

November 16, 2016 ~ SBRRB Meeting Checklist

Member Attendance				
	Airline Preference	From	Details	Attend
Anthony Borge, Chair	NA	Oahu	Parking Pass	Yes
Barbara Bennett, 2nd Vice Chair	HA	Kauai	Parking Pass	No
Kyoko Kimura <i>(I) attached</i>	TAF HA	Maui	Parking Pass	Yes
Harris Nakamoto, Vice Chair	NA	Oahu	NA	No
Director's ex officio - Mark Richey	NA	Oahu	NA	Yes
Robert Cundiff	NA	Oahu	Parking Pass	Yes
Nancy Atmospera-Walch	NA	Oahu	NA	No
Garth Yamanaka <i>(I) attached</i>	HA	B.I.	Parking Pass	Yes

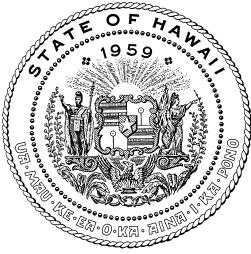
Pre Meeting Checklist	
Conference Room #436 (Confirm each month)	X
Download Board Meeting Documents Make 12 copies of rule packages for board packets onto SBRRB website / copies for the office and State Calendar	✓
Poll Board Attendance - Working on	✓
Prepare TAF's for Director's approval - ASAP (Linda) - Group TAF	X
Airline booking ASAP - Linda	XXX GYN
Draft Agenda to Chair for approval	Approved ✓
Post approved agenda on 1) SBRRB website, 2) State Calendar, 3) Lte. Governor's Office	✓ ✓ ✓
Send Agendas to those people who requested it - IMPORTANT	✓ Done
Post Agendas Section on Mail Board Packets to Board members, Deputy AG website	✓ Done
Include "discussion leader" names on the agendas to Board members only.	✓
Send parking permits to those Board members' agenda packets. <i>noted.</i>	✓ Done

STAFF				
Dawn Apuna	use of iPad			Yes
Dori Palcovich				Yes

Post Meeting Checklist	

Visitors Sign-in-Sheet - Small Business Regulatory Review Board - November 16, 2016

	Name	Title	Organization	Email	Phone
1	Candace Ito	Exec Officer	DCRA	Contractor@dcra.hawaii.gov	x 62700
2	Rod Tam	DCG	AG	rodny.j.tam@hawaii.gov	6-1150
3	Charlene Jaramela	Exec Office	DCRA	Charlene.K.Jaramela@dcra.hawaii.gov	6-2705
4	Al Itamoto	Exec Dir	ECTA	aitamoto@ecta.com	927-9302
5	John Lovstedt	DOT MGR	DOT/HWSO	John.LOVSTEDT@hawaii.gov	692-7655
6					
7	GREG Jeff Malsam	Secret SGM		Technical Contractors Association of Hawaii	
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SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)
No. 1 Capitol District Bldg., 250 South Hotel St. 5th Fl., Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Email: dbedt.sbrb@hawaii.gov
Website: dbedt.hawaii.gov/sbrb

Tel 808 586-2594

AGENDA

Wednesday, November 16, 2016 ★ 1:00 p.m.
No. 1 Capitol District Building
250 South Hotel Street - Conference Room 436

David Y. Ige
Governor

Luis P. Salaveria
DBEDT Director

Members

Anthony Borge
Chairperson
Oahu

Harris Nakamoto
Vice Chairperson
Oahu

Kyoko Y. Kimura
Maui

Robert Cundiff
Oahu

Nancy Atmospera-Walch
Oahu

Garth Yamanaka
Hawaii

Director, DBEDT
Voting Ex Officio

I. Call to Order

II. Approval of October 19, 2016 Meeting Minutes

III. New Business

- A. Discussion and Action on Proposed Amendments to Hawaii Administrative Rules (HAR) Title 4, Chapter 143, **Standards of Coffee**, promulgated by Department of Agriculture – *attached and incorporated as Exhibit 1*
- B. Discussion and Action on Proposed Amendment to HAR Title 16, Chapter 77, **Contractors**, promulgated by Department of Commerce and Consumer Affairs – *attached and incorporated as Exhibit 2*
- C. Discussion and Action on Proposed Amendments to HAR Title 19, Chapter 135, **Periodic Safety Inspection of Mopeds**, promulgated by Department of Transportation – *attached and incorporated as Exhibit 3*

IV. Administrative Matters

- A. Discussion and Training on Board Member I-Pads
- B. Update on the Board's Fiscal 2017 and 2018 Budget Requests
- C. Action and Voting on Board's Second Vice Chair
- D. Update on this Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers, under Section 201M-5, Hawaii Revised Statutes (HRS)

V. Legislative Matters

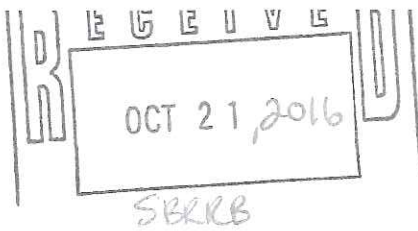
- A. Update on Proposed Amendments to Chapter 201M, HRS – *attached and incorporated as Exhibit 4*

VI. Next Meeting: Scheduled for Wednesday, December 7, 2016 at 1:00 p.m., Capitol District Building, Conference Room 436, Honolulu, Hawaii

VII. Adjournment

If you require special assistance or auxiliary aid and/or services to participate in the public hearing process (i.e., sign language, interpreter, wheelchair accessibility, or parking designated for the disabled), please call (808) 586-2594 at least three (3) business days prior to the meeting so arrangements can be made.

