

**Testimony to  
Hawaii Board of Agriculture,  
Public Hearings, July 8, 2005, Oahu, HI, on  
Proposed Amendments to Administrative Rules  
For Rabies Quarantine Program**

Submitted by  
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Dear Board Chairperson Kunimoto, Board Members, and Public Hearings Officers:

Thank you for scheduling these Public Hearings to hear what we, the public have to say on your proposed amendments to the Hawaii Administrative Rules, Title 4, Department of Agriculture, Subtitle 3, Division of Animal Industry, Chapter 29, Dogs, Cats, and Other Carnivores.

These proposed amendments are:

1. Change definitions under (a) "Approved hospital" to "facility," to include any veterinary facility rather than only a hospital to house quarantined animals;
2. (b) delete the reference to "resident" under "Designated address" for service and exempted guide dogs, as well as that reference to service and exempted guide dog categories, making the requirements equal for all service and guide dogs;
3. "Allow the possibility, in the future," of releasing qualified dogs and cats directly from entry points other than just Honolulu Airport;
4. Discontinue the 30-day quarantine option;
5. Bring the unnecessary and dangerous re-vaccination requirement for triennial vaccinations to 36 months rather than 18 months;
6. Make changes to the requirements for service and guide dogs to be more consistent with those proposed for pet dogs and cats;
7. "Make other changes for simplification and clarity."

I whole-heartedly support and welcome these proposed amendments, and urge you to immediately approve them and implement them, please. They are steps in the right direction to making Hawaii's rabies prevention program the best and safest any rabies prevention program can be.

However - and I know you expect this from me - these steps aren't nearly enough, and I just as enthusiastically urge you to take the further steps needed to really attain that goal of having the best and safest rabies prevention program possible.

I noticed in reading through the HRS Admin Rules 4-29 that there are some puzzling inconsistencies.

1. The change from "hospitals" to "facilities" is not carried throughout the document; it seems satellite quarantine facilities remain side-by-side approved veterinary hospitals (ref. pp. 29-15, 29-20, 29-22, 29-26, 29-28, 29-29, 29-30, 29-31, 29-32, 29-34, 29-36, 29-39, 29-41, 29-42, 29-43).
2. Why is 4-29-12, "Satellite animal quarantine stations," so exclusive, only addressing satellite quarantine stations, but not "approved veterinary facilities" (ref. p. 29-25)? Are the requirements in fact different, and if so, why aren't they

- also addressed and the differences spelled out? Why are there still to be separate “satellite quarantine stations” and “approved veterinary facilities” that pet owners can choose to house their pet if it must be quarantined? Why aren’t there just approved veterinary facilities?
3. If a service or exempted guide dog meets the same requirements as a pet dog or cat, why should a user of such an animal be required to document that he/she needs such an exemption, that he/she is handicapped, where the dog will be living, and where they go and what they do? Why is there a “thirty-day to forty-day post-arrival requirement if the dog is a Class A dog? There are no such requirements for pet dogs and cats that meet the 5-day or Less program/direct release requirements. This is not consistent with the 5-day or Less/direct release for pet dogs and cats with the same requirements.
  4. If performing dogs and cats meet the same requirements as pet dogs and cats, why must they also only be admitted under special permit, and residence requirements, and whereabouts and activities reports? And why would they have to be accompanied and supervised by special duty officers, which the owner has to pay for?
  5. If military dogs meet the same requirements as pet dogs and cats for direct release, why must they also be subject to special confinement and supervision, and restricted as to their use and whereabouts and activities?
  6. If working, trained guard, detector, scout, or police dogs meet the same requirements as pet dogs and cats for the 5-day or Less/direct release program, why must they be quarantined, and restricted as to their use and whereabouts and activities?
  7. The only differences I could find between the requirements for pet dogs and cats for the 5-day or Less program and those for performing dogs and cats, and military, guard, detector, scout, and police dogs is that the Admin Rules do not mention in their requirements the requirement for serology. Why is that?
  8. Why are service and exempt guide dogs allowed several ways to document their vaccination history, microchip, and OIE-FAVN, while throughout the rest of the Admin Rules speaking to pet dog and cat owners the records must be on the health certificate and lab blood test results as the specified acceptable documentation? Why is the **NASPHV Rabies Vaccination Certificate, Form 51** alluded to but not actually specified by name as one of the allowed options for service and exempt guide dog documentation (ref. p. 29-46: “Documentation of vaccination history may be by veterinary records, *rabies vaccination certification*, or health certificate, and shall include product name, lot or serial number, and expiration date.” Emphasis mine)? Why not make the requirement strictly the NASPHV Rabies Vaccination Certificate, Form 51, which would also include the microchip number, across the board, for ALL dogs and cats, since it specifically calls for all that information? “Flexibility” is not the issue; reliability and consistency are. This is only one example of irrational discrimination imposed by the Animal Quarantine Division between owners of domestic dogs and cats and other dog and cat owners in order to preserve the quarantine system.
  9. Why is 4-29-22, “Arrival requirements for service dogs and exempted guide dogs,” so confusing? First it says they must be inspected at Honolulu International Airport. Further down in the paragraph it adds the proposed amendment, “A Class A service dog or exempted guide dog may be released at a port approved by the department that has facilities and an agent designated by the department to process animals for entry.” How does the state know if the dog in question is a Class A or B before inspection? Are only Class B dogs required to check in at Honolulu Airport?

