

JOSH GREEN
GOVERNOR OF HAWAII

SYLVIA LUKE
LIEUTENANT GOVERNOR



HAWAII INVASIVE SPECIES COUNCIL

VOTING MEMBERS

LAURA KAAKUA
DEPARTMENT OF LAND & NATURAL
RESOURCES

SHARON HURD
HAWAII DEPARTMENT OF AGRICULTURE

KATHLEEN HO, D.Env
DEPARTMENT OF HEALTH

ANIA WIECZOREK, Ph.D.
UNIVERSITY OF HAWAII

MARY ALICE EVANS
BUSINESS, ECONOMIC DEVELOPMENT &
TOURISM

EDWIN SNIFFEN
DEPARTMENT OF TRANSPORTATION

AGENDA FOR THE MEETING OF THE HAWAII INVASIVE SPECIES COUNCIL

DATE: Wednesday, May 29, 2024
TIME: 1:00 PM
PLACE: In-person – DLNR Board Room, Kalanimoku Building
1151 Punchbowl St., Honolulu, HI 96813 & Online Via Zoom
Meeting ID: 859 2874 8878

ZOOM LINK:

<https://us06web.zoom.us/j/85928748878?pwd=sPw1aNxahEDEenYvgIxsLaz8TJqac3.1>
Passcode: HISC

This Council meeting will be held using interactive conference technology under section 92-3.7, Haw. Rev. Stat. Council members, staff, testers and the public can choose to participate on person, online via Zoom, or by telephone. The public may also view the live meeting via its live stream at:

<https://youtube.com/live/GVsMTh8U88o?feature=share>

To Provide Written Testimony

We encourage interested persons to submit written testimony in advance of the meeting, which will be distributed to Council members prior to the meeting and allow a timely review. Please submit written testimony via email to:

jack.f.reef.researcher@hawaii.gov. Written testimonies can also be mailed to: 1151 Punchbowl Street, Rm 325 Honolulu HI 96813. Written testimonies may be posted upon the Hawaii'i Invasive Species Council Meeting website; as a precaution, please be mindful with any personal information prior to submitting unless you intend it to be shared. Late testimony will be retained as part of the record and distributed to Council members as soon as practicable, but we cannot ensure Council members will receive it in sufficient time to review prior to any decision-making.

To Provide In-Person Oral Testimony (masks are highly encouraged)

Attend in-person at: DLNR Board Room, Rm 132 (Kalanimoku Building) at 1151 Punchbowl St., Honolulu, HI 96813

To Provide Testimony by Telephone

On the day of the meeting at the start of the agenda item you wish to testify on, dial: + 1 719 359-4580 (Zoom); input the Meeting ID: 859 2874 8878 and follow the prompts.

To Provide Video/Zoom Testimony

Send your request in a timely manner to jack.f.reef.researcher@hawaii.gov with your information, email address, and the agenda item you wish to testify on. Once your request has been received, you will receive a confirmation email with pertinent information. You may testify without signing up in advance.

We kindly ask that all oral/video testimony be limited to not more than three (3) minutes. We ask that you identify yourself and any affiliation before speaking, but you can choose not to do so.

Join Zoom Meeting

<https://us06web.zoom.us/j/85928748878?pwd=sPw1aNxahEDEenYvglxsLaz8TJqac3.1>

Meeting ID: 859 2874 8878

Passcode: HISC

Special Accommodations

If you need auxiliary aid/service or other accommodation due to disability, please contact Jack, the Hawai'i Invasive Species Council Planner, at 808-587-0166 or jack.f.reef.researcher@hawaii.gov as soon as possible. Requests made as early as possible have a greater likelihood of being fulfilled. Upon request, this agenda and other materials are available in alternate/accessible forms.

NOTE: Agenda Items may be taken out of order.

AGENDA

1. Call to order
2. Introductions of Council Members
3. Approval of minutes from December 19, 2023 Hawai'i Invasive Species Council meeting
4. Updates on 2024 Legislative Session from the Hawai'i Department of Agriculture on House Bill 2619 Related to Agricultural Biosecurity and Senate Bill 572 Relating to Agriculture. *No decision-making on this item.*
 - a. HB 2619 Requires the Department of Agriculture to lead and coordinate the State's invasive pest control and eradication biosecurity efforts. Establishes certain reporting requirements. Appropriates funds to the Department of Agriculture for programs and positions in agricultural biosecurity. Appropriates funds to each county as a grant-in-aid, subject to a county match, for the implementation of feral chicken control programs.
 - b. SB 572 Authorizes and specifies conditions under which the Department of Agriculture may declare a biosecurity emergency, during which the Department and Governor may take certain actions to prevent the establishment or spread of pests and prohibited or restricted organisms.

Broadens the objectives and general actions of the Biosecurity Program.
(CD1)

5. Informational presentation on the Interagency Memorandum of Understanding for the prevention, rapid response, and control or eradication of high priority pests among the Hawai'i Department of Agriculture, the Department of Land and Natural Resources, and the University of Hawai'i. The purpose of this MOU is to document the cooperation, including the roles and responsibilities as set out in the MOU and attachments, in working together toward the shared goals of prevention, rapid response, and control or eradication of High priority pests defined as coqui frog (*Eleutherodactylus coqui*), little fire ant (*Wasmannia auropunctata*), and coconut rhinoceros beetle (*Oryctes rhinoceros*) in the State of Hawai'i signed April 19, 2024. Signed MOU and Little Fire Ant Matrix are included as reference material in a separate attachment to this meeting packet. *No decision-making on this item.*
6. Submittal: Request for approval to initiate rulemaking proceedings, including conducting public hearings on adoption new subtitle 13-14. Hawaii Administrative Rules, to effectuate chapter 194, Hawaii Revised Statutes, including by developing a list of invasive species that could be controlled or eradicated on private and public property by the departments of the Hawaii Invasive Species Council or a county or agent thereof;

And

Delegate authority to the Chairperson of the Department of Land and Natural Resources to set the dates and times for the aforementioned public hearing(s) and appoint a hearing officer for the public hearing(s)

7. Adjournment

The Council may go into Executive Session pursuant to Section 92-5(a) (4), Hawai'i Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Council's powers, duties, privileges, immunities and liabilities.

For information, contact:

HISC Support staff:

1151 Punchbowl St, #325, Honolulu, HI 96813; (808) 587-0166; Fax: (808) 587-0160

Chelsea Arnott, Coordinator: Chelsea.L.Arnott@hawaii.gov

Elizabeth Speith, 643pest.org Report Facilitator: speith@hawaii.edu

Chuck Chimera, Weed Risk Assessment Specialist: chimera@hawaii.edu

Jack Reef, Planner: jack.f.reef.researcher@hawaii.gov

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HAWAII INVASIVE SPECIES COUNCIL

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DRAFT MINUTES

AGENDA FOR THE MEETING OF THE HAWAII' I INVASIVE SPECIES COUNCIL

DATE: Tuesday, December 19, 2023
TIME: 1:00 PM
PLACE: In-person - Conference Room 16; Hawai'i State Capitol 415 S Beretania
St., Honolulu, HI 96813 / & Online Via Zoom Meeting ID: 854 4323
4542

AGENDA

Agenda items #3, 5, and 8 will be Council voting actions. The remaining agenda items provide status updates and information that do not require Council action.

1. Call to order

Chair Laura Kaakua called the meeting to order after 1pm.

2. Introductions of Council Members

Introductions

List of Attendees:

- Council Voting Members:
 - Laura Kaakua, Co-Chair (Department of Land and Natural Resources);
 - Dexter Kishida, Co-Chair [Hawai'i Department of Agriculture (HDOA)];
 - Tammy Lee on behalf of Ed Sniffen (Department of Transportation) (online);
 - Mary Alice Evans (Department of Business, Economic Development and Tourism);
 - Matt Kurano – Department of Health (On behalf of Kathleen Ho)
- Legislative Non-Voting Members:
 - Representative Kirstin Kahaloa (District 6)
 - Representative Elle Cochran (District 14)
 - Representative Lisa Marten (District 51) (online)
 - Senator Lynn DeCoite (District 7) (online)
- Support Staff:

- Chelsea Arnott (HISC), Elizabeth Speith (HISC), Chuck Chimera (HISC), Jack Reef (HISC), Ellie Montgomery (HISC)
- Other Participants:
 - Sharon Hurd (Department of Agriculture) Kevin Lino (Naval Facilities Engineering Systems Command Hawai'i), Clay Trauernicht (UH Manoa); Mike Waker (Division of Forestry and Wildlife), Darcy Oishi (HDOA), Rob Hauff (Forestry and Wildlife),
- Other Attendees
 - Christy Martin (CGAPS); Liat Portner (UH Manoa), Carlton Saito (Senator Gabbard's Office)

3. **Approval of minutes from August 23, 2023 Hawai'i Invasive Species Council meeting**

Mary Alice Evans moved to approve, Dexter Kishida seconded, the motion to approved passed.

