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FEDERAL STATUTES

Plant Protection Act, 7 U.S.C. § 7701, Findings

Congress finds that--

- (1) the detection, control, eradication, suppression, prevention, or retardation of the spread of plant pests or noxious weeds is necessary for the protection of the agriculture, environment, and economy of the United States;
- (2) biological control is often a desirable, low-risk means of ridding crops and other plants of plant pests and noxious weeds, and its use should be facilitated by the Department of Agriculture, other Federal agencies, and States whenever feasible;
- (3) it is the responsibility of the Secretary to facilitate exports, imports, and interstate commerce in agricultural products and other commodities that pose a risk of harboring plant pests or noxious weeds in ways that will reduce, to the extent practicable, as determined by the Secretary, the risk of dissemination of plant pests or noxious weeds;
- (4) decisions affecting imports, exports, and interstate movement of products regulated under this chapter shall be based on sound science;
- (5) the smooth movement of enterable plants, plant products, biological control organisms, or other articles into, out of, or within the United States is vital to the United State's economy and should be facilitated to the extent possible;
- (6) export markets could be severely impacted by the introduction or spread of plant pests or noxious weeds into or within the United States;
- (7) the unregulated movement of plant pests, noxious weeds, plants, certain biological control organisms, plant products, and articles capable of harboring plant pests or noxious weeds could present an unacceptable risk of introducing or spreading plant pests or noxious weeds;
- (8) the existence on any premises in the United States of a plant pest or noxious weed new to of not known to be widely prevalent in or distributed within and throughout the United States could constitute a threat to crops

and other plan products of the United States and burden interstate commerce or foreign commerce; and

(9) all plant pests, noxious weeds, plants, plant products, articles capable of harboring plant pests or noxious weeds regulated under this chapter are in or affect interstate commerce or foreign commerce.

Plant Protection Act, 7 U.S.C. § 7702, Definitions

In this chapter:

(1) Article

The term "article" means any material or tangible object that could harbor plant pests or noxious weeds.

(2) Biological control organism

The term "biological control organism" means any enemy, antagonist, or competitor used to control a plant pest or noxious weed.

(6) Interstate

The term "interstate" means—

- (A) from one State into or through any other State; or
- (B) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(C)

(7) Interstate Commerce

The term "interstate commerce" means trade, traffic, or other commerce—

- (A) between a place in a State and a point in another State, or between points within the same State but through any place outside that State; or
- (B) within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

* * *

(9) Move and related Terms

The terms "move", "moving", and "movement" mean--

(A) to carry, enter, import, mail, ship, or transport;

- (B) to aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting;
- (C) to offer to carry, enter, import, mail, ship, or transport;
- (D) to receive to carry, enter, import, mail, ship, or transport;
- (E) to release into the environment; or
- (F) to allow any of the activities described in a preceding subparagraph.

(10) Noxious weed

The term "noxious weed" means any plant or plant product that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment.

* * *

(14) Plant Pest

The term "plant pest" means any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product:

- (A) A protozoan.
- (B) A nonhuman animal.
- (C) A parasitic plant.
- (D) A bacterium.
- (E) A fungus.
- (F) A virus or viroid.
- (G) An infectious agent or other pathogen.
- (H) Any article similar to or allied with any of the articles specified in the preceding subparagraphs.

* * *

Plant Protection Act, 7 U.S.C. § 7754 Regulations and Orders

The secretary may issue such regulations and orders as the Secretary considers necessary to carry out this chapter.

* * *

Plant Protection Act, 7 U.S.C. § 7756(b), Preemption

* * *

(b) Regulation of interstate commerce

(1) In general

Except as provided in paragraph (2), no State or political subdivision of a State may regulate the movement in interstate commerce of any article, means of conveyance, plant, biological control organism, plant pest, noxious weed, or plant product in order to control a plant pest or noxious weed, eradicate a plant pest or noxious weed, or prevent the introduction or dissemination of a biological control organism, plant pest, or noxious weed, if the Secretary has issued a regulation or order to prevent the dissemination of the biological control organism, plant pest, or noxious weed within the United States.

(2) Exceptions

(A) Regulations consistent with Federal regulations

A State or a political subdivision of a State may impose prohibitions or restrictions upon the movement in interstate commerce of articles, means of conveyance, plants, biological control organisms, plant pests, noxious weeds, or plant products that are consistent with and do not exceed the regulations or orders issued by the Secretary.

(B) Special need

A State or political subdivision of a State may impose prohibitions or restrictions upon the movement in interstate commerce of articles, means of conveyance, plants, plant products, biological control organisms, plant pests, or noxious weeds that are in addition to the prohibitions or restrictions imposed by the Secretary, if the State or political subdivision of a State demonstrates to the Secretary and the Secretary finds that there is a special need for additional prohibitions or restrictions based on sound scientific data or a thorough risk assessment.

FEDERAL REGULATIONS

7 C.F.R. PART 330, FEDERAL PLANT PEST REGULATIONS; GENERAL; PLANT PESTS; SOIL, STONE, AND QUARRY PRODUCTS; GARBAGE

7 CFR 330.100, Definitions

Plant pest. (1) Except for §§ 330.200 through 330.212, "plant pest" means any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

7 C.F.R. § 330.101, General Provisions; Policy

The purpose of the regulations in this part is to prevent the dissemination of plant pests into the United States, or interstate, by regulating the movement of plant pests into or through the United States, or interstate, and the movement of means of conveyance, earth, stone and quarry products, garbage, and certain other products and articles into or through the United States, or from any Territory or possession into or through any other Territory or possession or the continental United States. The Deputy Administrator shall employ procedures to carry out this purpose which will impose a minimum of impediment to foreign commerce and travel whenever practicable, consistent with proper precaution against plant pest dissemination. The same policy is to be applied in the case of interstate commerce and travel.

7 § 330.102 Basis for certain regulations

Under the authority of the Plant Protection Act, the Secretary may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, article (including baggage, mail, garbage, earth, stone, and quarry products) or means of conveyance if such actions are necessary to prevent the introduction into or the dissemination within the United States of a plant pest or noxious weed.

7 C.F.R. PART 340, INTRODUCTION OF ORGANISMS AND PRODUCTS ALTERED OR PRODUCED THROUGH GENETIC ENGINEERING WHICH ARE PLANT PESTS OR WHICH THERE IS REASON TO BELIEVE ARE PLANT PESTS

7 C.F.R. § 340.0, Restrictions on the Introduction of Regulated Articles

- (a) No person shall introduce any regulated article unless the Administrator is:
 - (1) Notified of the introduction in accordance with § 340.3, or such introduction is authorized by permit in accordance with § 340.4, or such introduction is conditionally exempt from permit requirements under § 340.2(b); and
 - (2) Such introduction is in conformity with all other applicable restrictions in this part.1
- (b) Any regulated article introduced not in compliance with the requirements of this part shall be subject to the immediate application of such remedial measures or safeguards as an inspector determines necessary to prevent the introduction of such plant pests.
 - n.1: Part 340 regulates, among other things, the introduction of organisms and products altered or produced through genetic engineering that are plant pests or are believed to be plant pests. The introduction into the United States of such articles also may be subject to other regulations promulgated under the Plant Protection Act (7 U.S.C. 7701–7772) and found in 7 CFR parts 319, 330, and 360. For example, under regulations promulgated in "Subpart–Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" (7 CFR 319.37–3), a permit is required for the importation of certain classes of nursery stock whether such stock is genetically engineered or not. Accordingly, individuals should refer to those regulations before importing any nursery stock.
 - n.2: An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 411, 412, 421, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7731, and 7754).

7 C.F.R. § 340.1, Definitions

Terms used in the singular form in this part shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this part, shall be construed, respectively, to mean:

* * *

Interstate. From any State into or through any other State.

Introduce or introduction. To move into or through the United States, to release into the environment, to move interstate, or any attempt thereat.

Move (moving, movement). To ship, offer for shipment, offer for entry, import, receive for transportation, carry, or otherwise transport or move, or allow to be moved into, through, or within the United States.

* * *

Plant pest. Any living stage (including active and dormant forms) of insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof; viruses; or any organisms similar to or allied with any of the foregoing; or any infectious agents or substances, which can directly or indirectly injure or cause disease or damage in or to any plants or parts thereof, or any processed, manufactured, or other products of plants.

* * *

Regulated article. Any organism which has been altered or produced through genetic engineering, if the donor organism, recipient organism, or vector or vector agent belongs to any genera or taxa designated in § 340.2 and meets the definition of plant pest, or is an unclassified organism and/or an organism whose classification is unknown, or any product which contains such an organism, or any other organism or product altered or produced through genetic engineering which the Administrator, determines is a plant pest or has reason to believe is a plant pest. Excluded are recipient microorganisms which are not plant pests and which have resulted from the addition of genetic material from a donor organism where the material is well characterized and contains only non-coding regulatory regions.

