

Minutes of the Advisory Committee on Plants and Animals
October 11, 2024, Meeting
Hawaii Department of Agriculture (HDOA)

I. CALL TO ORDER

Chairperson Greg Takeshima called the Advisory Committee on Plants and Animals to order on Friday, October 11, 2024, at 9:04AM via Zoom Meeting. He introduced himself and provided information to the virtual public on connectivity, zoom, and call-in instructions. Chairman Takeshima noted that public testimony will be accepted on each agenda item. He would be limiting testimony to five (5) minutes for all submittals.

Members Virtually Present:

Greg Takeshima, Committee Chairperson, HDOA
Pamela Mizuno, Director of Panaewa Zoo, County of Hawaii, Retired
Robert Hauff, State Protection Forester, Division of Forestry & Wildlife (DLNR)
Thomas Eisen, Planner, Environmental Review Program, Office of Planning & Sustainable Development
Gracelda Simmons, Department of Health
Joshua Fisher, (Invasive Species Biologist, U. S. Fish and Wildlife)
Maria Haws, Professor of Aquaculture, Pacific Aquaculture & Coastal Research Center, University of Hawaii at Hilo
Sam Gon Ph.D., Nature Conservancy

Others Present:¹

Christopher Kishimoto, Specialist, PQB, HDOA
Kevin Salvador, IT Specialist, HDOA
Deborah Safarik, Secretary, PQB, HDOA
Jessica Miura, Land Vertebræ Specialist, PQB, HDOA
Shelby Ching, Acting Microbial Specialist, PQB, HDOA
Jarett Lau, Entomologist, PQB, HDOA

¹ The identification of the public members is based on their sign-in name but are not verified.

Others Virtually Present:

Jonathan Ho, PQ Branch Manager
Jennifer Waihee-Polk, Attorney General
Povi Carisa-Abney, Wildlife Coordinator Hyatt
Christy Martin, CGAPS

II. INTRODUCTION AND COMMENTS

Chairperson Greg Takeshima introduced himself and asked the Committee members to briefly introduce themselves. For those in attendance virtually, he asked if anyone was in the room with them. Robert Hauff, Thomas Eisen, Pam Mizuno, Gracelda Simmons, Joshua Fisher introduced themselves. Sam Gon joined the meeting late. All indicated they were alone. Chair Takeshima also noted that this serves as a roll call vote for each subsequent vote. I will ask if there are any objections or abstentions, if there are none, then the motion will be approved on the same basis as this initial roll call.

III. APPROVAL OF MINUTES FROM MARCH 11, 2024

Chairperson Takeshima asked the Committee that approval the March 11, 2024, to be deferred as not all committee members received a copy of the minutes.

IV. REQUESTS TO BE REVIEWED BY COMMITTEE

1. Request to: (1) Allow the Importation of Four (4) African Black-Footed Penguins, *Spheniscus demersus*, an Animal on the List of Restricted Animals (Part B), by Permit, for Exhibition, by Hyatt Regency Maui Resort and Spa; and (2) Update Permit Conditions for the Importation and Possession of Four (4) African Black-Footed Penguins, *Spheniscus demersus*, an Animal on the List of Restricted Animals (Part B), for Exhibition, by Hyatt Regency Maui Resort and Spa.

Jessica Miura, acting Land Vertebrata Specialist for the Plant Quarantine Branch provided a synopsis of the request by the importer as well as requester is Povi Carisa-Abney, the Wildlife Supervisor at the Hyatt Regency Maui, located in Lahaina. The Plant Quarantine Branch has previously approved import permits for Patricia Lonek at Hyatt Regency Maui on November 10, 1992, and December 1, 1992, to import Black-Footed Penguins and Magellanic Penguins. The Hyatt Regency Maui currently can no longer produce viable offspring, as they are too closely related. They are seeking to obtain 4 penguins of a different bloodline to ensure genetic vitality.

They have been recently accepted into the Zoological Association of America's Animal Management Program for African penguins and obtained a captive bred wildlife permit through the US Fish and Wildlife. They will also register their penguins to the Association of Zoos and Aquariums regional stud book. They have determined that their penguin population is genetically unique. They are seeking to obtain these 4 new penguins in order to comply with AZA's minimum population standard recommendation of 10 penguins for their enclosure size. Additionally, the penguins will be used for exhibitions at the Hyatt Regency Maui Resort and Spa.

The penguin habitat is located inside the Hyatt Regency Maui resort at 200 Nohea Kai Drive in Lahaina. The habitat is safeguarded by a lava rock wall to keep the penguins inside and to protect them from the elements. They have 150 security cameras and employ 24 staff, 24 hours to prevent the escape or harassment of animals, as well as water features that monitor the water quality of the penguins. They also have a quarantine space inside for severe weather, training, and minor medical procedures. Care for major illnesses or injuries would take place at the South Maui Animal Clinic in Kihei. The Hyatt Regency Maui also provided a biosecurity manual for their facility that is based off the National Zoo Biosecurity Manual and Guidelines.

This request was submitted to the Advisory Subcommittee on Land Vertebratae for their review and recommendations. Their recommendations and comments are as follows:

1. Recommend approval or disapproval to allow the importation of 4 African Black-Footed penguins an animal on the list of restricted animals, part B by permit for exhibition by the Hyatt Regency Maui Resort and Spa.

Four (4) of the subcommittee members approved a recommendation to allow the importation.

2. Recommend approval or disapproval to update permit conditions for the importation of four (4) African Black-Footed penguins for by permit for exhibition by the Hyatt Regency Maui and Spa.

The 4 subcommittee members have recommended approval to update the permit conditions.

Thank you so much for allowing me to present, this concludes my portion. I do believe that Povi is here to answer any additional questions the committee member may have.

Povi Carisa Abney introduced herself as the Wildlife Supervisor at the Hyatt Regency Maui. She thanked committee members for taking the time to consider the application. She explained that these penguins are the heart of our Ohana. They have been in our community for over 40 years, and we have had generations of families grow up with them.

Right now, our penguins are at a point where they can no longer genetically reproduce because they are too closely related.

We have had a number of things happen in the last couple of years that I wanted to share. We received three (3) different permits in the time since our last meeting. We have a permit from Fish and Wildlife, that is our captive breeding permit. We are now part of the ZAA Breeding Program for African penguins, and we recently passed our USDA Welfare check which is a brand-new thing.

