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Lt. Governor



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State of Hawai'i  
**DEPARTMENT OF AGRICULTURE**  
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March 11, 2024

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 Intra-Island Movement of Agricultural Commodities, Including But Not Limited to Live Plants, Propagative Plant Parts, Cut Flowers, Fruits, Vegetables, Green Waste, and Plant Propagation Media Within the Island of Oahu, Constitutes an Emergency Justifying Issuance of an Interim Rule to Prevent the Spread of the Little Fire Ant, *Wasmannia auropunctata*; and

(2) A Finding that the Issuance of an Interim Rule to Restrict the Intra-Island Movement of Agricultural Commodities, Including But Not Limited to Live Plants, Propagative Plant Parts, Cut Flowers, Fruits, Vegetables, Green Waste, and Plant Propagation Media on the Island of Oahu, is Required to Prevent the Spread of the Little Fire Ant, *Wasmannia auropunctata* to Un-infested Areas Within the Island of Oahu.

## 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 on-island movement of commodities including, but not limited to live plants, propagative plant parts, cut flowers, fruits, vegetables, green waste, and plant propagation media, infested with little fire ant, *Wasmannia auropunctata* (LFA) to prevent its spread on the Island of Oahu.

## II. Background

LFA are tiny ants, measuring approximately 1/16 of an inch in length; are a uniform pale orange in color; and generally move very slowly and are easily dislodged when disturbed. LFA sting readily when they get under clothing. The stings are painful, resulting in welts and itching that can persist for weeks. LFA stings to animals result in

skin issues and when stung in or near their eyes, permanent cloudiness of the eyes can occur. LFA was first discovered on Hawaii island approximately 25 years ago and has been detected throughout most of the state, with ongoing control projects on Maui, Kauai, and Oahu. Recently, LFA has been found to be spreading on the windward side of Oahu, resulting in the need for an interim rule to restrict the movement of LFA infested materials within Oahu.

### **III. 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. An interim rule cannot be adopted without a 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 at least once in any newspaper of general circulation in the State within twelve days of issuance.

### **IV. Authority**

Section 150A-8, HRS, prohibits the movement of certain flora and fauna unless permitted by the HDOA. Chapter 4-72, Hawaii Administrative Rules (HAR), the HDOA's Plant and Non-Domestic Animal Quarantine, Plant Intrastate Rules, regulates the 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 subjected to a treatment 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.

### **V. Proposed Interim Rule**

The immediate danger caused to agriculture and the public due to the further spread of LFA on Oahu constitutes an emergency justifying the implementation of the proposed

Little Fire Ant Interim Rule  
Advisory Committee on Plants and Animals  
March 11, 2024

interim rule. The proposed interim rule establishes a quarantine to restrict the intra-island movement of commodities and material infested with LFA, including, but not limited to live plants, propagative plant parts, cut flowers, fruits, vegetables, green waste, plant propagation media infested with LFA, from LFA quarantined areas on the Island of Oahu that are designated by the HDOA, to non-quarantined areas on Oahu, to prevent the further spread of LFA on Oahu and subsequently from the island of Oahu to other islands in the State. Thus far, there are limited restrictions specifically tailored to the movement of commodities that are infested with LFA within the Island of Oahu. The issuance of this interim rule is necessary to prevent the further spread and establishment of LFA on Oahu, and subsequently from the island of Oahu to other islands in the State.

Please see Appendix A, attached hereto, 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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HAWAII DEPARTMENT OF AGRICULTURE  
PLANT QUARANTINE INTERIM RULE 24-1

**Prohibits the Intraisland Movement of Agricultural Commodities, Including But Not Limited to Live Plants, Propagative Plant Parts, Cut Flowers, Fruits, Vegetables, Green Waste, and Plant Propagation Media on the Island of Oahu, From any Little Fire Ant Quarantined Area Designated by the Hawaii Department of Agriculture to Non-Quarantined Areas to Prevent the Movement of the Little Fire Ant, *Wasmannia auropunctata*, Unless Subjected to a Treatment Witnessed and Approved 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 intraisland movement of agricultural commodities, including, but not limited to live plants, propagative plant parts, cut flowers, fruits, vegetables, green waste, and plant propagation media, unless subjected to a treatment witnessed and approved by the Department, from a little fire ant (LFA) quarantined area on the island of Oahu, to or through non-quarantined areas on Oahu to prevent the spread of the LFA, *Wasmannia auropunctata*. The Department may designate a LFA quarantined area upon the determination that the area, or the agricultural commodities therein, are infested with LFA. All other areas on the island of Oahu are considered to be non-quarantined areas.



(INSERT DATE)

LFA Interim Rule 24-1

Page 2

The interim rule is needed to prevent the further intransland spread of LFA within the island of Oahu to enable the continued implementation of control and/or eradication projects for LFA.

The intransland movement or transportation of agricultural commodities, including, but not limited to live plants, propagative plant parts, cut flowers, fruits, vegetables, green waste, and plant propagation media from a LFA quarantined area to a non-quarantined area within the island of Oahu is prohibited, except if the agricultural commodities including, but not limited to live plants, propagative plant parts, cut flowers, fruits, vegetables, green waste, and plant propagation media are subjected to a treatment witnessed and approved by the Department.

This interim rule does not impose additional restrictions on the movement of the following: approved nursery stock material originating from a Department certified nursery; unsprouted seeds with no other plant parts attached or planting medium; unrooted plant cuttings with no foliage or planting medium; processed plant products intended for consumption, such as fruits, nuts, edible leaves, leaves used for cooking, and spices, provided the plant products have been subjected to a process such as washing, cutting, drying, or peeling prior to movement and have been stored in such a way to prevent subsequent LFA infestation; and for agricultural products used for research, scientific studies, or other diagnostic purposes, at facilities approved by the Department, provided the containers used for transportation of these agricultural products meet containment measures determined by the Department.

(INSERT DATE)

LFA Interim Rule 24-1

Page 3

Any person who violates this interim rule shall be guilty of a misdemeanor and fined not less than \$100. The provisions of Section 706-640, HRS notwithstanding, the maximum fine shall be \$10,000. For a second offense committed within five years of a prior conviction, the person, company, or organization shall be fined not less than \$500 and not more than \$25,000.

This interim rule shall become effective on (INSERT DATE HERE) and shall be effective for not more than one year from the effective date.

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Sharon Hurd  
Chairperson, Board of Agriculture