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States' Noxious Weed Statutes and Regulations:

Hawaii



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A National Agricultural Law Center Research Publication

States' Noxious Weed Statutes: Hawaii

Hawaii Revised Statutes

Division 1 – Government

Title 11 – Agriculture and Animals

Chapter 152 Noxious Weed Control

Section 152-1 – Definitions

For the purpose of this chapter, unless otherwise required by context:

"Control noxious weed" means to limit the spread of a specific noxious weed and to reduce its density to a degree where its injurious, harmful, or deleterious effect is reduced to a tolerable level.

"Cooperative agreement" means an agreement between the department and the landowner and land occupier for the control or eradication of a noxious weed infestation.

"Department" means the department of agriculture.

"Eradicate noxious weed" means to completely destroy and eliminate existing plant growth, seeds, and vegetative reproductive plant parts of a specific noxious weed from a given locality.

"Land occupier" means a person who occupies, resides on, or utilizes land or real estate of a landowner.

"Landowner" means the possessor of a fee simple absolute title in land or real estate and shall include the State and its political subdivisions in their capacities as owners of public lands.

"Noxious weed" means any plant species which is, or which may be likely to become, injurious, harmful, or deleterious to the agricultural, horticultural, aquacultural, or livestock industry of the State and to forest and recreational areas and conservation districts of the State, as determined and designated by the department from time to time.

"Person" means any individual, firm, corporation, association, or partnership.

Section 152-2. Rules



Subject to chapter 91, the department may make rules to effectuate this chapter, including but not limited to the following:

- (1) Establishment of criteria and procedures for the designation of plant species as noxious weeds for the purposes of this chapter;
- (2) Establishment of procedures and conditions for the initiation of cooperative agreements with landowners and land occupiers for the purpose of eradicating or controlling noxious weed infestations;
- (3) Control or eradication of noxious weeds when deemed economically feasible.

Section 152-3 - Prohibited acts

It shall be unlawful to introduce or to transport specific noxious weeds or their seeds or vegetative reproductive parts into any area designated pursuant to section 152-5 as free or reasonably free of those noxious weeds; provided that the introduction or transportation of those noxious weeds may be permitted for educational or research purposes when authorized by a permit issued by the department.

Section 152-4 - Designation of noxious weed

The department may designate certain plant species as noxious weeds following the criteria and procedures established under section 152-2(1). The department shall publish and make available a list of noxious weeds to interested persons.

Section 152-5 - Designation of areas declared free or reasonably free of noxious weeds

The department may declare the entire State, an island, or a section of an island as free or reasonably free of a specific noxious weed. The department shall take necessary measures to restrict the introduction and establishment of specific noxious weeds in areas declared free or reasonably free of those noxious weeds.

Section 152-6 - Duties of the department; noxious weed control and eradication

(a) The department shall maintain a constant vigilance for incipient infestations of specific noxious weeds on islands declared reasonably free from those weeds, and shall use those procedures and methods to control or eradicate the infestations of noxious weeds as are determined to be feasible and practicable.

(b) When the department determines that an infestation of a certain noxious weed exists on an island declared reasonably free from the weed, the department shall immediately conduct investigations and surveys as are necessary to determine the feasibility and



practicability of controlling or eradicating the infestation. The department may also conduct investigations and surveys to determine the feasibility and practicability of controlling widespread noxious weed infestations. The methods of control or eradication adopted by the department for any noxious weed infestation shall cause as little damage to crops and property as possible.

(c) Upon determining that control or eradication of an infestation is practicable and feasible, the department shall immediately serve notice, either oral or written, on both the landowner of the property and the occupant of the property on which the infestations exist. Written notice sent to the landowner's address last known to the department by certified mail, postage prepaid, return receipt requested, shall be deemed sufficient notice. In the event that certified mail is impractical because the department, despite diligent efforts, cannot determine land ownership or because of urgent need to initiate control or eradication measures, notice given once in a daily or weekly publication of general circulation, in the county where any action or proposed action will be taken, or notice made as otherwise provided by law, shall be deemed sufficient notice. The notice shall set forth all pertinent information with respect to the infestation and notify the landowner and the land occupant of the procedure and methods of control or eradication.

