

AGENDA
BOARD OF AGRICULTURE MEETING

Date: February 26, 2019
Time: 9:00 a.m.
Location: Plant Quarantine Conference Room
1849 Auiki Street
Honolulu, Hawaii 96819

- I. CALL TO ORDER
- II. APPROVAL OF MINUTES FROM 12/4/18 MEETING
- III. INTRODUCTIONS
- IV. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION
 - A. AGRICULTURAL LOAN DIVISION
 1. Request for Approval of One (1) Direct Operating Loan to 'Ano'Ano Farms, LLC and Max C.K. Bowman, co-borrowers.
 2. Request that One (1) Loan to Clara Confectioners, LLC and Clara J. Char, co-borrowers, be referred to the Attorney General's Office for Disposition and/or Collection
 - B. AGRICULTURAL RESOURCE MANAGEMENT DIVISION
 1. Request for Approval to Add and Withdraw Directors for Hawaiian Sunshine Nursery, Inc.; General Lease No. S-3121, TMK: 1st Div/4-1-024:062 & 063, Lot No. 31, Koolaupoko, Waimanalo, Island of Oahu; and General Lease No. S-4773, TMK: 3rd Div/2-2-056:052, Lot No. 26, Panaewa Agricultural Park, Waiakea, South Hilo, Island of Hawaii
 2. Request for Approval of Use of Temporary Public Access Road Over Leased Property; General Lease No. S-4932, Koba's Nursery Inc., Lessee; TMK: 1st Div/4-1-035:011, Lot 11, Koolaupoko, Waimanalo, Island of Oahu, Hawaii
 - C. PLANT INDUSTRY DIVISION
Pesticides Branch
 1. Request that the Consent Agreement for *In the Matter of CHUAN PRODUCE, INC. and JING CHUAN YAO*, Docket No. 17-PE-025, be Referred to the Attorney General for Collection.
 2. Request for: (1) Acceptance of Hearing Officer's Revised Recommendations following Public Hearings held on November 1, 2018, November 2, 2018, November 5, 2018, November 7, 2018, and November 8, 2018 on the Proposed Amendments to Chapter 4-66, *Hawai'i Administrative Rules*, entitled "Pesticides" and comments received at the December 4, 2018 Board Meeting; and (2) to Schedule a Date for Announcement of the Board's Decision on Adoption of the Proposed Amendments to Chapter 4-66, *Hawai'i Administrative Rules*, (this matter was continued at the December 4, 2018 Board Meeting for further discussion at the February 2019 Board Meeting). Proposed revisions to 4-66-62 and 4-66-64.2, *Hawai'i Administrative Rules* are attached

Plant Quarantine Branch
Invertebrate and Aquatic Biota:

3. Request to: (1) Allow the Importation of Swai, *Pangasius hypophthalmus*, a Fish on the List of Conditionally Approved Animals, by Permit, for Aquaculture Production, by Kohala Mountain Fish Company, LLC.; and (2) Establish Permit Conditions for the Importation of Swai, *Pangasius hypophthalmus*, a Fish on the List of Conditionally Approved Animals, by Permit, for Aquaculture Production, by Kohala Mountain Fish Company, LLC.

4. Request to: (1) Allow the Importation of Pacific Oyster, *Crassostrea gigas*, Kumamoto Oyster, *Crassostrea sikamea*, Eastern Oyster, *Crassostrea virginica*, and Manila Clam, *Tapes semidecussata*, Animals on the List of Conditionally Approved Animals, by Permit, for Aquaculture Production in a Hawaiian Fishpond, by Hui O Kuapa; (2) Establish Permit Conditions for the Importation of Pacific Oyster, *Crassostrea gigas*, Kumamoto Oyster, *Crassostrea sikamea*, Eastern Oyster, *Crassostrea virginica*, and Manila Clam, *Tapes semidecussata*, Animals on the List of Conditionally Approved Animals, by Permit, for Aquaculture Production in a Hawaiian Fishpond, by Hui O Kuapa; (3) Allow the Transfer of Pacific Oyster, *Crassostrea gigas*, Kumamoto Oyster, *Crassostrea sikamea*, Eastern Oyster, *Crassostrea virginica* and Manila Clam, *Tapes semidecussata*, Animals on the List of Conditionally Approved Animals, by Permit, for Aquaculture Production in a Hawaiian Fishpond, by Hui O Kuapa; and (4) Establish Permit Conditions for the Transfer of Pacific Oyster, *Crassostrea gigas*, Kumamoto Oyster, *Crassostrea sikamea*, Eastern Oyster, *Crassostrea virginica* and Manila Clam, *Tapes semidecussata*, Animals on the List of Conditionally Approved Animals, by Permit, for Aquaculture Production in a Hawaiian Fishpond, by Hui O Kuapa.