4. **Updates from Council members and Department representatives on 2024 legislative requests & policies related to biosecurity and invasive species. This is only an update.**

Staff from the Department's provided updates on this item, and their comments are summarized in items 4a-4c below:

- a. **Governor's FY25 Budget for Department of Land & Natural Resources; Division of Forestry & Wildlife & Division of Aquatic Resources funding to support statewide invasive ant research and control to be carried out by the Hawai'i Ant Lab, additional funds for fire pre-suppression, readiness, response, and post-fire restoration and rehabilitation, and funding to support forest/resource management. Internal actions regarding the Vessel Incidental Discharge Act (VIDA).**
- **Forestry & Wildlife – Rob Hauff**
 - Their legislative request included \$7.5M annually recurring funding amount, and a one-time \$10M request;
 - The division's top legislative priority is their Fire program,
 - Mr. Hauff said they made a significant request which included staff overtime, and replacement of outdated equipment such as helicopters, and bulldozers used to pre-suppress hazard fuels and ease fighting fires.
 - The Division focused on restoration efforts to address the full cycle of fire and replace burnt areas with forest to prevent invasive grasses.
 - The request also included water tanks, and erosion control and vegetation management efforts on Maui.
 - Forestry & Wildlife received \$500k for the Hawai'i Ant Lab (HAL), but didn't get anything for HISC despite higher program costs statewide.
- In response to a question from Member Evans regarding Watershed partnerships mauka of urban populated areas, Mr. Hauff said that his Division is discussing the best way to address those areas, potentially using "watershed partnerships" as a model for "fire shed" a partnership.
 - Mr. Hauff clarified for Representative Cochran that private landowners were included in those discussions. Representative Cochran stated that deer are a major problem in Maui.

- Representative Marten asked about funding for HAL, including the pending furloughs which would reduce staff to 75% capacity. Chelsea Arnott stated that the Governor funded HAL at \$500k despite the Division's request for \$1M, but that efforts are being made to identify the full \$1M. Representative Marten stressed the importance of fully funding HAL at \$1M, but that is still not enough to address the issue and ensure that O'ahu is not labeled as "infested."
- Representative Marten also asked about Department of Education (DOE) lands that are not being managed, and if Forestry & Wildlife could manage those lands. Mr. Hauff said that Forestry & Wildlife could serve as a consultant to help DOE seek grants and manage high fire risk areas. Chair Kaakua said that DLNR could look into this matter. Representative Marten said many of those lands are not high fire risk, and that DOE would benefit from assistance to manage all their lands.
- Senator Decoite asked Mr. Hauff about the Axis Deer. Mr. Hauff said Forestry & Wildlife is part of a Task Force that has surveyed the land and is working on a management plan. In response to the Senator's question, Chelsea Arnott said that HISC's involvement includes having reviewed the management plan and discussed with the Maui Branch, and that a resolution has previously been discussed as a mechanism to ensure coordination amongst the agencies and partners moving forward. The Senator suggested that HISC join the Task Force.
- Representative Cochran asked about fires made worse by winds, and if power lines were being addressed as a factor in fires. Mr. Hauff responded that fuel suppression is a key action to reduce fires, as well as preventing erosion post fires which can ultimately impact coral reefs.
- Representative Kahaloa asked if other policies were addressed in Forestry & Wildlife's legislative program but not covered in Mr. Hauff's presentation. Mr. Hauff responded some other legislative bills were introduced and that he could follow-up with the Representative at a later time.
- Aquatic Resources (DAR) – Ryan Okano
 - The Vessel Incidental Discharge Act (VIDA) is a major issue. Ballast Water and Hull Fouling are the vectors. DAR, in tandem with other western pacific states (CA, WA, OR) has sent the federal Environmental Protection Agency (EPA) a letter stating that the EPA failed to conduct adequate outreach with pacific communities, their regulations do not protect coral reefs and, do not require hull cleaning or adhere to ballast water management and previous implemented rules.
 - There are numerous invasive species issues in Pearl Harbor including angel fish and soft corals possibly caused by aquarium dumping. DAR is seeking funding to address these issues.
 - There is an invasive algae in the NW Hawaiian Islands, but it's not yet in the main Hawaiian islands. DAR is focused on removal of marine debris but that nets can spread algae. DAR is trying to conduct best practices with federal partners.
 - DAR does not have legislative bill proposals at this time.
 - Chair Kaakua asked if nets are a source of the invasive algae. Mr. Okano said nobody knows the source yet, but it's a possibility.

- Representative Marten said that the nets come from Asia, and asked if DAR advocated in Hawai'i's interest. Mr. Okano said that not all entities have a good working relationship with the State.

b. Governor's FY25 Budget for Hawai'i Department of Agriculture (DOA) includes legislation Relating to Agriculture Loans - Reduces and sets fixed interest rates for loans under the Agricultural Loan Program, Relating to Pesticides - Replaces representatives from the sugar and pineapple industries with representatives of the coffee and diversified agriculture industries, Relating to a Strategic Plan to Increase Food Production and Food Security - Requires the DOA in cooperation with the office of the governor, to establish an updated strategic plan to increase Hawaii's food production and food security. Requires DOA to submit a report to the legislature 20 days prior to the 2025 regular session. DOA is working to schedule meetings starting mid-January 2024 for rulemaking regarding Hawai'i Administrative Rules, Chapter 4-72, entitled "Plant and Non-Domestic Animal Quarantine Plant Intrastate Rules". This is only an update on next steps of the rulemaking process and not a formal hearing.

- Dexter Kishida Hawaii Department of Agriculture (HDOA)

- Legislative package includes
 - Agricultural loans that reduce and set fixed interest rates;
 - Replacing representatives serving on pesticide committee;
 - Bill for strategic planning for food security and production; and
 - A public hearing for Chapter 72 is expected to occur in late January, which is a correction to the agenda.

c. The Hawai'i Department of Health; Vector Control Branch is working on a legislative proposal to add language to Hawai'i Revised Statute (HRS) 322-1, that clarifies that the department of health shall act when there are conditions which are dangerous or injurious to "public or environmental" health. HRS 322 is one of the core authorizing statutes that provides the DOH with powers to prevent, remove or abate invasive species which can cause sickness (disease vectors) or may be otherwise dangerous or injurious to health.

- Matt Kurano Department of Health (DOH)

- No new budget bills; and
- The Vector Control program of DOH, will submit a policy bill requesting change in statutory authorities related to abatement of nuisances dating back to kingdom law. The proposal will add words "public" and "environmental" before the word "Health" to show the agency is working on behalf of the public health.

5. Submittal Requesting HISC Program Support Staff to develop a biosecurity & invasive species legislative package for tracking and coordination purposes during the 2024 Legislative Session; and Submit HISC-specific testimony.

- a. Chelsea Arnott advised that this item is a formality, in that HISC staff annually develops a legislative packet and tracks legislation proposed during

the session. The information is posted on the HISC website, and staff may provide testimony as needed to advocate for certain bills.

In summary, Member Evans moved that the issues discussed in item #4 be included in 2024 legislative package for tracking purposes and that staff submit testimony as long as it does not conflict with HISC Council and HISC Department testimony priorities. Member Kishida seconded the Motion and it passed.

6. Informational presentation from Naval Facilities Engineering Systems Command Hawai'i on invasive corals discovered in the Pearl Harbor area and ongoing management efforts.