10. Why do these dogs' owners have to submit notice of arrival within at least 7 days to get a special "Notice of Airport Inspection"? And only at HNL Int'l? What about the other (proposed) entry points?
11. If the dogs are qualified exactly as pet dogs and cats for the 5-day or Less/direct release program, why should they need special notices and special permits? Why can't they simply be released at the terminal of entry as pet dogs and cats would?
12. If dogs and cats arriving aboard marine vessels meet the same requirements for the 5-day or Less program as pet dogs and cats flying in to Hawaii, why must they be subject to confinement on the vessel their entire stay, unless they go to the quarantine station?
13. Why do the Admin Rules discriminate between performing dogs and cats, working, military, guard, detector, scout, police dogs, and ordinary pet dogs and cats? If a dog or cat meets the requirements of the (in this case) 5-day or Less/direct release program, what does it matter what its owner is, or does, or uses the animal for?
14. Why do the Admin Rules still require a blood test?
  - a. The OIE does not require blood test to determine vaccination. France, where the OIE-FAVN test was developed for the World Health Organization, does not.
  - b. The developer of the test Hawaii requires, the OIE-FAVN test, Dr. Michele Aubert, of the OIE and WHO, went on record several times, including in depositions under legal oath here, and in his peer-reviewed published studies, that the blood test is misapplied as Hawaii uses it, to determine simply whether an animal's blood carries rabies antibodies; these could just as well be from a bite exposure from a rabid animal, and incubation of the virus, as well as a response to vaccination. Dr. Aubert stated that the best way of making sure an animal is who it is represented to be is through a combination of positive identification, such as microchip ID, and vaccination history.
  - c. The CDC, USDA-APHIS/CEAH, USAHA, CTSE, AVMA, and the National Association of State Public Health Veterinarians, unanimously condemn using serology to determine either infection or "successful" vaccination (Compendium of Animal Rabies Prevention and Control, for several years, most recently 2005, Part I, A, 8: Rabies Serology), or to determine the need for boosters, all of which Hawaii does. This public hearing will decide on the issue of using serology to determine boosters by eliminating the 18-month re-vaccination and re-testing requirement, based on "falling titers" after the previous vaccination.
  - d. The CDC, USDA-APHIS/CEAH, USAHA, CTSE, AVMA, and the National Association of State Public Health Veterinarians, unanimously recommends all U.S. states, territories, and possessions use the Rabies Vaccination Certificate, Form 51, to best document a vaccinated and ID'd dog or cat. It requires the complete identification of the administering veterinarian, the complete identification of the vaccine lot, serial number, and expiration date, the date(s) of vaccination, and any positive ID, such as microchip or tattoo. Why does the Animal Quarantine Division resist requiring this as the major identifying document for dogs and cats, instead of using so many other different formats, all of which are subject to fraud, which is ostensibly what the Division is afraid of?
  - e. Why, instead, does the Hawaii Animal Quarantine Division insist on using the blood test to identify animals? The blood test is the only difference in the requirements between pet dogs and cats qualifying for the 5-day or Less/direct release program and all the others. It is the lynch pin of maintaining quarantine and being able to impose it on animals that are

known otherwise to be healthy and rabies-free, as certified on their health certificates by their veterinarians; throughout the Admin Rules, veterinarians are required to certify on animals' health certificates that they are healthy, free from parasites, and properly microchipped and immunized against rabies according to Hawaii's requirements. Why is the serology required, in that case?