Release into the environment. The use of a regulated article outside the constraints of physical confinement that are found in a laboratory, contained greenhouse, or a fermenter or other contained structure.

* * *

7 C.F.R. § 340.2, Groups of Organisms which are or Contain Plant Pests

(a) Groups of organisms which are or contain plant pests. The organisms that are or contain plant pests are included in the taxa or group of organisms contained in the following list. Within any taxonomic series included on the list, the lowest unit of classification actually listed is the taxon or group which may contain organisms which are regulated. Organisms belonging to all lower taxa contained within the group listed are included as organisms that may be or may contain plant pests, and are regulated if they meet the definition of plant pest in § 340.1.

n.4: Any organism belonging to any taxa contained within any listed genera or taxa is only considered to be a plant pest if the organism "can directly or indirectly injure, or cause disease, or damage in any plants or parts thereof, or any processed, manufacture, or other products of plants." Thus a particular unlisted species within a listed genus would be deemed a plant pest for pupposes of § 340.2, if the scientific literature refers to the organism as a cause of direct or indirect injury, disease, or damage to any plants, plant parts or products of plants. (If there is any question concerning the plant pest status of an organism belonging to any listed genera or taxa, the person proposing to introduce the organism in questions should consult with APHIS to determine if the organism is subject to regulation.)

Note: Any genetically engineered organism composed of DNA or RNA sequences, organelles, plasmids, parts, copies and/or analogs, of or from any of the groups of organisms listed below shall be deemed a regulated article if it also meets the definition of plant pest in § 340.1.

* * *

7 C.F.R. § 340.3, Notification for the Introduction of Certain Regulated Articles

(a) General. Certain regulated articles may be introduced without a permit, provided that the introduction is in compliance with the requirements of this

section. Any other introduction of regulated articles require a permit under § 340.4, with the exception of introductions that are conditionally exempt from permit requirements under § 340.2(b) of this part.

- (b) Regulated articles eligible for introduction under the notification procedure. Regulated articles which meet all of the following six requirements and the performance standards set forth in paragraph (c) of this section are eligible for introduction under the notification procedure.
 - (1) The regulated article is any plant species that is not listed as a noxious weed in regulations at 7 CFR part 360 under the Plant Protection Act (7 U.S.C. 7712), and, when being considered for release into the environment, the regulated article is not considered by the Administrator to be a weed in the area of release into the environment.
 - (2) The introduced genetic material is "stably integrated" in the plant genome, as defined in § 340.1.
 - (3) The function of the introduced genetic material is known and its expression in the regulated article does not result in plant disease.
 - (4) The introduced genetic material does not:
 - (i) Cause the production of an infectious entity, or
 - (ii) Encode substances that are known or likely to be toxic to nontarget organisms known or likely to feed or live on the plant species, or
 - (iii) Encode products intended for pharmaceutical or industrial use.
 - (5) To ensure that the introduced genetic sequences do not pose a significant risk of the creation of any new plant virus, plant virus-derived sequences must be:
 - (i) Noncoding regulatory sequences of known function, or (ii) Sense or antisense genetic constructs derived from viral genes from plant viruses that are prevalent and endemic in the area where the introduction will occur and that infect plants of the same host species, and that do not encode a functional noncapsid gene product responsible for cell-to-cell movement of the virus.

- (6) The plant has not been modified to contain the following genetic material from animal or human pathogens:
 - (i) Any nucleic acid sequence derived from an animal or human virus, or
 - (ii) Coding sequences whose products are known or likely causal agents of disease in animals or humans.
- (c) Performance standards for introductions under the notification procedure. The following performance standards must be met for any introductions under the notification procedure.
 - (1) If the plants or plant materials are shipped, they must be shipped in such a way that the viable plant material is unlikely to be disseminated while in transit and must be maintained at the destination facility in such a way that there is no release into the environment.
 - (2) When the introduction is an environmental release, the regulated article must be planted in such a way that they are not inadvertently mixed with non-regulated plant materials of any species which are not part of the environmental release.
 - (3) The plants and plant parts must be maintained in such a way that the identity of all material is known while it is in use, and the plant parts must be contained or devitalized when no longer in use.
 - (4) There must be no viable vector agent associated with the regulated article.
 - (5) The field trial must be conducted such that:
 - (i) The regulated article will not persist in the environment, and
 - (ii) No offspring can be produced that could persist in the environment.
 - (6) Upon termination of the field test:
 - (i) No viable material shall remain which is likely to volunteer in subsequent seasons, or

- (ii) Volunteers shall be managed to prevent persistence in the environment.
- (d) Procedural requirements for notifying APHIS. The following procedures shall be followed for any introductions under the notification procedure:
 - (1) Notification should be directed to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Biotechnology and Scientific Services, Biotechnology Permits, 4700 River Road, Unit 147, Riverdale, Maryland 20737–1237.
 - (2) The notification shall include the following:
 - (i) Name, title, address, telephone number, and signature of the responsible person;
 - (ii) Information necessary to identify the regulated article(s), including:
 - (A) The scientific, common, or trade names, and phenotype of regulated article,
 - (B) The designations for the genetic loci, the encoded proteins or functions, and donor organisms for all genes from which introduced genetic material was derived, and
 - (C) The method by which the recipient was transformed;
 - (iii) The names and locations of the origination and destination facilities for movement or the field site location for the environmental release; and the size of the introduction,
 - (iv) The date and, in the case of environmental release, the expected duration of the introduction (release); and
 - (v) A statement that certifies that introduction of the regulated article will be in accordance with the provisions of this section.
 - (3) Notification must be submitted to APHIS:
 - (i) At least 10 days prior to the day of introduction, if the introduction is interstate movement.
 - (ii) At least 30 days prior to the day of introduction, if the introduction is an importation.

- (iii) At least 30 days prior to the day of introduction, if the introduction is an environmental release.
- (4) Field test reports must be submitted to APHIS within 6 months after termination of the field test. Field test reports shall include the APHIS reference number, methods of observation, resulting data, and analysis regarding all deleterious effects on plants, nontarget organisms, or the environment.
- (5) The Administrator, shall be notified of any unusual occurrence within the time periods and in the manner specified in § 340.4(f)(10).

* * *

7 C.F.R. § 340.4(b), (c), Permits for the Introduction of a Regulated Article

* * *

(b) Permit for release into the environment.

* * *

- (1) Name, title, address, telephone number, signature of the responsible person and type of permit requested (for importation, interstate movement, or release into the environment);
- (2) All scientific, common, and trade names, and all designations necessary to identify the: Donor organism(s); recipient organism(s); vector or vector agent(s); constituent of each regulated article which is a product; and, regulated article;
- (3) Names, addresses, and telephone numbers of the persons who developed and/or supplied the regulated article;
- (4) A description of the means of movement (e.g., mail, common carrier, baggage, or handcarried (and by whom));
- (5) A description of the anticipated or actual expression of the altered genetic material in the regulated article and how that expression differs from the expression in the non-modified parental organism (e.g., morphological or

structural characteristics, physiological activities and processes, number of copies of inserted genetic material and the physical state of this material inside the recipient organism (integrated or extrachromosomal), products and secretions, growth characteristics);

- (6) A detailed description of the molecular biology of the system (e.g., donor-recipient-vector) which is or will be used to produce the regulated article;
- (7) Country and locality where the donor organism, recipient organism, vector or vector agent, and regulated article were collected, developed, and produced;
- (8) A detailed description of the purpose for the introduction of the regulated article including a detailed description of the proposed experimental and/or production design;
- (9) The quantity of the regulated article to be introduced and proposed schedule and number of introductions;
- (10) A detailed description of the processes, procedures, and safeguards which have been used or will be used in the country of origin and in the United States to prevent contamination, release, and dissemination in the production of the: Donor organism; recipient organism; vector or vector agent; constituent of each regulated article which is a product; and regulated article;
- (11) A detailed description of the intended destination (including final and all intermediate destinations), uses, and/or distribution of the regulated article (e.g., greenhouses, laboratory, or growth chamber location; field trial location; pilot project location; production, propagation, and manufacture location; proposed sale and distribution location);
- (12) A detailed description of the proposed procedures, processes, and safeguards which will be used to prevent escape and dissemination of the regulated article at each of the intended destinations;
- (13) A detailed description of any biological material (e.g., culture medium, or host material) accompanying the regulated article during movement; and

- (14) A detailed description of the proposed method of final disposition of the regulated article.
- (c) Limited permits for interstate movement or importation of a regulated article.

