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October 2, 2023

TO: Advisory Committee on Plants and Animals

FROM: Jonathan Ho
Acting Manager
Plant Quarantine Branch
Hawaii Department of Agriculture

SUBJECT: Request for: (1) A Finding that the Unrestricted Inter-Island Movement of Palm Plants in the Genera *Cocos*, *Livistona*, *Phoenix*, *Pritchardia*, *Roystonea*, and *Washingtonia*; Decomposing Plant Material Such as Compost, Wood or Tree Chips, and Mulch, Plant Propagation Media; and Other Items Comprised of Decomposing Organic Plant Material Such as Landscaping Material or Erosion Control Socks, to Prevent the Movement of Coconut Rhinoceros Beetle, *Oryctes rhinoceros*, From the Island of Oahu, Constitutes an Emergency Justifying Issuance of an Interim Rule; and

(2) A Finding that the Issuance of an Interim Rule to Restrict the Inter-Island Movement of Palm Plants in the Genera *Cocos*, *Livistona*, *Phoenix*, *Pritchardia*, *Roystonea*, and *Washingtonia*; Decomposing Plant Material Such as Compost, Wood or Tree Chips, and Mulch, Plant Propagation Media; and Other Items Comprised of Decomposing Organic Plant Material Such as Landscaping Material or Erosion Control Socks, is Required to Prevent the Spread of the Coconut Rhinoceros Beetle, *Oryctes rhinoceros*, From the Island of Oahu to Un-infested Areas Within the State.

I. Introduction

The Hawaii Department of Agriculture (HDOA) Plant Quarantine Branch (PQB) is proposing to issue an interim rule to establish a quarantine to restrict the inter-island movement of palm plants in the genera *Cocos*, *Livistona*, *Phoenix*, *Pritchardia*, *Roystonea*, and *Washingtonia*; decomposing plant material such as compost, wood or tree chips, and mulch; plant propagation media; and other items comprised of

decomposing organic plant material such as landscaping material or erosion control socks, to prevent the spread of the Coconut Rhinoceros Beetle (CRB), *Oryctes rhinoceros*, the Island of Oahu to other islands in the State.

II. Procedural Background

Pursuant to section 150A-9.5, Hawaii Revised Statutes (HRS), the HDOA may establish an interim rule governing the transport of flora and fauna into and within the State. Pursuant to §150A-9.5(b), HRS, an interim rule may be adopted in the event that the importation or movement of any flora or fauna, in the absence of effective rules, creates a situation dangerous to public health and safety or to the ecological health of flora or fauna present in the State which is so immediate in nature as to constitute an emergency. No interim rule can be adopted without a prerequisite finding by the Advisory Committee on Plants and Animals that the foregoing criteria stated in §150A-9.5(b), HRS, is met. No interim rule shall not be effective for more than one year.

Once adopted by HDOA, any interim rule must be published within twelve days of issuance at least once in any newspaper of general circulation in the State.

III. Authority

Chapter 4-72, Hawaii Administrative Rules (HAR), the HDOA's Plant and Non-Domestic Animal Quarantine, Plant Intrastate Rules, regulates the intrastate movement of plants, generally. Section 4-72-3, HAR, requires inspection of propagative plants and plant parts prior to being transported between islands of the State. Section 4-72-4, HAR, prohibits interisland movement of commodities infested with a pest unless treated with a pesticide that exterminates the pest. An interim rule provides the means for quarantine and safeguard measures to restrict or prohibit the movement of pests and their plant or commodity hosts to prevent the spread and establishment of pests that are detrimental to agriculture, horticultural industries, and forest lands on uninfested islands and in uninfested localities of the State.

IV. Proposed Interim Rule

The proposed interim rule establishes a quarantine to restrict the inter-island movement of palm plants in the genera *Cocos*, *Livistona*, *Phoenix*, *Pritchardia*, *Roystonea*, and *Washingtonia*; decomposing plant material such as compost, wood or tree chips, and mulch; plant propagation media; and other items comprised of decomposing organic plant material such as landscaping material or erosion control socks, to prevent the spread of CRB, from the Island of Oahu to prevent the spread of CRB to other islands in

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the State. There is an exponential increase in the interisland movement of the proposed regulated materials due to the recent wildfires on Maui and Hawaii Island for soil and land restoration, in addition to the continued drought conditions affecting the State. The issuance of this interim rule is necessary to prevent the further spread and establishment of CRB, *O. rhinoceros*.