- f. Dr. Foppoli stated in his "Rabies Import Analysis, July 2002," that serology, which contributes nothing to rabies immunity, and could not tell if the present rabies antibodies in an animal's blood were the result of infection or vaccination, and claimed, "[a]lthough pre-arrival rabies serology may not contribute substantially to reducing risk, it is an important 'regulatory' component," (p. 23) only to assuage regulators' qualms. Apparently, regulators such as Hawaii's Board of Agriculture are only assured of immunization status through a blood test that cannot give that assurance, but instead also implies rabies infection. Yet these regulators don't require blood tests to "confirm" other vaccinations.
- g. After a "successful" serology, a dog or cat is required to stay where it is, in a place presumed to present the opportunity for exposure to rabies, for 120 days ("mainland wait/observation period"). What kind of sense does that make? A second immunization has been given, which immediately boosts previous immunity to rabies, and a "successful" serology report has come back, indicating a "successful" vaccination. But the animal has to stay in an area where there's rabies it could be exposed to? Will somebody explain the logic in that? Please?
- h. Serology is the only component of the requirements that will put an animal in quarantine. If a dog or cat has its proper rabies vaccinations, and a veterinarian certifies that, as required, on the health certificate, and the microchip identifies the animal in question, and the transporter of the animal ("carrier," ship's captain, airplane captain, etc.; of all people, how would this person determine all the requirements are met?! 4-29-8(8), p. 29-13) certifies the transported animal has met all vaccination and health requirements, AND the Hawaii inspector sees that all the paperwork is authentic and in order, and waves the magic wand confirming microchip ID, why would lack of serology condemn a dog or cat to quarantine for any length of time? Are all those people, and all those legal, legally certified documents, and the microchip, liars and not to be trusted? On what grounds? What's the point of having all this if it doesn't matter anyway? Why should a "test" universally acknowledged not to indicate anything except there are rabies virus antibodies in the blood, be the determining factor? A truly "safe" animal would be one with NO antibodies - without vaccination!
- i. Why are pet dogs and cats, and service and exempt guide dogs, required to have serology tests, which allows them to be released at the airport, but other categories of dogs and cats, such as performing dogs and cats, military dogs, guard, detector, scout, and police dogs, are not, and therefore must be quarantined?
- j. Military families that own dogs and cats and live in base housing, all over the world, are required to have their animals up-to-date on their immunizations. The military does not require serology to confirm any vaccinations.
- k. Rabies vaccination is required of **ALL** dogs and cats entering Hawaii ("**All** dogs and cats ninety days of age or older at the time of arrival shall be vaccinated against rabies with an approved inactivated monovalent or live monovalent recombinant rabies vaccine as described in this section or in sections 4-29-8.1 and 4-29-8.2. **All** dogs and cats shall:" 4-29-8(2), p.

29-12). Since this is the case, what else dumps an animal into quarantine? Lack of serology.