Exhibit 1



Amendment and Compilation of Chapter 4-143
Hawaii Administrative Rules

Month xx, XXXX

1. Chapter 143 of Title 4, Hawaii Administrative Rules, entitled "Standards for Coffee", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 4

DEPARTMENT OF AGRICULTURE

SUBTITLE 7

QUALITY ASSURANCE DIVISION

CHAPTER 143

STANDARDS FOR COFFEE

- §4-143-1 Labeling and documentation requirements
- §4-143-2 Inspection and fees
- §4-143-3 Definitions
- §4-143-4 Repealed
- §4-143-5 Repealed
- §4-143-6 Standards for grades of green coffee
- §4-143-7 Repealed
- §4-143-8 Provisions for enforcement, penalties and prosecution
- §4-143-9 Abbreviations
- §4-143-10 Repealed
- §4-143-11 Standards for grades of natural coffee
- §4-143-12 Standards for grades of mixed natural coffee
- §4-143-13 Record keeping

Historical Note: Chapter 4-143 is based substantially upon Chapter 4-43, Hawaii Administrative Rules,

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"Standards for Coffee," of the Marketing Division,
Department of Agriculture. [Eff 5/29/81; R 10/08/01]

§4-143-1 Labeling and documentation

requirements. (a) No person shall sell or offer, expose for sale, or transport Hawai'i-grown green coffee, natural coffee, or mixed natural coffee outside the geographic region of production as defined in section 4-143-3, unless each container is conspicuously labeled in the English language with the exact grade or lower grade for the green coffee, natural coffee, or mixed natural coffee or the term offgrade, as applicable. No person shall transport, or cause the transport of, Hawai'i-grown cherry coffee, parchment coffee, green coffee, natural coffee, or mixed natural coffee outside the geographic region of production as defined in section 4-143-3, unless each container is conspicuously labeled or accompanied by documentation written in the English language with the exact geographic region. This grade or geographic region statement shall appear on the tag described in subsection (i), or on the container on the same panel as the declaration of identity required by section 4-93-2 [~~Hawaii Administrative Rules,~~]; provided that the geographic region statement may also be documented on a form provided by the department accompanying each container.

(b) Any tag or container label representing a geographic region or grade term which is determined to be incorrect shall be corrected by the complete obliteration of the incorrect information and substituted with the correct statement of fact. Any accompanying documentation form determined to be incorrect shall be corrected by the complete obliteration of the incorrect information and substituted with the correct statement of fact.

(c) The letters and figures used to meet the requirements of this section shall be of bold type and legible.

(d) The grade terms to be used shall be exactly as shown in sections 4-143-6, 4-143-11, and 143-12,

except that grade terms may be abbreviated as shown in section 4-143-9, or may be expressed in all capital letters, or both. The geographic region terms to be used shall be exactly as shown in section 4-143-3. The use of a geographic region term on offgrade coffee is prohibited.

(e) The requirements of this section shall apply to both intra-state and export sales and distribution of Hawai'i-grown coffee.

(f) Any green coffee, natural coffee, or mixed natural coffee labeled with a grade term defined in ~~[sections]~~ section 4-143-6, 4-143-11, or 143-12, shall meet the standards of the labeled grade.

(g) The use of a grade term defined in ~~[sections]~~ section 4-143-6, 4-143-11, or 4-143-12, or any abbreviation or variation of the grade term that is intended to represent or imply that the green coffee, natural coffee, or mixed natural coffee so labeled is grown in Hawai'i, on coffee that is not grown in Hawai'i is prohibited. The use of any geographic region defined in section 4-143-3, on cherry coffee, parchment coffee, green coffee, natural coffee, or mixed natural coffee that is not grown in the geographic region defined in section 4-143-3, is prohibited.

(h) The use of any other grade term or fanciful term which is not defined in ~~[sections]~~ section 4-143-6, 4-143-11, or 4-143-12 to represent or imply that the cherry coffee, parchment coffee, green coffee, natural coffee, or mixed natural coffee has a grade adopted under this chapter is prohibited.

(i) Tags marked with a grade or geographic region statement pursuant to subsection (a) or (j) or as required for inspection for certification pursuant to section 4-143-2(b) shall consist of a tamper-proof tag attached to each container of coffee beans in a manner that opening the container will alter the tag. The tags shall be light in color, made of a material that resists tearing and measuring a minimum of two inches by four inches, with a blank area at least two inches by two inches.

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(j) Hawai'i-grown green coffee, natural coffee, or mixed natural coffee not meeting the quality standards of Hawaii No. 3 green coffee, Hawaii Natural Prime coffee, or Hawaii Mixed Natural Prime Coffee shall be labeled with the term "offgrade" or the term "coffee" without reference to any geographic region. The term "offgrade" shall appear on the tag described in subsection (i), or on the container on the same panel as the declaration of identity required by section 4-93-2 [~~Hawaii Administrative Rules~~]. [Eff 10/8/01; am and comp 5/24/14; am and comp] (Auth: HRS §§147-4, 147-22) (Imp: HRS §§147-4, 147-22, 147-23)

§4-143-2 Inspection and fees. (a) Inspection for certification of green coffee, natural coffee, or mixed natural coffee by the department shall be voluntary on the part of the applicant and will be made only upon the request of the applicant.

(b) Inspection for certification of green coffee, natural coffee, or mixed natural coffee for grade and condition by the department shall be conducted upon the processing of parchment coffee into green coffee or natural coffee, provided that the green coffee, natural coffee, or mixed natural coffee shall be graded, placed into sealed containers, and tagged as described in section 4-143-1(i) before the green coffee, natural coffee, or mixed natural coffee is offered for inspection.

(c) The application for certification shall include a signed statement attesting to the geographic region of production as defined in section 4-143-3, of the green coffee, natural coffee, or mixed natural coffee and the quantity in pounds.

(d) It shall be the responsibility of the owner of the coffee to apply to the department for certification.

(e) The department shall provide green coffee, natural coffee, or mixed natural coffee inspection at

centralized pulping, hulling, grading, milling, processing, shipping, or storage plants.

