

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 26

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**Historical Note:** Chapter 26 of Title 11, Proposed Administrative Rules, is based substantially upon Chapter One, Section 10 of the Public Health Regulations, Department of Health. [Eff. 2/3/79; R September 18, 1981]

## SUBCHAPTER 1

### GENERAL PROVISIONS

§11-26-1 Purpose and scope. (a) The purpose of this chapter is to establish minimum standards for the inspection and abatement of vectors. These standards are established to promote public health, safety, and well-being by:

- (1) Preventing epidemics of vector-borne diseases;
- (2) Preventing establishment of new vector species; and
- (3) Preventing vector nuisances.

(b) The provisions of this chapter shall apply only to those items covered in these rules. [Eff. 9/18/81; am and comp 8/10/00] (Auth: HRS §§321-9, 321-10) (Imp: HRS §§321-11, 322-1)

§11-26-2 Background. Traditionally, the vector control regulations were dually enforced by sanitarians as well as vector control personnel. However, emerging new requirements governing pest control procedures and practices, namely, Chapter 66 of Title 4, Administrative Rules, entitled "Pesticides," call for precision controls to insure the protection of the public and the environment. Accordingly, vector control personnel are now required to possess specialized technical knowledge, skills, and must be duly certified under section 4-66-56(b)(8). For these reasons, the vector control regulations previously a part of Public Health Regulations Chapter One, "Sanitation," is now being separated and made into this Chapter 26 of Title 11, "Vector Control." [Eff. 9/18/81; comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-9)

§11-26-3 Definitions. As used in this chapter:

"Arthropods" means invertebrate (without spinal column) animals with jointed legs.

"Department" means the Hawaii state department of health.

"Director" means the director of health or a duly authorized person.

"Eradication" means the elimination or extermination of rodents and other public health vectors.

"Foodstuff" means articles used or intended to be used for food or drink by humans or animals.

"Garbage" means all discarded wastes resulting from the growing, handling, storage, preparation, cooking, and consumption of food.

"Harborage" means any condition or place which may provide shelter for public health vectors or favor their multiplication or continued existence.

"Nuisances" mean any vector breeding sources and harborages, sources of filth, causes of sickness, disease, injury, or discomfort.

"Opening" means any aperture through which any vector may enter a building.

"Pest management" means the utilization of a coordinated multiple control approach to secure the precision control of vectors, which includes but is not limited to a combination of chemical, biological, physical, mechanical, and environmental control measures.

"Putrescible wastes" means those waste materials of organic origin capable of breeding, harboring, or serving as food sources for vectors.

"Ratproof" means to construct or repair so as to prevent the entrance of rats and other rodents into buildings from the exterior or from one building or establishment to another. Such construction consists of closure or barrier with materials impervious to rodents' gnawing.

"Refuse" means putrescible wastes, rubbish, or trash, or a mixture of any of these items.

"Rubbish" means waste, broken or rejected matter, and all loose materials, not including garbage, whether combustible or not.

"State" means the State of Hawaii.

"Vector" means an organism, usually an insect or other arthropod, rodent, or other animal, capable of transmitting the causative agents of human diseases or affecting public health and well-being. [Eff. 9/18/81; am and comp 8/10/00] (Auth: HRS §§321-9, 321-10) (Imp: HRS §321-11)

§11-26-4 Penalty. (a) Field citation:

- (1) A field citation is an offer to settle an administrative case involving any violation of chapter 322, Hawaii Revised Statutes, or of this chapter and may include an enforcement compliance order.
- (2) The director or any duly authorized employee of the Department may issue a field citation to a person, an owner or occupier of property, an official representative of an owner or occupier, a firm, a corporation, or an official representative of a firm or a corporation.
- (3) To be effective, a field citation must be signed by the director or a duly authorized employee and shall impose a fine in the following specified amounts:
  - (i) for the first offense, \$25.00;
  - (ii) for the second offense, \$50.00;
  - (iii) for the third offense, \$100.00.
- (4) The penalty amounts listed in the subsection(a)(3) are set in consideration of the factors set forth in section 322-8(b), Hawaii Revised Statutes, particularly the value of prompt correction, and based on the presumption of the respondent's ability to pay stated in that section.