Kevin Lino from Naval Facilities Engineering Systems Command Hawai'i presented on this item, and a summary of the discussion is as follows:

- A soft coral invasive species was identified in Pearl Harbor. The initial acreage of the infestation was nine acres in 2022 and is now estimated at 83 acres. They are working with partners such as CGAPS, ngos, and the Bishop Museum. Other invasive species have since been found. Contracted divers in Pearl Harbor recently completed a two-week removal effort. The species is spreading rapidly, and its likely to have been in the area for at least 10 years. The geographic features of Pearl Harbor help to contain the species from expanding to reefs outside of Pearl Harbor.
- Mitigation actions have been taken to limit its spread such as smothering, wrapping in tarps, use of sandbags, and then manually removing the invasive species.
- Invasive Angel fish are on display to raise awareness. working with UH on genetics analysis.
- Chair Kaakua asked for quarterly updates regarding this issue. Mr. Lino said they would, but that they also participate in weekly and quarterly meetings with CGAPS.
- Member Kishida asked if there is a public outreach campaign to prevent aquarium dumping. Mr. Lino said outreach to military personnel occurs as well as Bishop Museum efforts. Other activities include seeking funding for outreach; the State completed a flyer that is being circulated; Press releases and community boards meetings have happened, and a lagoon was shut down to prevent harmful activities. Mr. Lino advised that despite these efforts it's not enough. Most people are not aware what is legal or illegal.
 - Member Kishida said HDOA was interested in doing an “amnesty program” that any invasive species can be turned in “no questions asked.” Mr. Lino said the Navy is interested in working with HDOA on this activity.
- Representative Kahaloa asked what was the military’s goal (control vs. eradication) and what will funding allow?
 - Mr. Lino said that an adaptive management plan is being developed with the goal of eradication. However, he stressed that it's likely that some of the species may be able to be eradicated, but the more prevalent ones might not be eradicated. Current funding was for “mitigation” within pearl harbor. The military is continuing to seek funding.
- Public Testimony- Christy Martin with CGPAS stated the following:
 - Only the military can access this area.
 - The military has limited staff capacity to address issue;
 - More funding is needed for Navy, other military, and/or civilian staff to do this work. Grants have not been successful;

- This seems to be a military issue as other agencies survey areas outside of Pearl Harbor; and
- More outreach is needed.

7. Informational presentation from University of Hawai'i Extension Specialist in Ecosystems & Fire on Wildfire in Hawai'i with particular focus on the role of invasive grasses and shrubs

- Clay Trauernicht (UH) provided an informational presentation which is summarized below.
 - Its important to understand the connection between fires and invasive species;
 - Annual State burn-area has increased since 1904;
 - From 5k acres to 20k annually, as there is variability for wet/dry years;
 - A Wili Wili forest was lost to fire and will not come back in our lifetimes
 - The three drivers of fires are climate, ignition, and vegetation;
 - Drought on windward coasts cause fire conditions, which are made worse by wet cycles of heavy rains followed by dry spells;
 - Fires are a constant threat due to human activity (99% human caused);
 - Vegetation management is the only thing people can control such as unmanaged nonnative grass and shrub lands;
 - Invasives are a mix of African grasses and shrubs that burn with ferocity. Grasses include Guinea Grass and Buffel grass which was near Lahaina;
 - About one-quarter of Hawai'i lands (1M acres) are dominated by shrubs and grasses. 85% of areas burned are in the non-native ecosystems;
 - Need to understand land use history, such as abandoned sugar cane fields;
 - Loss of farming areas in the 1960s left huge unmanaged tracts of land;
 - Many partnerships exist with government and other organizations, but staff is limited. Actions/toosl have been implemented to suppress fires including: native planting, green fire break, and grazing;
 - Language used in resolutions needs to be specific;
 - San Diego buries their power lines;
 - Many actions can be taken on the individual home level;
 - Need more investment in "land care," the complexity of landscapes aligns with Forestry & Wildlife efforts; and
 - Active agriculture use would have prevented recent disaster.
- Member Kishida asked about distinction between "invasive" vs. "non-native." He said infrastructure is needed to house sheep. Mr. Trauernicht said wild ungulates are different than domesticated. Studies have shown that you need to direct animals to achieve goals, animals won't solve issues naturally
- Representative Cochran informed that Legislator Gabe Johnson wants to create a tiered taxation plan for fallowed agricultural lands to green Hawaiian lands. State and County want to clean up roadsides. Mr. Trauernicht advised that DOT has been proactive to clear roads. Need to be strategic in mowing grasses, otherwise it will just grow back. Representative Cochran said that there are ordinances on the books to address private lands. Mr. Trauernicht

advised that goats and spraying pesticides are good alternatives and prevent fires.

- Representative Marten asked if DOE had reached out to Mr. Trauernicht. He advised they had not. The Representative. stressed he should be proactive and reach out to DOE.
- Representative Marten also asked if there are bridge plantings post fires to limit fuel loads. Mr. Trauernicht said that current invasive seed banks just outcompete new plantings. More experiments are needed in heavily populated areas.
- Representative Kahaloa asked about seed banking and how to grow the banking. There are a couple active banking facilities, but we need to understand barriers to growth. He said next steps are to move toward seed production / seed farms. How to maximize genetic diversity per island. Who gets access to the seeds (capital) is a powerful tool for community groups.
- Representative Cochran said volunteerism (tourism industry) is a possible resource to help in regreening. She also stated that West Maui used to be the Venice of the Pacific with 33 free flowing streams.
- Mr. Trauernicht said assessments have been done to determine why certain houses burned and others did not.
- Public Testimony
 - Taylor Kellerman Hawaii Cattleman's Association
 - He stated: his group consider themselves stewards of 750k acres of grasslands; they have a deep care and concern; they want to be considered partners; and would like a seat at the table, as cattleman have responsibility and opportunity of local food production and fuel load control. They stand by their submitted written testimony.
- Nicole Galase (online) – Managing Director of the Hawaii Cattleman's Council.
 - Land use management is key to control fire fuel loads. She suggested that efforts should focus on the 25% of unmanaged lands, and that State leases should have management plans.

8. Submittal Requesting a Resolution Recognizing the Role of Invasive Plants as it Relates to Wildfire in Hawai'i & Supporting Recommendations for the Prevention and PostRecovery Efforts to Mitigate Future Impacts.

- Chelsea Arnott summarized the Resolution and read Council Actions to provide recommendations for fire prevention and post-recovery efforts. She advised that the action is not a management plan, it's a recommendation to reduce impact of invasive species as reviewed by partners and agencies.

- Public Testimony

- Hawaii Cattleman's Council reiterated testimony and stand by the Resolution
- CGAPS- Christy Martin – In collaboration with NRCS, she suggested that the words "whenever possible" should be added to the Council Actions that invasive species may be necessary.

- Member Evans said the words "whenever feasible" are included in the actions and address the issue raised in public comment.

- Member Evans moved the item, member Kishida seconded the Motion. The item passed.

9. Recommendations from Council members on topics for future HISC meetings and timeframe:

- Member Evans: Update from HAL on efforts to control/eradicate Little Fire Ant
- Member Cochran: Axis Deer
- Member Kahaloa – Status Update for the Biosecurity Plan
- Member Cochran – Port security efforts and funding. How to attract resources. Fed Ex would not allow inspections, yet their workload quadruples during the holidays.
- Have HISC staff coordinate the next meeting sometime after May.
- Christy Martin suggested HISC invite Joint Base HICAM commander regarding needs for invasive corals.

10. Adjournment

2:56 meeting adjourned.

Interagency MOU for the Prevention, Rapid Response, & Control or Eradication of High Priority Pests Among the HDOA, UH and DLNR

HAWAII INVASIVE SPECIES COUNCIL MEETING

WEDNESDAY, MAY 29, 2024

Agenda

- Review of the MOU
 - Background
 - Goal
 - Definition of participants
 - Summary of agreed upon terms
 - Important dates
- Relevant Legislation
- Developing county-based actions plans



BACKGROUND

- **Multi-agency responses occurring in each of the counties; rapid response and ongoing management**
 - 2021 multi-agency efforts to control naturalized population of coqui begins on Oahu
 - 2022 largest infestation of little fire ant detected on Kaua‘i, increased infestations on Windward O‘ahu
 - 2023 CRB detected on Kauai, Hawaii Island , and Maui
- **Workshop in early 2024 to clarify roles and responsibilities**
- **Challenges**
 - Lack of regular and consistent communication amongst the agencies and partner organizations
 - No real lead for some actions or on responses
 - Conflicting or confusing public messaging
 - No protocols or agreement on data sharing
 - Lack of resources and capacity

Goal



The goals of this MOU are the prevention of new infestations, the containment and eradication of all incipient infestations, and the control/containment of existing infestations of coqui frog (*Eleutherodactylus coqui*), little fire ant (*Wasmannia auropunctata*), and coconut rhinoceros beetle (*Oryctes rhinoceros*) (hereinafter collectively referred to as “High Priority Pests”) through early detection and rapid response by all the Signatories and Partners to this MOU.

Definitions of participants

- **Signatories** – leadership of HDOA, DLNR and UH
- **Partners** – HDOA, DLNR, HISC, UH PCSU – BIISC, KISC, MISC, MoMISC, OISC, HAL, CGAPS, UH CRB Response



Agreed Upon Terms - Summary

- The Partners will collaborate, coordinate, and work jointly with each other and with other stakeholders - including sister agencies at federal and state levels as well as private landowners, counties, non-governmental organizations, communities, and universities - to proactively identify and carry out projects to prevent the introduction and spread of, and control or eradicate, where possible, High Priority Pests.
- The Partners will manage and be responsible for their activities when undertaking collaborative efforts related to High Priority Pests. They will oversee the proper utilization of their resources, funds, and personnel unless otherwise delegated through an Incident Command System implemented by HDOA. Each Partner will carry out its separate activities, where appropriate and applicable, in a coordinated and mutually beneficial manner under this MOU.