(f) Each application for inspection shall be completed by the applicant on an approved department form, signed and filed with the office of inspection or any inspector at or near the place where the inspection is desired. The application, due to noncompliance with this chapter, may be rejected by the supervisor. The supervisor shall notify the applicant in writing of the reason for the rejection as soon as possible.

(g) The applicant shall make every container of each lot of the product to be inspected readily accessible for sampling and inspection. Coffee bags or containers sampled for certification shall not be moved from the facility where it was sampled until approval is given by the department. Movement of coffees without approval shall be considered a violation under section 4-143-8(d).

(h) Inspection and certification for quality or condition shall be based on ~~[sections]~~ section 4-143-6, 4-143-11, or 4-143-12. A request for certification may include a request restricted to a portion of, or in addition to the requirements in section 4-143-6, 4-143-11, or 4-143-12, upon approval of the supervisor, provided that a letter of certification may be issued in lieu of a certificate at the discretion of the supervisor.

(i) An application for certification may be withdrawn by the applicant at any time before the inspection is performed, provided that the applicant shall be billed for any expenses incurred after the application was made.

(j) Proof of the authority of any person applying for inspection on behalf of another person may be required at the discretion of the inspector.

(k) The original certificate, when issued, shall immediately be mailed or made available to the applicant or a person designated by the applicant. One additional copy of the certificate shall be issued without charge if requested by the applicant before the certificate is issued. Applicants may make a

request in writing to the inspection office for additional copies or facsimile copies of a certificate at a fee of [~~\$48.00~~] \$48 for each page.

(l) An inspection fee rate of [~~\$48.00~~] \$48 per hour for regular time and [~~\$72.00~~] \$72 per hour for overtime shall be charged by the department, and shall be paid by the applicant. Additional charges may be assessed for transportation, travel time, stand-by time, per diem, mileage, and other actual expenses incurred by the department.

(m) When payment for inspection is not received within thirty days of the date of the bill, the department may withhold inspection for certification until payment is made. An interest charge of one-half of one per cent of the unpaid balance shall be assessed for each month, or portion of a month, that payment is not received after the initial thirty days after the date of the bill.

(n) An application for an appeal inspection may be made by any financially interested person dissatisfied with the original determination, provided that:

- (1) The identity of the product has not been lost;
- (2) The original lot has not been disturbed and is accessible;
- (3) The appeal request and the reason for the appeal are submitted in writing, and the reason for the appeal request is not unsubstantial;
- (4) The product has not undergone material change in condition since the original inspection; and
- (5) Not more than fourteen days has transpired from the date of the original certificate.

The fee to be charged for an appeal inspection shall be based on the fees and other charges specified in subsection (l) or [~~\$350.00~~] \$350, whichever is greater, provided that should the result of the appeal inspection disclose that a material error was made in the original inspection, no fees or charges shall be assessed for the appeal inspection. [Eff 10/8/01; am

and comp 5/24/14; am and comp] (Auth:
HRS §§147-7, 147-8) (Imp: HRS §§147-7, 147-8)

§4-143-3 Definitions. As used in this chapter:

"Applicant" means a person that applies for or requests inspection for certification who has a financial interest in the product and who shall be responsible for payment of certification fees.

"Bean" means the seed of the fruit of the coffee plant, which has been dried and from which the pulp and the spermoderm have been removed and is also known as green coffee bean.

"Black bean" means green coffee or natural coffee, when the bean is darkly discolored.

"Broken bean" or "cut bean" means a bean or part of a bean that is damaged by a cracked, chipped, or nicked condition.

"Certificate" means any form of certification, either written[7] or printed, issued by an inspector under this chapter to certify the type, grade, quality, quantity, or condition of green coffee, natural coffee, or mixed natural coffee.

"Cherry coffee" means an agricultural commodity comprised of the unprocessed fruit of the coffee plant.

"Clean" means green coffee, natural coffee, or mixed natural coffee that is free from damage by dirt, dust, or other foreign matter.

"Damage" means any defect which materially detracts from the quality and condition of the green coffee or natural coffee bean.

"Department" means the department of agriculture.

"Dry mill" means a location where parchment coffee is processed into green or natural coffee.

"Dry miller" means a person who processes parchment coffee into green or natural coffee.

"Excessively dirty" means caked with dirt.

"Fermented" means the cherry has a definite sour odor.

"Geographic region" means the geographic areas designated as follows: Hamakua is the district of

Hamakua on the island of Hawai'i, as designated by the State of Hawaii Tax Map; Hawaii is the State of Hawaii; Hawaii Island is the island of Hawai'i; Kau is the district of Ka'u on the island of Hawai'i, as designated by the State of Hawaii Tax Map; Kauai is the island of Kaua'i; Kona is the North Kona and South Kona districts on the island of Hawai'i, as designated by the State of Hawaii Tax Map; Maui is the island of Maui; Molokai is the island of Moloka'i; and Oahu is the island of Oahu.

"Good aroma and flavor when brewed" means the coffee beverage, prepared according to accepted procedures, possesses a desirable flavor and aroma and is free from all foreign, undesirable, or offensive flavors or aromas.

"Good roasting quality" means the green coffee, when properly roasted, possesses uniform color and brightness.

"Green coffee" means coffee beans which have been processed from cherry coffee by removing the pulp, the adhering mucilage, and the hull.

"Hamakua coffee" means green coffee processed from cherry coffee which is grown in the geographic region of Hamakua and which at least meets the minimum requirements of Hawaii Island Prime green coffee.

"Hamakua mixed natural coffee" means a combination of green coffee and natural coffee processed from cherry coffee which is grown in the geographic region of Hamakua and which at least meets the minimum requirements of Hawaii Island Mixed Natural Prime coffee.

"Hamakua natural coffee" means natural coffee processed from cherry coffee which is grown in the geographic region of Hamakua and which at least meets the minimum requirements of Hawaii Island Natural Prime coffee.