- l. “**No** dogs or cats, or other carnivores shall be granted entry into the State unless the following requirements are met: . . . (E) [The issuing veterinarian shall] Certify all requirements in paragraphs (2) to (5) of this section; . . . (2) Rabies vaccination and general requirements. All dogs and cats ninety days of age or older at the time of arrival shall be vaccinated against rabies with an approved inactivated monovalent or live monovalent recombinant rabies vaccine as described in this section or in sections 4-29-8.1 and 4-29-8.2. **All** dogs and cats . . .” (4-29-8, Preshipment requirements, pp. 29-11, 29-12; emphasis mine) Since this is the case, what else dumps an animal into quarantine? Lack of serology.
  - m. The Compendium unambiguously states that many “rabies free jurisdictions” are using rabies serology inappropriately. Since the Compendium is intended to be used by the whole of the United States, including all its 50 states and the District of Columbia, its territories and possessions, and since Hawaii is the only state in the Union claiming to be rabies-free, how does this not apply to Hawaii, as “Staff” maintained in their “Staff Report” of March 9, 2004?
    - i. In Definitions, “ ‘United States’ means the States of the union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands” (4-29-2, pp. 29-6, 29-7).
    - ii. Only Guam and Hawaii are United States “rabies free jurisdictions.”
15. Why are pet dog and cat owners charged an entry fee for bringing their certified rabies-free animal with them to Hawaii? Even residents who travel with their pets must pay a fee; it may be “discounted,” but it’s still not justifiable. Service and exempt guide dog users whose animals are identically ID’d, vaccinated, treated for pests, blood-tested, and certified as such, are not required to pay the entry tax. This entry fee is based on the owners’/users’ physical status in life, whether they are handicapped or not. This is gross discrimination of the worst kind, and should immediately be stopped.
16. Animals from the UK, New Zealand, and Australia are charged by the federal government only a customs fee, as property imported from a foreign country. And that only in an amount around \$15 or \$20 as opposed to the outrageous hundreds of dollars charged by Hawaii for a State employee to compare a few pieces of paper and wave a magic wand over an animal, a labor that takes all of 5 to 15 minutes. I’d like to be paid \$78, \$110, or \$165/\$135 to \$224/\$179 an hour, let alone for 5 to 15 minutes “work”!
17. There should be no Hawaii entry fee for any certified rabies-free dog or cat. If the quarantine staff need money to pay for the quarantine facility in Halawa, they need to get it from their sponsoring State government; after all, the “rabies quarantine program” is a State public health issue, not the responsibility of dog and cat owners traveling to Hawaii with their certified healthy and rabies-free animals. The sublease program being considered for land and unused kennels at Halawa Quarantine Station is a good start on this. That a decrease in the number of pets coming into the facility “has forced the state . . . to shift employees to other departments or state agencies” (Honolulu Advertiser, “State to lease out Halawa space,” Thursday, June 9, 2005) is not the “fault” of pet owners. It is the result of a state welfare program, with no foresight or planning, that has finally run its course.

18. No other state charges dog and cat owners to bring their personal property, including their pet dogs and cats, with them over state lines. Hawaii doesn't charge anyone anything for bringing in any other personal property.
19. Subchapter 3, Quarantine, 4-29-9, Post-shipment requirements and quarantine, does not specify that the animals subject to quarantine are those not meeting the 5-day or Less/direct release program requirements. That should be made clear: ONLY animals not meeting those requirements are subject to quarantine.
20. Only the requirements for pet dogs and cats call out for monovalent rabies vaccines; why is that? It is not so called out for service and exempt guide dogs, or any of the other categories. Why not?
21. Since when are "other carnivores" the responsibility of "other departments or agencies" (4-29-8(7), p. 29-13)? What about the very title of this chapter of the Admin Rules? Shouldn't an amendment also be made, then, to delete references to "other carnivores" from throughout this chapter?
22. This rabies prevention program is still being referred to, both in this Admin Rules chapter, by the PR of the Hawaii Department of Agriculture, and in the media, as a "rabies quarantine program." With nearly 90% of incoming animals being released directly at the airport, it's time quarantine was dropped. Rabies prevention was never achieved through quarantine, and certainly isn't now. A more accurate title would be Hawaii's "Rabies Vaccination Program," with stress on prevention through vaccination rather than the deception of quarantine.
  - a. Should remove "through quarantine" from the Objective statement in this Admin Rules chapter (4-29-1, p. 29-3). It should read: "The objective of this chapter is to prevent the introduction of rabies into the State through vaccination of cats and dogs entering the State." (Notice I also dropped the reference to "and other carnivores . . .") This should be done consistently throughout this chapter, and in all department documents, press releases, and media reports. Accuracy and truthfulness should count for the integrity of the State and its departments and agencies, including this one.
  - b. "through a one hundred twenty-day quarantine" was changed simply to "through quarantine," dropping the "a one hundred twenty-day" in 1981. There's no reason it can't be changed to "through vaccination" now.
23. Why must a pet owner wait 5 days before they can begin "complete care" on their quarantined animal?
24. Why cannot a pet owner groom his/her animal every day, or as needed, instead of being restricted to two days a week?
25. Do these rules carry over to "approved veterinary facilities"? If not, why do they apply to the Halawa quarantine station?
26. Why are quarantine workers not responsible for "humane care and treatment" of newborn animals? Are they responsible for humane care and treatment of any of the animals at their mercy in the quarantine station? (4-29-16, p. 29-39)
27. If an owner elects to do complete care of his/her quarantined animal, and the workers then have no responsibility to care for them, what is the owner paying for, other than renting a kennel? Why is the cost the same whether or not one does complete care?
28. In Definitions, " 'Quarantine' means confinement at an animal quarantine station . . ." (4-29-2, p. 29-6) What about "approved veterinary facilities"?
29. How many rabies vaccinations does it take to gain immunity from rabies? ONE. Twenty-eight days after the very first vaccination a peak titer will be reached. Any mainland wait/observation period should be only after a first, primo vaccination, and it shouldn't be any longer than 45 days, since an infected animal given a rabies shot will die within 30 to 45 days; this is unique to rabies, and is called in the literature "early death phenomenon," because a rabies vaccination accelerates the incubation and termination of the disease.