Agreed Upon Terms - Summary

- Regular Meetings:
 - Representatives of each Partner who works directly on field response will meet monthly each calendar year
 - Representatives of Partners will participate in additional meetings or island-based meetings as needed.
 - Each Partner will designate a representative or representatives to attend meetings.
 - The Signatories of this MOU agree to meet quarterly to evaluate the progress made under this MOU and adjust actions as needed to carry out its goals and purpose.
 - The designated Partners and Signatories to this MOU will attend annual meetings to review the MOU and update it as needed.
 - Signatories to this MOU shall update HISC on progress under this MOU at the regular semi-annual HISC meetings.

Agreed Upon Terms - Summary

- **Action/Response Plans:** Partners will develop action/response plans for each county
 - little fire ants within five months
 - coconut rhinoceros beetle and coqui frogs within twelve months of the signing of this MOU
 - Responsibilities in the response plans can be modified for prevention and containment through consensus with all Partners.
- **Detailed Response Matrices**
 - Within three months from the date of signing of this MOU, detailed matrices for the prevention, rapid response, control, and eradication of little fire ant, coconut rhinoceros beetle, and coqui frog
 - **Little fire ant:** A response matrix for Little Fire Ant is attached as **Attachment 2** to this MOU. The Little Fire Ant matrix is a work in progress and may be revised, as described above.
 - **Coconut Rhinoceros Beetle.** CRB Response will lead, and the Partners will participate in, the development of the response matrix for CRB with all Partners except HAL.
 - **Coqui Frog.** The Partners will participate in developing a response matrix for coqui frog with all Partners except HAL and CRB Response.

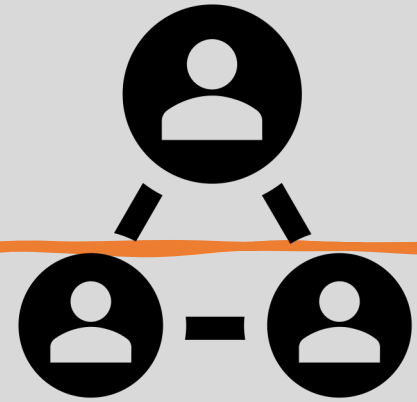
Agreed Upon Terms - Summary

- Data Sharing
 - Partners will develop standards and protocols to share data related to High-Priority Pests within twelve months of the signing of this MOU.
 - all information shall be kept strictly confidential and not be made available to any individual organization without the prior written consent of the Partner who provided the data
 - HDOA or DLNR has an ongoing investigation or legal proceeding that prevents the sharing of data, the data will not be shared until such time as the case or proceeding is formally and completely closed by HDOA or DLNR
- Survey and Treatment Protocols
 - Partners will agree on and commit to consistent survey and treatment protocols for survey and control, including protocols for data collection (data points, treatment records, dates, etc.) for High Priority Pests. Nothing in this commitment prohibits a Partner from establishing or using more stringent or data-intensive protocols.

Agreed Upon Terms - Summary

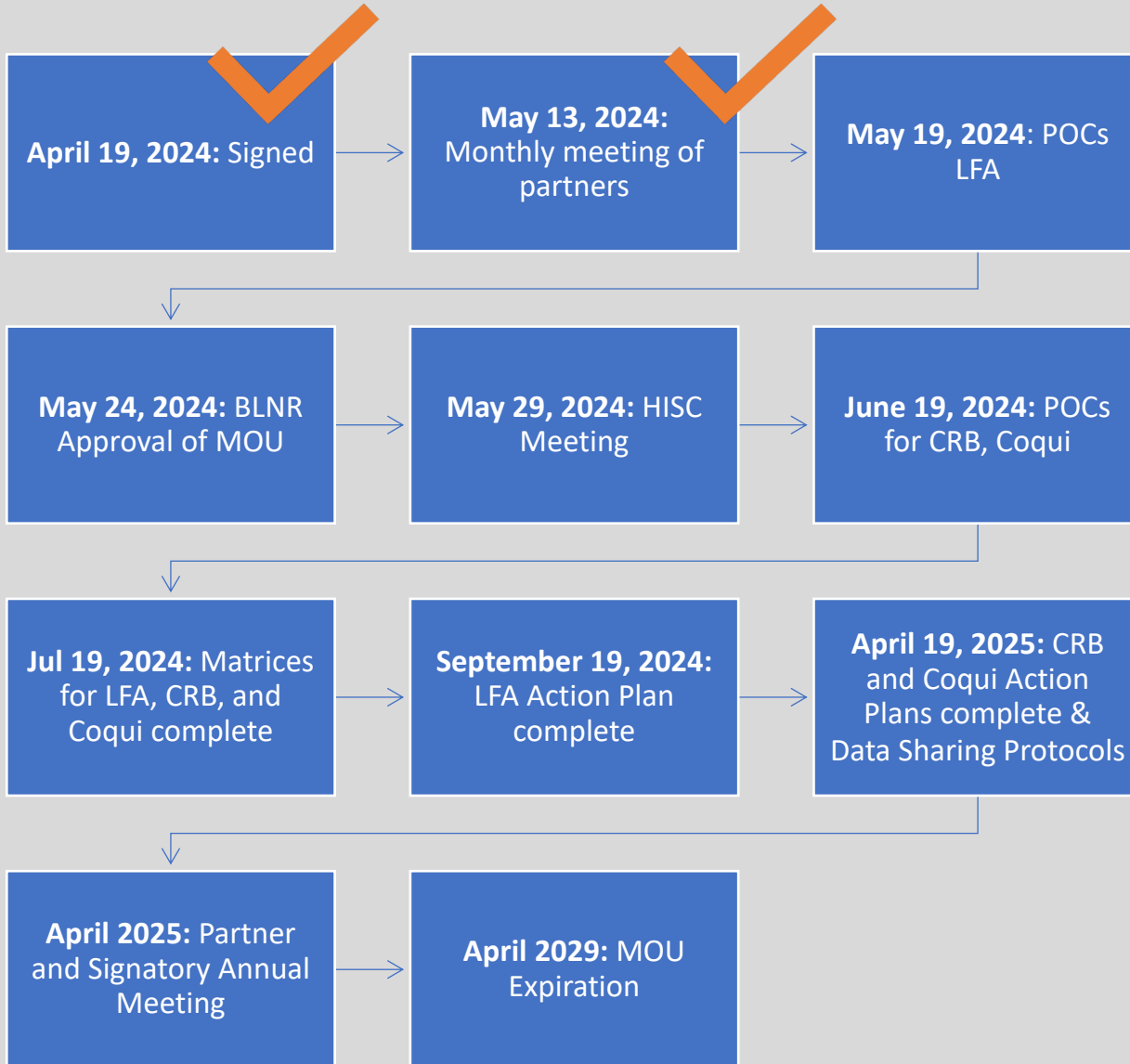
- **Term of MOU.** This MOU shall take effect on the date of the last signature hereto and shall remain in effect for five years unless extended by the agreement of the partners.
- **Amendments.** This MOU shall not be amended except in writing and signed by the Signatories. Any written amendments shall be affixed hereto and shall become full conditions of this MOU.
- **Termination:** This MOU may be terminated by any Signatory to the extent of that Signatory's roles under the MOU by providing 60 days written notice for all the Signatories.

Points of Contact



- Each Partner will designate a point of contact from each county for the Partners and the public, including points of contact for public reports, sample submission, follow-up for each High Priority Pest, and participation in the development of the action/response plans. Each partner must designate a point of contact for little fire ant within thirty days after the signing of this MOU and for coconut rhinoceros beetle and coqui frogs, within sixty days after the signing of this MOU.
- Upon completion, the initial list of designated point of contacts and each list thereafter, including contact information, will be attached to this MOU. Each Partner may update its designated point of contact by email to all the other Partners.

Timeline for Implementation



• Ongoing Meetings

- **Signatories meet quarterly** – July, October 2024, January, April 2025
- **Partners meet monthly in addition to county led meetings** – recurring 2nd Monday of the month
- **Signatories to this MOU shall update HISC on progress** under this MOU at the regular semi-annual HISC meetings.