We provide education opportunities for local families, for school groups, and this is an important part of our program. Since the fires, our penguins have been a very important part of healing the community. When the Lahaina fires happened, a number of families were displaced. Our families were staying here at the Hyatt, along with First Responders, FEMA and visiting the penguins has been a healing part of our community. We had a lot of Lahaina children coming down painting rocks with positive messages that were also helping to heal the community.

It is important as animal caretakers that we give our penguins the best possible life which does include reproduction. So, for 14 years our penguins have been trying to reproduce. They have been building nests. They have been grieving over losses. We have been consulting with several penguin experts from zoos and aquariums and all have reiterated the importance of bringing new penguins in to have a new bloodline so they can successfully reproduce.

We have a very strong affiliation with penguin conservation. We work with a number of different facilities to help raise money for penguin conservations for wild populations. Only 1% of the original African penguin population remains in South Africa, and we have a unique opportunity to step up and save a species. We want to continue with Hawaii's legacy of sharing birds with people not just visitors. A lot of kids that are here in Hawaii don't have an opportunity to see animals that live outside the Hawaiian Islands. We have no zoos here in Maui, so this is an amazing opportunity to learn more about the world. Our team is not just focused on penguins. We partner with several community organizations to help protect native species. We fully understand the responsibility that comes with caring for African penguins. Our goal is to be transparent and to follow all the regulations that are in place. We know that this is a challenging process, and we think it should be because this is something that we don't take lightly. We know that caring for these animals means following necessary protocols to keep them safe while also protecting native habitats. So, it is our goal to follow all protocols to protect our native species here in Hawaii.

I am available to answer any questions you might have.

Chair Takeshima asked if there was anyone else from the public who wishes to provide testimony. There was no other testimony. Chair asked for Board discussion. Committee member Robert Hauff asked a question regarding the original permit being issued in the early nineties.

Mr. Hauff recalled that recently, within the last 3 years, that we heard a very similar application from the Hyatt Regency, and I believe that it moved on to the Board of Agriculture and was rejected by the Board of Agriculture. But I could be mistaken. Could you provide a little background on the more recent permit application and its fate?

Land Vertebrae Specialist Jessica Miura answered that it did go to Board back in 2022, it was deferred, not disapproved. The applicant's current request is to import new penguins with the major change that ties into what the penguins bring to Hawaii, education, as well as what the company will provide to relate it to Hawaii.

Mr. Hauff asked for the reason why it was deferred by the board. Plant Quarantine Branch Manager Jonathan Ho answered that the Board voted (5) Approved, (4) Disapproved, (1) Abstained. They did bring to attention that the penguins are not native to Hawaii. But there was a Board member that stated previously they did approve the permit for swans which are also not native to Hawaii. If something is denied by the Board, to bring it back through the process, there is a requirement that the request be substantially different from the initial request. The last member (abstained), it was their first meeting, and they did not have enough time to read it and vote or did not feel comfortable voting. You need 6 votes one way or another, the board decided to defer it. My understanding is that with all the new licenses and consideration of all the comments that the Board made at their meeting, of going back before the Board to address those concerns. One of the comments during the voting was the fact that another hotel who also displays exotic non-native animals was approved by the board unanimously. The Board does have broad discretion, and that is where we are at now.

Povi Carisa-Abney added that the matter was tabled, not deferred. It just did not get enough votes; it was one vote short of passing. Basically, we have taken the last 2 years to address all the concerns that were brought up at the last hearing. I feel there were a lot of misconceptions about what our program is, and the overall consent was assuming that these penguins were here just for Hyatt guests, when, in fact, there are very much part of our community. We do a number of community programs and conservation education. We focus a lot on raising money and awareness for endangered species in Africa. We did receive 3 permits since the last meeting and we also had consultation with the head African penguin specialists from AZA, who did a thorough assessment of our program, and we also incorporated all his suggestions as well. So again, our goal is to be fully compliant. We want to do things the right way.

Committee member Thomas Eisen asked if she (Povi Carisa-Abney) knows about the natural habitat these animals in their native lands in South Africa. Povi answered that we do model our habitat after the environment in South Africa, which is mainly sandy beaches, rocks. All our penguins have fake rock enclosures, so anytime they want some privacy, get away from the elements, they have that available as well. They have a big pond area to swim in, and they do have a rock wall enclosure that completely surrounds the habitat.

Temperatures in South Africa are similar to what we have here. Their temperatures tend to be a bit more extreme, so higher highs and lower lows, while ours is more temperate. But those penguins were selected because they do thrive in our climate here in Maui. Mr. Eisen remarked that water temperatures there are cooler than air. What is our ocean temperature? Ms. Carisa-Abney answered that it is about 74 degrees inside the habitat now because they are not really relying on colder waters to support the fish life. They are not staying in water quite as much but can regulate their own temperatures by going in and out of the water. In addition, we also have trees and plants that provide shade inside the habitat. Mr. Eisen said he read information that naturally they would be eating cold water fish, like sardines and things like that which are not here specifically. How adaptive are these critters like? Would they likely survive on their own? Ms. Carisa-Abney said frankly speaking, the penguins are pretty spoiled, that they would have a rough time. The fish that we feed them is shipped in from the Atlantic, so they are fish that they would be finding in their natural habitat. So, because our area does not have a great abundance of small schooling fish, I think they would have a pretty rough time finding the fish that they need if they were to get out into our ocean. Mr. Eisen asked if any of the animals imported have ever lived in the wild. Ms. Carisa-Abney answered no, they are an endangered species. It is not something we would even consider. Their populations in zoos and aquariums in human care are thriving. The facility we are speaking to is Metro Richmond Zoo in Virginia, they have one of the successful breeding African penguin breeding programs in the world. They have already offered four penguins, and the curator of that zoo is also the head of the breeding program. So, we are seeking out the best. We really admire their safety protocols; they are very proactive when it comes to the safety of their animal's disease prevention. That is the reason we are looking at Metro Richmond Zoo.

Committee Member Pam Mizuno noted that Dr. Mckinney's recommendation for approval. She noted that the facility needs to apply for USDA license and proceed through the pre-license process, I am just wondering if that has already been done. Or are you still in the process of getting your USDA license? Ms. Povi Carisa-Abney asked is that the animal welfare license? Ms. Mizuno answered yes. Ms. Carisa-Abney said we have completed that, and we have received our walkthrough, and the actual certification itself.