(d) Upon the department's notification pursuant to subsection (c) above, the department may enter into a cooperative agreement with the landowner and land occupier for the control or eradication of the noxious weed infestation. The procedures and conditions for executing the cooperative agreement shall be in accordance with rules adopted under section 152-2(2).

(e) Upon the department's notification pursuant to subsection (c) above, the department may entirely undertake the eradication or control project when it has been determined that the owner, occupier, or lessee of the land on which the noxious weed infestation is located will not benefit materially or financially by the control or eradication of the noxious weed; or when the noxious weed infestation is on state-owned land not leased or under control of private interest.



Hawaii Administrative Rules

Title 4 – Department of Agriculture

Subtitle 6 – Department of Agriculture

Chapter 68 – Noxious Weed Rules

Section 4-68-1 – Objectives

The objectives of this chapter are to implement the requirements of chapter 152, Hawaii Revised Statutes, and to establish criteria for designation, control, or eradication of noxious weeds.

Section 4-68-2 - Definitions

As used in this part:

"Board" means the board of agriculture;

"Chairman" means the chairman of the board of agriculture;

"Cooperative agreement" means an agreement between the department and the landowner and land occupier for the control or eradication of a noxious weed infestation;

"Head" means the head of the division of plant industry, department of agriculture; and

"Land occupier" means a person who occupies, resides on, or utilizes land or real estate of a landowner.

Section 4-68-3 - Criteria for the designation of noxious weeds for eradication or control projects by the department

Each plant species designated as a noxious weed for eradication and control projects by the department, shall meet all of the criteria in § 4-68-4 through § 4-68-8.

Section 4-68-4 - Designation; criteria based on plant reproduction

Reproductive characteristics of noxious weeds are:

(1) A plant species that reproduces by seeds capable of being dispersed over wide areas; or

(2) A plant species that reproduces by seeds capable of remaining dormant for two years or more; or



(3) A plant species that reproduces by tubers, creeping roots, stolons, rhizomes, or other natural vegetative means.

Section 4-68-5 - Criteria based on growth characteristics

Growth characteristics of noxious weeds are:

- (1) A plant species that is capable of competing with cultivated crops for nutrients, water or sunlight; or
- (2) A plant species that becomes established and forms dense stands in pasture lands, forests, lawns, landscape gardens, and recreational areas and conservation districts and is capable of shading and crowding out forage plants, native plants, and other desirable plants.

Section 4-68-6 - Criteria based on detrimental effects

Detrimental effects of noxious weeds are:

- (1) A plant species that is causing or has the potential of causing severe production losses or increased control costs to the agricultural, horticultural, aquacultural, or livestock industries; or
- (2) A plant species that is or has the potential of endangering native flora and fauna by encroachment in forest and conservation areas; or
- (3) A plant species that is or has the potential of hampering the full utilization and enjoyment of recreational areas including forest and conservation areas; or
- (4) A plant species that is poisonous, injurious, or otherwise harmful to humans or animals.

Section 4-68-7 - Criteria based on control

Control criteria of noxious weeds include:

- (1) A plant species that is not effectively controlled by present day technology or by available herbicides currently registered for use pursuant to chapter 149A, Hawaii Revised Statutes; or
- (2) A plant species that is effectively controlled only by extraordinary efforts such as repeated herbicidal applications at high dosage rates; or
- (3) A plant species that is effectively controlled only by additional effort over and beyond the normal weed maintenance effort required for the production or management of certain crops and pasture lands, recreational areas, forest lands, or conservation areas.



Section 4-68-8 - Criteria based on distribution and spread

Distribution and spread criteria of noxious weeds are:

- (1) A plant species that is not known to occur in one or more islands of the State; or
- (2) A plant species that is known to occur only in incipient stages on less than five acres on one or more islands of the State; or
- (3) A plant species that is known to occur on more than five acres but only in isolated or limited areas on one or more islands of the State.

Section 4-68-9 - Criteria for the designation of noxious weeds for control projects by lessees as provided in pasture lease agreement of State lands

Each plant species designated as a noxious weed for control projects by lessees as provided in a pasture lease agreement of State lands shall meet the criteria of § 4-68-3.