* * *

- (1) Limited permit for interstate movement. The responsible person may apply for a single limited permit for the interstate movement of multiple regulated articles in lieu of submitting an application for each individual interstate movement. Each limited permit issued shall be numbered and shall be valid for one year from the date of issuance. If a permit is sought for multiple interstate movements between contained facilities the responsible individual shall specify in the permit application all the regulated articles to be moved interstate; the origins and destinations of all proposed shipments; a detailed description of all the contained facilities where regulated articles will be utilized at destination; and a description of the containers that will be used to transport the regulated articles. A limited permit for interstate movement of a regulated article shall only be valid for the movement of those regulated articles moving between those locations specified in the application. If a person seeks to move regulated articles other than those specified in the application, or to a location other than those listed in the application, a supplemental application shall be submitted to APHIS. No person shall move a regulated article interstate unless the number of the limited permit appears on the outside of the shipping container. The responsible person shipping a regulated article interstate shall keep records for one year demonstrating that the regulated article arrived at its intended destination. The responsible person seeking a limited permit for interstate movement shall submit on an application form obtained from APHIS the data required by paragraphs (b)(1), (2), (4), (6), (7), (9), and (11) through (14) of this section.
- (2) Limited permit for importation. The responsible person seeking a permit for the importation of a regulated article shall submit an application for a permit prior to the importation of each shipment of regulated articles. The responsible person importing a regulated article shall keep records for one year demonstrating that the regulated article arrived at its intended destination. The responsible person seeking a limited permit for importation shall submit on an application form obtained from APHIS data required by paragraphs (b)(1), (2), (4), (6), (7), (9), and (11) through (14) of this section.

* * *

7 C.F.R. § 340.6, Petition for Determination of Nonregulated Status

(a) General. Any person may submit to the Administrator a petition to seek a determination that an article should not be regulated under this part. A petitioner may supplement, amend, or withdraw a petition in writing without prior approval of the Administrator and without affecting resubmission at any time until the Administrator rules on the petition. A petition for determination of nonregulated status shall be submitted in accordance with the procedure and format specified in this section.

* * *

7 C.F. R. § 360.200 Designation of noxious weeds

The Administrator has determined that it is necessary to designate the following plants n1 as noxious weeds to prevent their introduction into the United States or their dissemination within the United States:

n1 One or more of the common names of weeds are given in parentheses after most scientific names to help identify the weeds represented by such scientific names; however, a scientific name is intended to include all subordinate taxa within the taxon. For example, taxa listed at the genus level include all species, subspecies, varieties, and forms within the genus; taxa listed at the species level include all subspecies, varieties, and forms within the species.

Pursuant to the provisions of section 10 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2809) the Secretary of Agriculture, after publication of the required notice of proposal and after public hearing on the proposal when requested by any interested person, has determined based upon the information received at any such hearing and other information available to the Secretary, that the following plants are within the definition of a "noxious weed" in section 3(c) of the Act (7 U.S.C. 2802(c)) and that their dissemination in the United States may reasonably be expected to have, to a serious degree, an effect specified in said section 3(c) of the Act:

HAWAI'I CONSTITUTIONAL PROVISIONS

Haw. Const. Article XII, § 2, Local Self-Government; Charter

Each political subdivision shall have the power to frame and adopt a charter for its own self-government within such limits and under such procedures as may be provided by general law. Such procedures, however, shall not require the approval of a charter by a legislative body.

Charter provisions with respect to a political subdivision's executive, legislative and administrative structure and organization shall be superior to statutory provisions, subject to the authority of the legislature to enact general laws allocating and reallocating powers and functions.

A law may qualify as a general law even though it is inapplicable to one or more counties by reason of the provisions of this section.

Haw. Const. Article XI, § 1, Conservation and the Development of Resources

For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State.

All public natural resources are held in trust by the State for the benefit of the people.

Haw. Const. Article XI, § 9, Environmental Rights

Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources. Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law.

Haw. Const. Article XII, § 7, Traditional and Customary Rights

The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by

ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.

HAWAI'I REVISED STATUTES

HRS § 46-1.5(13), General Powers and Limitation of the Counties

Subject to general law, each county shall have the following powers and shall be subject to the following liabilities and limitations:

* * *

(13) Each county shall have the power to enact ordinances deemed necessary to protect health, life, and property, and to preserve the order and security of the county and its inhabitants on any subject or matter not inconsistent with, or tending to defeat, the intent of any state statute where the statute does not disclose an express or implied intent that the statute shall be exclusive or uniform throughout the State;

* * *

HRS § 46-4, County Zoning

(a) This section and any ordinance, rule, or regulation adopted in accordance with this section shall apply to lands not contained within the forest reserve boundaries as established on January 31, 1957, or as subsequently amended.

Zoning in all counties shall be accomplished within the framework of a long-range, comprehensive general plan prepared or being prepared to guide the overall future development of the county. Zoning shall be one of the tools available to the county to put the general plan into effect in an orderly manner. Zoning in the counties of Hawaii, Maui, and Kauai means the establishment of districts of such number, shape, and area, and the adoption of regulations for each district to carry out the purposes of this section. In establishing or regulating the districts, full consideration shall be given to all available data as to soil classification and physical use capabilities of the land to allow and encourage the most beneficial use of the land consonant with good zoning practices. The zoning power granted herein shall be exercised by ordinance which may relate to:

- (1) The areas within which agriculture, forestry, industry, trade, and business may be conducted;
- (2) The areas in which residential uses may be regulated or prohibited;
- (3) The areas bordering natural watercourses, channels, and streams, in which trades or industries, filling or dumping, erection of structures, and the location of buildings may be prohibited or restricted;
- (4) The areas in which particular uses may be subjected to special restrictions;
- (5) The location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered;
- (6) The location, height, bulk, number of stories, and size of buildings and other structures;
- (7) The location of roads, schools, and recreation areas;
- (8) Building setback lines and future street lines;
- (9) The density and distribution of population;
- (10) The percentage of a lot that may be occupied, size of yards, courts, and other open spaces;
- (11) Minimum and maximum lot sizes; and
- (12) Other regulations the boards or city council find necessary and proper to permit and encourage the orderly development of land resources within their jurisdictions.

* * *

HRS § 141-1, Department of Agriculture; Duties in General

The department of agriculture shall:

- (1) Gather, compile, and tabulate, from time to time, information and statistics concerning:
 - (A) Entomology and plant pathology: Insects, scales, blights, and diseases injurious or liable to become injurious to trees, plants, or other vegetation, and the ways and means of exterminating pests and diseases already in the State and preventing the introduction of pests and diseases not yet here; and
 - (B) General agriculture: Fruits, fibres, and useful or ornamental plants and their introduction, development, care, and manufacture or exportation, with a view to introducing, establishing, and fostering new and valuable plants and industries;
- (2) Encourage and cooperate with the agricultural extension service and agricultural experiment station of the University of Hawaii and all private persons and organizations doing work of an experimental or educational character coming within the scope of the subject matter of chapters 141, 142, and 144 to 150A, and avoid, as far as practicable, duplicating the work of those persons and organizations;
- (3) Enter into contracts, cooperative agreements, or other transactions with any person, agency, or organization, public or private, as may be necessary in the conduct of the department's business and on such terms as the department may deem appropriate; provided that the department shall not obligate any funds of the State, except the funds that have been appropriated to the department. Pursuant to cooperative agreement with any authorized federal agency, employees of the cooperative agency may be designated to carry out, on behalf of the State the same as department personnel, specific duties and responsibilities under chapters 141, 142, 150A, and rules adopted pursuant to those chapters, for the effective prosecution of pest control and animal disease control and the regulation of import into the State and intrastate movement of regulated articles;
- (4) Secure copies of the laws of other states, territories, and countries, and other publications germane to the subject matters of chapters 141, 142, and

144 to 150A, and make laws and publications available for public information and consultation;

- (5) Provide buildings, grounds, apparatus, and appurtenances necessary for the examination, quarantine, inspection, and fumigation provided for by chapters 141, 142, and 144 to 150A; for the obtaining, propagation, study, and distribution of beneficial insects, growths, and antidotes for the eradication of insects, blights, scales, or diseases injurious to vegetation of value and for the destruction of injurious vegetation; and for carrying out any other purposes of chapters 141, 142, and 144 to 150A;
- (6) Formulate and recommend to the governor and legislature additional legislation necessary or desirable for carrying out the purposes of chapters 141, 142, and 144 to 150A;
- (7) Publish at the end of each year a report of the expenditures and proceedings of the department and of the results achieved by the department, together with other matters germane to chapters 141, 142, and 144 to 150A and that the department may deem proper;
- (8) Administer a program of agricultural planning and development, including the formulation and implementation of general and special plans, including but not limited to the functional plan for agriculture; administer the planning, development, and management of the agricultural park program; plan, construct, operate, and maintain the state irrigation water systems; review, interpret, and make recommendations with respect to public policies and actions relating to agricultural land and water use; assist in research, evaluation, development, enhancement, and expansion of local agricultural industries; and serve as liaison with other public agencies and private organizations for the above purposes. In the foregoing, the department shall act to conserve and protect agricultural lands and irrigation water systems, promote diversified agriculture, increase agricultural self-sufficiency, and ensure the availability of agriculturally suitable lands; and
- (9) Manage, administer, and exercise control over any public lands, as defined under section 171-2, that are designated important agricultural lands pursuant to section 205-44.5, including but not limited to establishing priorities for the leasing of these public lands within the department's jurisdiction.