"Hawaii coffee" means green coffee processed from cherry coffee which is grown in the State of Hawaii and which at least meets the minimum requirements of Hawaii No. 3 green coffee.

"Hawaii Island coffee" means green coffee processed from cherry coffee which is grown in the geographic region of the Hawai'i Island, other than coffee grown in the geographic region of Kona, and which at least meets the minimum requirements of Hawaii Island Prime coffee.

"Hawaii Island mixed natural coffee" means a combination of green and natural coffee processed from cherry coffee which is grown in the geographic region of the Hawai'i Island, other than coffee grown in the geographic region of Kona, and which at least meets the minimum requirements of Hawaii Island Mixed Natural Prime coffee.

"Hawaii Island natural coffee" means natural coffee processed from cherry coffee which is grown in geographic region of the Hawai'i [~~island~~] Island, other than coffee grown in the geographic region of Kona, and which at least meets the minimum requirements of Hawaii Island Natural Prime coffee.

"Hawaii mixed natural coffee" means a combination of green coffee and natural coffee processed from cherry coffee which is grown in the State of Hawaii and which at least meets the minimum requirements of Hawaii Mixed Natural Prime coffee.

"Hawaii natural coffee" means natural coffee processed from cherry coffee which is grown in the State of Hawaii and which at least meets the minimum requirements of Hawaii Natural Prime coffee.

"Hull" means the dried spermoderm which is the light tan or buff-colored membrane encasing the bean.

"Husk" means the outer part of the dried cherry consisting of dried pulp.

"Inspector" means an employee of the department or a person designated by the supervisor, who is authorized to investigate, sample, inspect, and certify for any applicant the quality and condition of green coffee, natural coffee, and mixed natural coffee and to enforce the requirements of this chapter.

"Interested party" means any person who has a financial interest in the product for which inspection is requested.

"Kau coffee" means green coffee processed from cherry coffee which is grown in the geographic region of Ka'u and which at least meets the minimum requirements of Hawaii Island Prime green coffee.

"Kau mixed natural coffee means a combination of green coffee and natural coffee processed from cherry coffee which is grown in the geographic region of Ka'u and which at least meets the minimum requirements of Hawaii Island Mixed Natural Prime coffee.

"Kau natural coffee" means natural coffee processed from cherry coffee which is grown in the geographic region of Ka'u and which at least meets the minimum requirements of Hawaii Island Natural Prime coffee.

"Kauai coffee" means green coffee processed from cherry coffee which is grown in the geographic region of Kaua'i and which at least meets the minimum requirements of Kauai Prime green coffee.

"Kauai mixed natural coffee" means a combination of green coffee and natural coffee processed from cherry coffee which is grown in the geographic region of Kaua'i and which at least meets the minimum requirements of Kauai Mixed Natural Prime coffee.

"Kauai natural coffee" means natural coffee processed from cherry coffee which is grown in the geographic region of Kaua'i and which at least meets the minimum requirements of Kauai Natural Prime coffee.

"Kona coffee" means green coffee processed from cherry coffee which is grown in the geographic region of Kona and which at least meets the minimum requirements of Kona Prime green coffee.

"Kona mixed natural coffee" means a combination of green coffee and natural coffee processed from cherry coffee which is grown in the geographic region of Kona and which at least meets the minimum requirements of Kona Mixed Natural Prime coffee.

"Kona natural coffee" means natural coffee processed from cherry coffee which is grown in the

geographic region of Kona and which at least meets the minimum requirements of Kona Natural Prime coffee.

"Maui coffee" means green coffee processed from cherry coffee which is grown in the geographic region of Maui and which at least meets the minimum requirements of Maui Prime green coffee.

"Maui mixed natural coffee" means a combination of green coffee and natural coffee processed from cherry coffee which is grown in the geographic region of Maui and which at least meets the minimum requirements of Maui Mixed Natural Prime coffee.

"Maui natural coffee" means natural coffee processed from cherry coffee which is grown in the geographic region of Maui and which at least meets the minimum requirements of Maui Natural Prime coffee.

"Mill" means a location where cherry coffee is processed into parchment coffee or parchment coffee is processed into green coffee, or both.

"Miller" means a person that processes cherry coffee into parchment coffee or processes parchment coffee into green coffee, or both.

"Moldy bean" means a bean with mold or evidence of mold growth.

"Molokai coffee" means green coffee processed from cherry coffee which is grown in the geographic region of Moloka'i and which at least meets the minimum requirements of Molokai Prime green coffee.

"Molokai mixed natural coffee" means a combination of green coffee and natural coffee processed from cherry coffee which is grown in the geographic region of Moloka'i and which at least meets the minimum requirements of Molokai Mixed Natural Prime coffee.

"Molokai natural coffee" means natural coffee processed from cherry coffee which is grown in the geographic region of Molokai and which at least meets the minimum requirements of Molokai Natural Prime coffee.

"Mother bean" means a bean that is not solid and has a loosely wrapped cotyledon.

"Natural coffee" means coffee which has been processed from cherry coffee that has been dried with

the husk on, or coffee which has been processed from parchment coffee with adhering mucilage.

"Oahu coffee" means green coffee processed from cherry coffee which is grown in the geographic region of Oahu and which at least meets the minimum requirements of Oahu Prime green coffee.

"Oahu mixed natural coffee" means a combination of green coffee and natural coffee processed from cherry coffee which is grown in the geographic region of Oahu and which at least meets the minimum requirements of Oahu Mixed Natural Prime coffee.

"Oahu natural coffee" means natural coffee processed from cherry coffee which is grown in the geographic region of Oahu and which at least meets the minimum requirements of Oahu Natural Prime coffee.

"Offgrade" is a descriptive term applicable to coffee which has a market value, and designates a quality lower than Hawaii No. 3 grade for green coffee, or the grade terms defined in section 4-143-11 for natural coffee, or the grade terms defined in section 4-143-12 for mixed natural coffee.

