

Notice of Public Hearing

HAWAII DEPARTMENT OF AGRICULTURE Proposed Administrative Rule to Prohibit Intrastate Movement of Ohia Plants, Plant Parts, Soil, and Other Known Hosts of Ohia Wilt, also Known as Rapid Ohia Death, From the Island of Hawaii, Except by Permit

Notice is hereby given pursuant to Chapter 91, Hawaii Revised Statutes (HRS), and section 141-2, HRS, that the Hawaii Department of Agriculture (Department or HDOA) will hold public hearings to receive testimony on proposed amendments to Hawaii Administrative Rules (HAR), Title 4, Subtitle 6, Chapter 72:

Chapter 4-72 – “Plant and Non-Domestic Animal Quarantine Plant Intrastate Rules”

The proposed amendment will add a permanent rule to replace Plant Quarantine Interim Rule 15-1 to maintain quarantine restrictions needed to prevent the spread of Ohia Wilt (Rapid Ohia Death) disease from infested Hawaii Island to uninfested islands in the State.

The proposed new rule will designate the island of Hawaii as a Rapid Ohia Death infested island and will establish a permanent quarantine to prohibit the intrastate movement of *Metrosideros* (all species in genus) (Ohia) plants and plant parts, including flowers, leaves, seeds, stems, twigs, cuttings, wood, logs, mulch, greenwaste, frass, and soil from the island of Hawaii to non-infested islands of the State, except by permit issued by the HDOA and subject to conditions consistent with preserving the quarantine, including science-based testing and, if appropriate, treatment.

The proposed rule describes conditions under which the regulated material or commodity (both referred to here as “host commodity”) may qualify for intrastate shipment. The “host commodity” is generally subject to pre-shipment testing to determine whether the “host commodity” is free of Rapid Ohia Death’s causal agent, new strains of the fungus, *Ceratocystis fimbriata*. “Host commodities” that test positive for *C. fimbriata* will not be shipped from a designated infested area to a non-infested island unless an effective treatment is available, is approved by the Department’s Plant Quarantine Branch (PQB) chief, and the shipment has undergone the approved treatment. Shippers of soil who are active participants in the Department’s intrastate compliance agreement program to maintain *C. fimbriata*-free status must undergo pretesting of soil. “Host commodities” may be transported for research or diagnostic purposes from an infested area to an approved facility in a non-infested area of the State under

permit, subject to safeguards approved by the PQB chief. Finished Ohia wood products, such as wood flooring, furniture, and bowls that have been subjected to a treatment approved by the PQB chief are not subject to the permit requirement.

The proposed rule authorizes the PQB chief to approve treatments and mitigative measures as they are scientifically validated, and to revise permit conditions accordingly, as necessary to prevent movement of Rapid Ohia Death disease from the infested area and to preserve the quarantine. The proposed rule also authorizes HDOA to charge fees for costs incident to inspections or treatment conducted away from the port or PQB inspection office during regular working hours and for inspections and witnessing treatments that require overtime services of HDOA personnel.

The proposed rule's quarantine restrictions apply to all individuals or entities that transport Ohia plants and plant parts, including flowers, leaves, seeds, stems, twigs, cuttings, wood, logs, mulch, greenwaste, frass, and soil, from a Rapid Ohia Death infested area (currently, only Hawaii Island) to a non-infested island in the State. Active participants in HDOA's intrastate compliance agreement program are subject to particular soil testing requirements, as referenced in the proposed rule.

Under the proposed rule, private individuals or entities that ship "host commodities" from the infested area to a non-infested island in the State will be responsible for costs incident to inspection or treatment of "host commodities" that is conducted away from the port or HDOA office, including costs for HDOA personnel overtime wages, if applicable. An inspection fee of \$50.00 plus mileage reimbursement may be proposed for such inspections. There will be no charge to a shipper for inspection of shipments of a size that can be accommodated at the port or PQB offices during regular working hours. Shippers that transport Ohia logs from the infested area may incur labor costs related to sampling the "host commodities" for testing.

Small businesses that ship "host commodities" from the infested area to a non-infested island are subject to the same quarantine restrictions and, if applicable, the same costs that other shippers of "host commodities" are subject to, as described in the preceding paragraphs.

The following is the schedule of public hearings:

August 31, 2016, 5:00 p.m. – 7:00 p.m.
Conference Room, Department of Agriculture
Quality Assurance Division
1851 Auiki Street
Honolulu, Hawaii 96819

September 01, 2016, 5:00 p.m. – 7:00 p.m.

Conference Room, Department of Agriculture
635 Mua Street
Kahului, Hawaii 96732

September 02, 2016, 5:00 p.m. – 7:00 p.m.
Conference Room, Department of Agriculture
4398A Pua Loke Street
Lihue, Hawaii 96766

September 06, 2016, 5:00 p.m. – 7:00 p.m.
West Hawaii Civic Center
74-5044 Ane Keohokalole Highway
Kailua-Kona, Hawaii 96725

September 07, 2016, 5:00 p.m. – 7:00 p.m.
Conference Room, Department of Agriculture
16E Lanikaula Street
Hilo, Hawaii 96720

The proposed rule amendments may be reviewed online at www.hawaii.gov/hdoa or in person at any of the following Department offices during normal business hours of 7:45 a.m. to 4:30 p.m., Monday to Friday from August 01, 2016 to September 07, 2016:

Oahu-	1428 South King Street, Honolulu Administrative Services Officer: or 1849 Auiki Street, Honolulu	Phone: (808) 973-9600 Phone: (808) 832-0566
Hawaii-	16E Lanikaula Street, Hilo or 95 Akahana Street, Room 9, Hilo or 73-302 Kupipi Street, Kailua-Kona	Phone: (808) 974-4141 Phone: (808) 961-9393 Phone: (808) 326-1077
Kauai-	4398A Pua Loke Street, Lihue	Phone: (808) 274-7135
Maui-	635 Mua Street, Kahului	Phone: (808) 873-3962
Molokai-	Molokai Irrigation Office 801 Puupeehea Ave., Hoolehua	Phone: (808) 567-9656

Copies of the proposed rules may also be obtained at the above offices by paying a fee for photocopying or may be sent by mail upon request by paying a fee for photocopying and postage. Copies may also be reviewed or downloaded at the Department's website at:

<https://hdoa.hawaii.gov/wp-content/uploads/2013/01/4-72-Ohia-Proposed-Amendments-5-24-31rev.pdf>

All interested persons may attend the public hearings and submit comments orally or in writing. Those persons desiring to submit written testimony may do so via postal mail to the Plant Quarantine Branch at 1849 Auiki Street, Honolulu, HI 96819 or via FAX at (808) 832-0584 or via e-mail at hdoa.pqspect@hawaii.gov. Please include the word “testimony” and the subject matter when submitting testimony by e-mail. Those persons desiring to present oral testimony at the public hearing are asked to register with staff prior to the convening of the hearing. If possible, submit 5 written copies of the testimony to staff prior to the meeting. Testimony will be accepted up to the close of the last public hearing.

Persons requiring special modifications, e.g. sign language interpretation, large print, taped materials, accessible parking, at the hearing may call the Department at (808) 832-0566 or write to one of the addresses above at least 5 days in advance of the hearing.

Scott E. Enright
Chairperson, Board of Agriculture