30. How long should a mainland wait - in an area presumed to have rabies - be for an animal properly vaccinated with a primo followed by a booster within 12 months? Zero days. Immunity is immediate following any booster. Boosters boost the fallen titers of the primo, which have not yet fallen to vulnerable levels, to past what they were at their peak. They "fall" to higher levels than the peak of the primo.
31. How far in the future is "in the future," and why is only "the possibility" being "allowed" for releasing dogs and cats directly from other ports than HNL Int'l? Please implement this now.

Do you know that in HRS Admin Rules Chapter 142-6 Quarantine, it states: "The department of agriculture may quarantine any domestic animal known or suspected to be affected with or to have been exposed to any contagious, infectious, or communicable disease, and destroy the same, when in the opinion of the department, such measure is necessary to prevent the spread of the disease, and provide for the proper disposition of its hide and carcass; and disinfect premises where the disease may have existed."

This is a clear statement that quarantine enforcement is predicated on the knowledge or suspicion that an animal has been infected with a disease or exposed to it.

With certification of rabies vaccinations, microchip ID, veterinarian signature that the animal so identified is free of rabies, healthy, and fully immunized, and with the silly Hawaii requirement that carriers must also be able to certify that animals they transport have met those requirements, and with the electronic documentation the department gets confirming these facts, where is the justification for quarantining properly vaccinated and ID'd animals? What legitimizes any suspicion that all dogs and cats, regardless of their documentation, are ipso facto exposed to or in fact infected with rabies?

There is no ambiguity here; the mandatory quarantine of any properly rabies-vaccinated animal, and the extortionistic collection of substantial fees to support this quarantine system is an illegal racket, and obviously exceeds the rights granted to the state by any of its statutes.

The only animals that should be suspected of posing any disease threat are those that are not vaccinated or improperly vaccinated, without proper documentation, and/or without microchip ID. In the case of unvaccinated animals, the state should be consistent in its care for rabies prevention and simply deny entry to these animals until and unless they comply with the rabies prevention requirements.

According to the Loyola of Los Angeles Law Review, Vol. 29:145, p. 148, it is observed in footnote 21: "Another attack on the legislation is that it exceeds the scope of the statute. 'The [D]epartment [of Agriculture] may . . . prohibit the importation . . . of animals known to be or suspected of being infected with a contagious, infectious, or communicable disease or known to have been exposed to any such disease.' *Id.* § 142-2. The DOA, however, is exercising this authority without any knowledge about the health of the dog quarantined. DOA Rules, *supra* note 17, § 4-18-7 (1987)."

Under Hawaii's present quarantine system, there is mere presumption of exposure or infection, against all the State's own criteria for evidence to the contrary, the multiple vaccinations, administered and certified by a veterinarian, the microchip ID of the animal, which cannot be faked (and to which fact Dr. Foppoli testified in his deposition for the guide dog case in 1996), and the health record, not to mention the presently required serology.