HRS § 150A-2, Hawai'i Plant Quarantine Law; Definitions

As used in this chapter the term:

"Aggregate bulk freight" means man-made, unpackaged, pre-processed, inspected and certified, homogenous particulate material, without mark or count, that is usually free-flowing and bought and sold by weight or volume, such as clean sand, gravel, crushed stone, slag, recycled concrete, and geosynthetic aggregates.

"Algae" means any plant containing chlorophyll, which lacks true roots, stems, and leaves, and typically inhabits moist habitats, except those algae on or in humans or animals in Hawaii and those in or on processed foods, beverages, or pharmaceuticals.

"Animal" means any invertebrate or vertebrate species of the animal kingdom including but not limited to mammal, bird, fish, reptile, mollusk, crustacean, insect, mite, and nematode, other than common domestic animal such as dog and cat.

"Bacteria" means any prokaryotic or archaeobacterial organism, except those bacteria on or in humans or animals in Hawaii, and those in or on processed foods, beverages, or pharmaceuticals.

"Board" means the board of agriculture.

"Cement bulk freight" means unpackaged, homogenous cement, without mark or count, that is usually free-flowing and bought and sold by weight or volume.

"Chairperson" means the chairperson of the board of agriculture, or the chairperson's duly authorized agents.

"Coal bulk freight" means unpackaged, homogenous coal, without mark or count, that is usually free-flowing, bought and sold by weight or volume, and used as a fuel.

"Department" means the department of agriculture.

"Freight" means nonpassenger goods, cargo, or lading, transported for pay.

- "Fungus" means all nonchlorophyll-bearing thallophytes, except those fungi on or in humans or animals in Hawaii, and those on or in processed foods, beverages, or pharmaceuticals.
- "Import" means shipment to the State from any point outside of the State.
- "Insect" means an invertebrate animal belonging to the class Insecta, including beetle, bug, fly, and other arthropods, such as spider, mite, tick, centipede, and wood louse.
- "Inspect" means to examine material to ascertain the presence or absence of quarantine pests and to otherwise determine compliance with the provisions of this chapter or any rule adopted under this chapter.
- "Inspector" means any employee or official of the department authorized by the board to administer and enforce the provisions of this law.
- "Label" means the written, printed, or graphic matter upon the container of any article as pertaining to plant quarantine laws and regulations.
- "Liquid bulk freight" means unpackaged, homogenous liquid goods, without mark or count, that are usually free-flowing and bought and sold by weight or volume, such as oil, or other complex mixture of petroleum hydrocarbons, bituminous liquids such as asphalt, gasoline, and fuel oils.
- "Microbial product" means any product manufactured with known cultures of microorganisms for the purpose of bioremediation or bioaugmentation, including products such as microbial pesticides.
- "Microorganism" means any unicellular microscopic organism including but not limited to algae, bacteria, fungi, protozoa, and viruses.
- "Net weight" means the gross weight of the freight minus the container weight, if any.
- "Passed" means the clearance status for entry given an article for import after inspection or quarantine requirements have been met.
- "Pest" means any animal, insect, disease agent or other organism in any stage of development that is detrimental or potentially harmful to agriculture, or

horticulture, or animal or public health, or natural resources including native biota or has an adverse effect on the environment as determined by the board. "Protozoa" means any nonphotosynthetic eukaryotic organisms, either unicellular or composed of a group of more or less identical cells, generally motile by means of appendages or movements of the cell itself at some or all stages of their life cycle, except those protozoa on or in humans or animals in Hawaii, and those in or on processed foods, beverages, or pharmaceuticals.

"Soil" means that part of the upper layer of earth in which plants can grow; this material may or may not contain organic matter and includes such planting media as deteriorated peat, except clean coral, sand, pottery and industrial clay, volcanic cinders and other similar soil-free material.

"Unlisted microorganism" means any microorganism not on the lists of nonrestricted or restricted microorganisms or on the list of select human pathogen microorganisms.

"Vehicle" means any automobile, truck, tractor and similar equipment.

"Virus" means any or a class of noncellular submicroscopic obligate parasite, chiefly nucleoprotein in composition but often reducible to crystalline form, except those viruses on or in humans, or animals in Hawaii, and those on or in processed foods, beverages, or pharmaceuticals.

HRS § 150A-6.1, Hawai'i Plant Quarantine Law; Plant Import

- (a) The board shall maintain a list of restricted plants that require a permit for entry into the State. Restricted plants or any portion thereof shall not be imported into the State without a permit issued pursuant to rules.
- (b) The department shall designate, by rule, as restricted plants, specific plants that may be detrimental or potentially harmful to agriculture, horticulture, the environment, or animal or public health, or that spread or may be likely to spread an infestation or infection of an insect, pest, or disease that is detrimental or potentially harmful to agriculture, horticulture, the environment, or animal or public health. In addition, plant species designated by rule as noxious weeds are designated as restricted plants.
- (c) The department may regulate or prohibit the sale of specific plants on the list of restricted plants by rule.

- (d) Noxious weeds may be imported only for research, by permit, and shall not be offered for sale or sold in the State.
- (e) No person shall import, offer for sale, or sell within the State any plant or propagative portion of Salvinia molesta or Salvinia minima and Pistia stratiotes.

HRS § 152-1, Noxious Weed Control; 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.

HRS § 152-2, Noxious Weed Control; 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.

HRS § 194-2, Establishment of council; duties

- (a) There is established the invasive species council for the special purpose of providing policy level direction, coordination, and planning among state departments, federal agencies, and international and local initiatives for the control and eradication of harmful invasive species infestations throughout the state and for preventing the introduction of other invasive species that may be potentially harmful. The council shall:
 - (1) Maintain a broad overview of the invasive species problem in the state;
 - (2) Advise, consult, and coordinate invasive species-related efforts with and between the departments of agriculture, land and natural resources, health, and transportation, as well as state, federal, international, and privately organized programs and policies;
 - (3) Identify and prioritize each lead agency's organizational and resource shortfalls with respect to invasive species;
 - (4) After consulting with appropriate state agencies, create and implement a plan that includes the prevention, early detection, rapid response, control, enforcement, and education of the public with respect to invasive species, as well as fashion a mission statement articulating the State's position against invasive species; provided that the appropriate state agencies shall collaborate with the counties and communities to develop and implement a

systematic approach to reduce and control coqui frog infestations on public lands that are near or adjacent to communities, and shall provide annual reports on the progress made in achieving this objective;

- (5) Coordinate and promote the State's position with respect to federal issues, including:
 - (A) Quarantine preemption;
 - (B) International trade agreements that ignore the problem of invasive species in Hawaii;
 - (C) First class mail inspection prohibition;
 - (D) Whether quarantine of domestic pests arriving from the mainland should be provided by the federal government;
 - (E) Coordinating efforts with federal agencies to maximize resources and reduce or eliminate system gaps and leaks, including deputizing the United States Department of Agriculture's plant protection and quarantine inspectors to enforce Hawaii's laws;
 - (F) Promoting the amendment of federal laws as necessary, including the Lacey Act Amendments of 1981, Title 16 United States Code Sections 3371-3378; Public Law 97-79, and laws related to inspection of domestic airline passengers, baggage, and cargo; and
 - (G) Coordinating efforts and issues with the federal Invasive Species Council and its National Invasive Species Management Plan;
- (6) Identify and record all invasive species present in the state;
- (7) Designate the department of agriculture, health, or land and natural resources as the lead agency for each function of invasive species control, including prevention, rapid response, eradication, enforcement, and education;
- (8) Identify all state, federal, and other moneys expended for the purposes of the invasive species problem in the state;

