

TITLE 4 DEPARTMENT OF AGRICULTURE
 SUBTITLE 6 DIVISION OF PLANT INDUSTRY
 CHAPTER 73
 PLANT AND NON-DOMESTIC ANIMAL QUARANTINE
 PLANT EXPORT RULES

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Historical note: Chapter 73 is based substantially upon Regulation 6, Entitled "Relating to the Export of Plant Materials," of the Division of Plant Industry, Department of Agriculture. [Eff. 5/2/56; am 8/14/64; am 3/22/69; R JUL 13 1981]; and the Revised Schedule of Fees for Fumigation and other Inspection or Quarantine Services, of the Division of Plant Industry, Department of Agriculture. [Eff. 2/15/58; am 3/21/69; R JUL 13 1981].

§4-73-1 Objective. The objective of this chapter is to implement the requirements of chapter 150A, Hawaii Revised Statutes, by providing for export plant and plant products inspectional and disinfestation treatment services that meet the requirements of the state or country of destination. [Eff. JUL 13 1981] (Auth: HRS §150A-9) (Imp: HRS §§150A-21, 150A-22, 150A-23)

§4-73-2 Definitions. As used in this chapter:
 "Branch" means the plant quarantine branch;
 "Burrowing nematode" means *Radopholus similis*;
 "Certified nursery" means a plant nursery authorized by the department to certify plants;
 "Certify" means to indicate by an official printed certificate or rubber stamp that the content of a sealed container is apparently free of burrowing nematode and/or other quarantine pests;

"Chief" means chief of the plant quarantine branch;

"Inspection office" means plant quarantine offices located at 701 Ilalo Street, Honolulu; 4398 Pua Loke Street, Lihue; 16E Lanikaula Street, Hilo; and 635 Mua Street, Kahului;

"Office hours" means the period of hours from 7:45 a.m. to 4:30 p.m., monday to friday inclusive, except official state holidays;

"Plant" means plant or plant parts thereof, including rooted or calloused bulbs and cuttings;

"Quarantine pests" means any insect, disease agent, or other organisms causing or capable of causing injury or damage to any plant or parts thereof; and

"Test" means to determine the presence or absence of a burrowing nematode by laboratory test.

[Eff. JUL 13 1981] (Auth: HRS §150A-9) (Imp: HRS §§150A-21, 150A-22, 150A-23)

§4-73-3 Export inspection and fumigation services.

(a) The department shall provide the following services:

- (1) Plant inspection and certification;
- (2) Plant and fruit fumigation;
- (3) Burrowing nematode testing; and
- (4) Nursery certification.

(b) The respective locations for the inspectional and fumigation services shall be designated in subsequent sections of this chapter. The department may add, delete or change the designated locations when feasible.

(c) Nothing in this chapter shall be construed as requiring the department to render the inspectional or certification services when personnel and facilities are inadequate. [Eff. JUL 13 1981] (Auth: HRS §150A-9) (Imp: HRS §§150A-21, 150A-22, 150A-23)

§4-73-4 Plant inspection and certification.

(a) Plant inspection and certification services shall be conducted at the inspection offices on Hawaii, Kauai, Maui and Oahu during office hours.

(b) A plant or plant material shall be brought to the inspection office with a container in which the material can be completely enclosed. The container shall also be suitable for sealing with gummed tape.

(c) An inspection shall be conducted in accordance with the import rule of the domestic state or foreign country of destination.

(d) A plant or plant material may be required to be fumigated, treated with pesticide, washed free of soil or tested for burrowing nematodes as mandated by applicable rule.

(e) A plant or plant material shall not be certified until it has been determined that the requirement of the applicable rule has been met.

(f) A plant or plant material to be certified shall be packed, sealed and stamped at the inspection office. When required, an appropriate federal or state phytosanitary certificate shall be issued.

