

Amendments to Chapter 4-72
Hawaii Administrative Rules

1. Chapter 4-72, Hawaii Administrative Rules, is amended by adding a new section to read as follows:

§4-72-13 Quarantine restrictions on ohia and soil from rapid ohia death infested areas. (a) The board has determined that the disease called ohia wilt (also known as rapid ohia death) presents a serious danger to ohia (*Metrosideros*), the ohia forests of Hawaii, and horticultural and agricultural industries.

(b) Transportation of soil and ohia (*Metrosideros*, all species in genus) plants, plant parts, including flowers, leaves, seeds, stems, twigs, cuttings, mulch, greenwaste, frass, wood, logs, and posts is prohibited from a rapid ohia death infested area to a rapid ohia death restricted area except as allowed by permit pursuant to subsection (c), or as otherwise provided herein.

(c) A permit may be issued by the chief for the transportation of a material or commodity listed in subsection (b), subject to laboratory analysis or other science-based method approved by the chief, as appropriate, to determine whether the material or commodity is free of the fungus, *Ceratocystis fimbriata*, the causal agent of ohia wilt disease, and subject to appropriate conditions established by the chief.

(d) Material or a commodity listed in subsection (b) that tests positive for *Ceratocystis fimbriata*, other than material or a commodity for research or diagnostic purposes, shall not be shipped from a rapid ohia death infested area to a rapid ohia death restricted area, nor shall any material or commodity in the same lot for shipment be shipped, unless an effective treatment to destroy *Ceratocystis fimbriata* is available, is approved by the chief, and the shipment has been subjected to the approved treatment.

(e) Transportation of a material or commodity listed in subsection (b) for research or diagnostic purposes moving from a rapid ohia death infested area to a rapid ohia death restricted area of the State, shall be under permit, using safeguards approved by the chief, to an approved facility.

(f) Soil, including soil as a planting medium, may be shipped from a rapid ohia death infested area to a rapid ohia death restricted area of the State subject to pre-shipment testing as provided in subsection (c) and, if applicable, subject to treatment as provided in subsection (d). A shipper of soil that is an active participant in the department's

intrastate compliance agreement program in which the shipper is required to maintain *Ceratocystis fimbriata*-free status as a condition for soil movement from an infested area is subject to testing as required by the compliance agreement and permit.

(g) Finished ohia wood products, such as wood flooring, furniture, bowls, picture frames, carvings, and jewelry that have been subjected to a treatment approved by the chief do not require a permit for intrastate transportation.

(h) 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 ohia wilt disease from the infested area and to preserve the quarantine.

(i) The island of Hawaii is designated as a rapid ohia death infested area, notwithstanding any ongoing control projects on the island, and other islands in the State are designated as rapid ohia death restricted areas. The designated rapid ohia death infested area may be expanded by board action as provided in §4-72-4.5.

(j) The shipper is responsible for all costs, charges, or expenses incident to the inspection or treatment of the soil and ohia material or commodity listed in subsection (b), including charges for overtime wages, fixed charges for personnel services, and meals. [Eff and comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §141-2, 150A-8)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to chapter 4-72, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on August __, 2016 and filed with the Office of the Lieutenant Governor.

SCOTT E. ENRIGHT

Chairperson, Board of
Agriculture

APPROVED AS TO FORM:

Deputy Attorney General