- (5) A field citation may, but need not be preceded by a "Notice of Violation," providing the respondent with a reasonable time, not to exceed seven days, to abate the cause of the violation.
- (6) Any subsequent offense committed after the third cited offense or any violation of an enforcement compliance order issued in conjunction with a field citation may be subject to additional penalties through the administrative process described in section 11-26-4(b) or as authorized by chapter 322, Hawaii Revised Statutes.
- (7) If a party receiving a field citation contests the citation, the director may withdraw the citation and pursue additional remedies through the administrative process described in section 11-26-4(b) or as authorized by chapter 322, Hawaii Revised Statutes.

(b) Administrative action. Any person who shall continue to violate any provision of chapter 322, Hawaii Revised Statutes, or of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 per day per violation up to a maximum of \$10,000 as provided in sections 321-20 and 322-8, Hawaii Revised Statutes. Each and every violation of the provisions of these rules shall constitute a separate offense. [Eff. 9/18/81; am and comp 8/10/00] (Auth: HRS §§91, 321-1, 321-9, 321-10, 321-11, 321-20, 322-8) (Imp: HRS §§321-9, 321-18, 322-8)

§11-26-5 Severability. Should any section, paragraph, sentence, clause, phrase, or application of this chapter be declared unconstitutional or invalid for any reason, the remainder of any other application of said chapter shall not be affected thereby. [Eff. 9/18/81; comp 8/10/00] (Auth: HRS §§321-9, 321-10) (Imp: HRS §321-9)

§§11-26-6 to 10 (Reserved)

SUBCHAPTER 2

FLIES

§11-26-11 Flies; protection against breeding. No person, firm, or corporation shall have or keep upon premises owned, leased, or occupied by them, any article, substance, or thing of whatever kind, nature, or description in which flies may breed, unless the same be kept protected from flies or maintained in a manner consistent with pest management methods. [Eff. 9/18/81; am and comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

§11-26-12 Flies; management of animal farm wastes. Every owner or operator of a farm on which animals or fowls are kept shall manage wet manure, liquid or solid wastes, refuse, and other putrescible wastes in which flies may breed in a manner which inhibits fly breeding as prescribed by pest management methods. [Eff. 9/18/81; am and comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

§11-26-13 Flies; reuse of animal farm wastes.

(a) No person, firm, or corporation shall use untreated animal or poultry farm wastes for soil enrichment unless the same wastes are managed to prevent fly breeding by an approved pest management method.

(b) No animal or poultry farm waste, vegetable refuse, night soil, or garbage of any nature, which is dangerous to the public health, shall be used for grading or filling any lot, parcel, or other tract of land except for sanitary landfills approved by the director. [Eff. 9/18/81; comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

§11-26-14 Flies; management of domestic animal wastes. Every property owner or tenant shall prevent the accumulation of and shall remove or manage all fly breeding media generated by domestic animals including dog and cat manure as often as necessary to prevent harboring of flies or excessive breeding. Excessive breeding shall mean the production of flies in quantities as may endanger the health or interfere with the comfort of persons who occupy property in the neighborhood. [Eff. 9/18/81; comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

§11-26-15 Flies; management of animal wastes on public or on private premises not the property of the owner of the animal. Every owner of an animal shall prevent the accumulation of and shall remove all manure generated by the animal on public and private premises not the property of the animal owner, provided that no violation shall occur if the owner of the offending animal promptly and voluntarily removes the waste. [Eff and comp 8/10/00] (Auth: HRS §§91, 321-9, 321-10, 321-11) (Imp: HRS §321-9)

§§11-26-16 to 20 (Reserved)

### SUBCHAPTER 3

#### MOSQUITOES

§11-26-21 Scope. As used in this subchapter "mosquitoes" include mosquitoes, midges, and gnats. [Eff. 9/18/81; comp 8/10/00] (Auth: HRS §§321-9, 321-10) (Imp: HRS §321-11)

§11-26-22 Mosquitoes; protection against breeding. It shall be unlawful to have, keep, maintain, cause, or permit any collection of standing or flowing water:

- (1) In which mosquitoes propagate; or
- (2) In which mosquitoes may be propagated unless such water is treated or managed to prevent breeding. [Eff. 9/18/81; comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

§11-26-23 Mosquitoes; treatment and management of breeding. The treatment and management of any water for the prevention or control of mosquitoes includes but is not limited to:

- (1) Screening with wire or plastic netting of at least eighteen meshes to the inch each way, or with any other material which will effectually prevent the ingress or egress of mosquitoes;
- (2) Emptying and cleaning of unscreened containers every seven days to destroy all mosquito larvae and eggs;
- (3) Using an approved and appropriate larvicide effectively;
- (4) Stocking with mosquito-destroying fish;