Section 4-68-10 - Procedure for the designation of noxious weeds

- (a) The head shall direct a continuous program of study and evaluation of potential noxious weed species.
- (b) Study and evaluation of a specific plant species may be initiated by the head or upon request by other governmental agencies or private organizations.
- (c) When sufficient data have been accumulated on a plant species, the head may submit to the board a request for designation of the plant species as a noxious weed, pursuant to rule adoption.
- (d) The plant species shall meet the criteria for designation as a noxious weed as provided in § 4-68-3.
- (e) The list of plant species designated as noxious weeds, adopted by the board on June 18, 1992, and located at the end of this chapter is made a part of this section.
- (f) A plant species shall be designated as a noxious weed for an eradication or control project by the department or for a control project by lessees as provided in State pasture lease agreements upon approval by the board.
- (g) When the head determines that a plant species officially designated as a noxious weed no longer meets the criteria for the designation of noxious weed, the head may submit to the board a request for approval to rescind the official designation for that plant species, pursuant to rule adoption. The request shall include a report with reasons to justify the re-designation.



(h) The official designation of a plant species as a noxious weed shall be rescinded upon approval by the board.

Section 4-68-11 - Designation of an area declared free or relatively free of a specific noxious weed

(a) The head may recommend to the board the designation of a certain locality, an island, a group of islands, or the entire State as being free or relatively free of a specific noxious weed when the head determines that:

(1) Infestation of the specific noxious weed is not known to occur in the area being considered; or

(2) Infestation of the specific noxious weed is known to occur in the area being considered only in an incipient stage that could be easily eradicated.

(b) The head may defer the recommendation for the designation of an area declared free or relatively free of a specific noxious weed pursuant to § 4-68-11(a) when it is determined that:

(1) The specific noxious weed is commercially cultivated as a crop for food, feed, or ornamental purposes; and

(2) The likelihood of the specific noxious weed manifesting its detrimental effects in the specific area would be remote or nil because of geographic barriers or ecological conditions.

(c) A locality, an island, a group of islands or the entire State shall be designated relatively free of a specific noxious weed upon approval of the board.

Section 4-68-12 - Forms of cooperative agreements

There shall be four forms of cooperative agreements as set forth in § 4-68-13 to § 4-68-16, for the purpose of initiating noxious weed control or eradication projects.

Section 4-68-13 - Form A cooperative agreement

This agreement shall include but not be limited to the following provisions:

(1) The department shall provide necessary chemical herbicides, oil carriers, and surfactants;

(2) The department shall provide consultative, instructional, and supervisory services and shall coordinate the project;

(3) The landowner or land occupier shall permit authorized personnel of the department to enter the infestation area;



(4) The landowner or land occupier shall provide, for the purpose of herbicidal application, appropriate equipment and adequate personnel at a specified time after being given reasonable notice by the department; and

(5) If the landowner or land occupier fails to provide the necessary personnel and equipment pursuant to the agreement after being given adequate notice in writing, the department shall provide necessary personnel by contracting other persons or firms and the landowner or land occupier shall be billed for these services by the department.

Section 4-68-14 - Form B cooperative agreement

This agreement shall include, but not be limited to, the following provisions:

(1) The department shall provide appropriate equipment, and adequate personnel for the purpose of herbicidal applications;

(2) The department shall provide consultative services and shall coordinate the project;

(3) The landowner or land occupier shall permit authorized personnel of the department to enter the infestation area;

(4) The landowner of land occupier shall provide necessary chemical herbicides, oil carriers, and surfactants at a specified date after being given reasonable notice by the department; and

(5) If the landowner or land occupier fails to provide the necessary chemical herbicides, oil carriers, and surfactants pursuant to the agreement after being given adequate notice in writing, the department shall bill the landowner or land occupier for the cost of the chemical herbicides, oil carriers and surfactants used for the project by the department.

Section 4-68-15 - Form Cooperative agreement

This agreement shall include, but not be limited to, the following provisions:

(1) The department and the landowner or land occupier shall jointly provide on a cost-sharing or pro-rata basis, necessary chemical herbicides, oil carriers, surfactants, equipment, and personnel for the project;

(2) The department shall provide consultative services and shall coordinate the project;

(3) The landowner or land occupier shall permit authorized personnel of the department to enter the infestation area; and



(4) If the landowner or land occupier fails to provide a share of any of the items mutually agreed upon pursuant to the agreement after being given adequate notice in writing, the department shall bill the landowner or land occupier for the actual cost of the items.