"Office of inspection" means the office of an authorized inspector of coffee.

"Parchment" means the portion of the fruit of the coffee plant consisting of the hull, from which the pulp has been removed, and the enclosed seed.

"Parchment coffee" means an agricultural commodity comprised of parchment.

"Partly black bean" means a bean that is darkly discolored only partially.

"Partly moldy bean" means a bean that is moldy only partially or shows evidence of mold growth only partially.

"Partly sour bean" means a bean that has a faint fermented flavor or odor and is partially buff or yellowish-brown in color.

"Partly stinker bean" means a bean that, on being freshly cut, gives off an unpleasant odor. A partly stinker bean may be partly light-brown or brownish or occasionally have a waxy appearance.

"Person" means any individual, partnership, corporation, or separate legal entity.

"Pod" means an intact dried cherry.

"Quaker" means a bean that is poorly developed, exceptionally light in weight, and is light in color when roasted.

"Quality" means the inherent properties or attributes of a product which determines its relative degree of excellence.

"Shell" means part of a bean that is thin, light in weight, and shell-like in appearance.

"Silver-skin" means the dried seed coat of the bean, which is tightly adhering, thin, tissue-like membrane covering the bean.

"Sour bean" means a bean that has a fermented odor or flavor. A sour bean is usually buff or yellowish-brown in color.

"Stick" means a slender piece of wood from a tree or shrub.

"Stinker bean" means a bean, upon being freshly cut, that gives off a very unpleasant odor. A stinker bean may be light-brown or brownish or occasionally have a waxy appearance.

"Stone" means a rock, a piece of a rock, or concreted earthy or mineral matter.

"Supervisor" means the coffee program specialist in the commodities branch of the department or a person designated by the manager of the commodities branch.

"Type I bean" means a bean which is produced two to a cherry and which is perceptively flat on one side and convex on the other.

"Type II bean" means a bean which is produced one to a cherry and is generally oval in shape and round in diameter. [Also] A type II bean is also referred to as peaberry.

"Uniformly good green color" means all of the beans are of nearly the same green color, characteristic for the variety of properly grown and processed beans which have not undergone any material deterioration.

"Wet mill" means a location where cherry coffee is processed into parchment coffee.

"Wet miller" means a person that processes cherry coffee into parchment coffee. [Eff 10/8/01; am and comp 5/24/14; am and comp] (Auth: HRS §§147-4, 147-22) (Imp: §§147-4, 147-22)

§4-143-4 REPEALED. [R 5/24/14]

§4-143-5 REPEALED. [R 5/24/14]

§4-143-6 Standards for grades of green coffee.

(a) Hawaii Extra Fancy green coffee consists of Hawaii beans of one type, which are clean and possess a uniformly good green color, good roasting quality, and good aroma and flavor when brewed; which do not exceed twelve per cent or which do not contain less than nine per cent moisture by weight; which do not exceed eight full imperfections per three hundred grams as described in subsection (i); which do not exceed three per cent by weight other type beans; and which in the case of type I beans meet the minimum size requirement of size 19 and in the case of type II beans meet the minimum size requirement of size 13 as stated in subsection (j); provided that:

- (1) Kona coffee which meets the requirements of this subsection may be classified as Kona Extra Fancy green coffee. This classification shall apply to Kona coffee only[-];
- (2) Kauai coffee which meets the requirements of this subsection may be classified as Kauai Extra Fancy green coffee. This classification shall apply to Kauai coffee only[-];
- (3) Maui coffee which meets the requirements of this subsection may be classified as Maui Extra Fancy green coffee. This

classification shall apply to Maui coffee only[-];

- (4) Molokai coffee which meets the requirements of this subsection may be classified as Molokai Extra Fancy green coffee. This classification shall apply to Molokai coffee only[-];
- (5) Oahu coffee which meets the requirements of this subsection may be classified as Oahu Extra Fancy green coffee. This classification shall apply to Oahu coffee only[-]; and
- (6) Hawaii Island coffee which meets the requirements of this subsection may be classified as Hawaii Island Extra Fancy green coffee. This classification shall apply to Hawaii Island coffee only.

(b) Hawaii Fancy green coffee consists of Hawaii beans of one type, which are clean and possess a uniformly good green color, good roasting quality, and good aroma and flavor when brewed; which do not exceed twelve per cent or which do not contain less than nine per cent moisture by weight; which do not exceed twelve full imperfections per three hundred grams as described in subsection (i); which do not exceed three per cent by weight other type beans; and which in the case of type I beans meet the minimum size requirement of size 18, provided a larger size may be specified, and in the case of type II beans meet the minimum size requirement of size 12 as stated in subsection (j); provided that:

- (1) Kona coffee which meets the requirements of this subsection may be classified as Kona Fancy green coffee. This classification shall apply to Kona coffee only[-];
- (2) Kauai coffee which meets the requirements of this subsection may be classified as Kauai Fancy green coffee. This classification shall apply to Kauai coffee only[-];
- (3) Maui coffee which meets the requirements of this subsection may be classified as Maui

Fancy green coffee. This classification shall apply to Maui coffee only[-];

- (4) Molokai coffee which meets the requirements of this subsection may be classified as Molokai Fancy green coffee. This classification shall apply to Molokai coffee only[-];
- (5) Oahu coffee which meets the requirements of this subsection may be classified as Oahu Fancy green coffee. This classification shall apply to Oahu coffee only[-]; and
- (6) Hawaii Island coffee which meets the requirements of this subsection may be classified as Hawaii Island Fancy green coffee. This classification shall apply to Hawaii Island coffee only.

