

AGENDA
BOARD OF AGRICULTURE MEETING

Date: October 22, 2024
Time: 9:00 a.m.
Place: In person access - Department of Agriculture
Plant Quarantine Branch
1849 Auiki Street
Honolulu, Hawaii 96819-3100

and

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HDOA.BOARD.TESTIMONY@HAWAII.GOV , via postal mail to the
BOA Chairperson's Office at 1428 S. King Street, Honolulu, HI 96814-2512;
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*State of Hawaii , Department of Agriculture
Plant Quarantine Branch
1849 Auiki Street
Honolulu, Hawaii 96819-3100*

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- I. CALL TO ORDER
- II. APPROVAL OF MINUTES FROM 8/27/24 MEETING
- III. INTRODUCTIONS
- IV. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION
 - A. AGRICULTURAL LOAN DIVISION
 - 1. Request for Approval of One (1) Loan Guaranty to Hawai'i Ulu Producers Cooperative

- B. PLANT INDUSTRY DIVISION

- Plant Quarantine Branch

- 1. Proposed amendments to chapter 4-72, Hawaii Administrative Rules:
 - (1) Request for Extension of Time for Submission of Hearing Officer's Report and Recommendation on Proposed Amendments to Chapter 4-72, Hawaii Administrative Rules (HAR), Entitled "Plant and Non-Domestic Animal Quarantine Plant Intrastate Rules", Including Amendments to Among Other Things: Implement Quarantine Restrictions on the Coconut Rhinoceros Beetle (CRB) and CRB host materials; Implement Fees for Inspections and the Processing and Issuance of Permits; Establish Authority to Prohibit the Movement of Infested Materials Within the State; Include Penalties for Non-compliance; Make Other Changes for Clarity or Simplification and Other Non-substantive Changes Correcting Grammar, Punctuation, or Typeface;
 - (2) Submission of Hearing Officer's Report and Recommendation on Proposed Amendments to chapter 4-72, HAR;
 - (3) Request for Acceptance of Minutes of Public Hearings; and
 - (4) Request for Adoption of Proposed Amendments to chapter 4-72, HAR.

(See attachment 1 for a summary of the specific proposed changes)

- V. OLD BUSINESS
 - None

VI. NEW BUSINESS

1. NON-ACTION ITEM: Invasive Species Action Plan Updates
2. NON-ACTION ITEM: TMK: (1) 4-1-008:054 and 059, lessee New Town & Country Stables, Inc.; and TMK: (3) 9-8-001:009 and 010, (3) 9-8-001:003, 006 and 013, and (3) 9-6-011:002, (3) 9-8-001:011 and 012, lessee Kapapala Ranch, lease transfer updates

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****The Board may go into Executive Session pursuant to exceptions provided under Section 92-5, Hawai'i 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.***

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Hawai'i Department of Agriculture, 1428 S. King Street, Honolulu, Hawaii 96814,
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Listed below is a summary of the specific proposed changes to Chapter 4-72, Hawaii Administrative Rules (HAR).

1. Amending the title of chapter 4-72, HAR by adding "and Pest Host Material". Chapter 4-72, HAR is amended by adding headings for "Subchapter 1 General Provisions" and "Subchapter 2 Intrastate Restrictions".
2. Amending section 4-72-1, HAR, Objective, to clarify that chapter 4-72, HAR is implementing Chapter 141, Hawaii Revised Statutes (HRS) and by deleting "their plant or commodity hosts" and adding "infested or infected pest host material" and references to insects and diseases.
3. Amending section 4-72-2, HAR, Definitions, as follows:
 - a. The definition "Board" is corrected.
 - b. The definition "Department" is moved to appear in alphabetical order.
 - c. The definition "Compliance agreement" is added.
 - d. The definition "Infested" is added.
 - e. The definition "Person" is added.
 - f. The definition "Pest" is added.
 - g. The definition "Pest host material" is added.
 - h. The definition "Restricted area" is corrected.
 - i. The definition "Soil" is added.
 - j. The definition "State " is added.
4. Amending section 4-72-3, HAR, Inspectional requirements. Adds "soil" to items required to be inspected by HDOA prior to being transported between the islands of the State, unless authorized by section 4-72-4(c), HAR. 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, HAR, 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 pest host material that is infested or infected with an insect, disease, or pest, or that is itself a pest may not be transported between or within 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 diagnostics, 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 diagnostics, research, testing, or educational purposes.