Section 4-68-16 - Form D cooperative agreement

This agreement shall include, but not be limited to, the following provisions:

- (1) The department shall provide necessary chemical herbicides, oil carriers, surfactants, equipment and personnel for the project;
- (2) The department shall provide consultative services and shall coordinate the project; and
- (3) The landowner or land occupier shall permit authorized personnel of the department to enter the infestation area.

Section 4-68-17 - Procedures for initiating a cooperative agreement

(a) For a cooperative noxious weed control or eradication project, the department shall initiate either a form A, form B, or form C cooperative agreement provided, however, that the department may initiate a form D cooperative agreement with a landowner or land occupier who shall not benefit materially or financially by the noxious weed control or eradication project.

(b) A form D cooperative agreement may also be initiated when authorized and funded by specific legislation.

(c) The agreement shall take effect after both parties mutually agree to abide by the provisions of the agreement and after indicating their mutual agreement by the signature of the chairman and the landowner or land occupier authorized by the landowner.

Section 4-68-18 - Eradication project

A noxious weed eradication project shall be limited to incipient noxious weed infestations located on an island or portion of an island designated by the department as relatively free of that species. A project shall be initiated by cooperative agreement.

Section 4-68-19 - Control project

(a) Noxious weed control projects may be initiated upon widespread established noxious weed infestations and shall be limited to infestations on land used for or zones for agriculture, horticulture, aquaculture, livestock production, forestry, recreational areas, or conservation districts and to the periphery of the land.



(b) Control projects shall be initiated by cooperative agreement only after the department receives written assurance that the landowner or land occupier shall maintain, for a period of not less than five years, the level of noxious weed control attained at the termination of the project.

(c) The control project shall be terminated upon determination by the head that the noxious weed infestation has been brought under control or may be terminated with good cause upon mutual agreement by both parties.

**List of Plant Species Designated as Noxious Weeds for Eradication or Control
Purposes by the Hawaii Department of Agriculture**

Scientific Name	Common Name	Islands Free or Relatively
Acacia mearnsii	Black wattle	Molokai
Acaena novae-zelandiae	New Zealand bur, pipiripi	All islands
Acroptilon repens	Russian knapweed	All islands
Aeschynomene indica	Kat sola, Indian jointvetch	All islands
Ageratina adenophora	croftonweed, Maui pamakani	Hawaii, Kauai
Ageratina riparia	creeping croftonweed, Hamakua pamakani	Kauai
Allium vineale	wild garlic	All islands
Andropogon bicornis	West Indian Foxtail	Maui, Lanai, Molokai, Oahu
Andropogon virginicus	broomsedge	Molokai, Lanai, Oahu, Ka
Anredera cordifolia	Madeira vine	Maui
Ardisia elliptica	shoebutton ardisia	Maui, Molokai, Lanai, Oahu
Bocconia frutescens	plume poppy	All islands
Cardaria pubescens	hairy whitetop	All islands
Cereus uruguayanus	spiny tree cactus, Peruvian apple	All islands
Chromolaena odorata	siamweed, bitterbush	All islands
Cirsium arvense	Canada thistle	All islands
Clidemia hirta var. hirta	Koster's curse, curse	Kauai, Lanai
Coccinia grandis	ivy gourd	Hawaii, Maui, Molokai, Lana
Convolvulus arvensis	field bindweed	All islands
Cortaderia jubata		All islands
Cymbopogon refractus	barbwire grass	Lanai, Oahu
Cyperus esculentus	yellow nutsedge	Maui, Oahu, Lanai, Kauai, M
Cytisus monspessulanus	French broom	All islands
Cytisus scoparius	Scotch broom	All islands
Dichrostachys nutans	marabu	All islands
Elephantopus mollis	elephantopus, elephant's foot	Maui, Oahu, Lanai
Elytrigia repens	quackgrass	All islands
Emex spinosa	spiny emex	Lanai, Kauai
Eriocereus martinii	moon cactus	All islands
Euphorbia esula	leafy spurge	All islands



