

DEPARTMENT OF LAND AND NATURAL RESOURCES

Adoption of Subtitle 14 of Title 13,
Containing Chapters 13-325 and 13-326,
Hawaii Administrative Rules

[DATE]

1. Chapter 13-325, Hawaii Administrative Rules, is adopted.
2. Chapter 13-326, Hawaii Administrative Rules, is adopted.
3. Subtitle 14 of Title 13, Hawaii Administrative Rules, is adopted to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 14

HAWAII INVASIVE SPECIES COUNCIL

CHAPTER 13-325

GENERAL PROVISIONS

§13-325-1	Purpose
§13-325-2	Definitions
§13-325-3	Relationship to other laws

§13-325-1 Purpose. This chapter implements the Hawaii invasive species council authorities in chapter 194,

§13-325-1

Hawaii Revised Statutes, for the purpose of preventing, controlling, and eradicating harmful invasive species infestations throughout the State.

[Eff] (Auth: HRS §194-7) (Imp: HRS §§194-2, 194-4)

§13-325-2 Definitions. As used in this chapter:

"Agent" means a person authorized by law to carry out a provision of this chapter.

"Control" means, with respect to an invasive species, containing, suppressing, or reducing the invasive species.

"Council" or "Hawaii invasive species council" means the invasive species council established under section 194-2, Hawaii Revised Statutes.

"County" means the city and county of Honolulu, and the county of Hawaii, the county of Kauai, and the county of Maui; provided that the county of Maui shall include the county of Kalawao for the purposes of this chapter.

"Department" means each of the following:

- (1) The department of agriculture;
- (2) The department of business, economic development, and tourism;
- (3) The department of health;
- (4) The department of land and natural resources;
- (5) The department of transportation; and
- (6) The University of Hawaii.

"Eradicate" means, with respect to an invasive species, to remove or destroy an entire population of the invasive species.

"Eradication" means, with respect to an invasive species, actions to eradicate the invasive species.

"Invasive species" means, with regard to a particular ecosystem, a non-native species, genera, or other taxon that causes or is likely to cause economic or environmental harm, or harm to human, animal, or plant health.

"Non-native species" means, with respect to a particular ecosystem, an organism, including its seeds, eggs, spores, or other biological material capable of propagating that species, that occurs outside of its natural range.

"Person" means an individual, corporation, firm, association, partnership, or other public, private, or not-for-profit entity, or any governmental unit.

“Public property” means any property owned or controlled by the State or a county.

[Eff _____] (Auth: HRS §194-7) (Imp: HRS §§194-1, 194-2)

§13-325-3 Relationship to other laws. Nothing in this chapter may be construed to limit an authority provided to a department or a county under any provision of law or any other rule to regulate, control, or eradicate any invasive species. [Eff _____] (Auth: HRS §194-7) (Imp: HRS §194-4)

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 14

HAWAII INVASIVE SPECIES COUNCIL

CHAPTER 13-326

CONTROL AND ERADICATION OF INVASIVE SPECIES

- §13-326-1 Invasive species identified by the council
for control or eradication
- §13-326-2 Requirements for control or eradication on
private property
- §13-326-3 Notice
- §13-326-4 Requirement for control or eradication by
private property owner
- §13-326-5 Requirements for control or eradication on
public property
- §13-326-6 Warrants

§13-326-1 Invasive species identified by the council for control or eradication. (a) The invasive species identified by the council for control or eradication for purposes of sections 194-4 and 194-5, Hawaii Revised Statutes, are those invasive species that have a record of causing economic or environmental harm, or harm to human, animal, or plant health in the scientific literature or in environmental conditions found in Hawaii.

(b) The invasive species identified by the council for control or eradication for purposes of sections 194-4 and 194-5, Hawaii Revised Statutes, are the following:

