facility inspected and approved by the chief prior to movement.
- (e) The chief is authorized to approve treatments and mitigation measures as they are scientifically validated and may revise permit conditions accordingly, as necessary to prevent the movement of CRB from a CRB infested area and to preserve the quarantine.
- (f) The island of Oahu is designated as CRB infested area, notwithstanding ongoing control projects on the island, and other islands in the State are designated as CRB restricted areas. The

designated CRB infested area may be expanded by board action as provided in §4-72-9.

[Eff and comp ] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

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

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

4. These amendments to chapter 4-72, 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 Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_, and filed with the Office of the Lieutenant Governor.

\_\_\_\_\_  
Chairperson, Board of  
Agriculture

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General