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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the House Committee on
AGRICULTURE & FOOD SYSTEMS

Friday, April 12, 2024
10:00 AM

State Capitol, Conference Room 325 and Via Videoconference

In consideration of
SENATE CONCURRENT RESOLUTION 191
URGING THE DEPARTMENT OF AGRICULTURE TO ADOPT PROPOSED
AMENDMENTS TO CHAPTER 4-72, HAWAII ADMINISTRATIVE RULES, THAT
PROVIDE IMPORTANT AUTHORITIES FOR THE DEPARTMENT TO PREVENT
THE SPREAD OF INSECTS, DISEASES, AND OTHER INVASIVE PESTS WITHIN
THE STATE

Senate Concurrent Resolution 191 urges the Department of Agriculture to adopt proposed amendments to Chapter 4-72, Hawai'i Administrative Rules (HAR), that provide important authorities for the Department to prevent the spread of insects, diseases, and other invasive pests within the state. **The Department of Land and Natural Resources (Department) supports this measure.**

These rule amendments are a foundational step to prevent the spread of invasive insects, diseases, and other pests within the state and individual islands. These rule amendments clarify the Hawai'i Department of Agriculture's (HDOA) authority to stop the sale of plants and other merchandise that are infested with invasive pests, such as Little Fire Ants (LFA) or Coconut Rhinoceros Beetle (CRB). Also, if the merchandise is stored in an area found to be infested with an invasive pest, these rule amendments authorize HDOA to require the business to treat the area before the merchandise is sold or otherwise distributed to the public. The horticultural trade (e.g., nurseries and garden centers) is one of the primary ways invasive pests and plant diseases arrive in Hawai'i. These rule amendments empower HDOA to prevent the spread of those pests.

DLNR has witnessed the spread of pests like CRB and LFA from communities and businesses into natural areas. Last year, the O'ahu Army Natural Resource Program reported the first death of a critically endangered loulou palm (*Pritchardia kaalae*) from CRB in the Wai'anae Mountains. These pests threaten

the health of our native species, ecosystems, and cultural practices. The proposed amendments are needed to better equip HDOA with the means to protect our islands from the spread of invasive species.

The Department endorsed the 2017-2027 Hawai'i Interagency Biosecurity Plan, along with HDOA. The Biosecurity Plan is the State's comprehensive strategy for preventing and managing invasive species. Identified in the plan is the need for two high-priority actions that would be accomplished through approval of these proposed amendments:

- Post Border Policy 1.3: A comprehensive approach to minimize the interisland movement of plant pathogens and pests via the interisland transport of agricultural products.
- Post Border Policy 1.5: Update HAR Chapter 4-72 to further prevent the interisland movement of pathogens and pests via soil as one of the highest priority actions.

The Department appreciates all the work HDOA's Plant Industry Division and Plant Quarantine Branch have put into HDOA's proposed amendments to HAR Chapter 72. The Plants and Animals Subcommittee and the Board of Agriculture have already approved the proposed rules at meetings held last year. At the end of January, HDOA held the first public meeting on the proposed rules, which was met with overwhelming support from community members and organizations. HDOA is still reviewing testimony, and these resolutions will help push this process forward as quickly as possible.

Mahalo for the opportunity to provide testimony in support of this measure.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



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SHARON HURD
Chairperson, Board of Agriculture

DEXTER KISHIDA
Deputy to the Chairperson



TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE AND FOOD SYSTEMS

APRIL 12, 2024
10:00 AM
CONFERENCE ROOM 325 & VIDEOCONFERENCE

SENATE CONCURRENT RESOLUTION NO. 191
URGING THE DEPARTMENT OF AGRICULTURE TO ADOPT PROPOSED
AMENDMENTS TO CHAPTER 4-72, HAWAII ADMINISTRATIVE RULES, THAT
PROVIDE IMPORTANT AUTHORITIES FOR THE DEPARTMENT TO PREVENT THE
SPREAD OF INSECTS, DISEASES, AND OTHER INVASIVE PESTS WITHIN THE
STATE.

Chair Gates, Vice Chair Kahaloa, and Members of the Committee:

Thank you for the opportunity to testify on SCR 191, urging the Department of Agriculture (Department) to adopt proposed amendments to Chapter 4-72, Hawaii Administrative Rules, that provide important authorities for the Department to prevent the spread of insects, diseases, and other invasive pests within the State.

The Department recognizes the threats that pests and other invasive species pose and offers comments. On March 26th, the Department enacted an interim rule that restricts the movement of agricultural commodities that are found to be infested with little fire ants on Oahu, due to the increased spread on the windward side. The Department is also working to finalize the amendments to Chapter 4-72, HAR, and once completed, would make this resolution unnecessary.

Thank you for the opportunity to testify on this measure.