Scientific name	Common name
(1) Plants:	
(A) <i>Andesanthus</i> - all species in the genus	
(B) <i>Cenchrus longisetus</i> (formerly <i>Pennisetum villosum</i>)	feather-topped fountain grass, longstyle feather grass
(C) <i>Cenchrus setaceus</i> (formerly <i>Pennisetum setaceum</i>)	fountain grass
(D) <i>Chaetogastra</i> - all species in the genus	
(E) <i>Chromolaena odorata</i>	devil weed, Siam weed
(F) <i>Cortaderia jubata</i>	pampas grass
(G) <i>Cortaderia selloana</i>	pampas grass
(H) <i>Miconia</i> - all species in the genus	miconia
(I) <i>Pleroma</i> - all species in the genus	
(J) <i>Senecio madagascariensis</i>	fireweed
(K) <i>Tibouchina</i> - all species in the genus	Tibouchina, glory bush
(2) Invertebrates:	
(A) <i>Aedes aegypti</i>	mosquito
(B) <i>Aedes scutellaris</i>	mosquito
(C) <i>Apis mellifera scutellata</i>	Africanized honeybee
(D) <i>Anopheles</i> - all species in genus	western malaria mosquito
(E) <i>Oryctes rhinoceros</i>	coconut rhinoceros beetle, CRB
(F) <i>Popillia japonica</i>	Japanese beetle
(G) <i>Prosapia bicincta</i>	two-lined spittlebug
(H) <i>Solenopsis invicta</i>	red imported fire ant, RIFA

§13-326-3

(c) Notwithstanding subsections (a) and (b), if a department or county determines that control or eradication of an invasive species listed in section 13-326-1(b) requires an urgent response on private property and the consent of the owner, or tenant or occupant if applicable, cannot be obtained immediately, the department or county may seek a warrant under section 13-326-6 that authorizes the entry onto the private property for emergency control or eradication actions. [Eff _____] (Auth: HRS §194-7) (Imp: HRS §194-5)

§13-326-4 Requirement for control or eradication by private property owner. (a) If a department or county determines that an invasive species listed in section 13-326-1(b) was intentionally and knowingly established on private property by the property owner, the department or county may order the property owner to control or eradicate the invasive species to the satisfaction of the department or county.

(b) The time limit set by a department or county to require an owner of private property to control or eradicate an invasive species pursuant to section 194-5(c), Hawaii Revised Statutes, shall be not less than thirty days and shall provide a reasonable amount of time for the owner to obtain the necessary equipment, supplies, and personnel to control or eradicate the invasive species.

(c) If the owner fails to comply with an order issued under subsection (a), the applicable department or county may after notice required by section 13-326-3 carry out the actions required by the order:

- (1) If the owner consents to the department or county carrying out the actions; or
- (2) Pursuant to a warrant sought under section 13-326-6.

(d) A department or county that carries out control or eradication actions under subsection (c) may recover the expenses incurred to carry out those actions by appropriate proceeding. [Eff _____] (Auth: HRS §194-7) (Imp: HRS §194-5)

§13-326-5 Requirements for control or eradication on public property.

(a) If a department determines that an invasive species listed in section 13-326-1(b) is found on public property that is within a geographic area in which the department or its agent is carrying out monitoring or control or eradication actions for the invasive species, the department may, after notice required by subsection (b), order the government entity in charge of the public property to control or eradicate the invasive species to the satisfaction of the department.

(b) The notice required by this subsection shall be not less than thirty days and shall provide a reasonable amount of time for the government entity in charge of the public property to obtain the necessary equipment, supplies, and personnel to control or eradicate the invasive species.

(c) If the government entity in charge of the public property fails to comply with an order issued under subsection (a), the applicable department may carry out the control or eradication actions required by the order:

- (1) If the government entity in charge of the public property consents to the department carrying out the actions; or
- (2) Pursuant to a warrant sought under section 13-326-6.

(d) A department that carries out control or eradication actions under subsection (c) may recover the expenses incurred to carry out those actions by appropriate proceeding.

(e) Notwithstanding subsections (a) and (b), if a department determines that control or eradication of an invasive species listed in section 13-326-1(b) requires an urgent response on public property and the consent of the government entity in charge of the public property cannot be obtained immediately, the department may seek a warrant under section 13-326-6 that authorizes the entry onto the public property for emergency control or eradication actions.

(f) A department may enter into a memorandum of understanding with an agent of the department that has appropriate expertise and experience to carry out actions under this section. [Eff _____] (Auth: HRS §194-7) (Imp: HRS §194-6)

§13-326-6

§13-326-6 Warrants. A department or county seeking a warrant to control or eradicate an invasive species pursuant to this chapter on private or public property shall submit to the district court of the circuit in which the property is situated an affidavit that:

- (1) Is made by an individual having knowledge of the facts alleged; and
- (2) Establishes grounds for issuing the warrant."

[Eff] (Auth: HRS §194-7) (Imp: HRS §§194-5, 194-6)

4. The adoption of subtitle 14 of title 13, containing chapters 13-325 and 13-326, 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 the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, where were adopted on [DATE], and filed with the Office of the Lieutenant Governor.

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APPROVED AS TO FORM:

/s/Danica L. Swenson
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