- (9) Identify all federal and private funds available to the State to fight invasive species and advise and assist state departments to acquire these funds;
- (10) Advise the governor and legislature on budgetary and other issues regarding invasive species;
- (11) Provide annual reports on budgetary and other related issues to the legislature twenty days prior to each regular session;
- (12) Include and coordinate with the counties in the fight against invasive species to increase resources and funding and to address county-sponsored activities that involve invasive species;
- (13) Review state agency mandates and commercial interests that sometimes call for the maintenance of potentially destructive alien species as resources for sport hunting, aesthetic resources, or other values;
- (14) Review the structure of fines and penalties to ensure maximum deterrence for invasive species-related crimes;
- (15) Suggest appropriate legislation to improve the State's administration of invasive species programs and policies;
- (16) Incorporate and expand upon the department of agriculture's weed risk assessment protocol to the extent appropriate for the council's invasive species control and eradication efforts; and
- (17) Perform any other function necessary to effectuate the purposes of this chapter.
- (b) The council shall be placed within the department of land and natural resources for administrative purposes only and shall be composed of:
- (1) The president of the University of Hawaii, or the president's designated representative;
- (2) The director, or the director's designated representative, of each of the following departments:

- (A) Business, economic development, and tourism;
- (B) Health; and
- (C) Transportation; and
- (3) The chairperson, or the chairperson's designated representative, of each of the following departments:
 - (A) Agriculture; and
 - (B) Land and natural resources.
- (c) Representatives of federal agencies, the legislature, and members of the private sector shall be asked to participate or consulted for advice and assistance. Representatives of the legislature shall consist of eight members, as follows:
- (1) Four senators, one from each county, to be selected by the senate president; and
- (2) Four representatives, one from each county, to be selected by the speaker of the house of representatives.
- (d) The council shall meet no less than twice annually to discuss and assess progress and recommend changes to the invasive species programs based on results of current risk assessments, performance standards, and other relevant data. Notwithstanding any law to the contrary:
- (1) A simple majority of voting members of the council shall constitute a quorum to do business; and
- (2) Any action taken by the council shall be by a simple majority of the voting members.
- (e) The council shall submit a report of its activities to the governor and legislature annually.

HRS § 205-43, Land Use Commission; Important Agricultural Lands; Policies

State and county agricultural policies, tax policies, land use plans, ordinances, and rules shall promote the long-term viability of agricultural use of important agricultural lands and shall be consistent with and implement the following policies:

- (1) Promote the retention of important agricultural lands in blocks of contiguous, intact, and functional land units large enough to allow flexibility in agricultural production and management;
- (2) Discourage the fragmentation of important agricultural lands and the conversion of these lands to nonagricultural uses;
- (3) Direct nonagricultural uses and activities from important agricultural lands to other areas and ensure that uses on important agricultural lands are actually agricultural uses;
- (4) Limit physical improvements on important agricultural lands to maintain affordability of these lands for agricultural purposes;
- (5) Provide a basic level of infrastructure and services on important agricultural lands limited to the minimum necessary to support agricultural uses and activities;
- (6) Facilitate the long-term dedication of important agricultural lands for future agricultural use through the use of incentives;
- (7) Facilitate the access of farmers to important agricultural lands for longterm viable agricultural use; and
- (8) Promote the maintenance of essential agricultural infrastructure systems, including irrigation systems.

HRS § 205-46, Land Use Commission; Incentives for Important Agricultural Lands

(a) To achieve the long-term agricultural viability and use of important agricultural lands, the State and each county shall ensure that their:

- (1) Agricultural development, land use, water use, regulatory, tax, and land protection policies; and
- (2) Permitting and approval procedures, enable and promote the economic sustainability of agriculture. Agricultural operations occurring on important agricultural lands shall be eligible for incentives and protections provided by the State and counties pursuant to this section to promote the viability of agricultural enterprise on important agricultural lands and to assure the availability of important agricultural lands for long-term agricultural use.
- (b) State and county incentive programs shall provide preference to important agricultural lands and agricultural businesses on important agricultural lands. The State and each county shall cooperate in program development to prevent duplication of and to streamline and consolidate access to programs and services for agricultural businesses located on important agricultural lands.
- (c) Incentive and protection programs shall be designed to provide a mutually supporting framework of programs and measures that enhance agricultural viability on important agricultural lands, including but not limited to:
 - (1) Grant assistance;
 - (2) Real property tax systems that support the needs of agriculture, including property tax assessments based on agricultural use valuation;
 - (3) Reduced infrastructure requirements and facilitated building permit processes for dedicated agricultural structures;
 - (4) Tax incentives to offset operational costs, promote agricultural business viability, and promote the long-term protection of important agricultural lands;
 - (5) Agricultural business planning, marketing, and implementation grants;
 - (6) Tax incentives and programs for equity investments and financing for agricultural operations, including agricultural irrigation systems;
 - (7) Other programs and mechanisms that promote investment in agricultural businesses or agricultural land protection, such as the purchase of development rights;
 - (8) State funding mechanisms to fund business viability and land protection programs;
 - (9) Water regulations and policies that provide farmers of important agricultural lands access to adequate and cost-effective sources of water;
 - (10) Other measures that would ensure that state capital investments, projects, programs, and rules are consistent with this part; and

- (11) Agricultural education and training for new farmers; upgrading the skills of existing farmers and other agriculture-related employees through the use of mentoring, business incubators, and public or private scholarships; and increasing the returns of farming by adding value to food processing and other tools and methods.
- (d) State and county agencies shall review the protection and incentive measures enacted for important agricultural lands and agricultural viability pursuant to this chapter at least every five years to:
 - (1) Determine their effectiveness in sustaining agriculture in Hawaii, assuring agricultural diversification, and increasing agricultural self-sufficiency;
 - (2) Determine whether the effectiveness of tax credits or incentive programs will be enhanced by creating revolving funds or increasing rates based upon the tax revenues generated by enhanced investment and agricultural activities on important agricultural lands; and
 - (3) Modify measures and programs as needed.
- (e) This section shall apply only to those lands designated as important agricultural lands pursuant to sections 205-45 and 205-49.

HAWAI'I ADMINISTRATIVE RULES

HAR § 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.

HAR § 4-68-4, 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.

HAR § 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.

HAR § 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.

HAR § 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.

HAR § 4-68-8, Criteria Based on Distribution and Spread

Distribution and spread criteria of noxious weeds include:

- (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 give acres on one or more of the 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.

HAWAI'I SESSION LAWS

S.B. 590, 27th Leg., "A Bill for an Act Relating to Agriculture" (Haw. 2013)

Section 4. Section 165-4, Hawaii Revised Statues is amended to read as follows:

"§165-4 Right to farm. No court, official, pulice servant, or public employee shall declare any farming operation a nuisance for any reason if the farming operation has been conducted in a manner consistent with generally accepted agricultural and management practices. There shall be a rebuttable presumption that a farming operation does not constitute a nuisance. The right of

* * *

farmers and ranchers to engage in modern farming and ranching practices shall be
forever gruanteed in this State. No law, ordinance or resolution of any unit of local
government shall be enacted that abridges the right of farmers and ranchers to
employ agricultural technology, modern livestock production, and ranching
practices."

Section 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

* * *

H.B. 2506, 27th Leg., "A Bill for an Act Relating to Agriculture", (Haw. 2014)

Section 2. Section 165-4, Hawaii Revised Statues is amended to read as follows:

"§165-4 Right to farm. No court, official, pulice servant, or public employee shall declare any farming operation a nuisance for any reason if the farming operation has been conducted in a manner consistent with generally accepted agricultural and management practices. There shall be a rebuttable presumption that a farming operation does not constitute a nuisance. The right of farmers and ranchers to engage in modern farming and ranching practices shall be forever gruanteed in this State. No law, ordinance or resolution of any unit of local government shall be enacted that abridges the right of farmers and ranchers to

employ agricultural technology, modern livestock production, and rahnching practices not prohibited by federal or state law, rules or regulation."

Section 3. New statutory material is underscored.

* * *

S.B. 3058, 27th Leg., "A Bill for an Act Relating to Agriculture", (Haw. 2014)

Section 2. Section 165-4, Hawaii Revised Statues is amended to read as follows:

"\$165-4 Right to farm. No court, official, pulice servant, or public employee shall declare any farming operation a nuisance for any reason if the farming operation has been conducted in a manner consistent with generally accepted agricultural and management practices. There shall be a rebuttable presumption that a farming operation does not constitute a nuisance. The right of farmers and ranchers to engage in modern farming and ranching practices shall be forever gruanteed in this State. No law, ordinance or resolution of any unit of local government shall be enacted that abridges the right of farmers and ranchers to employ agricultural technology, modern livestock production, and rahnching practices not prohibited by federal or state law, rules or regulation."

Section 3. New statutory material is underscored.

COUNTY CHARTER

Maui Cnty. Charter art. 13, § 13-10. Penalties

The council shall, by ordinance, provide for the punishment of violations of any provisions of this charter and may provide for punishment of violations of ordinances and rules having the force and effect of law, but no penalty shall exceed the amount of \$1,000.00, or one (1) year's imprisonment, or both.