Land Vertebrate:

5. Request for: (1) Preliminary Approval of Proposed Amendments to Chapter 4-71, Hawaii Administrative Rules (HAR), "Non-Domestic Animal Import Rules," that Include Amendments Changing the List Placement of Water Buffalo, *Bubalis bubalus*, and (2) Authorize the Chairperson to Schedule a Public Hearing and Appoint a Hearing Officer in Connection with the Proposed Amendments to Chapter 4-71, HAR.

(See Attached Summary of Proposed Amendments.)

V. OLD BUSINESS

None

VI. NEW BUSINESS

1. Petition to Add Chapter 4-70A Restricted Plant Rules and List to the Hawaii Administrative Rules, Non-Domestic Animal Quarantine Restricted Plant Rules.

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*The Board may go into Executive Session pursuant to exceptions provided under Section 92-5, Hawaii Revised Statutes (HRS), including to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities, pursuant to Section 92-5(4), HRS.*

*Those persons desiring to submit written testimony may do so via postal mail to the BOA Chairperson's Office at 1428 S. King Street, Honolulu, HI 96814-2512;*

via fax to the BOA Chairperson at (808) 973-9613 or via e-mail to [HDOA.BOARD.TESTIMONY@HAWAII.GOV](mailto:HDOA.BOARD.TESTIMONY@HAWAII.GOV). Please include the word "testimony" and the subject matter following the address line. Those persons desiring to present oral testimony at the BOA meeting are requested to register with staff prior to the convening of the meeting. If possible, submit 14 copies of the written testimony to staff prior to the meeting.

"If you require special assistance or auxiliary aids or services to participate in the public hearing process please contact staff at (808) 973-9550 at least 48 hours prior to the meeting so arrangements can be made."

NOTE: MATERIALS FOR THIS AGENDA WILL BE AVAILABLE FOR REVIEW IN THE BOA CHAIRPERSON'S OFFICE, 1428 S. KING STREET, HONOLULU, HAWAII, ON AND AFTER THURSDAY, 2/21/19.

"HDOA is committed to maintaining an environment free from discrimination, retaliation, or harassment on the basis of race, color, sex, sexual orientation, religion, national origin, age, or disability with respect to any employment, program or activity. Should you feel you have been discriminated against under any HDOA program or activity receiving federal assistance, please contact the HDOA Title VI Coordinator. For information on how to file a complaint, go

to: <http://hdoa.hawaii.gov/blog/main/discriminationcomplaints/>. The HDOA Title VI Coordinator may be reached at 1428 S. King Street, Honolulu, HI 96814, (808) 973-9560 or via email at [hdoa.info@hawaii.gov](mailto:hdoa.info@hawaii.gov).

To request language or accessibility for HDOA programs or public meetings, please contact the Office of the Chairperson, at (808) 973-9560 or email: [hdoa.info@hawaii.gov](mailto:hdoa.info@hawaii.gov). Please allow sufficient time for HDOA to meet accommodation requests."

Attachment to Board of Agriculture Item C-2

2/26/19 Meeting Agenda

Proposed revisions to 4-66-62 and 4-66-64.2,  
*Hawai'i Administrative Rules*

**§4-66-62 Certified pesticide applicator recordkeeping.**

(a) Certified pesticide applicators shall keep records of all ~~[applications of]~~ restricted use ~~[pesticides applied,]~~ pesticide applications at ~~[their]~~ the applicant's principal place of business.

(b) These records must be kept for a period of two years and shall be made available for inspection and copying by the head during reasonable working hours.

(c) Recordkeeping information shall include:

- (1) Brand or common name of pesticide product applied;
- (2) EPA registration number;
- (3) Type of formulation;
- (4) Per cent active ingredient;
- (5) Scientific or common name of target pest;
- (6) Dilution rate;
- (7) Total amount of pesticide used;
- (8) Total area covered;
- (9) Time and date of application;
- (10) Address or geographic location ~~[of treated site]~~, including the tax map key number, of the treated site where the restricted use pesticide(s) was used;
- (11) Name of certified applicator and his or her certification number;
- (12) Crop, commodity, stored product or other site;
- (13) Restricted entry interval and whether posting and oral notification are required; and
- (14) Any other information ~~[that]~~ the head deems ~~[to be]~~ necessary.

~~(c)]~~ (d) Every user of restricted use pesticides shall submit these records to the Department, for departmental use, no later than January 30th of the following year. All restricted use pesticide application records for the preceding calendar year shall be submitted on forms prescribed by the Head. The form shall be designed in such a way that the restricted use pesticide applicator may identify confidential business information, which shall remain confidential unless disclosure is required by law.