Committee Member Joshua Fisher said he read that penguins are highly susceptible to avian malaria, and I found it interesting that you have had them here for 40 years and have not seemed to have a problem. I would imagine that avian malaria is pretty ambiguous among the lowland areas of Maui. So, I am thinking that you probably don't have mosquito pressure just along the coast where your location is, because you said that you stock with mosquito fish. But obviously it is working. I found that to be interesting that you haven't had any incidence of that. I also read in the package one of the recommendations was to get an avian influenza screen if their permit is approved, I would agree that as an important screening.

The H5N1 virus is throughout North America now and keeps circulating. I think it is also something to take into consideration for your colony as far as biosecurity. We have not detected it in Hawaii, but every year that could be a situation where it shows up. That will have to be a consideration for your colony. Ms. Povi Carisa-Abney answered that we did take that into consideration. So, we stock the pond with mosquito fish, we sprinkle lavender in the sand, rosemary, things that are natural mosquito repellents. When we had our consultation, that was also something that was addressed with Steve Saro and he was impressed with the program. We are very careful with all the other birds as well, so we no longer let guests handle any of our parrots. We keep comfortable distances; we certainly do not want to be importing any birds that are sick. All vaccinations are completely compliant with Metro Richmond Zoo on their end as well, and willing to do whatever you recommend.

Committee Member Robert Hauff wanted to reiterate his concerns about the bird flu. We are in a global pandemic of bird flu and Hawaii is one of the only places on the planet that does not have bird flu. I don't feel I have enough information, that saying that they are going to be tested 2 weeks before being imported is mitigating that risk. Also, there are a lot of unknowns about this pathogen. I would have to turn to my colleagues at Department of Health on this. I don't think it's known whether humans can transmit to wildlife. I have noticed in the media there have been increasing cases with humans and these penguins are going to be mingling within the lobby. I have concerns there, especially because of the susceptibility of Hawaii's wildlife to bird flu from monk seals to albatross and other sea birds it would be devastating to our native (unintelligible). I don't know whether I would feel comfortable if there were a quarantine post import and additional testing. I am not completely sold on the value of the education; I think that would have come across stronger if there had been people from the community testifying to the value of having the penguins. Honestly, I would rather see the resources devoted toward native seabirds' recuperation and integrating that into the visitor programming that you run there. Ms. Povi Carisa-Abney addressed this saying, so guests absolutely do not mingle with our penguins. There is a strong barrier between them. The only people that work with penguins are the handlers. There would never be a situation where guests are in with our penguins. The facilities that we are getting penguins from are in zoos as well. We are willing to do blood testing that you would feel more comfortable with. As far as programs that we do, we are actively involved with Maui Forest birds and Maui seabirds and doing outreach within our resort. We work with our penguins as ambassador animals. We feel people that can connect with penguins, connect with animals that are here in Hawaii. As far as community support goes, last year we were in a program called March of the Penguin Madness. It is a fun awareness campaign regarding penguins in which community members vote their favorite penguin in a March Madness style bracket. Our penguin received over 25,000 votes worldwide, so she actually made it all the way to the finale. The community support that we have for our penguins is incredibly strong. We have submitted several letters of recommendations from local schools and teachers, community members supporting our program because we do offer free community and educational programs.

Jonathan Ho, Plant Quarantine Branch Manager, added as Robert Hauff mentioned, condition 12 does a requirement for avian influenza testing 14 days prior to importation. It has mosquito proof enclosure for 7 days. The State Veterinarian, Dr. Isaac Maeda, is on the Advisory Subcommittee. He did note that in his comments that it should be there. I am assuming that this is in line with what they are doing now for other bird importation species, not just these birds. I think this requirement is probably for all birds that are being imported because of the risk of avian influenza. My understanding is this condition is the standard and he did recommend approval. I think these conditions do manage that risk. There is no such thing as no risk when you look at this particular request against any other pet bird that could be imported currently.

Robert Hauff said he did not see letters of support that Povi referenced. Land Vertebrae specialist Jessica Miura answered that it is part of the submittal. Number 8, letters of recommendation and testimonials. Attachments 13 and 14 for the letters.

Chairperson Greg Takeshima asked if there were further questions or discussion. Not seeing any, he asked for a motion to approve. Committee member Thomas Eisen moved, with Pam Mizuno second the motion. The chair asked Committee member Sam Gon to introduce himself, he apologized for joining late, and introduced himself as Sam Ohu Gon, member of the Plant and Animal Advisory. He verified he was alone in his room. Chair again called for the vote and asked if there were any objections or abstentions. Hearing none, motion approved. Moving on to request number 2 on the agenda. Robert Hauff asked if we are not doing individual votes? Chair clarified if there is no objection or abstentions, it is going to be done this way. Hauff said for the record, he is objecting. Attorney General Waihee-Polk clarified that when asked for any objections or abstains, that when it should be said. Hauff apologized and said he has not seen it run this way. Chair Takeshima stated since there are objections, we will do a roll call vote.

Approved (Greg Takeshima, Gracelda Simmons, Maria Haws, Sam 'Ohu Gon with reservations, Joshua Fisher with influenza screenings, Pam Mizuno with all requirements of #12, Tom Eisen)
Not Approved (Robert Hauff)

Motion Approved

Chair Greg Takeshima moving on to Request No. 2 on the agenda related to the importation of Monkey Pox virus presentation by staff.

2. Request to: (1) Allow the Importation of *Monkeypox Virus*, Clade IIb, on the List of Restricted Microorganisms (Part A), for Laboratory Research, By the University of Hawaii; (2) Establish Permit Conditions for the Importation of *Monkeypox Virus*, Clade IIb, on the List of Restricted Microorganisms (Part A), by Permit, for Laboratory Research, by the University of Hawaii; (3) Determine if the Permit Conditions are Sufficient to Assure the possession of *Monkeypox Virus*

Clade IIb, for Laboratory Research by the University of Hawaii, by Permit,
Presents Minimal to No Significant Impact on the Environment.

Shelby Ching, Acting Microorganism Specialist, greeted Chair and Committee Members. She presented a request by Dr. Segna Verma, of the University of Hawaii, John A. Burns School of Medicine. She is a professor and graduate co-chair of the Department of Tropical Medicine, medical microbiology, and pharmacology.

Ms. Ching gave a synopsis of the request number 2.