- (5) Removing by physical or chemical means, all vegetation and other obstructions which impede drainage, cause impoundment, and restrict free movement of mosquito-destroying fishes;
- (6) Filling or draining to prevent temporary or permanent accumulations of water;
- (7) Disposing by removal or destruction of containers, such as cans, tires, boxes, bottles, and similar articles holding or likely to hold water; or
- (8) Treating, filling, or removing as feasible naturally existing mosquito-breeding sources such as tree and rock holes and water-holding plants. [Eff. 9/18/81; am and comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

§§11-26-24 to 30 (Reserved)

#### SUBCHAPTER 4

##### RODENTS

§11-26-31 Rodents; construction of new buildings. (a) Buildings intended for restaurants, markets, stables, slaughterhouses, piers, theaters, and storehouses for foodstuffs shall have the floor of the lower story constructed of concrete or other material impervious to rodents.

(b) Residences and other buildings not having the floor of the lower story of concrete or other material impervious to rodents shall have an unobstructed crawl space of at least twenty inches between the bottom of the joists of the lower floor of the building and the highest point of ground. Such space shall not be secured by excavation, except when authorized by the director in cases where proper drainage, ventilation, and access can be secured.

(c) All parts of all buildings shall be ratproofed. [Eff. 9/18/81; comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

§11-26-32 Rodents; repair and maintenance of existing buildings. (a) Buildings which do not have the floor of the lower story of material impervious to rodents, shall be altered so as to conform to the requirements of section 11-26-31. Buildings with floors of wood or other material pervious to rodents



shall not be used for the storage of foodstuff unless a separate room or enclosure is provided for storage. Such storage shall be completely lined with hardware cloth with openings not larger than one-quarter inch or other material equally impervious to rodents and protected from rodent excrement.

(b) Buildings, sidewalks, and retaining walls shall be maintained to exclude rodents and prevent the harboring of rodents.

(c) No person shall remove or alter the existing ratproofing of any building, or make any new openings that are not closed or sealed against the entrance of rodents. [Eff. 9/18/81; am and comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

§11-26-33 Rodents; control on premises. Every owner or occupant of any premises that has rodents shall promptly eradicate or in good faith continually endeavor to eradicate the rodents by poisoning, trapping, or other appropriate means. Foodstuffs, animal feed, and other edible materials upon which rodents may feed shall be kept in ratproof structures and locations inaccessible to rodents. Windfalls, garbage, and other materials which may serve as food for rodents shall be removed promptly and stored in ratproof containers for proper removal and disposal. [Eff. 9/18/81; comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

§11-26-34 Rodents; rubbish and loose materials.

(a) No rubbish of any description shall be placed, left, dumped, or permitted to be stored in the vicinity of any building, in such a way as to afford a harboring or breeding place for rodents.

(b) Indiscriminate dumping of rubbish or waste is prohibited.

(c) Firewood, scrap lumber, and other loose usable materials on any premises shall be piled orderly on platforms or stands with sufficient clearance to prevent rat harborage and also to facilitate inspection and cleaning. [Eff. 9/18/81; am and comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

§11-26-35 Rodents; demolishing of structure and clearing of sites and vacant lots. (a) No person, firm, or corporation shall demolish or clear any structure, site, or vacant lot without first ascertaining the presence or absence of rodents which may endanger the public health by dispersal from such premises.

(b) Should any such inspection reveal the presence of rodents, the person, firm, or corporation shall eradicate the rodents before demolishing or clearing the structure, site, or vacant lot.

(c) The department may conduct an independent inspection to monitor compliance, or request a written report.

(d) Vacant lots and ground not built upon shall be kept free of harborages.

(e) Any person, firm, or corporation applying for a demolition or land clearing permit shall be assessed an application fee of \$25 per application at the time of filing, payable to the director of health. The fee, for administrative costs, does not obligate the department to conduct an inspection to fulfill any requirement of this section. [Eff. 9/18/81; am and comp 8/10/00] (Auth: HRS §§91, 321-1, 321-9, 321-10, 321-11) (Imp: HRS §321-9)

§11-26-36 Rodents; docks, wharves, and vessels.

(a) All public and private docks and wharves shall be constructed so as to prevent rodents from gaining access into or under the structures at either high or low tide. All foodstuffs stored on docks and wharves shall be kept and stored in a manner to prevent contact or contamination by rodents.