Grevillea banksii	kahiliflower, Bank's grevillea	Lanai, Maui, Molokai
Halogeton glomeratus	halogeton	All islands
Hyptis pectinata	comb hyptis	Kauai, Molokai, Lanai, O
Hyptis suaveolens	wild spikenard	All islands
Imperata cylindrica	cogon	All islands
Lagascea mollis	acute	All islands
Lepidium latifolium	perennial pepperweed	All islands
Malachra alceifolia	malachra	All islands
Medinilla venosa		Hawaii, Lanai, Molokai, Oahu, Kaua
Melastoma spp.	melastoma	All islands
Miconia spp.	miconia	All islands
Mikania micrantha	mile-a-minute	All islands
Mikania scandens	climbing hempweed	All islands
Mimosa invisa	giant sensitiveplan	All islands
Mimosa pigra	thorny sensitiveplan	All islands
Miscanthus floridulus	miscanthus, Japanese silvergrass	All islands
Montanoa hibiscifolia	tree daisy	Maui
Myrica faya	firetree, candleberry myrtle	Maui, Lanai, Molokai, Oa
Oxyspora paniculata		Maui, Molokai, Lanai, Kauai
Panicum repens	torpedograss	Maui, Molokai, Lanai, Oahu
Passiflora mollissima	banana passionfruit, banana poka	Maui, Molokai, Lanai, Oa
Passiflora pulchella	wingleaf passionfruit	All islands
Pennisetum setaceum	fountaingrass	Maui, Molokai, Lanai, Oahu
Piper aduncum	spiked pepper	All islands
Pitopsis undulatum	Victorian box	Maui, Oahu, Lanai, Kauai, M
Prosopis juliflora		All islands
Pueraria phaseoloides	tropical kudzu	All islands
Rhodomyrtus tomentosa	downy rosemyrtle	Maui, Molokai, Lanai, Oa
Rubus argutus	prickly Florida blackberry	Lanai, Molokai
Rubus ellipticus var. obcordatus	yellow Himalayan raspberry	Maui, Molokai, Lanai, Oahu
Rubus niveus	hill raspberry	Molokai, Lanai, Oahu, Ka
Rubus sieboldii	Molucca raspberry	All islands
Salsola kali	Russian thistle	All islands
Senecio madagascariensis	fireweed	All islands
Solarium carolinense	horsenettle	All islands
Solanum elaeagnifolium	silverleaf nightshade	All islands
Solanum robustum		All islands
Solanum torvum	turkeyberry, terongan	All islands
Sonchus arvensis	perennial sowthistle	All islands
Spartium junceum	Spanish broom	All islands
Stipa trichotoma	nasella tussock	All islands
Striga spp.	witchweeds	All islands
Themeda villosa	Lyon's grass	Maui, Molokai, Lanai, Oahu



Tibouchina spp.
Triumfetta rhomboidea
Triumfetta semitriloba
Ulex europaeus
Urena lobata
Verbascum thapsus

tibouchina
paroquet bur
Sacramento bur
gorse
caesarweed
mullein

Maui, Molokai, Lanai, Oahu
Kauai, Maui
Lanai, Oahu, Molokai, Ka
Hawaii, Oahu, Lanai, Kauai, Mo
Hawaii, Maui, Molokai, Lana
Maui, Molokai, Lanai, Oahu

Hawaii Administrative Rules

Title 4 – Department of Agriculture

Subtitle 6 – Department of Agriculture

Chapter 69-A – Pests for Control or Eradication

Section 4-69A-1 - Scope of rules

These rules shall govern the criteria and procedures for designation of pests for control or eradication programs on public or private property other than dwellings in the State.

Section 4-69A-2 – Definitions

As used in this chapter:

"Agricultural industry" means agricultural, horticultural, aquacultural, or livestock industry.

"Board" means the board of agriculture.

"Head" means the head of the division of plant industry.

"Livestock" means farm animals kept for use or profit and includes but is not limited to horses, mules, cattle, sheep, goats, swine, and poultry.

