

DEPARTMENT OF AGRICULTURE

Amendment and Compilation of Chapter 4-72,
Hawaii Administrative Rules

January 30, 2012

SUMMARY

1. §4-72-2 is amended.
2. §4-72-3 is amended.
3. §4-72-4 is amended.
4. A new §4-72-4.5 is added.
5. §4-72-8 is amended.
6. §4-72-11 is amended.
7. A new §4-72-12 is added.
8. Chapter 72 is compiled.

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

- §4-72-1 Objective
- §4-72-2 Definitions
- §4-72-3 Inspectional requirements
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- §4-72-7 Restrictions on soil, sand, and animal manure
- §4-72-8 Restrictions on transport, harboring, rearing, or breeding of pests
- §4-72-9 Restrictions on dasheen and taro corms
- §4-72-10 Restrictions on papaya and cucurbit
- §4-72-11 Restrictions on banana
- §4-72-12 Restrictions on coffee

Historical note: Chapter 72 of Title 4 is based substantially upon Regulation 4 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 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 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 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 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 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 FEB 24 2012] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §150A-8)

§4-72-1 Objective. The objective of this chapter is to implement the requirements of chapter 150A, Hawaii Revised Statutes, by restricting or prohibiting the interisland and intrainland 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 FEB 24 2012] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §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 board of agriculture;

"Department" means department of agriculture;

"Chief" means chief of the plant quarantine branch;

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

"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. [Eff. 7/13/81; comp 9/19/91; am and comp FEB 24 2012] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

§4-72-3 Inspectional requirements. (a) Plant and propagative plant parts 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 be subject to periodic random inspection at either the port of departure or port of entry. [Eff. 7/13/81; comp 9/19/91; am and comp

FEB 24 2012] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

§4-72-4 Prohibited transportations. (a) The interisland transportation of a commodity not inspected pursuant to §4-72-3 is prohibited.

(b) A commodity infested with any 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 where the 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. [Eff. 7/13/81; am and comp 9/19/91; am and comp **FEB 24 2012**] (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 FEB 24 2012] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

§4-72-5 Examples of regulated pests. Examples of pests for the purposes of §4-72-4 shall include, but not be limited to the following:

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

- (9) Orange spiny whitefly - Aleurocanthus spiniferus (Quaintance), a serious insect pest of rose and citrus;
- (10) Bristly rose slug - Cladius differmis Panzar, a pest injurious to the ros plant;
- (11) Croton whitefly - Orchamplatus mammaeferus (Quaintance and Baker), a serious insect pest of croton and citrus;
- (12) Anthurium whitefly - Aleurotulus sp., a serious insect pest of anthurium;
- (13) An anthurium whitefly - Crenidorsum sp., a serious insect pest of anthurium, philodendron, and monstera;
- (14) Eurasian pine aphid - Pineus pini Koch, a serious insect pest of pine;
- (15) Fiery skipper - Hylephila phyleus Drury, a serious pest of turf and pasture grasses and ornamental sedges;
- (16) Taro root aphid - Pemphigus sp., a serious pest of dryland taro; and
- (17) Eucalyptus canker - Cryphonectria cubensis (Bruner) Hodges, a serious disease of Eucalyptus spp. [Eff. 7/13/81; am and comp 9/19/91; comp FEB 24 2012] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§171-2, 150A-8)

§4-72-6 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) and to persons conducting research under the auspices of the HSPA 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

FEB 24 2012] (Auth: HRS §§141-2, 150A-9) (Imp:
HRS §§141-2, 150A-8)

§4-72-7 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 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 plants in cinders, hapuu or other artificial 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. [Eff. 7/13/81; comp 9/19/91; comp FEB 24 2012] (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 FEB 24 2012] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

§4-72-9 Restrictions on dasheen and taro corms. Transportation of dasheen and taro corms are prohibited from an infested island to a restricted island for taro root aphid except:

- (1) Taro corms consigned to a poi factory or other food processing plant;
- (2) Dasheen and taro corms consigned to produce wholesalers, supermarkets, retail food stores, and restaurants;
- (3) Taro corms 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 FEB 24 2012] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

§4-72-10 Restrictions on papaya and cucurbit. Transportation of papaya and cucurbit (plants in the family cucurbitaceae) plants and plant parts except seed and fruit are prohibited from an infested area to a restricted area for papaya mosaic virus disease. [Eff. 7/13/81; comp 9/19/91; comp FEB 24 2012] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

§4-72-11 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, 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
FEB 24 2012] (Auth: HRS §§141-2, 150A-9) (Imp:
HRS §§141-2, 150A-8)

§4-72-12 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.

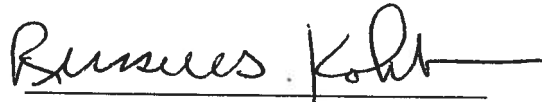
(d) Coffee plants, plant parts, green coffee beans, and used coffee bags for export are not subject to quarantine restrictions, provided that they are exported directly from the coffee berry borer infested area and are not transshipped through a coffee berry borer restricted area in the State. Coffee 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. [Eff and comp FEB 24 2012] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§141-2, 150A-8)

Amendments to and compilation of chapter 4-72, Hawaii Administrative Rules, on the Summary Page dated January 30, 2012 were adopted on January 30, 2012 following public hearings held on January 4, 2012, January 5, 2012, and January 6, 2012 after public notice was given in the Honolulu Star Advertiser, The Garden Island, Hawaii Tribune-Herald, West Hawaii Today, and The Maui News on December 2, 2011.

They shall take effect ten days after filing with the Office of the Lieutenant Governor.



RUSSELL S. KOKUBUN
Chairperson
Board of Agriculture



NEIL ABERCROMBIE
Governor
State of Hawaii

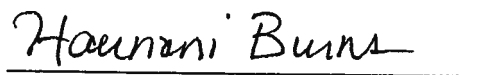
Dated: 2.13.12

Filed

12 FEB 14 PM 4:00

LIEUTENANT GOVERNOR
OFFICE

APPROVED AS TO FORM:


Deputy Attorney General