[Eff. JUL 13 1981] (Auth: HRS §150A-9) (Imp: HRS §§150A-21, 150A-22, 150A-23)

§4-73-5 Plant and fruit fumigation. (a) Fumigation services shall be conducted at the inspection offices on Oahu, Hawaii and Kauai provided that the services may be suspended when the fumigation chamber is inoperable or when there is a malfunction of the chamber or other mechanical part that results in unsafe conditions for the plant quarantine staff.

(b) A schedule of fumigation shall be established and posted in a conspicuous place at an inspection office.

(c) Appropriate fees pursuant to §4-73-10 shall be charged for fumigation services.

[Eff. JUL 13 1981] (Auth: HRS §150A-9) (Imp: HRS §§150A-21, 150A-22, 150A-23)

§4-73-6 Burrowing nematode test. (a) Burrowing nematode testing service shall be conducted at the inspection offices on Oahu, Hawaii, Kauai and Maui provided that plants accepted for testing on any given day shall be limited to the testing capacity of the respective island laboratory.

(b) A request for test consisting of less than one hundred plants shall be accepted daily on a first come, first served basis subject to the limitation in paragraph (a). A request for test consisting of over one hundred plants shall be accepted for testing by prior arrangements made about seven days in advance of the testing date.

(c) Plants submitted for testing shall be free of soil or other planting media and shall have sufficient roots for a valid test. Plants determined by an inspector to have insufficient roots may be rejected for testing.

(d) Plants shall be left at the inspection office for the test duration of four to seven working days. Plants shall be submitted for testing far in advance of date of departure or shipping date to make allowance for test duration.

(e) Plants shall be submitted at the risk of the owner as test procedure requires the removal of repre-

sentative samples of roots that have unpredictable effects on plant life including death in extreme cases.

(f) The department or its employees shall not be held responsible for any loss, theft, or adverse condition of any plant submitted and retained for testing at the inspection office. [Eff. JUL 13 1981]
(Auth: HRS §150A-9) (Imp: HRS §§150A-21, 150A-22, 150A-23)

§4-73-7 Nursery certification. (a) In lieu of certification of plants at the inspection office, the department may authorize a commercial plant nursery to self certify plants grown under specific conditions set forth in a memorandum of agreement executed by the nursery operator and the department.

(b) Compliance to the conditions in the memorandum of agreement shall be determined by certification inspections conducted by the department. Certification inspections shall be conducted prior to initial nursery certification and at intervals of six months thereafter. Other additional certification inspection may be conducted between the six-month interval.

(c) An official certification stamp shall be issued to each certified nursery with a distinctive identifying number. The cost of the stamp shall be borne by the nursery but the stamp shall remain under control of the department. The stamp shall be surrendered to the department upon termination, suspension, or revocation of a nursery certification.

(d) Unless otherwise terminated, suspended, or revoked, a nursery certification shall be valid for six months and may be renewed as determined by certification inspection.

(e) A nursery certification may be permanently or temporarily terminated upon written request and upon surrender of the certification stamp to the department.

(f) A nursery certification may be suspended under the following conditions:

- (1) Upon receipt of an out-of-state rejection notice for a quarantine pest; or
- (2) Upon discovery of a quarantine pest at the certified nursery; or
- (3) When any of the conditions stipulated in the memorandum of agreement is not being complied with; or
- (4) Upon discovery of a quarantine pest in or on a pre-packaged certified product being offered for sale;

Provided that the suspension shall be in effect until the deficiencies are corrected and verified by inspection.

(g) A nursery certification may be revoked under the following conditions:

- (1) Use of certification stamp for products and commodities other than plants from a certified nursery; or
 - (2) Unauthorized use of the certification stamp during suspension; or
 - (3) Refusal of a nursery operator to permit inspection of the nursery premise during reasonable working hours; or
 - (4) After repeated suspensions and when there are indications that the nursery operator is no longer able to continue maintaining the standards for a certified nursery; or
 - (5) Non-payment of fees after due notice.
- [Eff. JUL 13 1981] (Auth: HRS §150A-9)
 (Imp: HRS §§150A-21, 150A-22, 150A-23)

§4-73-8 Nursery inspection fee. (a) A nursery inspection fee shall include a charge of twenty dollars for nurseries carrying less than ten thousand plants, forty dollars for nurseries carrying more than ten thousand plants, and a mileage charge of twenty cents a mile computed from the respective county inspection office to the nursery.