(c) Hawaii No. 1 green coffee consists of Hawaii beans of one type, which are clean and possess a uniformly good green color, good roasting quality, and good aroma and flavor when brewed; which do not exceed twelve per cent or which do not contain less than nine per cent moisture by weight; which do not exceed eighteen full imperfections per three hundred grams as described in subsection (i); which do not exceed three per cent by weight other type beans; and which meet the minimum size requirement of size 16 for type I beans, provided a larger size may be specified, and size 10 for type II beans as stated in subsection (j); provided that:

- (1) Kona coffee which meets the requirements of this subsection may be classified as Kona No. 1 green coffee. This classification shall apply to Kona coffee only[-];
- (2) Kauai coffee which meets the requirements of this subsection may be classified as Kauai No. 1 green coffee. This classification shall apply to Kauai coffee only[-];
- (3) Maui coffee which meets the requirements of this subsection may be classified as Maui No. 1 green coffee. This classification shall apply to Maui coffee only[-];

- (4) Molokai coffee which meets the requirements of this subsection may be classified as Molokai No. 1 green coffee. This classification shall apply to Molokai coffee only[-];
- (5) Oahu coffee which meets the requirements of this subsection may be classified as Oahu No. 1 green coffee. This classification shall apply to Oahu coffee only[-]; and
- (6) Hawaii Island coffee which meets the requirements of this subsection may be classified as Hawaii Island No. 1 green coffee. This classification shall apply to Hawaii Island coffee only.

(d) Hawaii Select green coffee consists of Hawaii beans, which are clean and which do not impart sour, fermented, moldy, medicinal, or other undesirable aromas and flavors when brewed; which do not exceed twelve per cent or which do not contain less than nine per cent moisture by weight; and which do not exceed five per cent defective beans, by weight, included therein not more than two per cent, by weight, sour, stinker, black, or moldy beans that equal full imperfections only, as described in subsections (i) (1) and (i) (2); which may be assigned a size classification as stated in subsection (j) (1); provided that:

- (1) Kona coffee which meets the requirements of this subsection may be classified as Kona Select green coffee. This classification shall apply to Kona coffee only[-];
- (2) Kauai coffee which meets the requirements of this subsection may be classified as Kauai Select green coffee. This classification shall apply to Kauai coffee only[-];
- (3) Maui coffee which meets the requirements of this subsection may be classified as Maui Select green coffee. This classification shall apply to Maui coffee only[-];
- (4) Molokai coffee which meets the requirements of this subsection may be classified as

Molokai Select green coffee. This classification shall apply to Molokai coffee only[-];

(5) Oahu coffee which meets the requirements of this subsection may be classified as Oahu Select green coffee. This classification shall apply to Oahu coffee only[-]; and

(6) Hawaii Island coffee which meets the requirements of this subsection may be classified as Hawaii Island Select green coffee. This classification shall apply to Hawaii Island coffee only.

(e) Hawaii Prime green coffee consists of Hawaii beans which are clean; which do not impart sour, fermented, moldy, medicinal, or other undesirable aromas and flavors when brewed; which do not exceed twelve per cent or which does not contain less than nine per cent moisture by weight; and which do not exceed twenty per cent defective beans, by weight, included therein not more than five per cent, by weight, sour, stinker, black, or moldy beans that equal full imperfections only, as described in subsections (i) (1) and (i) (2); which may be assigned a size classification as stated in subsection (j) (1); provided that:

- (1) Kona coffee which meets the requirements of this subsection may be classified as Kona Prime green coffee. This classification shall apply to Kona coffee only[-];
- (2) Kauai coffee which meets the requirements of this subsection may be classified as Kauai Prime green coffee. This classification shall apply to Kauai coffee only[-];
- (3) Maui coffee which meets the requirements of this subsection may be classified as Maui Prime green coffee. This classification shall apply to Maui coffee only[-];
- (4) Molokai coffee which meets the requirements of this subsection may be classified as Molokai Prime green coffee. This classification shall apply to Molokai coffee only[-];

- (5) Oahu coffee which meets the requirements of this subsection may be classified as Oahu Prime green coffee. This classification shall apply to Oahu coffee only~~[-]~~; and
- (6) Hawaii Island coffee which meets the requirements of this subsection may be classified as Hawaii Island Prime green coffee. This classification shall apply to Hawaii Island coffee only~~[-]~~;
- (7) The defect tolerance of twenty per cent defective beans by weight shall be in effect until June 30, ~~[2017-]~~ 2020. Beginning July 1, ~~[2017-]~~ 2020, the defect tolerance shall be fifteen per cent defective beans by weight.

(f) Hawaii No. 3 green coffee consists of Hawaii beans which are clean; which do not impart sour, fermented, moldy, medicinal, or other undesirable aromas and flavors when brewed; which do not exceed twelve per cent or do not contain less than nine per cent moisture, by weight; and which do not exceed thirty-five per cent defective beans, by weight, included therein not more than five per cent, by weight, black, moldy, sour, or stinker beans that equal full imperfections only, as described in subsections (i)(1) and (i)(2). Use of the terms "Kona", "Kauai", "Maui", "Molokai", "Oahu", or "Hawaii Island" in conjunction with the term "No. 3" is prohibited.

(g) Offgrade is not a grade within the meaning of these standards but is a descriptive term applicable to green coffee which has a market value and designates a quality lower than Hawaii No. 3 green coffee. Use of the terms "Hamakua", "Hawaii", "Kau", "Kona", "Kauai", "Maui", "Molokai", "Oahu", or "Hawaii Island" in conjunction with the term offgrade is prohibited.

(h) Allowances and limitations stated in this section shall be applied to the entire lot, and a composite sample from the lot shall be used to determine the grade.