6. Amending and renumbering section 4-72-4.5, HAR, Designation of infested areas; expansion as section 4-72-10, HAR (see below for proposed changes).
7. Adds new section 4-72-5, HAR, Restrictions related to pest host material, available to the public which authorizes the chief to:
 - a. Quarantine or prohibit the movement of items that are for sale or otherwise available to the public, institutions, or government agencies, that are infested or infected with an insect, disease, or pest.
 - b. Require treatment of an area where the infested or infected items are stored.
 - c. Determine the disposition of the infested or infected items.
8. Amending and renumbering Section 4-72-8, HAR, Restrictions on transport, harboring, rearing, or breeding of pests as section 4-72-6, HAR. The amendments allow the harboring, rearing, or breeding of a pest in the following instances:
 - a. For diagnostics, research, testing, or educational purposes by HDOA, or for a government agency, or a university at sites approved by the chief.
 - b. By an institution approved by the Board, pursuant to a permit approved by the chief.
9. Adds new section 4-72-7, HAR, Permit and inspection fees, to establish fees as follows:
 - a. The fee for a permit under chapter 4-72, HAR 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.
10. Adds new section 4-72-8, HAR, 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.
11. Adds new section 4-72-9, HAR, 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, HAR.
12. Amending and renumbering section 4-72-4.5, HAR, Designation of infested areas; expansion as section 4-72-10, HAR to:
 - a. Make technical amendments regarding press releases and written notices.
 - b. Delete "its plant or commodity hosts" and add "its pest host material".

- c. Remove 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.
13. Adds new section 4-72-11, HAR, Penalties, to clarify that violations of chapter 4-72, HAR are subject to penalties pursuant to sections 150A-14 and 141-7, HRS.
14. Adds new section 4-72-12, HAR, Scientific and common names, to clarify that if a scientific or common name set out in chapter 4-72, HAR is changed to a new scientific or common name, the reference in the chapter shall be construed to refer to the new name.
15. Adds new section 4-72-13, HAR, 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.
16. Amending and renumbering section 4-72-5, HAR, Examples of regulated pests, as section 4-72-15, HAR. Amendments are proposed to make technical changes, including updating scientific and common names, and to add new examples of regulated pests.
17. Amending and renumbering Section 4-72-6, HAR, Restrictions on sugarcane, as section 4-72-16, HAR. Amendments are proposed to make technical changes and add that a university or government agency may conduct research on sugarcane, pursuant to a permit.
18. Amending and renumbering section 4-72-7, HAR, Restrictions on soil, sand, and animal manure, as section 4-72-17, HAR. Amendments are proposed to make technical changes, delete "artificial" and add "soil-less", and add that an institution approved by the Board, university, or government agency is eligible for a permit for diagnostic purposes.
19. Amending and renumbering section 4-72-9, HAR, Restrictions on dasheen and taro, as section 4-72-18, HAR. Deletes "corms" from the heading and throughout the section.
20. Amending and renumbering section 4-72-10, HAR, Restrictions on papaya and cucurbit as section 4-72-19, HAR. Amendments make technical changes to scientific and common names.
21. Amending and renumbering section 4-72-11, HAR, Restrictions on banana as section 4-72-20, HAR. Amendments include adding restrictions for *Fusarium* tropical race 4 and make technical changes for clarity.
22. Amending and renumbering section 4-72-12, HAR, Restrictions on coffee, as section 4-72-21, HAR. Amendments make technical changes for clarity and allow coffee plants and plant parts for propagation to be quarantined at a facility approved by the chief.

23. Amending and renumbering section 4-72-13, HAR, Quarantine restrictions on ohia and soil from rapid ohia death infested areas, as section 4-72-22, HAR. Amendments make technical changes, including updating scientific names.
24. Adds new section 4-72-23, HAR, Quarantine restrictions on CRB and CRB host material, to codify Plant Quarantine Interim Rule 22-1. The proposed section:
 - a. Designates the entire island of Oahu as the CRB infested area.
 - b. Prohibits a person from: transporting CRB host material from a CRB infested area to a CRB restricted area, or from transporting, receiving, processing, selling, bartering, donating, otherwise giving away, and exporting CRB host material within or from the CRB infested area except by HDOA; by permit for monitoring, control, eradication or scientific purposes approved by the chief; by permit for noncommercial activities subject to an appropriate treatment; pursuant to a compliance agreement issued by the chief, or directly exporting the material out of State.
25. Other changes are proposed throughout chapter 4-72, HAR for clarity, simplification, or to correct format, grammar, punctuation, and typeface.