~~(c)]~~ (e) Commercial applicators [applying] that apply any pesticide in agricultural operations [must] shall furnish a written record containing the following information to the agricultural employer before [the] any pesticide is applied:

- (1) The specific location and description of the treated area;
- (2) Time and date of application;
- (3) Product name, EPA registration number, and active ingredient(s);
- (4) Restricted entry interval;
- (5) Whether posting and oral notification are required; and
- (6) Any other product-specific requirements on the product labeling concerning protection of workers or other persons during or after application.

(f) Commercial applicators shall retain a copy of the written record furnished to the agricultural employer in compliance with subsection (e). These records must be kept for a period of two years and shall

be made available for inspection and copying by the head during reasonable working hours.

(g) Certified pesticide applicators shall create or verify the existence of records documenting that each non-certified applicator who mixes, loads, transfers, or applies restricted use pesticides has the qualifications required under section 4-66-61(4).

(h) Failure to comply with these recordkeeping requirements may result in certification revocation and subject the certified pesticide applicator to additional penalties as provided by law. [Eff 7/13/81; am and comp 12/16/06; am and comp ] (Auth: HRS §§149A-29, 149A-33, 40 CFR §171.201) (Imp: HRS §§149A-26, 149A-33, 7 CFR §110, 40 CFR §171.201)

**§4-66-64.2 Conditions and limitations on restricted use pesticide application within buffer zones.** (a)

Beginning January 1, 2019, no person shall apply a restricted use pesticide on or within one hundred feet of a school property during normal school hours.

(b) This section shall not apply to whole structure fumigation.

(c) If this section is determined to conflict with any pesticide application information listed on the pesticide label, the more restrictive provision shall apply.

(d) Buffer zones may be determined by tax map key number, or if tax map key number is not an appropriate means of establishing the buffer zone, by property boundaries such as fence lines, landscaping, or other method that is reasonably capable of determining the school's property.

(e) School locations may be identified by readily available public records.

(f) The certified applicator shall be responsible for all violations of chapter 149A, Hawaii Revised Statutes and this rule.

As used in this section:

"Buffer zone" means an area in which no restricted use pesticides may be applied.

"Normal school hours" means Monday through Friday from 7:00 a.m. until 4:00 p.m., excluding days when classes are not in session.

"School" means any public or private preschool, kindergarten, elementary, intermediate, middle, secondary, or high school. [Eff ; comp

] (Auth: HRS §149A-29) (Imp: HRS §149A-28)

Attachment to Board of Agriculture Item C-5  
2/26/19 Meeting Agenda

Summary of Proposed Amendments to Chapter 4-71, Hawaii  
Administrative Rules, Entitled, “Non-Domestic Animal Import Rules,”  
Relating to Import Requirements for Non-Domestic Animals.

The proposed amendments to chapter 4-71, Hawaii Administrative Rules, are summarized below:

1. Section 4-71-2, Definitions: amends the definition of “Non-domestic animal” to include water buffalo, *Bubalus bubalis* to the animals listed as exceptions.
2. Section 4-71-6.5, Permitted introductions: the List of Restricted Animals (Part A) listing “Bovidae (all species in family), would add an exception for water buffalo, *Bubalus bubalis*, and other animals in the family Bovidae that are currently included as exceptions to the definition of “Non-domestic animal in section 4-71-2.

The proposed amendments to Chapter 4-71, HAR, may be viewed online at <http://hdoa.hawaii.gov/meetings-reports/proposedar/> or in person at any of the following Department of Agriculture offices during normal business hours of 7:45 a.m. to 4:30 p.m. through close of business February 26, 2019:

|          |                                                                                                          |                                                                   |
|----------|----------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| Oahu-    | 1428 South King Street, Honolulu<br>or 1849 Auiki Street, Honolulu                                       | Phone: 808-973-9600<br>Phone: 808-832-0566                        |
| Hawaii-  | 16E Lanikaula Street, Hilo<br>or 95 Akahana Street, Room 9, Hilo<br>or 73-302 Kupipi Street, Kailua-Kona | Phone: 808-974-4141<br>Phone: 808-961-9393<br>Phone: 808-326-1077 |
| Kauai-   | 4398A Pua Loke Street, Lihue                                                                             | Phone: 808-274-3071                                               |
| Maui-    | 635 Mua Street, Kahului                                                                                  | Phone: 808-873-3556                                               |
| Molokai- | 801 Puupeehua Ave., Hoolehua<br>Molokai Irrigation Office                                                | Phone: 808-567-6891                                               |