(b) A nursery inspection fee shall be assessed for each:

- (1) Nursery certification and re-certification inspection including burrowing nematode root sampling. An additional fee shall not be assessed when more than one day is required to complete the inspection and sampling.
 - (2) Follow-up inspection required to correct deficiencies found in a certification inspection and an inspection to remedy out-of-state rejections for quarantine pests. A fee shall be charged for each day or fraction of a day required for the inspection.
- [Eff. JUL 13 1981] (Auth: HRS §§141-5, 150A-9) (Imp: HRS §150A-23)

§4-73-9 Burrowing nematode testing fee. (a) A fee for a burrowing nematode laboratory test on plants submitted at the inspection office shall be two dollars for each group of six plants or fraction thereof. Plants submitted in excess of ninety-six plants by any individual may be combined into composite samples of five plants and tested at the rate of two dollars for each group of six composite samples or fraction thereof.

(b) Root samples from certified nursery plants submitted for testing in conjunction with nursery certi-

fication or re-certification inspection may be grouped in a composite sample and tested at the rate of two dollars for each thirty plants or fraction thereof. Any number of root cuttings may be combined for each composite sample but the fee shall apply regardless of the number of composite samples tested. [Eff. JUL 13 1981]
(Auth: HRS §§141-5, 150A-9) (Imp: HRS §150A-22)

§4-73-10 Export fumigation fees. (a) A fee for export fumigation shall be for each lot two dollars for vault use and an additional charge of twenty cents for each cubic foot with no proration of fees.

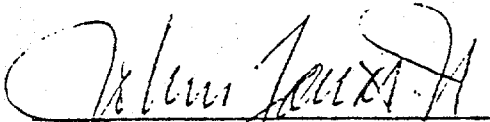
(b) A fee for unscheduled fumigation shall be for each lot two dollars for vault use and an additional charge of twenty cents per cubic foot for thirty percent volume capacity of the vault or tank in use with no proration of fees.

(c) For unscheduled fumigation requiring the services of personnel beyond normal office hours, an additional fee shall be assessed which shall include applicable charges for overtime wages, fixed charges for personnel services, and meals. [Eff. JUL 13 1981]
(Auth: HRS §§141-5, 150A-9) (Imp: HRS §150A-22)

DEPARTMENT OF AGRICULTURE

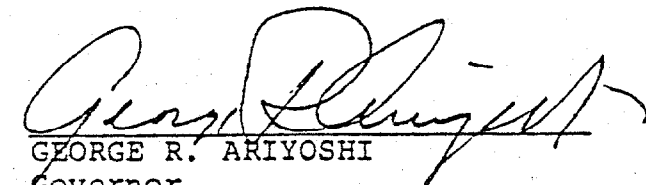
The Board of Agriculture authorized the repeal of Regulation 6 and the Schedule of Fees for Fumigation and Other Inspection or Quarantine Services dated March 21, 1969, of the Division of Plant Industry and the adoption of Chapter 73 of title 4, Administrative Rules, on June 18, 1981 following public hearings held on April 27, 29, 30, 1981 after public notice was given in the Honolulu Star-Bulletin, Maui News, Hawaii Tribune-Herald, and Garden Island on April 4, 6, 7, 8, 1981, respectively.

These rules shall take effect ten days after filing with the Office of the Lieutenant Governor.



JOHN FARIAS, Jr.
Chairman
Board of Agriculture

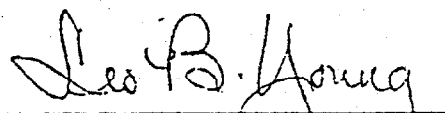
APPROVED:



GEORGE R. ARIYOSHI
Governor
State of Hawaii

Dated: 7-1-81

APPROVED AS TO FORM:



Deputy Attorney General

Filed

REC'D. BY
JUL 1 31
OFFICE