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(i) Specific defects and the extent to which these defects affect grade in terms of imperfection equivalents shall be as follows:

- (1) One bean that has more than fifty per cent of an equivalent full bean surface that is black or moldy shall equal one full imperfection;
- (2) One bean that is more than faintly affected by a sour or stinker odor shall equal one full imperfection;
- (3) One pod or piece of a pod that is more than fifty per cent equivalent of a full pod shall equal one full imperfection;
- (4) One full husk or piece of a husk that is more than fifty per cent equivalent of a full husk shall equal one full imperfection;
- (5) One full hull or piece of a hull that is more than fifty per cent equivalent of a full hull shall equal one full imperfection;
- (6) One stone more than four millimeters in any dimension shall equal one full imperfection;
- (7) One stick more than four millimeters and up to ten millimeters in length shall equal one full imperfection;
- (8) One stick more than ten millimeters in length shall equal two full imperfections.

Where only a piece of a black bean, moldy bean, sour bean, stinker bean, pod, husk, or hull are present, and they do not equal one full imperfection as described in paragraphs (1), (2), (3), (4), and (5), each shall be scored as one-fifth of a full imperfection. For example, one bean with less than fifty per cent of its surface black shall be scored as one-fifth of a full imperfection.

A partly black, partly moldy, or partly sour bean, or a stick or a stone that does not equal one full imperfection as described in paragraphs (1), (2), (6), and (7) shall be scored as one-fifth of a full imperfection.

A quaker, shell, mother bean, or bean or a piece of a bean affected by damage by an insect or damage by

a broken or cut bean shall be scored as one-fifth of a full imperfection.

A bean that is affected by not more than two pinholes caused by insect damage regardless of discoloration associated with the insect damage shall be scored as one-tenth of a full imperfection. The defect tolerance of one-tenth of a full imperfection of not more than two pinholes caused by insect damage regardless of discoloration associated with the insect damage shall be in effect until June 30, [~~2017~~] 2020. Beginning July 1, [~~2017~~] 2020, the defect tolerance shall be one-fifth of a full imperfection.

A bean that is affected by greater than two pinholes caused by insect damage regardless of discoloration associated with the insect damage shall be scored as one-fifth of a full imperfection.

Any other defect not listed in this subsection shall be scored as one-fifth of a full imperfection to the extent that these defects affect the quality or condition of the beans in the lot.

(j) Size classifications for green coffee shall be as follows:

(1) For type I green coffee:

- (A) Size 11 shall consist of beans which will not pass through an 11/64 inch round hole;
- (B) Size 14 shall consist of beans which will not pass through a 14/64 inch round hole;
- (C) Size 16 shall consist of beans which will not pass through a 16/64 inch round hole;
- (D) Size 17 shall consist of beans which will not pass through a 17/64 inch round hole;
- (E) Size 18 shall consist of beans which will not pass through a 18/64 inch round hole; and
- (F) Size 19 shall consist of beans which will not pass through a 19/64 inch round hole; and

(2) For type II green coffee:

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- (A) Size 10 shall consist of beans which will not pass through a 10/64 inch slotted hole;
- (B) Size 12 shall consist of beans which will not pass through a 12/64 inch slotted hole; and
- (C) Size 13 shall consist of beans which will not pass through a 13/64 inch slotted hole.

In order to allow for variations incident to proper sizing for type I and type II green coffee, not more than a total of ten per cent, by weight, of the beans in any lot may be smaller than the size specified.

(k) When size or type is specified for Hawaii Select green coffee or Hawaii Prime green coffee, not more than a total of three per cent by weight other type beans shall be permitted in any lot. [Eff 10/8/01; am and comp 5/24/14; am and comp] (Auth: HRS §§147-4, 147-22) (Imp: HRS §§147-4, 147-22)

§4-143-7 REPEALED. [R 5/24/14]

§4-143-8 Provisions for enforcement, penalties and prosecution. (a) Any authorized inspector of the department may enter any public or private premises, including any vehicle of transport, during business hours to:

- (1) Inspect for the quality, condition, and origin of coffee; and
 - (2) Enforce the labeling, record keeping, and certification requirements of this chapter.
- (b) The inspector may take representative samples of the coffee for inspection.
- (c) Any authorized inspector, upon determining that this chapter or chapter 147, Hawaii Revised Statutes, is being violated, may place a stop sale

notice upon or near the coffee that is in violation.
When a stop sale notice is issued:

- (1) The coffee shall not be sold, offered for sale, transferred, moved off the premises, or otherwise disposed of until the stop sale notice has been removed by an authorized inspector or written permission is received from the department[-];
- (2) No person shall remove, deface, or otherwise tamper with any stop sale notice except upon approval of an authorized inspector[-]; and
- (3) The stop sale notice shall be accompanied by a non-compliance notice issued by the department indicating the violation and corrective action required.

(d) Any person who violates any provision of this chapter may be subject to the actions, procedures, and penalties provided in sections 147-2 and 147-25, Hawaii Revised Statutes. [Eff 10/8/01; am and comp 5/24/14; am and comp]
(Auth: HRS §§147-2, 147-22, 147-25) (Imp: HRS §§147-4, 147-24)

§4-143-9 Abbreviations. Grade designations on labels for coffee shall be as stated in this chapter except that Hawaii may be abbreviated as "HI." or "Haw." and Extra may be abbreviated as "Ex.", provided that a period need not be used. [Eff 10/8/01; am and comp 5/24/14; comp] (Auth: HRS §§147-4, 147-22) (Imp: HRS §§147-4, 147-22)

§4-143-10 REPEALED [R 5/24/14]

§4-143-11 Standards for grades of natural coffee. (a) Hawaii Natural Prime coffee consists of Hawaii coffee beans which have been processed from cherry coffee that has been dried with the husk on, or which has been processed from parchment coffee with adhering mucilage, of one type, which are clean and do

not exceed thirteen per cent or which do not contain less than eight per cent moisture by weight, which do not exceed twenty per cent defective beans, by weight, as defined in section 4-143-6, included therein not more than five per cent by weight, black or moldy beans that equal full imperfections only, as described in section 4-143-6(i)(1). Sour or stinker beans, or partly sour or partly stinker beans are not considered defective beans.