It is assumed the vaccinations are true. It is assumed the dog or cat referred to in the documentation is who is microchipped. It is even assumed the dog or cat so vaccinated and ID'd is the one whose blood test indicates rabies antibodies. Then it is presumed, against all evidence to the contrary, that the animal must have been exposed before vaccination, as the blood test cannot tell you whether the antibodies are there because of vaccination or infection. This is illogical and baseless. Why do you allow it? According to Hawaii's own laws at other places in the HRS, this punitive suspicion is illegal. It must be stopped, now.

It's not dog and cat owners' fault the quarantine system has matured into such an expensive monster. It is up to you to tame that monster, the same way it was created. Without ripping off travelers with dogs and cats.

In legal depositions for the historic guide dog lawsuit that made the 30-day quarantine possible, three Hawaii State veterinarians swore under oath that they were reluctant to grant quarantine exemptions to guide dogs because, in the words of a veterinarian who profited from quarantined animals, Dr. Mayahara to an official at the USDA, "if we grant that exemption it will erode the entire quarantine system." It's a matter of public record; if you don't believe me, look up those depositions (1996, Sturges, Lum, Foppoli), and read them very carefully.

In Dr. Foppoli's "Rabies Import Analysis, July 2002," he stated "A proper risk analysis should be scientifically sound, politically independent and available for peer review and public scrutiny" (Rabies Import Analysis, p. 2). In later public statements he denied he knew his analysis should be peer-reviewed.

His Analysis included no rabies vaccination/vaccine data, and for the purposes of the Analysis, his calculations and scenarios treated all animals as if they were unvaccinated. He refused to distinguish between vaccinated animal data and unvaccinated animal data. This is hardly scientifically sound.

Every change made to Hawaii's animal quarantine laws has been bitterly hard fought and hard won; the interest of the State has been nothing but political, to preserve union jobs. This cannot be considered politically independent; politics is more than whether you belong to the Democratic or Republican parties and vote in elections.

The public was never allowed to scrutinize the Analysis; during the July 25, 2002 BOA meeting where it was finally presented, some of the public attending that meeting wanted to ask questions about it, and were told by Dr. Foppoli, "I am not here to answer your questions," and BOA Chair Nakatani informed the public present they could not ask questions about it. The meeting was summarily dismissed.

No rebuttals have ever been forthcoming from Dr. Foppoli, the BOA, Quarantine Staff, or anyone else to address specific objections to and questions about the Analysis. It has never been peer-reviewed, and no other outside rabies authorities were asked to contribute to it or participate in it, much less peer-review it.

And yet this is the document Hawaii's rabies prevention policies are based on. And no one from the BOA questions it, or considers the questions and objections from the public concerning it. No one from the BOA has even made a phone call - or easier yet, e-mail - to the Chief of the Rabies Division, Dr. Charles Rupprecht, or any other real rabies expert to find out what they think, and what they would recommend.

This is political.

Hawaii's veterinary community, including the state vets and the State Public Health Veterinarian, have known for decades the safety and efficacy and reliability of rabies vaccines, and that there is no difference between a golden retriever guide dog and a family pet golden retriever.

Rabies vaccines protect family pets - and performing dogs and cats, and military, guard, detector, scout, and police dogs - from rabies exactly as it does exempt guide and service dogs. Without quarantine. To maintain disingenuously, as this department does in its policies and law set down in HRS Admin Rules, Title 4, Chapter 29, that dogs and cats can be treated differently depending on who their owners are, is shameful, scandalous, criminal. It should be stopped, now. No more wrangling in BOA meetings, no more public hearings.

Money and time and labor could be saved by truly simplifying this regulation thus: All dogs and cats coming into Hawaii must have:

1. Two rabies vaccinations according to vaccination protocol recommended in the Compendium of Animal Rabies Prevention and Control, tied to
2. Microchip ID
3. Recorded on NASPHV Rabies Vaccination Certificate, Form 51, with
4. Other vaccinations and external pest treatment recorded and certified on veterinarian-issued health certificate, or
5. One primo rabies vaccination followed by a 45-day pre-arrival wait, with 2 through 4.
6. Any dog or cat not meeting all the above requirements (1 - 4 or 2 - 5) must either be denied entry or undergo quarantine until requirements are met.

You have the power to put things right. Now. Please do so, now.

Thank you again for your time and consideration.

Always,  
Cathy Robinson