As a background, all microorganisms on the list of restricted microorganisms (Part A) are required to go to the Board for review, which is why we are here. Microorganisms on this list are categorized as high-risk organisms which may be allowed into the state under a permit approved by the board. The Monkeypox virus is on this list. The specific virus is *Monkeypox virus*, Clade 2B has been classified as a biosafety level 2, BSL 2 pathogen by the Centers for Disease Control. So, the purpose of the project is to understand both the basic biology of Monkeypox virus and its pathogenesis mechanisms. To do this she will do laboratory research in both biosafety level 2 laboratories with biosafety level 3 practices and procedures, and also biosafety level 3 laboratories depending on the amount of virus handled in each experiment.

This was reviewed by our subcommittee members. Four (4) of our responding subcommittee members have recommended approval to allow the importation of Monkeypox virus, Clade 2B on the list of microorganisms for laboratory research by the University of Hawaii. Four (4) of the members also recommended approval to establish permit conditions by permit for laboratory research, and four (4) of the members agreed that there was probably minimal to no significant effects on the environment with the proposed permit conditions. Four of the members agreed that the proposed permit conditions are sufficient to ensure that there is probably minimal or no significant effect on the environment should it be accidentally released. We do have our applicant here on video chat if there are any other questions or comments, I can turn it over to you.

Chair Takeshima asked if there was anyone from the public who wishes to give testimony on this agenda item. There was one person, Lauren, who clarified that she wanted to give testimony on the next agenda item, not this one. The chair again asked if there was anyone from the public who wanted to give testimony on request item number 2. Seeing none, he asked for board discussion.

Committee member Thomas Eisen asked if there was an exemption from the requirement to prepare an environmental assessment. He said as the proposing agency, they would be able to exempt, he was just looking to confirm that it has done, or if it's still pending. The process of exempting it has dealing with environment review implication has been addressed. Committee member Robert Hauff stated that it is on page 27. Chairperson Takeshima asked if there was any further discussion.

Committee member Josh Fisher said that in reviewing the SOP's there were contingencies for tsunami, air conditioning or power failure. He said there was nothing regarding a hurricane and prolonged power outages and how it would affect the laboratory. Plant Quarantine Specialist Shelby Ching answered that it is a bio containment facility and said that Dr. Saguna Verma or Dr. Nerurkar could comment on that.

Dr. Saguna Verma introduced herself, I am a professor at the Department of Tropical Medicine, for the last 20 plus years I have been working with all kinds of RNA and DNA viruses for both BSL 3 facility using both mouse model and cell culture system and also in BSL 2. Some of the examples I can list are Zika virus, West Nile virus, which is a BSL 3, and SARS. So, I would like to use this opportunity to share with the committee that we have very good SOP's and plan contingency to take care of our pathogens and ongoing experiments. If there is a warning of a hurricane or tsunami, or if there is a power outage we have backup power which we are told will run for three (3) days. Two months ago, when there was a hurricane or a storm warning, we stopped our experiments. We decontaminated everything, bleached everything, and we did do that regularly. So, does that answer the question of the member about the hurricane? Joshua Fisher was concerned about the tsunami with a power outage for an extended period. It is good that you have procedures when there is an impending storm. Dr. Verma stated that in addition to cell cultures, we have sacrificed the animals when there was a warning of power outage, or storm. We do take these things very seriously.

Chair Takeshima asked if there was further discussion. Member Robert Hauff asked for clarification on activities you intend to do under BSL3 versus BSL2, why are you not doing everything in BSL 3? Why one activity you will do under BSL3, but not the others? What is the trade off there between the two levels of biosecurity? Dr. Verma answered we first wanted to do everything in BSL2 plus, though the CDC says that this is a BSL2 pathogen. But we realized that when we are making stock viruses, that is the time we are handling a stock virus more than 10 mL For the everyday experiments I am handling maybe 100 microliters, less than mL virus the risk is very low. We had meetings with our biosafety of research, and we thought for extra mile or precaution, let us make our recipes, making stock the first time or every year, when we do one big experiment and make more than 10 mL, then we store it in BSL 3 because the security is much better. We will just bring five or 10 vials up to BSL2 lab. We have the BSL3 where other BSL3 pathogens are being worked. It is always nice to spread different viruses in different labs, that is why we made this a BSL 2 plus for Monkeypox day-to-day infection at a smaller level. The CDC says that it is a BSL2 virus, but they also say that if you are working with more than one pox virus, if you are working with Monkeypox and Vaccinia virus, or Smallpox together it is recommended to go into BSL3. But at this stage, we are not planning to do that. We will stick to BSL2 plus, a step more than BSL2. In the future, if we ever want to add one more virus, we will come back to you and move everything to BSL3.

Committee Member Gracelda Simmons said she noticed there was no response from our State Lab Director, Dr. Desmond, as well as our previous Lab Director, Dr. Whelan, there a reason for that? Plant Quarantine Specialist Shelby Ching answered that she is in an acting role as Microorganism Specialist for the past 4 weeks, and not sure why the subcommittee members did not respond.

Chair Takeshima asked if there were further discussion or questions from the board members. Seeing none, may I have a motion to approve? Sam Gon moved the motion, Maria Haws seconded. The chair asked if there were any objections or abstentions from any of the members. Gracelda Simmons, said I abstain. The chair said we will do a roll call vote again.

Abstain (Gracelda Simmons)

Approved (Greg Takeshima, Robert Hauff, Maria Haws, Sam 'Ohu Gon, Joshua Fisher, Pam Mizuno, Tom Eisen)

Motion Approved.

Chair Takeshima stated that we are moving on to Request number 3, Related to Interim Rules for the Unrestricted Interisland movement of palm plants.

3. Request for: (1) A Finding that the Unrestricted Inter-Island Movement of Palm Plants in the Genera *Cocos*, *Livistona*, *Phoenix*, *Pritchardia*, *Roystonea*, and *Washingtonia*; Decomposing Plant Material Such as Compost, Wood or Tree Chips, and Mulch, Plant Propagation Media; and Other Items Comprised of Decomposing Organic Plant Material Such as Landscaping Material or Erosion Control Socks, to Prevent the Movement of Coconut Rhinoceros Beetle, *Oryctes rhinoceros*, From the Island of Oahu, Constitutes an Emergency Justifying Issuance of an Interim Rule; and (2) A Finding that the Issuance of an Interim Rule to Restrict the Inter-Island Movement of Palm Plants in the Genera *Cocos*, *Livistona*, *Phoenix*, *Pritchardia*, *Roystonea*, and *Washingtonia*; Decomposing Plant Material Such as Compost, Wood or Tree Chips, and Mulch, Plant Propagation Media; and Other Items Comprised of Decomposing Organic Plant Material Such as Landscaping Material or Erosion Control Socks, is Required to Prevent the Spread of the Coconut Rhinoceros Beetle, *Oryctes rhinoceros*, From the Island of Oahu to Un-Infested Areas Within the State.