HB 2619 – Biosecurity Bill

- \$1.5M –CRB Response
- \$2M – Public Awareness Campaign
- \$2.5M – LFA response
- \$100k – Coqui Frog Response
- \$100k – Invasive Species Outreach
- \$101k – Invasive Ant Specialist

HAWAII
ISLAND

2024 ACTION PLAN FOR COCONUT RHINOCEROS BEETLE



MAUI NUI

2024 ACTION PLAN FOR LITTLE FIRE ANTS



O'AHU

2024 ACTION PLAN FOR COQUI FROGS



DEVELOPING COUNTY-BASED ACTION PLANS

JOSH GREEN
GOVERNOR OF HAWAII

SYLVIA LUKE
LIEUTENANT GOVERNOR



HAWAII INVASIVE SPECIES COUNCIL

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TOURISM

EDWIN SNIFFEN
DEPARTMENT OF TRANSPORTATION

May 29, 2024

SUBMITTAL

TO: Co-chairs and Members
Hawaii Invasive Species Council
State of Hawaii

FROM: Chelsea Arnott
Program Supervisor
Hawaii Invasive Species Council

SUBJECT: Request for Approval to:

Hold public hearing(s) on proposed adoption of a new subtitle and new chapters under Hawaii Administrative Rules as Title 13, Subtitle 14, Chapters 325 “General Provisions” and 326 “Control and Eradication of Invasive Species,” to effectuate chapter 194, Hawaii Revised Statutes, including a list of invasive species that may be controlled on private and public property by the State, a county, or agent thereof;

and

Delegate authority to the Chairperson of the Department of Land and Natural Resources to set the dates and times for the aforementioned public hearing(s) and appoint a hearing officer for the public hearing(s)

The Hawaii Invasive Species Council (HISC) staff is proposing to adopt a new subtitle as Hawaii Administrative Rules Title 13, Subtitle 14, to effectuate chapter 194, Hawaii Revised Statutes (HRS).

This submittal summarizes the new subtitle 14 proposed to be added to title 13, HAR; discusses the background of HISC administrative rules; the reasons for the proposed new subtitle 14; describes the process for adopting the new subtitle 14; requests approval from HISC to hold public hearings pursuant to chapter 91, HRS; and requests that HISC delegate authority to the Chairperson of the Department of Land and Natural Resources (DLNR) to appoint a hearing master and designate dates and times for the public hearing(s).

Background

In 2003, HISC was established in statute by the enactment of Act 85. That law, as amended, is set out in chapter 194, HRS. The law sets out the duties and membership of the HISC. It also requires HISC to create a list to “[i]dentify and record all invasive species present in the State” and a list of “invasive species identified by the council for control or eradication.” HRS §§ 194-2(a)(6) (emphasis added), 194-4, 194-5. Once those lists are produced, it authorizes the departments of the HISC, the counties, and their agents to control or eradicate invasive species identified by the HISC on private property and the departments of the HISC and their agents to control any invasive species on public property. HRS §§194-5, 194-6.

At HISC’s first meeting on October 29, 2003, HISC voted to adopt three existing lists of invasive species, as codified in HAR, as an “initial list of invasive species” with the stated intent of producing a more comprehensive list at a later date. The three existing lists voted to be considered as “invasive” were:

- The List of Prohibited Animals, dated October 25, 2001 (HAR § 4-71 Attachment 1);
- The List of Plant Species Designated as Noxious Weeds for Eradication or Control Purposes, dated June 18, 1992 (attached at end of HAR § 4-68); and
- The List of Species of Injurious Wildlife in Hawaii, dated February 1, 1997 (HAR § 13-124 Exhibit 5).

At the 2003 meeting, HISC assigned the Working Group on Established Pests to take the lead responsibility in developing a method for updating the list, but no such method was produced. Since that time, HISC has not adopted any administrative rules to carry out chapter 194 HRS. There has been interest and efforts to do so over the years, but none were ultimately successful.

At its June 2011 meeting, HISC approved Resolution 11-1, which directed HISC staff to draft administrative rules for the implementation of chapter 194 HRS.¹ As HISC is administratively attached to an executive agency (DLNR), HISC must follow the rule making procedures outlined in HRS chapter 91. Between 2011 and 2015, HISC staff worked with DLNR and other agency staff, the Department of the Attorney General, and other partners to explore options for administrative rule processes that would allow HISC to maintain invasive species lists. HISC staff find that developing a list of all invasive species present in the State is an enormous task that would require a huge expenditure of money and staff resources, which are currently and historically unavailable. Such a list would need to be a dynamic list - it would need to be amended regularly as new invasive species were detected, species taxonomy changed, and, hopefully, species were eradicated.

HISC staff find that developing a list of invasive species “identified by the council for control or eradication” is a much more manageable task and sufficiently carries out the legislative intent in HRS chapter 194. As rules have not been adopted, HISC currently lacks those authorities to control or eradicate high-impact invasive species, as identified by HISC.

In June 2015, HISC considered a HISC staff submittal requesting direction on the promulgation

¹ <https://dlnr.hawaii.gov/hisc/files/2013/02/HISC-Reso-11-1-Admin-Rules.pdf>

of administrative rules, including the species lists required by chapter 194.² The submittal described a model of list maintenance set out in HRS § 150A-6.6, which allows the Hawaii Department of Agriculture (HDOA) to update its lists of prohibited and restricted species under HRS §§ 150A-6.1 through 150A-6.3. The model allows for public input and notification without going through the chapter 91 HRS rulemaking process. This statutory process would greatly reduce the time and cost associated with list making. However, to utilize that model, chapter 194 would need to be amended to provide authorities similar to those found in HRS § 150A-6.6. HISC approved a motion for HISC staff to draft amendments to chapter 194 for the consideration by the Legislature that would provide HISC a process similar to the that available to HDOA to update its invasive species lists.³ Since that time, HISC has worked to obtain the statutory amendments to carry out the 2015 motion. Unfortunately, that effort has not been successful.

High-impact invasive species continue to be detected and spread across the State. After ten years of containment to O‘ahu, the coconut rhinoceros beetle was detected on Kaua‘i in the summer of 2023. Soon after, new detections were found on Maui and Hawai‘i Island of the same year. The little fire ant continues to spread throughout the counties with particular concern for O‘ahu where infestations, particularly on the windward side have drastically increased with over 30 active sites as of May 2024. The Island Invasive Species Committees (ISCs) on O‘ahu and Kaua‘i have prevented invasive plants like Miconia from taking over forested watersheds with ongoing, dedicated control efforts.

In 2022, HISC staff restarted the rulemaking process by drafting administrative rules to carry out chapter 194, HRS. In September 2022, the Department of the Attorney General advised HISC staff that the list of invasive species identified by HISC for control or eradication must be adopted under chapter 91, HRS, as an administrative rule. HISC staff developed the attached draft proposed administrative rules (proposed rules) for consideration and promulgation by HISC. These rules focus on a list of invasive species identified by HISC for control or eradication; procedures for HISC departments, the counties, or their agents to carry out control or eradicate actions for those species on private property; and for HISC departments and their agents to carry out control or eradication actions on State or county property.

Discussion and Analysis

Process. HRS § 194-7 provides HISC authority to adopt administrative rules pursuant to chapter 91, HRS. Chapter 91, HRS, sets out the State’s rulemaking process, including a requirement for public hearing(s). Any proposed administrative rule is required to be reviewed by the Small Business Regulatory Review Board both before and after the public hearing. HRS §§ 201M-3, 201M-5. If the rules are ultimately adopted, any future amendment to the rules, including to the list of invasive species identified by HISC for control or eradication, must be made using the chapter 91, HRS, rulemaking process. While this process has many steps and takes time, it allows for full public participation in the rulemaking process. It is also the only process available to adopt or amend the HISC rules without a statutory change.

This submittal, and requested approvals from HISC, are the first formal step in rulemaking

² <https://dlnr.hawaii.gov/hisc/files/2015/04/2015-6-10-HISC-Submittal-1-Admin-Rules.pdf>

³ <https://dlnr.hawaii.gov/hisc/files/2015/04/2015-6-10-Minutes-HISC.pdf>

pursuant to chapter 91, HRS.

Placement of Rules. The draft rules are proposed to be placed in HAR title 13, a new subtitle 14, and new chapters 325 and 326.⁴ Title 13 houses the administrative rules of DLNR. Subtitle 14 will be reserved for HISC-related rules.