COUNTY CODES

Maui Cnty. Code § 8.28.070, Nuclear Energy, Penalty

Any person who violates this chapter shall be fined not more than ten thousand dollars for each separate offense. Each date of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.

Maui Cnty. Code § 20-38-010, Prohibition of Genetically Engineered Kalo (Taro), Definitions

For purposes of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain words and phrases used in this chapter are defined as follows:

"Genetic engineering" means altering a life form or its living progeny at the nucleic acid level through the use of techniques collectively referred to as recombinant DNA technology.

"Genetically engineered kalo" means kalo that has been created or modified through genetic engineering. It does not include non-living or non-reproducing kalo or products.

"Recombinant DNA" means the transfer of genes, regulatory sequences, or nucleic acid between hosts by the use of vectors or laboratory manipulations and includes the insertion, excision, duplication, inactivation, or relocation of specific genes, regulatory sequences, or sections of nucleic acid. This term does not apply to a

[&]quot;Kalo" means those species within the genus Colocasia.

material or an organism developed exclusively through traditional methods of breeding, hybridization, or nondirected mutagenesis.

"Release" means a discharge, emission, or liberation of any genetically engineered kalo, or the product of a genetically engineered organism, into the open environment.

Maui Cnty. Code § 20-38-020, Prohibition of Genetically Engineered Kalo (Taro), Findings

- A. Kalo has cultural significance to the indigenous people of Hawaii and this cultural identification with kalo will suffer irreparable harm if nongenetically engineered kalo is contaminated by genetically engineered organisms.
- B. Adequate safeguards do not exist to prevent contamination of nongenetically engineered kalo with genetically engineered organisms.
- C. There is no legal recourse for kalo farmers who cultivate non-genetically engineered kalo if their kalo is contaminated by genetically engineered organisms.
- D. There is no legal requirement to label genetically engineered kalo, thus limiting the choices of a kalo farmer.

Maui Cnty. Code § 20-38-030, Prohibition of Genetically Engineered Kalo (Taro), Prohibition

It is unlawful for any person to test, propagate, cultivate, raise, plant, grow, introduce, transport, or release genetically engineered kalo.

Maui Cnty. Code § 20-38-040, Prohibition of Genetically Engineered Kalo (Taro), Penalty

Any person who violates any provision of this chapter shall, upon conviction, be guilty of a petty misdemeanor subject to a fine up to \$1,000 or imprisonment for not more than thirty days, or both.

Maui Cnty. Code § 20-38-050, Prohibition of Genetically Engineered Kalo (Taro), Administrative rules

The director of environmental management may adopt administrative rules to implement this chapter, pursuant to chapter 91, Hawaii Revised Statutes.

Maui Cnty. Code § 20-38-060, Prohibition of Genetically Engineered Kalo (Taro), Administrative enforcement

In lieu of or in addition to, enforcement by criminal prosecution, the director of environmental management may enforce this chapter pursuant to section 19.530.030 of this code, relating to administrative enforcement.

Hawai'i Cnty. Code § 14-92, Genetically engineered (transgenic) taro (kalo), unlawful

It shall be unlawful for any person to test, propagate, cultivate, raise, plant, grow, introduce or release genetically engineered (transgenic) or recombinant DNA taro (kalo).

Hawai'i Cnty. Code § 14-3, Genetically engineered (transgenic) coffee, unlawful

It shall be unlawful to test, propagate, cultivate, raise, plant, grow, introduce or release genetically engineered (transgenic) or recombinant DNA coffee.

COUNTY ORDINANCES

Cnty. of Maui, 2030 General Plan, Countywide Policy Plan, adopted by Ordinance No. 3732 (2010), Objective 2, Diversify and expand sustainable forms of agriculture and aquaculture

Policies:

- a. Support programs that position Maui County's agricultural products as premium export products.
- b. Prioritize the use of agricultural land to feed the local population, and promote the use of agricultural lands for sustainable and diversified agricultural activities.
- c. Capitalize on Hawai`i's economic opportunities in the ecologically sensitive aquaculture industries.
- d. Assist farmers to help make Maui County more self-sufficient in food production.
- e. Support ordinances, programs, and policies that keep agricultural land and water available and affordable to farmers.

- f. Support a tax structure that is conducive to the growth of the agricultural economy.
- g. Enhance County efforts to monitor and regulate important agricultural issues.
- h. Support education, research, and facilities that strengthen the agricultural industry.
- i. Maintain the genetic integrity of existing food crops.
- j. Encourage healthy and organic farm practices that contribute to land health and regeneration.
- k. Support cooperatives and other types of nontraditional and communal farming efforts.
- 1. Encourage methods of monitoring and controlling genetically modified crops to prevent adverse effects.
- m. Work with the State to ease the permitting process for the revitalization of traditional fish ponds.

A BILL PLACING A MORATORIUM ON THE CULTIVATION OF GENETICALLY ENGINEERED ORGANISMS

Chapter 20.39 of the Maui County Code 19__ (20__ Edition, as amended) is amended by adding a new article to be appropriately designated and to read as follows:

"Article __ Moratorium on the Cultivation of Genetically Engineered Organisms."

SECTION 1: Summary Statement

The Hawaii Constitution states that the Public Trust Resources (including but not limited to the land, water, and air) shall be conserved and protected for current and future generations.

The Genetically Engineered (GE) Operations and Practices occurring in Maui County (also known as GMO) are different than GE food production farming and therefore pose different circumstances, risks, and concerns. In Maui County, GE Operations and Practices include the cultivation of GE seed crops, experimental GE test crops, and extensive pesticide use including the testing of experimental Pesticides and their combinations in what is effectively an outdoor laboratory.

The citizens of Maui County have serious concerns as to whether GE Operations and Practices and associated use and testing of Pesticides, occurring in Maui County are causing irreparable harm to the people, Environment, and Public Trust Resources.

Therefore, the citizens of Maui County call for a suspension of all GE Operations and Practices within the County through a Temporary Moratorium Initiative until an Environmental Public Health Impact Statement analysis of the impacts stemming from GE Operations and Practices and their associated Pesticide use is provided and reviewed by County Council.

SECTION 2: Findings

Cultural Heritage & Environmental Protection

- 1. The rapid and unregulated growth of commercial agricultural entities engaged in the cultivation and development of GE Organisms threatens the stability and growth of Maui County's agricultural economy, the health of its citizens, and its environment. Moreover, the lands of Maui County and the water surrounding it have cultural and spiritual significance to the indigenous people of Hawaii. This cultural and spiritual heritage will suffer irreparable harm if the natural environment of Maui County is contaminated by GE Operations and Practices.
- 2. Maui County residents have a right to decide if the risks associated with the GE Operations and Practices are unacceptable and to take action to suspend such Operations and Practices.
- 3. GE Organisms are not a part of the natural environment of Maui County and instead exist in the County as a possible invasive species. Protection from the possible threat of damage and/or potentially irreversible alteration of the environment and cultural heritage from the threat of invasive GE Organisms is supported by the Hawaiian Public Trust Doctrine, the Hawaii State Constitution, and other State and County environmental laws.
- 4. The genetic engineering of plants and animals often causes unintended consequences. Manipulating genes via genetic engineering and inserting them into organisms is an imprecise process. The results are not always predictable or controllable. Mixing plant, animal, bacterial, and viral genes through genetic engineering in combinations that are not selected for in nature may produce results that lead to adverse health or environmental consequences and threaten Maui County's cultural heritage, Environment and Public Trust Resources.

Pesticide Concerns

5. GE Operations and Practices can have serious effects on the environment. For example, in 2013, 93 percent of all soy grown in the U.S. was engineered to be herbicide resistant. In fact, the vast majority of GE crops are designed to withstand herbicides, and therefore promote indiscriminate herbicide use. As a result, GE herbicide-resistant crops have

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caused 527 million pounds of additional herbicides to be applied to the nation's farmland. These toxic herbicides damage the vitality and quality of our soil, harm wildlife, contaminate our drinking water, and pose health risks to consumers and farm workers.

- 6. Increased use of herbicides in GE Operations and Practices has resulted in the rapid development and proliferation of previously unknown herbicide-tolerant superweeds. The proliferation of these superweeds threatens to overtake the habitat of native flora and fauna in uncultivated lands and forces farmers to use increasingly toxic and expensive herbicides to remove them from cultivated lands.
- 7. GE Operations and Practices and associated pesticide use pose a high risk of fostering rapid evolution of pests known as superbugs that become resistant to organic pesticides, to the detriment of conventional and organic farmers who are forced to use increasingly larger volumes and/or stronger pesticides to manage these new pests.
- 8. In some GE Operations and Practices, multiple Pesticides are applied at the same time or applied in close time proximity to each other ("pesticide cocktails"). This practice is often being used on test crops in a trial and error manner to test and develop new Pesticide resistant Crops. In this process it is possible that new and unknown chemicals are created. Although individual Pesticides have been tested and regulated for their use in isolation, there has not been adequate testing and/or regulations concerning the various chemical combinations that occur during GE Operations and Practices, and few if any of which have been tested in either short term or long term animal or human studies.