Jarett Lau, Acting Entomologist for the Hawaii Department of Agriculture, Plant Quarantine Branch gave a synopsis of the requests. He added that the Coconut Rhinoceros Beetle (CRB) is a significant pest as an adult beetle. They bore into the crown of the palm trees to feed on the sap within. During this process new unopened palm fronds are damaged, and when the palm fronds fully open, they may break off and fall off the tree unexpectedly. If the beetle kills or damages the growing point of the palm, this may lead to the death of the tree.

Additionally, secondary fungal or bacterial pathogens may be introduced through the wound caused by the beetle also leading to the death of the tree. The reports of tree mortality, after being attacked by a Coconut Rhinoceros Beetle range anywhere from 10% to 50%. These dead trees pose a safety hazard as they may fall unexpectedly as the tree rots, causing severe injury or property damage. Furthermore, these dead trees perpetuate the problem as they become a preferred breeding site for CRB once the top of the tree begins to decompose. Adult beetles like to use decomposing materials such as mulch, compost, and other similar decomposing materials as breeding sites. CRB can be spread inadvertently when infested mulch or compost is moved from one location to another, including inter-island movement.

For some history behind the Interim Rule and this invasive species, in November 2013, the first Coconut Rhinoceros Beetle (CRB) was detected and identified on Oahu at Honolulu International Airport. Later that year a secondary detection was found on Joint Base Pearl Harbor through a trap that was posted to catch a different palm species known as the Red Palm Weevil. The next year, January 2014, a large area containing coconut green waste material on Joint Base Pearl Harbor, was found to be heavily infested with all life stages of CRB. Since these initial detections, Coconut Rhinoceros Beetle has spread and continues to spread from the initial sites to Central and West Oahu, extending to parts of North Shore and Windward side.

CRB detections has also been reported on our neighbor islands. These islands include Maui, Kauai, and Hawaii Island. On Kauai, the first detection was made in May of 2023, which spurred 2 treatments, one in October 2023, and the second in January 2024. Continued monitoring of the situation is ongoing. For Maui, the first detection was in November of 2023, where a treatment was then done in February of 2024. No new reports or sightings of CRB have been reported on Maui since. Lastly, on Hawaii Island, there was a detection in the Waikoloa area in October 2023 where treatment was done in August of 2024. A second detection was found in September of this year, with ongoing plans for treatment in the works pursuant to Section 158-9.5 of Hawaii Revised Statutes, the Hawaii Department of Agriculture may establish an interim rule governing the transport of flora and fauna into or within the State. Pursuant to Chapter 158-9.5 part B of the Hawaii Revised Statutes an interim rule may be adopted in the event that the importation or movement of any flora and or fauna, in the absence of an effective rule, creates a situation dangerous to public health and safety or to the ecological health of the flora and fauna present in the State, which is so immediate in nature that it constitutes an emergency.

The department is given authority under Chapter 4-72 of the Hawaii Administrative Rules to regulate the interstate movement of plants. In section 4-72-3 of the Hawaii Administrative Rules, it requires an inspection of propagated plants and plant part prior to being transported between the islands of the States. In section 4-72-4 of the Hawaii Administrative Rules, it prohibits the inter-island movement of commodities infested with a pest unless it was treated through a pesticide that exterminates the pest.

Despite these given authorities, the interim rule provides much needed means of quarantine and safeguard measures to restrict or prohibit the movement of pests and their plants, or commodity and hopes to prevent the spread and establishment of pests that are detrimental to agriculture, horticulture, and the forested and forest lands in uninfested islands and in uninfested localities within the State. The proposed interim rule establishes a quarantine to restrict the movement of CRB host material. The Hawaii Department of Agriculture proposes to establish a quarantine to include the entire island of Oahu, to protect the rest of the State of Hawaii, restricting the inter-island movement of potentially infected material from and all other infest areas is crucial. An interim rule is necessary to prevent the further spread and establishment of CRB. This is an emergency because the Coconut Rhinoceros Beetle (CRB) poses a severe and imminent threat to Hawaii's native ecosystems, agriculture and tourism industries. If Coconut Rhinoceros Beetle continues to spread unchecked, it could lead to significant damage to palm species and other plants essential to Hawaii's landscape and economy. Immediate action is critical to prevent the beetle from infesting new areas, especially non-infested islands, where the cost and difficulty of containment and eradication will increase exponentially. The rapid implementation of this rule is crucial to halt the beetle's expansion, and to safeguard Hawaii's natural ecosystem resources. We request your recommendations and findings to adopt these interim rules

We are open to any comments at this time.

Chair Takeshima thanked Specialist Jarett Lau. The Department received written testimony in support of the request by 36 individuals and organizations. No written testimony was in opposition. The Chair asked if there is anyone from the public who wishes to provide oral testimony at this time?

There were five attendees who raised their hands. We will go in order that they raised their hands.

Lauren Nelson introduced herself, I work with the Maui County Department of Agriculture and head our Food Security Division. My testimony is in strong support of establishing an interim rule to impose a quarantine on the movement of Coconut Rhinoceros Beetle host material. Given that they are a critical threat to our food security, native ecology into all cultural practices that depend on our palm and lauhala species, I encourage you to establish this interim rule, and, if possible, to extend this rule to cover multiple years. From my research, the spread of the CRB to Kauai, Big Island, and Maui happened after the last interim rule was allowed to lapse. We cannot allow this to happen again. An interim rule to impose a quarantine on the movement of CRB on our islands. As a community partner shares with me, if the August 8th fires had not happened last year, CRB would be the greatest threat we face as a community. Our future food security is in your hands. We appreciate your consideration of establishing this interim rule. Mahalo, for all the work that you do to protect our agricultural communities.