Need for rules. HISC has not adopted any administrative rules to carry out chapter 194, HRS. The authorities contained in chapter 194 are intended for the HISC departments, the counties, and their agents to carry out control or eradication actions on private property if an invasive species identified by HISC is: (1) found on private property; or (2) reasonably suspected to be on private property, based on the results of systematic surveys or reports or proximity to known populations. HRS § 194-5. Chapter 194 HRS further authorizes HISC departments and their agents to order the control or eradication of invasive species on public property. HRS § 194-6. Until administrative rules with procedures are properly adopted, these statutory authorities cannot be effectuated.

The species listed as invasive species identified by HISC for control or eradication are the highest impact invasive species that are continuing to spread within the State or that would require an immediate response if found in the State. A description of each species selected is as follows:

Plants:

Scientific name	Common name	Summary of Impacts
<i>Cenchrus setaceus</i> (formerly <i>Pennisetum</i> <i>setaceum</i>)	fountain grass	Fountain grass is a perennial, clumping grass that can grow in a variety of habitats, from bare lava, to rangeland, to urban roadsides in drier areas of the Hawaiian Islands. Fountain grass is an aggressive habitat-invader. It degrades the quality of pasture lands, particularly in drier areas. It is fire-adapted and can sustain fires that spread quickly into adjacent areas. Its dried biomass can increase the intensity of wildfires. It is listed as a State Noxious Weed under chapter 68 HAR. Fountain grass is a target pest of all the ISCs except for Molokai.
<i>Chromolaena odorata</i>	devil weed, Siam weed	Devil weed, siam weed, or bitter bush, is one of the most notorious tropical weeds in the world. Emerging as a shrub that quickly forms dense thickets, it can thrive in all environments except deep shade, flourishing in newly disturbed areas. It is listed as a State Noxious Weed under chapter 68 HAR and is a target

⁴ This placement is modeled after the placement of the administrative rules for the Kaho‘olawe Island Reserve Commission, which are set out in subtitle 12 of title 13 HAR. Both HISC and the Kaho‘olawe Island Reserve Commission are placed within DLNR “for administrative purposes.” HRS §§ 194-2(b), 6K-5(a).

		pest of the Oahu Invasive Species Committee and Big Island Invasive Species Committee.
<i>Cortaderia jubata</i>	pampas grass	Pampas grass grows rapidly, produces thousands of seeds per flower plume, and can accumulate large amounts of fire prone biomass. Seeds are viable for 4-6 months, but field evidence from Hawaii suggests viability could be greater. It can crowd out native species, impede access, degrade grazing lands, and create fire hazards. It is listed as a State Noxious Weed under chapter 68 HAR. Pampas grass is a target pest of all the ISCs except for Molokai.
<i>Cortaderia selloana</i>	pampas grass	Pampas grass grows rapidly and can accumulate large amounts of fire prone biomass. It can crowd out native species, impede access, degrade grazing lands, and create fire hazards. It is difficult to distinguish from other <i>Cortaderia</i> species and may hybridize with them.
<i>Miconia</i> – all species in the genus	miconia	<i>Miconia</i> is one of the top threats to Hawaii’s watersheds and forest ecosystems. The fast-growing tree in the melastome family invades areas from agricultural landscapes to forests by forming dense stands and shading out other native forest trees with its large leaves. Its uncontrolled growth can overwhelm highly diverse native wet forest ecosystems that are home to critically endangered species and essential as sources of fresh water. Each plant can produce approximately ten million seeds per year, which may remain viable for more than 20 years. It is listed as a State Noxious Weed under chapter 68 HAR. It is a target of the ISCs except Molokai.
<i>Pennisetum villosum</i>	feather-topped fountain grass; longstyle feather grass	Feathertop is another perennial, clumping grass that is grown in gardens with a similar growth structure and leaves to fountain grass. It is an early detection target pest of the Kauai Invasive Species Committee.
<i>Senecio madagascariensis</i>	fireweed	Fireweed invades pastures, disturbed areas, and roadsides. It is very toxic to cattle, horses and other livestock. When ingested it causes illness, slow overall growth, liver-malfunction and even death in severe cases. In Australia, fireweed costs over \$2 million per year in

		losses and control. It is listed as a State Noxious Weed under chapter 68 HAR. It is a target of the Kauai Invasive Species Committee, Oahu Invasive Species Committee, and Molokai Invasive Species Committee.
<i>Tibouchina</i> – all species in the genus	Tibouchina, glory bush	Tibouchina threatens native areas by forming monotypic thickets that outcompete and displace native plants. All 350 plants in the genus <i>Tibouchina</i> are designated as State Noxious Weeds under chapter 68 HAR. <i>Tibouchina</i> is a target pest of the Oahu Invasive Species Committee.

Invertebrates:

Scientific name	Common name	Summary of Impacts
<i>Aedes aegypti</i>	mosquito	<i>Aedes aegypti</i> is a serious human health risk. It is the known vector of several viruses including yellow fever virus, dengue virus chikungunya virus and Zika virus. It has limited distribution in the State and populations are monitored by the Hawaii Department of Health Vector Control Branch and the Interagency Port of Entry Monitoring Program coordinated under the HISC.
<i>Aedes scutellaris</i>	mosquito	<i>Aedes scutellaris</i> is a mosquito that can transmit dengue viruses. It is a semi-domesticated container breeding mosquito that is also considered a bush mosquito. Monitoring for this species is conducted by the Hawaii Department of Health Vector Control Branch and the Interagency Port of Entry Monitoring Program coordinated under the HISC.
<i>Aphis mellifera scutellata</i>	Africanized honeybee	Africanized Honeybees (AHB) are a “wild” bee that is not comfortable around people or animals and will readily defend its hive at greater distances from the disturbance, become more upset with less reason, and sting in much greater numbers. If it were to become established in Hawaii, it would be difficult to control, it could seriously impact Hawaii’s communities, businesses, and tourism. AHB could also impact commercial beekeepers, resulting in reduced yields to crops that rely on pollination. It could also impact honey and

		queen bee production in the State by infiltrating domestic honey bee colonies. Africanized honeybees are considered injurious wildlife under chapter 124 HAR.
<i>Anopheles</i> - all species in genus	western malaria mosquito	Anopheles mosquitos can transmit malaria. They are not known to be present in Hawaii. Monitoring for this species is conducted by the Hawaii Department of Health Vector Control Branch and the Interagency Port of Entry Monitoring Program coordinated under the HISC.
<i>Oryctes rhinoceros</i>	coconut rhinoceros beetle, CRB	CRB a pest of palms across the Pacific including Hawaii and have a wider host range that includes Pandanus and banana. Adults bite and bore into emerging palm fronds creating holes in the top of the tree that can eventually kill it. CRB is a target pest of the Kauai Invasive Species Committee, Maui Invasive Species Committee, Big Island Invasive Species Committee, and is designated by HDOA as a Pest Designated for Control or Eradication under chapter 4-69A HAR and by DLNR as Hawaii Injurious Wildlife Species (Exhibit 5, Chapter 13-124 HAR).
<i>Popillia japonica</i>	Japanese beetle	Japanese beetle feeds on a wide range of plants. The adult beetles skeletonize leaves by eating around the larger veins and chew on flowers. Hosts include small fruits, tree fruits, truck and garden crops, ornamental shrubs, vines, and trees. Feeding studies show a host range more than 300 plants in 79 plant families. It is monitored for by the Interagency Port of Entry Monitoring Program coordinated under the HISC.
<i>Prosopeia bicincta</i>	two-lined spittlebug	The two-lined spittlebug (TLSB) feeds on grasses that are important to ranching and results in the loss of thousands of acres of kikuyu and pangola grass pastures. Pastures do not recover after infestation but instead are replaced by invasive plants that are challenging to control. The TLSB is a serious threat to the ranching industry in Hawaii, where most of our livestock depend on the grasses attacked by the insect. TLSB is a target pest of the Big Island Invasive Species Committee.