Regulatory Concerns

- 9. Inadequate regulatory oversight at the county, state, and federal levels leave the citizens of Maui County with significant concerns regarding the immediate safety and long term effects of GE Operations and Practices threatening the integrity of Maui County's cultural heritage, agricultural economy, tourism economy, and the health of its visitors, citizens, and the environment.
- 10. The rapid development and introduction of GE Organisms, combined with inadequate regulatory oversight at the state and federal levels, have left the citizens of Maui County with significant concerns regarding the long-term safety of GE Operations and Practices. The Hawaii Department of Agriculture does not have an adequate regulatory structure in place to monitor GE Operations and Practices or to aid in the understanding of the impacts of these Operations and Practices on Maui's economy, environment, cultural heritage, or public health. The direct, indirect, and cumulative impacts on Maui County regarding the long-term intensive GE Operations and Practices and associated pesticide uses have not been properly or independently evaluated.

Economic Considerations

- 11. Agriculture is a important component of Maui's agricultural economy. Organic agriculture is a rapidly expanding sector of Maui's agricultural economy.
- 12. Maui County's local economy is also dependent on the success of its tourism industry, which makes up the County's largest employment sector. The protection of Maui's land and waters is crucial to the continuing success of Maui's tourism industry.
- 13. Maui's agricultural economy relies on maintaining its reputation for high quality organic and conventional crops. Preserving the identity, quality, and reliability of Maui's agricultural products and exports is critical to its economic well-being.

Transgenic Contamination

- 14. The contamination of agricultural products with GE Organisms can have a myriad of significant impacts. Organic and many foreign markets prohibit GE products and even a single event of Transgenic Contamination can and has resulted in significant economic harm when the contaminated crops are rejected by buyers.
- 15. Transgenic contamination can and does occur as a result of cross-pollination, co-mingling of conventional and GE seeds, accidental transfer by animals or weather events, and other mechanisms. Transgenic contamination results in GE crops growing where they are not intended. For example, since the introduction of GE papaya in Hawaii County (Big Island), more than 50% of the non-GE papaya crops on the Big Island have been cross-contaminated by GE papaya.
- 16. Transgenic contamination prevents farmers and the public from having the fundamental right to choose whether or not to grow crops that are free from GE. Farmers and other parties who lose non-GE standing and markets through no fault of their own as a result of transgenic contamination have no adequate legal recourse.
- 17. Currently, no mechanisms exist to ensure that transgenic contamination will not occur.
- 18. There are no known or proven scientific methodologies or procedures to recall GE Organisms or remediate/decontaminate the Environment from any damages once GE Organisms are released into the Environment and contamination has occurred.

Risk of Harm to Soil Resources

19. GE Operations and Practices in Maui County primarily involve seed crops and test crops that include aggressive and repeated use of pesticides before planting and during the growing cycle of these crops. Such Operations and Practices present risks and significant harm to soil resources. Some of Maui County's soil microbes are harmed by the application of pesticides used in GE Operations and Practices.

Risk of Harm to Water Resources

- 20. Areas of Maui's groundwater are already significantly contaminated with Pesticides, including DBCP and TCP, from former conventional pineapple growing operations. GE Operations and Practices in Maui County involve unprecedented use of Pesticides which greatly exacerbate an already existing problem.
- 21. Many field sites are left fallow for significant periods of time while repeated Pesticide applications are applied. Pesticide laden water runoff from is exacerbated by repeated Pesticide treatments to fallow sites, presenting short and long term risks of significant harm to ground and surface water, beaches, and reefs.

Risk of Harm to Air Resources

22. Pesticide drift and fugitive dust from GE Operations and Practices present short and long term risks of significant harm especially to air resources, farm workers, and to persons living downwind from GE Operations and Practices.

SECTION 3: Rights and Authority

1. County Authority

The Hawaii Revised Statutes, Section 46-1.5(13) states: "Each county shall have the power to enact ordinances deemed necessary to protect health, life, and property, and to preserve the order and security of the county and its inhabitants on any subject or matter not inconsistent with, or tending to defeat, the intent of any state statute where the statute does not disclose an express or implied intent that the statute shall be exclusive or uniform throughout the State." We, the people of Maui County, hereby assert that we have a legitimate local purpose to enact this initiative on the county level to protect health, life and property within Maui County. Furthermore, the State Constitution expressly grants political subdivisions the right to uphold the Public Trust Doctrine under Hawaii State Constitution, Article XI, Section 1 and all persons standing to enforce such rights Environmental Rights under The Hawaii State Constitution, Article XI, Section 9.

2. Environmental Rights

The Hawaii State Constitution, Article XI, Section 9 "Environmental Rights," states: "Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources. Any person may enforce this right against any party, public or private, through appropriate legal proceedings, subject to reasonable limitations and regulation as provided by law."

3. Public Trust Doctrine

Hawai'i State Constitution, Article XI, Section 1 "Conservation and Development of Resources" states:

"For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals, energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State. All public natural resources are held in trust by the State for the benefit of the people."

4. Precautionary Principle

In Maine vs. Taylor, 477 U.S. 131 (1986), the Supreme Court held that the Commerce Clause of the US Constitution did not preempt states and localities from "protect(ing) the health and safety of its citizens and the integrity of its natural resources." That Supreme Court precedent also articulated a concept that has come to be known as the "Precautionary Principle," stating that (the state in question) was not required "to sit idly by and wait until potentially irreversible environmental damage has occurred or until the scientific community agrees on what [environmental risks] are or are not dangerous before it acts to avoid such consequences." Maine vs. Taylor, 477 U.S. 131 (1986). Given the authority set forth in Section 2, above, the people of Maui County demand that the Precautionary Principle be applied in the form of a prohibition of all the propagation, cultivation, raising, or growing of GE Organisms in the County.

5. Rights Conferred By This Ordinance

We, the people of Maui County hereby proclaim that the our residents, visitors, Public Trust Resources, and the Environment must be protected from the potentially hazardous health effects, contamination, loss of diversity, environmental and other potentially harmful impacts from the GE Operations and Practices that have not met the standards set forth in this Ordinance. Therefore, we are hereby exercising our right to utilize the County initiative process to impose a moratorium on the propagation, cultivation, raising, or growing of GE Organisms in Maui County in order to protect, our residents, visitors, and the environment, and to call for a detailed environmental impact study of the harms associated with GE Operations and Practices.

SECTION 4: Purpose

The purposes of this Article are:

- 1. to protect Maui County's Environment and Public Trust Resources from transgenic contamination by GE Operations and Practices;
- 2. to defend and promote the economic integrity of organic and non GE markets that are harmed by transgenic contamination by GE Operations and Practices;
- 3. to protect Maui County from hazardous aspects of GE Operations and Practices, including but not limited to

increased Pesticide use:

- 4. to preserve the right of Maui County residents to reject GE Operations and Practices based on health-related, moral, or other concerns; and
- 5. to preserve Maui County's Environment and Public Trust Resources (with its unique and vulnerable ecosystems), while promoting the cultural heritage of the indigenous peoples of Maui and indigenous agricultural Operations and Practices.

This Article shall be liberally construed to fulfill those purposes.

Section 5: Temporary Moratorium.

- 1. It is unlawful for any person or entity to knowingly propagate, cultivate, raise, grow or test Genetically Engineered Organisms within the County of Maui until such time that the terms of the "Moratorium Amendment or Repeal" (Section 6, below) have been met.
- 2. Subsection (1) of this section does NOT apply to:
 - (a) the propagation, cultivation, raising, growing or testing of GE Organisms that are in mid-growth cycle when this chapter is enacted;
 - (b) GE Organisms that have been incorporated into any food or medicine in any manner already prepared for sale for human or animal consumption;
 - (c) any licensed health practitioner who provides diagnosis, care, or treatment to any human patient using products containing GE Organisms; and
 - (d) any fully accredited college or university that engages in non-commercial scientific research, medical research, or education using GE Organisms, provided that such activities are conducted under enclosed indoor laboratory conditions, with the utmost precautionary measures to prevent accidental release of GE Organisms into the outside environment.