Chelsea Arnott introduced herself, she is with the Department of Land and Natural Resources and division of Forestry and Wildlife. I appreciate the opportunity to provide a testimony chair, members of the committee. I think Jarett did a great job of highlighting the issue and the need for the interim rule, and the last testifier with the threat to food security. From the divisions perspective the threat to natural resources on Oahu, where we have no chance of eradicating CRB without better tools, landscape level tools. We are seeing damage and death of our native Pritchardia palms. Your representative from the Department of Land and Natural Resources oversees the Pritchardia Working Group, which is comprised of botanists and conservation specialists that are really concerned about the threat to our natural resources and native Pritchardias across the State. What we need to do is to prevent the movement of those materials that can harbor CRB, which, of course, this interim rule will do, and echoing the last testifier, we need these rules to be permanent. This pest is not going away anytime soon, and we are seeing it spread across the State. Kauai is turning into a similar situation to Oahu here. We are looking at making permanent rules that can quarantine and prevent the movement of these materials and other materials that not only harbor CRB, but other pests. This could be done by moving forward with Chapter 4-7, 2 updates which started back in 2023. The public hearing was held earlier this year, so we are waiting for movement for that. We are encouraging the Department to move forward with those. Mahalo, for the opportunity for providing testimony.

Stephanie Easley introduced herself, she is with CGAPS, the Coordinating Group on Alien Pest Species. Thank you for the opportunity to testify. Today, I would like to highlight a few points from our written testimony. First, we strongly support any efforts by HDOA (Hawaii Department of Agriculture) to protect the people and island of Maui from invasive pests. They have been through so much, and they have so much more to go through as they continue to recover and rebuild. Providing them with specific protection from invasive pests is important and the right thing to do. Our comments go the scope of this interim rule. The text appears to be identical to the interim rule that was adopted by HDOA in October of 2023, which did lapse earlier this month, it's just been a couple weeks. Since October 2023, the CRB situation has continued to deteriorate. As this is an interim rule, this committee is the only review it gets. It does not go before the Board of Agriculture or have any other public process. The standard for the interim rule is that this committee must make a finding that in the absence of this interim rule the situation is so dangerous to the public health or safety, or the ecological health to flora and fauna, as to constitute an emergency. Our position is that even with this interim rule, as proposed, the situation in Hawaii is a continuing CRB emergency. We ask this committee to consider adding provisions to this rule to more fully address this emergency. We asked the committee to consider adding language that requires HDOA to work with the mayor of each county to develop a plan to manage mulch, compost, and green waste on each island to prevent the spread and suppress populations of CRB. Mayors do not have the authority to do this, to manage CRB on their own. Without HDOA's help they are preempted under the law.

Mayors and counties need help to protect their natural and cultural resources and adding this language to the interim rule would be a big step towards addressing the CRB emergency across the State.

Ms. Easley added that the committee consider designating Kauai as a CRB infested area under the interim rule. It is my understanding that CRB is widespread in a number of areas on Kauai, and that preventing the movement of CRB host material from Kauai to Maui could add an additional layer of protection. I don't know if mulch material is moved from Kauai to Maui, and perhaps there isn't any, and that is why HDOA left it out of the interim rule. Or maybe it was to protect Kauai from receiving CRB host material Oahu. I'd be interested to know why HDOA chose not to include Kauai as an infested area. There is another reason to add Kauai, and I realize this issue is not before the committee today, but I urge HDOA to adopt the amendments to Chapter 72 Hawaii Administrative rules which regulate the movement of pests within the State. Those amendments include a program called the Compliance Agreement Program that requires anyone who transports, sells, or processes CRB host material, including live trees, to receive training on the identification and management of CRB. And to use best management practices in their work to prevent the spread and suppress population of CRB. This program was in effect on Oahu from July 2022 to June 2023. I think this is the interim rule that the earlier testifier from Maui was talking about, because it's a much broader program. It's not just this one export restriction, it requires best management practices and population suppression across the infested areas. We look forward to HDOA restarting this program in Hawaii and taking steps to expand the compliance agreement program and roll it out on Kauai. We also urge HDOA to work with the Office of the Governor to seek an emergency declaration for CRB. I realize that this is not within the authority of this committee, however, this really is an emergency that needs additional resources as the Department of Parks and Recreation is starting to cut down infested trees on the North Shore of Oahu, which will be the first of many tree removals. The State and counties need additional resources and authorities to respond to the CRB emergency. Finally, we ask that the references to inter-island movement be removed from the submittal. This is a very minor request. This is just in case HDOA decides to expand the interim rule while it is in effect. Again, it's a minor point, as the interim rule itself does not use the term inter-island movement. Thank you again for the opportunity to testify. I'm here if you have any questions, Mahalo.

Nate Dube introduced himself, I am the manager for the Oahu Invasive Species Committee. Most of the testimony that I am going to submit has been elaborated on already by other testifiers. So I just want to emphasize that OISC, supports any kind of regulation or rule that is going to limit the spread of high impact, high priority, invasive species like Coconut Rhinoceros Beetle. It is not the target species of OISC at this time, because it is not eradicable on this island, but that does not mean we don't want to help prevent it from becoming established on Neighbor Islands.

I do want to emphasize, as I have done in my previous testimony, that we urge the Department of Agriculture to move forward with the proposed amendments. The approved amendments for Hawaii Administrative Rules Chapter 72, and to explore other opportunities to bolster our biosecurity through additional regulations and rules. I think we need to be as creative as we can on the regulatory side, because I don't think that what we are doing now, as Stephanie (Easley) has mentioned, and others, what we are doing now is preventing the spread. We really need to increase and expand our efforts and with that, I just want to thank everybody for their hard work on this. I know there is a lot going on, and I appreciate the committee and the Chair and everybody else who is working to bolster our statewide biosecurity and our invasive species management efforts. Thank you very much.