<p><i>Solenopsis invicta</i></p>	<p>red imported fire ant, RIFA</p>	<p>RIFA pose a serious threat to human health. Large numbers of ants will rapidly swarm on and relentlessly sting anything unfortunate enough to disturb them. In the U.S., millions of people are stung each year. RIFA stings cause blisters filled with white pus which lasts for several days. In infested areas, they may cause injury or death to livestock, pets, and wildlife; damage crops, ornamental plants, electrical equipment, and irrigation systems; and cause serious declines in biodiversity. RIFA is designated by HDOA as a Pest Designated for Control or Eradication under chapter 4-69A HAR and by DLNR as an Hawaii Injurious Wildlife Species (Exhibit 5, Chapter 13-124 HAR). It is also monitored for through the Interagency Port of Entry Monitoring Program coordinated under the HISC.</p>
<p><i>Wasmannia auropunctata</i></p>	<p>little fire ant, LFA</p>	<p>LFA delivers a painful sting when disturbed. Welts can last for weeks. Infests agricultural fields and farms, where they damage crops and sting workers. Promotes plant pests such as aphids, white flies and scale insects, which secrete plant sap that the ants eat. They may sting, and even blind, pets such as cats and dogs. In the Galapagos, they eat tortoise hatchlings and attacks the eyes of adult tortoises. LFA is a target pest of the Kauai Invasive Species Committee, Oahu Invasive Species Committee, Hawaii Ant Lab, Maui Invasive Species Committee, and is designated by HDOA as a Pest Designated for Control or Eradication under chapter 4-69A HAR and by DLNR as an Hawaii Injurious Wildlife Species (Exhibit 5, Chapter 13-124 HAR).</p>

Vertebrates:

Scientific name	Common name	Summary of Impacts
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<p><i>Eleutherodactylus coqui</i></p>	<p>coqui frog</p>	<p>The coqui frog has no natural predators or competitors in Hawaii to keep populations in check. Populations have reached 55,000 frogs per hectare in some Hawaii populations (compared to 24,000 frogs per hectare in their native habitat, Puerto Rico). They eat huge quantities of insects, removing insects from forest floor to treetops. This results in the loss of insect services, such as pollination. The male calls are loud and incessant that can bother residents and visitors alike. Coqui are currently a rapid response species for HDOA and the Island Invasive Species Committees (ISCs) except for Hawaii Island. Coqui is designated by HDOA as a Pest Designated for Control or Eradication under chapter 4-69A HAR and by DLNR as an Hawaii Injurious Wildlife Species (Exhibit 5, Chapter 13-124 HAR).</p>
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Pathogens/Diseases:

Scientific name	Common name	Summary of Impacts
<i>Ceratocystis lukuohia</i>	rapid ohia death	<p>The two fungal pathogens attack and can quickly kill ohia trees (<i>Metrosideros polymorpha</i>). Ohia is endemic to Hawaii and comprises approximately 80% of Hawaii's native forests. *Note: the species of <i>Ceratocystis</i> fungi that cause Rapid Ohia Death has since been recognized as two distinct species; <i>Ceratocystis huliohia</i> (ROD canker disease) and <i>C. lukuohia</i> (ROD wilt disease), with significantly different pathologies – although both ultimately lead to tree mortality. There is a State quarantine preventing the movement of Ohia products from Hawaii Island and Kauai. The US Department of Agriculture implemented the Myrtaceae Rule that restricts the movement of myrtle plants from entering Hawaii through foreign ports.</p>
<i>Ceratocystis huliohia</i>	rapid ohia death	

The adoption of administrative rules to effectuate the authorities for HISC departments, and counties and agents where applicable, to control and eradicate species identified by HISC or order their control or eradication will provide the opportunity to effectively manage these invasive

species on a local, island, or State-wide basis.

Summary of Proposed Rules

The text of the proposed rules, to be found in chapters 325 and 326 of subtitle 14 to title 13, HAR, is provided as **Exhibit 1** of this submittal. **Exhibit 2** provides the text of HRS §§ 194-5 and 194-6 for reference. A summary of the proposed rules is as follows:

Chapter 325 contains 3 sections that set out the general provisions as follows:

- **Section 325-1 “Purpose”** sets out that the purpose of the rules is to implement HISC authorities under chapter 194 HRS.
- **Section 325-2 “Definitions”** sets out the definitions for the subtitle for the terms “agent,” “control,” “Council” or “Hawaii Invasive Species Council,” “county,” “department,” “eradicate,” “eradication,” “invasive species,” “non-native species,” “person,” and “public property.”
- **Section 325-3 “Relationship to other laws”** clarifies that the HISC administrative rules may not be construed to limit existing authorities provided to a HISC department or a county under any law or any other rule.

Chapter 326 contains 6 sections that are related to the authority of HISC departments, the counties, and their agents to carry out actions to control or eradicate invasive species identified by the HISC, as follows:

- **Section 326-1 “Invasive species identified by the council for control or eradication”** sets out the list of invasive species identified by HISC for control or eradication (identified species).
 - The list contains 20 invasive species taxa that are either: (1) currently causing substantial negative impacts in the State and that could still be controlled or eradicated over a large geographic area; or (2) not currently present in the State and would cause such impacts if not controlled or eradicated if detected in Hawaii.
 - A detailed description of each species is provided under heading “Discussion and Analysis” above.
 - This section carries out the statutory requirement that control or eradication actions on private property may only be carried out for “invasive species identified by the [HISC] for control or eradication.” HRS § 194-5.
- **Section 326-2 “Requirements for control or eradication on private property”** sets out the requirements for a HISC department or county or an agent to control or eradicate an identified species on private property. This section provides guidance to HISC departments and counties for carrying out HRS § 194-5, as follows:
 - The department or county must submit a detailed control or eradication program to HISC. The program must be narrowly tailored to control or eradicate the target invasive species, identify the specific geographic area where the control or eradication

- actions will be carried out, include a proposed schedule of the actions, describe the methods proposed to be used, and include an assessment of the reasonableness of those methods.
- The section requires the HISC department or county to provide updates to HISC on the control or eradication actions at least annually.
 - Subsection (b) requires that if two departments or counties intend to carry out control or eradication actions for the same identified species, those departments and counties shall ensure the actions are carried out efficiently and in a manner that does not result in unnecessary impacts to land owners, tenants, or occupants.
 - Subsection (c) authorizes a HISC department or a county to enter into a memorandum of understanding (MOU) with an agent that has appropriate expertise and experience to carry out actions under this section or sections 326-3 or 326-4 (see below).
- **Section 326-3 “Notice”** sets out the requirements for notice to a private property owner, or tenant or occupant if applicable, before control or eradication actions may be carried out on the private property. This section provides guidance on what is “reasonable notice” as required by HRS § 194-5.
 - If the owner, and tenant or occupant if applicable, consent to the control or eradication actions, the actions may be carried out immediately.
 - If the owner, and tenant or occupant if applicable, does not consent, the action may be carried out 30 days after notice is given if a court issues a warrant authorizing the actions under section 326-6 (see below).
 - Subsection (c) authorizes a HISC department or county or their agent to waive the 30 day notice requirements if the department or county determines that control or eradication of the identified species requires an urgent response on private property and the consent of the owner, or tenant or occupant if applicable, cannot be obtained immediately and the department or county obtains a warrant under section 326-6 (see below) that authorizes the entry onto the private property for emergency control or eradication actions.
 - **Section 326-4 “Requirement for control or eradication by private property owner”** authorizes a HISC department or county or their agent to order a private property owner to control or eradicate an identified species if the department or county or their agent determines the identified species was “intentionally and knowingly” established on private property by the property owner. This section provides guidance to HISC departments and counties to effectuate HRS § 194-5(c).
 - The property owner must be given 30 days notice and a reasonable amount of time to obtain needed equipment, supplies, and personnel to comply with the order.
 - Subsection (c) provides that if the owner fails to comply with the order, the HISC department or county or agent may, after notice, carry out the actions at the property owner’s if the owner consents or pursuant to a warrant sought under section 326-6 (see below).
 - Subsection (d) provides that the HISC department, county, or agent may seek to recover its expenses for carrying out the actions under subsection (c) at an appropriate proceeding.

- **Section 326-5 “Requirements for control or eradication on public property”** sets out the requirements for a HISC department or its agent to order an entity in charge of State or county property to control or eradicate an identified species on the public property. This section provides limitations on the authority provided in HRS § 194-6.
 - HRS § 194-6 authorizes a HISC department or its agent to order the entity in charge of any State or county property to control or eradicate any invasive species.
 - The proposed rules limit this authority by authorizing a HISC department (or agent operating under an MOU) to order the entity in charge of the public property to control or eradicate: (1) only an invasive species identified by HISC for control or eradication; and (2) only if the public property is located within a geographic area in which the HISC department or its agent is monitoring or carrying out control or eradication actions for that identified species.
 - Subsection (b) requires that the entity in charge of the public property be given 30 days notice and a reasonable amount of time to obtain needed equipment, supplies, and personnel to comply with the order.
 - Subsection (c) provides that if the entity in charge of the public property fails to comply with the order, the HISC department or its agent may, after notice, carry out the actions if the owner consents or pursuant to a warrant sought under section 326-6 (see below).
 - Subsection (d) provides that the HISC department or its agent may seek to recover its expenses for carrying out the actions under subsection (c) at an appropriate proceeding.
 - Subsection (e) authorizes a HISC department or its agent to waive the 30 day notice requirement if: (1) the HISC department or agent determines that control or eradication of the identified species requires an urgent response on the public property; (2) consent of the entity in charge cannot be obtained immediately; and (3) the HISC department obtains a warrant under section 326-6 (see below) that authorizes the entry onto the public property for emergency control or eradication actions.
 - Subsection (f) authorizes a HISC department to enter into a MOU with an agent that has appropriate expertise and experience to carry out actions under this section.