Section 6: Moratorium Amendment or Repeal

- 1. The temporary moratorium provided in Section 6 shall remain in effect until amended or repealed by the Maui County Council as described in subsection 2 of this Section, or as is otherwise authorized by law.
- 2. The County Council may consider proposed amendments to, or repeal of, the Temporary Moratorium provided in Section 6 for any specific GE Operation or Practice if an Environmental and Public Health Impacts Study (EPHIS) described in Section 7 has been completed for such GE Operation or Practice. The passage of any proposed amendment or repeal of the Temporary Moratorium for any such GE Operation or Practice under this Section shall require: (1) County Council and citizens review of the EPHIS as detailed in Section 8.2.a; (2) a public hearing; (3) the affirmative vote of at least two-thirds (2/3) of the council membership; (4) a determination by the County Council that passage of the amendment or repeal pertaining to such GE Operation or Practice does not result in significant harm and will result in significant benefits to the health of present and future generations of Maui citizens, significantly supports the conservation and protection of Maui's natural beauty and all natural resources, including but not limited to land, water, air, minerals, and energy sources, as required under the Public Trust Doctrine embodied in the Hawai'i State Constitution, Article XI, Section 1, and the Environment.

Section 7: Environmental and Public Health Impacts Study (EPHIS).

- 1. Person or entities affected by and seeking release from the Temporary Moratorium in Maui County must provide Maui County the funding necessary to complete an Environmental and Public Health Impacts Study (EPHIS) as described in Section 2 and 3, below;
- 2. The County of Maui shall conduct an Environmental and Public Health Impacts Study (EPHIS) through a two-phase community-based process to address key environmental and public health questions related to large-scale commercial agricultural entities that engage in GE Operations and Practices and associated Pesticide use.

First Phase:

- 3. Within ninety (90) days of any person or entity providing Maui County the funding necessary to complete the EPHIS, there shall be a Joint Fact Finding Group (JFFG) chosen and convened by the Maui County Council of scientists and health experts free of GE industry ties and facilitated by an independent and non-biased professional consultant to determine the scope and design of the EPHIS. In determining the scope and design of the EPHIS, the JFFG shall provide notice to the citizens of Maui County and allow a thirty (30) day period for public input. The final scope and design and all results and all raw data of all studies shall be published on the County's website. The EPHIS must include, but shall not be limited to, research and analysis evaluating the extent to which:
 - (a) Transgenic Contamination from GE Organisms to non-GE organisms may occur;
 - (b) GE Organisms released into the environment may effectively be recalled from the environment:
 - (c) Pesticides associated with GE Operations and Practices used both as single Pesticide and as Pesticide combinations may contaminate the groundwater, surface water, oceans and reefs;

- (d) Pesticide laden air and dust from GE Operations and Practices may be harmful to the people and Environment;
- (e) Pesticide combinations associated with GE Operations and Practices resulting from two or more Pesticides are applied at the same time or within their period of active life ("Pesticide Cocktails") have or have not been tested for safety and the extent to which they may be harmful to the people and Environment;
- (f) Horizontal Gene Transfer from GE Organisms between organisms of different species may occur; and
- (g) there is any correlation between birth defects and the proximity to extensive GE Operations and Practices occurring in Maui County and Kauai County.

Second Phase:

4. In the second part of the process, the EPHIS shall be conducted by a non-biased professional consultant independent of GE industry ties with oversight by the JFFG and shall be completed within eighteen (18) months after publication of the final scope and design of the EPHIS described in Part (a). The EPHIS shall allow a ninety (90) day public comment period including four (4) public hearings, including one on the island of Molokai. Any relevant information, data, comments or public concerns shall be addressed in the EPHIS. The EPHIS may make recommendations that include, but are not limited to, possible actions the County may take in order to address any significant effects on the Environment, Public Trust Resources, and public health. The final results and all raw data of all studies shall be published on the County's website.

Section 8: Regulations

If necessary, the Department of Environmental Management or other appropriate County Department may enact and enforce regulations to implement this chapter, but it may not create any new exemption not listed in this chapter.

Section 9: Right of Action for Violations-Attorneys' Fees

1. The Department of Environmental Management may bring an action in a court of competent jurisdiction to enjoin any person or entity from violating this chapter.

Civil Penalties

- 2. The Department of Environmental Management may assess a civil monetary penalty against any person or entity violating this chapter in the amount of:
 - (a) \$10,000.00 dollars for a first violation;
 - (b) \$25,000.00 dollars for a second violation; or
 - (c) \$50,000.00 dollars for a third or subsequent violation.

In assessing penalties, each day of violation must be considered a separate violation.

Criminal Recourse

3. In addition to any fines described above, any person or entity, whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of this initiative, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than two-thousand dollars (\$2,000.00), or imprisoned not more than one (1) year, or both, for each offense. The continuance of any violation after conviction shall be deemed a new criminal offense for each day that the violation or violations continue.

Failure to Comply with Injunction

- 4. In addition to all other remedies, upon the failure, neglect, or refusal of any noncompliant person or corporation to remove Genetically Engineered Organisms after sixty (60) days of receipt of notice of noncompliance, the Director of Environmental Management (and Director's agents, representatives, and assistants, sub-contractors) are authorized to enter the property and remove GE Organisms at the violator's expense.
- 5. Any injured citizen of Maui County may, after giving notice of the alleged violation to the Maui Department of Environmental Management and the alleged violator and subsequently waiting at least sixty days, bring an action to enjoin violation of this chapter in any court of competent jurisdiction.
- 6. In a citizen suit action, the court may award to a prevailing plaintiff reasonable costs and attorneys' fees incurred in investigating and prosecuting an action to enforce this chapter. Such an award may not include monetary damages, but only fee and cost recovery

Section 10: Severability

Every provision in this chapter and every application of the provisions in this chapter are severable from each other. If any application of any provision in this chapter to any person or group of persons or circumstances is found by a court to be invalid, the remainder of this chapter and the application of its provisions to all other persons and circumstances may not be affected. Furthermore, if any part or application of this initiative is held invalid or unenforceable, the remainder of this initiative shall be construed to have the broadest interpretation allowed by law which would render it valid and enforceable (in the spirit and in alignment with the intent of this initiative) and the remainder of the initiative's application to other situations or persons shall not be affected. All constitutionally valid applications of this chapter shall be severed

from any applications that a court finds to be invalid, leaving the valid applications in force, because it is the County's intent and priority that the valid applications be allowed to stand alone. Even if a reviewing court finds a provision of this chapter invalid in a large or substantial fraction of relevant cases, the remaining valid applications shall be severed and allowed to remain in force. If any part or application of this chapter is held invalid, the remainder or its application to other situations or persons will not be affected.

Section 11: Definitions

- "Crop" includes test crops, seed crops and farming crops.
- "Environment" means all Public Trust Resources and all non-GE life forms, the ecosystems that support them, and the interrelationships between them.
- "GE Operation(s) and/or Practice(s)" means both intended and unintended product(s) and process(es) of any kind that is commonly associated with the creation, propagation, cultivation, raising or growing of GE Organisms (including but not limited to seed crops, test crops, or farming crops), and includes but is not limited to Pesticide application, transgenic contamination, and contamination of land and water resources.
- "Genetically Engineered" or "GE" (also commonly referred to as "Genetically Modified", "GM", "Genetically Modified Organism", or "GMO") means produced from an organism or organisms in which the genetic material has been changed through the application of:
 - (a) In vitro nucleic acid techniques which include, but are not limited to, recombinant deoxyribonucleic acid (DNA) or ribonucleic acid (RNA), direct injection of nucleic acid into cells or organelles, encapsulation, gene deletion, and doubling; or
 - (b) Methods of fusing cells beyond the taxonomic family that overcome natural physiological, reproductive, or recombination barriers, and that are not techniques used in traditional breeding and selection such as conjugation, transduction, and hybridization.

For purposes of this definition: "In vitro nucleic acid techniques" include, but are not limited to, recombinant DNA or RNA techniques that use vector systems; techniques involving the direct introduction into the organisms of hereditary materials prepared outside the organisms such as biolistics, microinjection, macro-injection, chemoporation, electroporation, microencapsulation, and liposome fusion.

- "Organism": means any biological entity capable of replication, reproduction, or transferal of genetic material.
- "Person" includes natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, corporations, and all other entities, and all officers, agents, employees, and any other representatives thereof, in any capacity, acting either for oneself, one's heirs, or for any other person under personal appointment pursuant to law.
- "Pesticide" is an umbrella term, including but not limited to:
 - (a) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or
 - (b) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and
 - (c) any nitrogen stabilizer which has been declared a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act or Hawaii's Pesticide Laws, and
 - (d) any herbicide.

"Public Trust Resources" as referred to in Hawai'i State Constitution, Article XI, Section 1 "Conservation and Development of Resources" means: "Hawaii's natural beauty and all natural resources, including land, water, air, minerals, [and] energy sources."

"Transgenic Contamination" refers to the unintended comingling of GE crops with non-GE crops.