(b) Whenever any vessel or other watercraft arriving from any port infected or suspected of being infected with human or rodent plague lies alongside any wharf or dock, or whenever any vessel or other watercraft is docked at any port in the State where in the opinion of the director there exists the danger of human or rodent plague, the following requirements shall be fulfilled:

- (1) Immediately upon docking and during the entire time a vessel lies at a wharf, it shall be fended off at least six feet from the dock.
- (2) All connecting lines shall be properly fitted with rat guards of such design as shall be approved by the director.
- (3) Gangways and other means of access to the vessel or watercraft shall be well lighted or separated from the shore at night by a minimum of six feet.
- (4) All cargo nets and similar devices extending between the vessel and shore structures shall be removed at night unless in actual use.

(c) It shall be the duty of the officer-in-charge of the vessel or watercraft to possess the required documents which will show that the vessel has

been inspected and certified by the United States Public Health Service or other appropriate governmental agency as having satisfied deratting requirements of Article 54, International Health Regulations, prior to arrival at the dock or wharf.

(d) If a valid deratting certificate is not produced after inquiry and inspection, the department may:

- (1) Require the officer-in-charge of the vessel or watercraft to have the vessel or watercraft deratted as provided under Article 54, International Health Regulations; or
- (2) Derat the vessel or watercraft as provided under Article 54, International Health Regulations and section 322-2, Hawaii Revised Statutes, and attempt to recover costs by following the methods prescribed under section 322-2, Hawaii Revised Statutes.  
[Eff. 9/18/81; am and comp 8/10/00]  
(Auth: HRS §§321-9, 321-10, 321-11;  
International Health Regulations, Article 54)  
(Imp: HRS §§321-11, 322-1, 322-2)

§§11-26-37 to 40 (Reserved)

## SUBCHAPTER 5

### DISINSECTION OF AIRCRAFT

§11-26-41 Requirement. The director may require the disinsection of an aircraft arriving in the State from any possession, territory, state, or district of the United States that is infected with insect-borne communicable disease and is suspected of harboring insects creating a public health danger.  
[Eff. 9/18/81; comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11(23))

§11-26-42 Procedure. (a) The disinsection procedures such as choice of insecticide and manner of application will conform to 42 CFR 71.102 entitled "Sanitary Inspection: Control of Rodents, Insects, and Other Vermin; Disinsection."

- (b) The pilot in command shall determine that the aircraft is disinsected according to the provisions of this regulation. [Eff. 9/18/81; am and comp 8/10/00] (Auth: 42 CFR 71.102; HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-(11))

§11-26-43 Inspection. Any aircraft upon arrival in the State may be inspected by authorized agent or agents of the department representatives of the Hawaii state department of agriculture, and the United States Public Health Service, the United States Department of Agriculture, the armed forces of the United States, and others as may be designated by the director, to determine the effectiveness of the disinsection procedures. When it has been found that the disinsection procedure carried out in any aircraft has been ineffective or neglected, the agents or representatives may disinsect the aircraft and the department may recover the costs by following the methods prescribed under section 322-2, Hawaii Revised Statutes. [Eff. 9/18/81; am and comp 8/10/00] (Auth: HRS §§ 321-9, 321-10, 321-11) (Imp: HRS §§321-11(23), 322-2)

§§11-26-44 to 60 (Reserved)

## SUBCHAPTER 6

### MISCELLANEOUS VECTORS

§11-26-61 Fleas, mites, and ticks. Premises shall be kept free from fleas, mites, and ticks to prevent occurrence of a public health disease or nuisance. [Eff. 9/18/81; comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

§11-26-62 Cockroaches. Premises shall be kept reasonably free of cockroach infestation to prevent hazards to public health, welfare, and comfort. [Eff. 9/18/81; comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

§11-26-63 Venomous arthropods. (a) As used in this section "venomous arthropods" mean those animals that can inflict injurious or fatal bites or stings to humans and include centipedes, scorpions, spiders, ants, bees, and wasps.

(b) Premises shall be kept reasonably free of venomous arthropods infestations to prevent hazards to public health, welfare, and comfort. [Eff. 9/18/81; comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

§11-26-64 Other arthropods of public health significance. Premises shall be kept free of arthropod infestation to prevent the occurrence of a public health disease or nuisance. [Eff and comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

§§11-26-65 to 80 (Reserved)

## SUBCHAPTER 7

### SPECIAL SITUATIONS

§11-26-81 Purpose and scope. (a) The purpose of this subchapter is to insure that, as a last resort, direct control services may be provided by the department in special situations due to an imminent vector hazard.