- **Section 326-6 “Warrants”** sets out the requirements for a HISC department or county to seek a warrant to carry out a control or eradication action on private or public property without the consent of the property owner, tenant, occupier, or entity in charge, as appropriate. The section requires an affidavit be submitted to the district court of the circuit in which the private or public property is situated.

Legal Authority

HRS § 194-7 HRS authorizes HISC to adopt rules pursuant to chapter 91, HRS.

HRS § 91-3(a) authorizes an agency seeking to adopt administrative rules to hold public hearings and afford all interested persons opportunity to submit data, views, or arguments for the agency to consider when contemplating adoption of proposed rules.

Recommendations:

That the Hawaii Invasive Species Council (HISC):

1. Approve the proposed adoption of HAR Chapters 13-325, "General Provisions" and 13-326, "Control and Eradication of Invasive Species," for statewide public hearing(s), attached hereto as Exhibit 1;

and

2. Delegate authority to the Chairperson of the Department of Land and Natural Resources to set dates and times for the aforementioned public hearing(s) and appoint a hearing officer for the public hearing(s).

EXHIBIT 1

DEPARTMENT OF LAND AND NATURAL RESOURCES

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

[DATE]

SUMMARY

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.

EXHIBIT 1

§13-325-1

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 14

HAWAII INVASIVE SPECIES COUNCIL

CHAPTER 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, 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;

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- (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 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>Cenchrus setaceus</i> (formerly <i>Pennisetum setaceum</i>)	fountain grass
(B)	<i>Chromolaena odorata</i>	devil weed, Siam weed
(C)	<i>Cortaderia jubata</i>	pampas grass
(D)	<i>Cortaderia selloana</i>	pampas grass

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|--------------------|--|--|
| (E) | <i>Miconia</i> - all species in the genus | miconia |
| (F) | <i>Pennisetum villosum</i> | feather-topped fountain grass, longstyle feather grass |
| (G) | <i>Senecio madagascariensis</i> | fireweed |
| (H) | <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>Aphis 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 |
| (I) | <i>Wasmannia auropunctata</i> | little fire ant, LFA |
| (3) Vertebrates: | | |
| (A) | <i>Eleutherodactylus coqui</i> | coqui frog |
| (4) Pathogens: | | |
| (A) | <i>Ceratocystis lukuohia</i> | rapid ohia death |
| (B) | <i>Ceratocystis huliohia</i> | rapid ohia death |

(c) If the scientific name or common name of a taxon referred to in this section is changed to a new scientific name or common name accepted by the International Code of Zoological Nomenclature (ICZN), the International Plant Names Index (IPNI), or other appropriate authority the reference in this section shall be construed to refer to the new scientific name or common name, as appropriate.

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

§13-326-2 Requirements for control or eradication on private property. (a) A department or county seeking to conduct control or eradication actions on private property pursuant to this chapter for an invasive species listed in section 13-326-1(b) shall:

- (1) Prior to conducting any such action, develop and submit to

the council a detailed control or eradication program that:

- (A) Is narrowly tailored to include only the needed control or eradication of the target invasive species, recognizing that general vegetation removal, other removal or modification of non-target species, and other habitat modification may be needed for access to or control or eradication of the target invasive species;
 - (B) Identifies the specific geographic areas where control or eradication actions will be carried out and the reasons each area is selected, including that the target invasive species is known or reasonably suspected to be in each area, based on the results of systematic surveys or reports or proximity to known infestations of the invasive species;
 - (C) Includes a proposed schedule for the actions;
 - (D) Describes the control or eradication methods proposed to be used; and
 - (E) Includes an assessment of the reasonableness of the methods proposed; and
- (2) Provide regular updates, not less than annually, to the council on the control or eradication actions carried out by the department or county.

(b) If two or more departments or counties intend to carry out control or eradication actions pursuant to this chapter for the same invasive species, those departments and counties shall ensure that all control or eradication actions are carried out efficiently and in a manner that does not result in unnecessary impacts to land owners, or tenants or occupants, if applicable.

(c) A department or county may enter into a memorandum of understanding with an agent of the department or county that has appropriate expertise and experience to carry out actions under this section or section 13-326-3 or 13-326-4. [Eff _____]
(Auth: HRS §194-7) (Imp: HRS §§194-4, 194-5)

§13-326-3 Notice. (a) The time period for reasonable notice to the owner, and tenant or occupant if applicable, of private property that a department or county intends to enter to control or eradicate an invasive species pursuant to section 194-5, Hawaii Revised Statutes, is the earlier of

- (1) Thirty days after notice is given to the owner, and the tenant or occupant if applicable; or
- (2) The date that the owner, and the tenant or occupant if applicable, consents to the entry.

(b) If the owner, or the tenant or occupant if applicable, of the private property does not consent to the entry by a department or a county within thirty days after notice is given under subsection (a), the department or county may seek a warrant under section 13-326-6 that authorizes the entry for control or eradication actions.

(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.

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(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 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)

EXHIBIT 1

DEPARTMENT OF LAND AND NATURAL RESOURCES

The adoption of subtitle 14 of title 13, containing chapters 13-325 and 13-326, Hawaii Administrative Rules, on the Summary Page dated [DATE], was adopted on [DATE], following a public hearing on [DATE], after public notice was given in the Honolulu Star-Advertiser on [DATE].

The adoption of subtitle 14 of title 13, containing chapters 13-325 and 13-326, shall take effect ten days after filing with the Office of the Lieutenant Governor.

Dawn S. Chang
Co-Chairperson
Hawaii Invasive Species Council

Sharon Hurd
Co-Chairperson
Hawaii Invasive Species Council

APPROVED:

Josh Green, M.D.
Governor
State of Hawaii

Dated: _____

APPROVED AS TO FORM:

Deputy Attorney General

Filed

EXHIBIT 2

§194-5 HRS Entry; Private Property

- (a) Whenever any invasive species identified by the council for control or eradication is:
 - (1) Found on private property; or
 - (2) Reasonably suspected to be on private property, based on the results of systematic surveys or reports or proximity to known populations,

regardless of whether the presence of the invasive species is due to natural dispersal from neighboring or nearby properties or to intentional establishment by the owner, tenant, or occupant of the property, a department or applicable county, or its employees or authorized agents may enter the premises to control or eradicate the invasive species after reasonable notice is given to the owner of the property and, if entry is refused, pursuant to the court order in subsection (d).

- (b) If applicable, a duplicate of the notice so given shall be left with one or more of the tenants or occupants of the premises. If the premises are unoccupied, notice shall be mailed to the last known place of residence of the owner, if residing in the State. If the owner resides out of the State or cannot be expeditiously provided with notice, notice left at the house or posted on the premises shall be sufficient.
- (c) The department or applicable county, or its employees or authorized agents may instead cause notice to be given, and order the owner to control or eradicate the invasive species, if the species was intentionally and knowingly established by the owner on the owner's property and not naturally dispersed from neighboring properties, at the owner's expense within a reasonable time as the department or county may deem proper, pursuant to the notice requirements of this section.
- (d) If the owner thus notified fails to comply with the order of the department, the applicable county, or its employee or authorized agent, within the time specified by the department or county, or if entry is refused after notice is given pursuant to subsection (a) and, if applicable subsection (b), the department, the applicable county, or its employee or authorized agent may apply to the district court of the circuit in which the property is situated for a warrant, directed to any police officer of the circuit, commanding the police officer to take sufficient aid and to assist the department member, county employee, or agent in gaining entry onto the premises, and executing measures to control or eradicate the invasive species.
- (e) The department or applicable county may recover by appropriate proceedings the expenses incurred by its order from any owner who, after proper notice, has failed to comply with the department's or county's order.
- (f) In no case shall the department, the county, or any officer, employee, or authorized agent thereof be liable for costs in any action or proceeding that may be commenced pursuant to this chapter.

§194-6 HRS Entry; Public Property

- (a) Whenever any invasive species is found on state or county property or on a public highway, street, lane, alley, or other public place controlled by the State or county, notice shall be given by the department or its agent, as the case may be, to the person officially in charge thereof, and the person shall be reasonably notified and ordered by the department to control or eradicate the invasive species.
- (b) In case of a failure to comply with the order, the mode of procedure shall be the same as provided in case of private persons in section 194-5.