Wayne Tanaka introduced himself, I am with the Sierra Club of Hawaii. Obviously, we are in strong support of the reinstatement of these interim rules, and we also support the comments that have been submitted by earlier testifiers. I want you to note that with identical rules in place, we still saw CRB jump from our island to Neighbor Islands. We had detections in Maui, Waikoloa, and the risk of that continuing is even greater now with the greater spread of CRB on Oahu. Kahaluu is getting hit now, and spread of CRB in Kauai, so it concerns me that these rules are kind of copy and paste, and there are no real lessons learned from the past year to shore up some of the weaknesses that the previous in the biosecurity protection of the previous interim rules. I do want to emphasize the importance of having provisions to deal with the high-risk vectors that we have been seeing in mulch, compost not just from Oahu, but on the neighbor islands. When the populations of CRB become established, you want to have those tools ready to go. So, as Stephanie (Easley) from CGAPS said, Mayors can mobilize quickly and prevent a similar situation happening to Oahu. We have in our written testimony some sample verbiage. I am not sure if you can adopt that today or have a separate meeting. In any case, we should ask the Department staff if we can't do it today to come back to the next meeting and see if we can improve what's before you right now. I really commend this committee in January, February moving forward the proposal to HR 4,72 to make permanent both the protections here and other protections that are in that real package. Unfortunately, it took a year to get a public hearing in January of this year. It's October now, and there is no movement on those rules. You are well situated in terms of credibility, position, to individually advocate to the Department, the Governor, to shake HR 472 rules loose and add your voice to shore up our biosecurity infrastructure and protect our islands and our future generations from the existential impacts that we have been facing. I am happy to answer your questions. Thank you so much for your time.

Chairperson Takeshima asked if there was anyone from the public who wished to provide oral testimony. There was no more testimony. Chair asked for committee discussion. Committee member Gracelda Simmons asked how long the interim rules are. The Chair responded it is for one year.

Committee Member Thomas Eisen asked, is there a plan to do something other than interim rules for one year and deal with it more comprehensively as noted by the speakers. It seems it is getting worse with what is being done, doing more of the same is not helping. He said the presenters from the Department talked about how treatments have been done. What are those treatments and how effective are they? Chair Takeshima asked Plant Quarantine Branch Manager Jonathan Ho to answer Mr. Eisen's question.

Jonathan Ho answered that he is currently finishing it, and it is scheduled to go before the Board at the October meeting for final approval. We are doing this because the Department understands that the continued movement of CRB is going to be a problem and allowing the restrictions that are in place to go away is clearly not going to solve the problem. The Board can do the final approval, then it goes to small business to complete that process. The interim rules being considered will give the department the added ability to continue the restrictions which we are able to implement.

So, regarding the treatment right now for green waste or potting mix type of things that are moving from Oahu to outer islands, those commodities are being fumigated prior to movement. The staff are witnessing each of those treatments and are ensuring that the shipping of those goods is in containers impervious to CRB infiltration after treatments. There are some other treatments that have been developed, crown treatments, injectables, they are quite costly. The Department has been working with the University for additional treatments for use. There are few chemicals that are approved, then you have some that are approved only on the neighbor islands, and not on Oahu (Demon Max). We are continuing to work through that process to find additional mechanisms that can be utilized to ensure that there is no CRB in them. Maintaining the restrictions to your comment (Mr. Eisen's) that things are the same, and things (CRB) are continuing to move. I think people need to understand that quarantine is designed to mitigate risk. Mitigation is not prevention, the only way that would really stop this is to stop commerce, that is something that we obviously can't do. So, coming up with what can be done is what we are doing. With Oahu being the way it is, focusing on the limited efforts that we have at the ports, the known goods that are moving are our primary focus.

Mr. Eisen noted his appreciation of the efforts the Department is making and encouraged continuation.

Chair Takeshima gave background on the products that are either under research or have been pushed by the CRB Response Team and some of the official products. We are looking from a departmental standpoint at efficacy. Our drive home is do these products work on these insects? We want to ensure that it is used in the right way. We do have inspectors. We have education to provide that information and ensure that while we are treating, we are treating correctly, from the pesticide side. That's what I have to inform this committee.

Committee member Robert Hauff asked to go back to Chapter 72 updates. He asked Jonathan Ho for clarification on status that it must go back to Small Business Review committee. Mr. Hauff said he thought it was already there. He asked if Mr. Ho could outline the steps that needs to go to because it seems like it has been stuck in this rulemaking purgatory for several years now. The question I would have is, if you are able to pull off getting it passed in getting this established in this coming year, will it supersede the interim rule? Mr. Ho answered we need final approval by the Board, final adoption by the Board Review and adoption by the board. From there is a pre-public hearing and after public hearing portion for small business. If small businesses are affected, the permanent rules 4-72 do enable quarantining, and quarantining has an impact on businesses they cannot sell goods, so that needs to be assessed by the Small Business Regulatory Review Board folks. They make a recommendation, Governor signs, it is posted to LG (Lieutenant Governor), 12 days later, it is force of law. AG Jennifer (Waihee-Polk) can correct me if I am wrong, but I believe that is kind of it. AG Jennifer said unless they date a different day, yes you are right. Mr. Ho clarified the intent of interim rules is they are temporary while you make the permanent ones. Mr. Hauff asked if Chapter 72 will supersede this interim agreement and how does it work? Mr. Ho answered that the permanent rule would supersede (the interim rule), and you can rescind the interim rule. That would be the way you would do it to make it very clear. Attorney General Waihee-Polk asked if they (the rules) were in conflict, would it matter? Jonathan Ho answered that the rules are very similar in terms of restrictions. What we did with rapid Ohia Death, the interim rule is still in place, and just went over to (rule) 72 we did not rescind the (interim) rule. There was no conflict, and we just went with the permanent portion. For the folks that are affected, they have been going through this process with their treatments and the witnessing, so I can't imagine that it is going to significantly change for them. I don't see that preventing us from maintaining the restrictions. Committee Chair Takeshima added the committee can also rescind the Interim rules once for 72, then AG Waihee-Polk said that it is only going to be effective not more than a year.

Committee Member Sam 'Olu Gon asked, you mentioned the Small Business review prior to and after rules, and I just wanted to get a feel for what the small business response was before, is it like to be a major obstacle after the rule is passed? Jonathan Ho answered that he did not believe so. When we went to Small Business, they wanted to understand mechanisms; they did understand the intent. It was quite smooth, and there weren't a lot of questions. What we are proposing is essentially what was approved by the Board.

Committee Member Joshua Fisher commented, I completely support the movement of chapter 4-72 permanent rules, and it is good to hear that is moving and that is something we'd like to see with this interim rule. Biosecurity and prevention are the best use of our limited resources in the State to carry them out. The verbiage on this is focused on the inter-island movement. I am wondering about the intra-island movement and setting up quarantines and why there might not be additional language to give more management opportunities to deal with this within the island.