(b) The scope of this subchapter:

- (1) Establishes qualifying guidelines by which the department shall determine the existence of an imminent vector hazard;
- (2) Establishes the extent of assistance which may be provided; and
- (3) Establishes the method by which the State may attempt to recover expenses incurred while providing the direct control services.

(c) The provisions of this subchapter shall apply only to those situations covered in this subchapter. [Eff. 9/18/81; comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §§321-11, 322-1, 322-2)

§11-26-82 Background. Under sections 322-1 and 322-2, Hawaii Revised Statutes, the public or individual is responsible to abate their own vector problem. Yet in special situations, due to compelling circumstances based on an imminent vector hazard, state assistance may become necessary as the last resort to provide relief from the hazard. [Eff. 9/18/81; am and comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §§321-11, 322-1, 322-2)

§11-26-83 Definitions. As used in this subchapter:

"Applicant" means the person who is requesting the service.

"Direct control services" means to abate the hazardous situation with state resources including materials and manpower. Excluded are corrective structural repairs, clean-up of unsanitary conditions that cause or promote hazardous situations, and additional follow-up applications unless follow-up applications are required because of control failures.

"Imminent vector hazard" means an existing severe vector situation which in the opinion of the director can seriously impair the health, safety, or well-being of an individual or the public if not immediately abated.

"Inspector" means a duly authorized agent of the department's vector control branch.

"Program supervisor" means the respective district wide supervising vector control inspector on the neighbor islands or the vector control branch section supervisors on Oahu.

"Special situation" means a condition under which the department may provide direct control services as a last resort, as requested by the applicant, because in its evaluation an imminent vector hazard exists. [Eff. 9/18/81; am and comp 8/10/00] (Auth: HRS §§321-9, 321-10) (Imp: HRS §321-11(1))

§11-26-84 Qualifying criteria. (a) To qualify for direct control services, the situation shall be considered an imminent vector hazard.

(b) To verify the situation, the applicant faced with imminent vector hazard shall:

- (1) Allow the inspector to verify the existence of an imminent vector hazard; and
- (2) Sign a form authorizing the department to treat the premises and informing the applicant that the department may attempt to recover the cost of supplies and materials used to abate the hazard.

(c) Direct control services shall be implemented by the department immediately upon satisfactory verification.

(d) When direct control services have been satisfactorily completed, the department may attempt to recover costs by following the methods prescribed under section 322-2, Hawaii Revised Statutes.

(e) When direct control services are denied, the applicant may appeal to the higher authority specified in section 11-26-85. [Eff. 9/18/81; am and comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11(1)) (Imp: HRS §§321-11(1), 322-1, 322-2)

§11-26-85 Disputes. (a) As used in this section, "higher authority" means a person who has been designated a duly authorized agent of the director such as the district health officers or their designees on the neighbor islands and the chief, vector control branch, on Oahu.

(b) All disputes shall be referred to a higher authority for final decision.

(c) Any situation not covered by this rule shall be referred to a higher authority for final action."  
[Eff. 9/18/81; am and comp 8/10/00] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §321-11)

DEPARTMENT OF HEALTH

Amendments to chapter 26, Hawaii Administrative Rules, on the Summary Page dated JUL 14 2000 were adopted on JUL 14 2000 following public hearings held January 11, 12, 13, 14, 18, 2000, after public notice was given in RFD Publications, DBA: Midweek/Sun Press on December 6, 1999.

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

*Bruce S. Anderson*  
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Governor  
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Date: 7/21/2000

JUL 31 2000  
Filed

LIEUTENANT GOVERNOR'S  
OFFICE

'00 JUL 31 110:02

APPROVED AS TO FORM:

*[Signature]*  
Deputy Attorney General



DEPARTMENT OF HEALTH

Amendment and Compilation of Chapter 11-26  
Hawaii Administrative Rules  
July 14, 2000

SUMMARY

1. §11-26-1 is amended.
2. §11-26-3 and 11-26-4 are amended.
3. §11-26-11 is amended.
4. A new §11-26-15 is added.
5. §11-26-23 is amended.
6. §11-26-32 is amended.
7. §11-26-34 to §11-26-36 are amended.
8. §11-26-43 is amended.
9. A new §11-26-64 is added.
10. §11-26-82 to §11-26-85 are amended.
11. Chapter 26 is compiled.