"Noxious weeds" means those plant species determined to be or likely to become injurious, harmful, or deleterious to the agricultural industry, forest and recreational areas, and conservation districts of the State and which are designated and listed as noxious weeds in chapter 4-68, Hawaii Administrative Rules.

"Other pests" means any invertebrate or vertebrate pest harmful to the agricultural industry or vegetation of value, as designated by the board.

"Vegetation of value" means vegetation such as desirable trees, plants, and shrubs.



Section 4-69A-3 - Criteria to designate pests for control or eradication

(a) Each insect, mite, other pest or plant disease designated by the department as a pest for control or eradication programs shall meet one or more of the following criteria:

(1) There is a record of economic damage in the scientific literature documenting the designated pest's potential for injury to the agricultural industries or vegetation of value in the State.



(2) The designated pest is causing or is about to cause economic loss by damage to a crop or agricultural commodity, by adversely affecting marketability, causing a loss in yield, or the like.

(3) The designated pest transmits plant diseases which cause economic loss to a crop or agricultural commodity by adversely affecting marketability, causing a loss in yield, or the like.

(4) The designated pest is injurious or deleterious to livestock by virtue of being venomous, parasitic, or a carrier or reservoir of diseases.

(b) All noxious weeds designated pursuant to chapter 4-68, Hawaii Administrative Rules, are pests for control or eradication within the meaning of this chapter.

Section 4-69A-3 - Criteria to designate pests for control or eradication

(a) Each insect, mite, other pest or plant disease designated by the department as a pest for control or eradication programs shall meet one or more of the following criteria:

(1) There is a record of economic damage in the scientific literature documenting the designated pest's potential for injury to the agricultural industries or vegetation of value in the State.

(2) The designated pest is causing or is about to cause economic loss by damage to a crop or agricultural commodity, by adversely affecting marketability, causing a loss in yield, or the like.

(3) The designated pest transmits plant diseases which cause economic loss to a crop or agricultural commodity by adversely affecting marketability, causing a loss in yield, or the like.

(4) The designated pest is injurious or deleterious to livestock by virtue of being venomous, parasitic, or a carrier or reservoir of diseases.

(b) All noxious weeds designated pursuant to chapter 4-68, Hawaii Administrative Rules, are pests for control or eradication within the meaning of this chapter.

Section 4-69A-4 - Procedure for the designation of pests for control or eradication

(a) The head shall direct a continuous program of study and evaluation of insects, mites, other pests, or plant diseases for potential designation as pests.

(b) Study and evaluation of an insect, mite, other pest or plant disease for designation as a pest may be initiated by the head or, upon request, by other government agencies or private organizations.



(c) When sufficient data have been accumulated on an insect, mite, other pest, or plant disease to warrant designation, the head may submit to the board a request for designation as a pest for control or eradication.

(d) The insect, mite, other pest, or plant disease shall meet the criteria for designation as a pest, as provided in section 4-69A-3.

(e) An insect, mite, other pest, or plant disease shall be designated as a pest for control or eradication by the department following approval of the designation by the board, pursuant to chapter 91, Hawaii Revised Statutes.

(f) The list of insects, mites, other pests, or plant diseases designated as pests, adopted by the board on December 16, 2008, and located at the end of this chapter, is made a part of this section.

(g) When the head determines that an insect, mite, other pest, or plant disease officially designated as a pest no longer meets the criteria for designation as a pest, the head may submit to the board a request to rescind the official designation for the pest. The request shall include a report with reasons to justify rescission of the designation.

(h) For rescission as submitted as outlined in subsection (g) above, the official designation of an insect, mite, other pest, or plant disease as a pest shall be rescinded following approval by the board, pursuant to chapter 91, Hawaii Revised Statutes.

Section 4-69A-5 - Control or eradication of noxious weeds; entry of private property

To the extent there may be any conflict between this chapter and chapter 4-68, Hawaii Administrative Rules, control and eradication programs for noxious weeds shall be governed by section 152-6, Hawaii Revised Statutes, and chapter 4-68. However, if after following the procedures provided therein, entry to private property other than dwelling places for control or eradication of noxious weed infestations is refused, any member of the department or any agent authorized by the department may gain entry in the same manner as provided in section 141-3.6, Hawaii Revised Statutes, for maintenance of any pest control or eradication program.”