When we first saw CRB come into the State, we did not start to notice it until it hit the critical mass. About intra-island quarantine or designations of infestations, I am not completely sure how that works, but I know that it would take working the counties, the Island Invasive Species Committees to coordinate and deal with that. Could you speak to that? Inter-island versus intra-island? Jonathan Ho answered that it has a lot to do with resources. For example, the resources and ability to manage movement effectively. We focus primarily on the port because everything must go through it. Generally, everything is coming through an airport or a seaport moving in and out of our island. Focusing our staff on those places gives you the highest opportunity to ensure that regulated goods or things that could be infested that are not regulated are stopped. So, with regards to intra-island or within the island restrictions, in the past with Banana Bunch Top and Coffee Berry Borer, we tried doing restrictions and they basically were immediately broken as soon as we made the rule for the infested area, they are outside the infested area. We were constantly coming back to you to expand the area because it requires P&A (Advisory Committee for Plants & Animals) and Board (Board of Agriculture) approval. So, we are always potentially one to two months behind. Then there is the enforcement capacity. Going back to Kauai, I have 2 inspectors for 7 days a week, thankfully, there is no movement of CRB host material from Kauai. From an enforcement standpoint there is that challenge of making a restriction that is basically unenforceable versus trying to make regulations that you can enforce so that there are no ideas of selective management. At the port you have the most ability to manage unilaterally. So, creating that geographic area, notifying those individual people, and secondary issue of trying to stop them. For example, a person on truck, he may be leaving the quarantine area, you can't pull him over, we are not a police officer. So, you have constitutional issues with trying to manage that, whereas if you're at the port you are not impeding the person versus the commodity itself.

Committee member Robert Hauff said I hear you Jonathan, but I think that just points to the importance and effectiveness of the compliance agreements when they were in effect. That's why people are wondering about Chapter 72, and when that might occur, because that seemed to work better. But related to that, I wanted to understand why Kauai isn't part of this proposed interim rule since the Department of Agriculture isn't doing any control work on Kauai. What is the harm of including Kauai in this interim rule is my question? Jonathan asked for clarification (on treatment) on Kauai to Chair Greg Takeshima. Chair Takeshima stated that there have been two applications over the last year. Robert Hauff agreed that there was some initial (response), but my understanding is that your APHIS funding can't be used on Kauai outside of the ports of entry, because it is considered established there. That is part of the reason DLNR has provided CRB response funding through the U.H. so they could continue to do some work in Kauai, and we are not just abandoning it. That's been my understanding. We can agree that it is established at different places on the island, so is there a reason why you didn't want to? Was the justification that you are, in fact, doing suppression Kauai? Jonathan Ho stated there is not much movement, and with interim rules we want to get people involved so at least they know before we quarantine them. Robert Hauff then stated that Jonathan Ho's statement was contradictory, you are saying no one is doing it, but we would want to give them a heads up before we do it.

Jonathan Ho responded that from a standpoint of notice we want to work with the industry to manage it. It's not to say we can't, if deemed necessary, expand the interim rule to include Kauai. So just because we don't do it today it does not mean it can't be done tomorrow. Robert Hauff stated that we are here today. AG Waihee-Polk responded that it is not on the agenda. Chair Takeshima reiterated that it is outside of the agenda. Committee member Joshua Fisher asked if the language could be added to include it. Jonathan Ho responded that the agenda title is to quarantine the island of Oahu, not the island of Kauai, so you are expanding the action outside of what is publicly noticed. Chair Takeshima added that this must be discussed at a new meeting if we wanted to add Kauai. AG Waihee-Polk clarified to make a new rule for Kauai. Joshua Fisher said he thought it could be added but agreed that it changes (the agenda) overall. This all points to increased resources that are going to be needed at HDOA (Hawaii Department of Agriculture) because CRB is what we are dealing with now and there will be additional pests and our ability to bolster biosecurity is huge.

Committee member Thomas Eisen commented that some of the public presenters offered suggestions and recommendations and have they been seriously considered for integration into rules. Jonathan Ho said you are referring to the county collaboration. The way the rule is written is to manage movement. I don't know if you can make an interim rule to collaborate with the County, but that doesn't prevent us from doing and the Department has already provided each County a lot of money to implement green waste management program already. So, we are working with them now. We can always do more. Joshua Fisher asked about the county's ability to quarantine, that lies with HDOA. Jonathan answered in the affirmative.

Chair Takeshima asked the committee if we need to have an executive session related to legal questions for our deputy AG. Hearing none, he asked the Committee member Gracelda Simmons to speak. She said we all agree that there is a crisis with Coconut Rhinoceros Beetle, has the Department of Agriculture or anyone approached the Governor to make an emergency declaration which would hopefully hasten the adoption of your rules and anything else that you might want to implement in this period of time? I understand this interim rule, which will last for a year, and not knowing how fast the Department of Agriculture can get the final rules in place. There is an urgency, it is something that affects the state statewide. Why not ask the Governor for an emergency declaration?

Jonathan Ho answered the prior administrator was working through the EP (Emergency Proclamation) process to figure out which regulations would give you the ability to bypass specific regulations. For example, treatments covered by the Feds, you couldn't eliminate the pesticide regulations. There was talk about doing agricultural burning, which would eliminate green waste altogether, you have a federal nexus that manages that. Other things are potential collective bargaining, hiring and procurement. Those are the ones that were identified initially for possible exemptions that I am aware of. That's why it really hasn't moved forward from the Governor standpoint. Chair Takeshima agreed that it was his understanding too. The previous Plant Industry Acting Administrator, Dexter Kishida, our (current) Deputy, is still working on that. The wording

has to be right to ensure that we are doing what we need to do in terms of that emergency proclamation.

Chair Takeshima asked if there was any further discussion. Jarett Lau, Acting Entomologist Specialist, added current safeguard precautions that we are doing on Oahu to prevent the spread from Kauai to the other islands, we do have inspectors going out to Young Brothers inspecting shipments that are coming between Kauai to Oahu and out to the other islands. Committee member Sam 'Olu Gon said that it is good to hear and if there is no further discussion, I move to approve. Pam Mizuno seconded.

Chair Takeshima called for the vote and asked if there are any objections or abstentions? Seeing none, the motion is approved.

V. ADJOURNMENT

Chair Takeshima asked for a motion to adjourn. Pam Mizuno moved to adjourn. Sam 'Olu Gon seconded.

Motion carries.

Chairman Takeshima called to Adjourn the meeting of the Advisory Committee on Plants & Animals at 10:54AM.

Respectfully submitted,

Deborah Safarik
Secretary, PQB