Please see Appendix A for a copy of the proposed interim rule.

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

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APPENDIX A
SHARON HURD
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HAWAII DEPARTMENT OF AGRICULTURE

PLANT QUARANTINE INTERIM RULE 23-1

Prohibits the Inter-Island Movement of Palm Plants in the Genera *Cocos*, *Livistona*, *Phoenix*, *Pritchardia*, *Roystonea*, and *Washingtonia*; Decomposing Plant Material Such as Compost, Wood or Tree Chips, and Mulch, Plant Propagation Media; and Other Items Comprised of Decomposing Organic Plant Material Such as Landscaping Material or Erosion Control Socks, to Prevent the Movement of Coconut Rhinoceros Beetle, *Oryctes rhinoceros*, From the Island of Oahu, Except by Permit Issued by the Hawaii Department of Agriculture

Under authorization granted in Section 150A-9.5, Hawaii Revised Statutes (HRS), the Hawaii Department of Agriculture (Department) hereby establishes this interim rule to impose a quarantine on the movement of palm plants in the genera *Cocos*, *Livistona*, *Phoenix*, *Pritchardia*, *Roystonea*, and *Washingtonia*; decomposing plant material such as compost, wood or tree chips, and mulch; plant propagation media; and other items comprised of decomposing organic plant material such as landscaping material or erosion control socks, from the Island of Oahu, except by permit issued by the Hawaii Department of Agriculture, to prevent the spread of the coconut rhinoceros beetle, *Oryctes rhinoceros*, from the Island of Oahu to other areas in the State.

The interim rule is needed to prevent the further spread of the coconut rhinoceros beetle from Oahu to the rest of the State due to the transportation of large quantities of palm plants in the genera *Cocos*, *Livistona*, *Phoenix*, *Pritchardia*, *Roystonea*, and



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Washingtonia; decomposing plant material such as compost, wood or tree chips, and mulch; plant propagation media; and other items comprised of decomposing organic plant material such as landscaping material or erosion control socks, to restore land and soil due the wildfires on Maui and Hawaii Island, along with the continued heightened drought conditions plaguing the State of Hawaii.

The inter-island movement or transportation of palm plants in the genera *Cocos*, *Livistona*, *Phoenix*, *Pritchardia*, *Roystonea*, and *Washingtonia*; decomposing plant material such as compost, wood or tree chips and mulch; plant propagation media; and other items comprised of decomposing organic plant material such as landscaping material or erosion control socks, from the Island of Oahu to another island in the State is prohibited, except by permit issued by the Department. Only 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 soil-line to the lowest frond, are eligible for permits issued by the Department.

All inter-island movement or transportation of 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 soil-line to the lowest frond; decomposing plant material such as compost, wood or tree chips and mulch; plant propagation media; and other items comprised of decomposing organic plant material such as landscaping material or erosion control socks, from the Island of Oahu to any other Island in the State, is subject to inspection and approved mitigation,

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decontamination, and/or treatment measures prior to movement; as designated by the Department.

This interim rule does not impose additional restrictions on the movement of the following: approved nursery stock material, provided it is shipped directly from an infested area to a destination outside of the State and does not pass-through any part of the State; unsprouted seeds of palm plants in the genera *Cocos*, *Livistona*, *Phoenix*, *Pritchardia*, *Roystonea*, and *Washingtonia*; plant products intended for consumption, such as coconuts, fruits, nuts, edible leaves, leaves used for cooking, and spices; plant products preserved from decay by treatment or intended use, such as lumber, woven hats, wooden posts, wood carvings, and firewood; and cut flowers and foliage for decoration, such as lei, floral bouquets, or arrangements.

Any person who violates this rule shall be guilty of a misdemeanor and fined not less than \$100. The provisions of HRS section 706-640 notwithstanding, the maximum fine shall be \$10,000. For a second offense committed within five years of a prior conviction, the person(s), companies, or organization(s) shall be responsible for clean-up and decontamination fees to remove contaminated material and to fully eradicate any coconut rhinoceros beetle infestations that may have been caused by their violation of not following this Interim Rule. Also, they shall be fined not less than \$500 and not more than \$25,000.

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This interim rule shall become effective on (insert date here) and is valid for no longer than one year from its inception.

Sharon Hurd
Chairperson, Board of Agriculture