House of Representatives
Committee on Agriculture and Food Systems
Friday, April 12, 2024
10:00 AM Conference Room 325
State Capitol

Testimony in Support of SCR 191

Aloha Chair Gates, Vice Chair Kahaloe, and Members of the Committee,

The Coordinating Group on Alien Pest Species (CGAPS) is **in support of SCR 191**, *Urging the Department of Agriculture To Adopt Proposed Amendments to Chapter 4-72, Hawaii Administrative Rules, That Provide Important Authorities for the Department to Prevent the Spread of Insects, Diseases, and Other Invasive Pets Within the State.*

As set out in the Resolutions, the amendments proposed by the Hawaii Department of Agriculture (HDOA) to chapter 4-72, Hawaii Administrative Rules, (chapter 72) provide important authorities for HDOA to prevent the spread of insects, diseases, and other invasive pests within Hawaii. Chapter 72 is the only chapter available to HDOA to regulate the movement of pests within the State. These authorities are desperately needed as high-impact pests such as coconut rhinoceros beetle (*Oryctes rhinoceros*) (CRB), coqui frog (*Eleutherodactylus coqui*), and little fire ant (*Wasmannia auropunctata*) are rapidly spreading across islands and the State.

HDOA's decision to update chapter 72 was triggered by the dramatic spread of CRB on Oahu in recent years. To protect property, businesses, and native species from the impacts of CRB, HDOA adopted an interim rule on July 1, 2022, that prohibited the intra- and inter-island movement of CRB host material (interim CRB rule). (§4-22.1-1 HAR) The interim rule created a new program for businesses that transport or process CRB host material. The program required those businesses to enter into compliance agreements with HDOA to use common sense practices to prevent the spread of CRB, such as covering CRB host material as it is transported across Oahu, and to have their employees participate in a one-hour training on CRB, including how to recognize CRB damage and prevent its spread. The CRB program was an exciting change in HDOA's efforts to prevent the spread of invasive species. Until the CRB program, HDOA did not regulate the intra-island movement of material to prevent the spread of a pest. Instead, efforts were geared toward treating infestations of high-impact pests, if resources were available. This approach resulted in pest infested material moving around the islands and creating new infestations that were then treated by chemical or other means. The new approach proposed by HDOA in the interim CRB rule would increase the effectiveness of control efforts and reduce long-distance spread across the island.

CRB Response, in cooperation with HDOA, was rolling out the interim CRB program, including signing up landscaping and green waste processing businesses and providing training to their employees. Interim rules cannot last longer than one year (§150A-9.5(c)(2)) and to make the program permanent, HDOA had to adopt a permanent CRB rule in chapter 72. HDOA made a huge effort to update other provisions of chapter 72 to include authorities to prevent the intra- and inter-island spread of high-impact pests, including providing HDOA the authority to prevent the movement of items for sale to the public that are infested with a pest. HDOA was racing to finish the chapter 91, Hawaii Revised Statutes, rulemaking process to amend chapter 72 before the interim CRB rule expired. As set out in the Resolutions, HDOA's proposed amendments to chapter 72 were unanimously moved forward by the Advisory Committee on Plants and Animals on February 15, 2023, the Board of Agriculture on February 28, 2023, and the Small Business Regulatory Review Board on May 30, 2023, and each of these approvals occurred at a noticed public meeting that provided the opportunity for written and oral public testimony. There was no testimony in opposition to the proposed chapter 72 amendments at any of those reviews.

Unfortunately, HDOA halted the progress of the proposed chapter 72 amendments in June 2023, and the interim CRB rule lapsed on June 30, 2023. Since that lapse, businesses that transport and process CRB host material on Oahu are no longer required to use practices to prevent the spread of CRB the island. It is not known whether or not the delay in enacting this program could have prevented the further spread of CRB to neighbor islands, but CRB was detected on Kauai in May 2023, on Hawaii Island in October 2023, and on Maui in November 2023.

In 2024 HDOA restarted the rulemaking process for its chapter 72 amendments. As set out in SCR 191, HDOA held a noticed public hearing on the proposed amendments on January 30, 2024. At that hearing, public testimony was overwhelming in support of the proposed amendments. Since that time, HDOA has not taken any official action to move the chapter 72 amendments towards adoption. SCR 191 put focus on the urgent need to move these amendments toward final adoption to protect consumers, businesses, industries, native species, the environment, and the public in Hawaii. We hope the Committee will move SCR 191 forward and that HDOA will take the steps needed to complete rulemaking on the chapter 72 amendments. Mahalo for the opportunity to support SCR 191 and for consideration of our testimony.

Aloha,



Christy Martin, CGAPS Program Manager



Stephanie Easley, CGAPS Legal Fellow

SCR-191

Submitted on: 4/11/2024 9:08:18 AM

Testimony for AGR on 4/12/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sherry Pollack	Individual	Support	Written Testimony Only

Comments:

I support this resolution that urges the Department of Agriculture to adopt proposed amendments to Chapter 4-72, Hawai'i Administrative Rules (HAR), that provide important authorities for the Department to prevent the spread of insects, diseases, and other invasive pests within the state.