- (1) Kona natural coffee which meets the requirements of this subsection may be classified as Kona Natural Prime coffee. This classification shall apply to Kona natural coffee only[-];
- (2) Kauai natural coffee which meets the requirements of this subsection may be classified as Kauai Natural Prime coffee. This classification shall apply to Kauai natural coffee only[-];
- (3) Maui natural coffee which meets the requirements of this subsection may be classified as Maui Natural Prime coffee. This classification shall apply to Maui natural coffee only[-];
- (4) Molokai natural coffee which meets the requirements of this subsection may be classified as Molokai Natural Prime coffee. This classification shall apply to Molokai natural coffee only[-];
- (5) Oahu natural coffee which meets the requirements of this subsection may be classified as Oahu Natural Prime coffee. This classification shall apply to Oahu natural coffee only[-]; and
- (6) Hawaii Island natural coffee which meets the requirements of this subsection may be classified as Hawaii Island Natural Prime coffee. This classification shall apply to Hawaii Island natural coffee only.
- (7) The defect tolerance of twenty per cent defective beans by weight shall be in effect until June 30, [~~2017-~~] 2020. Beginning

July 1, [~~2017,~~] 2020, the defect tolerance shall be fifteen per cent defective beans by weight.

(b) Size classifications for natural coffee shall be as follows:

- (1) For type I natural coffee:
 - (A) Size 11 shall consist of beans which will not pass through a 11/64 inch round hole;
 - (B) Size 14 shall consist of beans which will not pass through a 14/64 inch round hole;
 - (C) Size 16 shall consist of beans which will not pass through a 16/64 inch round hole;
 - (D) Size 17 shall consist of beans which will not pass through a 17/64 inch round hole;
 - (E) Size 18 shall consist of beans which will not pass through a 18/64 inch round hole; and
 - (F) Size 19 shall consist of beans which will not pass through a 19/64 inch round hole; and
- (2) For type II natural coffee:
 - (A) Size 10 shall consist of beans which will not pass through a 10/64 inch slotted hole;
 - (B) Size 12 shall consist of beans which will not pass through a 12/64 inch slotted hole; and
 - (C) Size 13 shall consist of beans which will not pass through a 13/64 inch slotted hole.

In order to allow for variations incident to proper sizing for type I and type II natural coffee, not more than a total of ten per cent, by weight, of the beans in any lot may be smaller than the size specified.

(c) When size is specified, not more than a

total of three per cent by weight other type beans shall be permitted in any lot.

(d) Offgrade is not a grade within the meaning of these standards but is a descriptive term applicable to natural coffee which has a market value and designates a quality lower than Hawaii Natural Prime coffee. Use of the terms "Hamakua", "Hawaii", "Kau", "Kona", "Kauai", "Maui", "Molokai", "Oahu", or "Hawaii Island" in conjunction with the term offgrade is prohibited. [Eff and comp 5/24/14; am and comp] (Auth: HRS §§147-4, 147-22) (Imp: HRS §§147-4, 147-22)

§4-143-12 Standards for grades of mixed natural coffee. (a) Hawaii Mixed Natural Prime coffee consists of a combination of Hawaii green coffee beans and Hawaii natural coffee beans which have been processed from cherry coffee that has been dried with the husk on, or which has been processed from parchment coffee with adhering mucilage, which are clean and do not exceed thirteen per cent moisture, by weight or which do not contain less than eight per cent moisture, by weight, which do not exceed twenty per cent defective beans, by weight, as defined in section 4-143-6, included therein not more than five per cent by weight, black or moldy beans that equal full imperfections only, as described in section 4-143-6(i)(1). Sour or stinker beans, or partly sour or partly stinker beans are not considered defective beans.

- (1) Kona mixed natural coffee which meets the requirements of this subsection may be classified as Kona Mixed Natural Prime coffee. This classification shall apply to Kona mixed natural coffee only[-];
- (2) Kauai mixed natural coffee which meets the requirements of this subsection may be classified as Kauai Mixed Natural Prime coffee. This classification shall apply to Kauai mixed natural coffee only[-];

- (3) Maui mixed natural coffee which meets the requirements of this subsection may be classified as Maui Mixed Natural Prime coffee. This classification shall apply to Maui mixed natural coffee only~~(-)~~;
 - (4) Molokai mixed natural coffee which meets the ~~[requirement]~~ requirements of this subsection may be classified as Molokai Mixed Natural Prime coffee. This classification shall apply to Molokai mixed natural coffee only~~(-)~~;
 - (5) Oahu mixed natural coffee which meets the requirements of this subsection may be classified as Oahu Mixed Natural prime coffee. This classification shall apply to Oahu mixed natural coffee only~~(-)~~; and
 - (6) Hawaii Island mixed natural coffee which meets the requirements of this subsection may be classified as Hawaii Island Mixed Natural Prime coffee. This classification shall apply to Hawaii Island mixed natural coffee only.
 - (7) The defect tolerance of twenty per cent defective beans by weight shall be in effect until June 30, ~~[2017.]~~ 2020. Beginning July 1, ~~[2017,]~~ 2020, the defect tolerance shall be fifteen per cent defective beans by weight.
- (b) Size classification for mixed natural coffee shall be as follows:
- (1) For type I mixed natural coffee:
 - (A) Size 11 shall consist of beans which will not pass through a 11/64 inch round hole;
 - (B) Size 14 shall consist of beans which will not pass through a 14/64 inch round hole;
 - (C) Size 16 shall consist of beans which will not pass through a 16/64 inch round hole;

- (D) Size 17 shall consist of beans which will not pass through a 17/64 inch round hole;
- (E) Size 18 shall consist of beans which will not pass through a 18/64 inch round hole; and
- (F) Size 19 shall consist of beans which will not pass through a 19/64 inch round hole; and
- (2) For type II mixed natural coffee:
 - (A) Size 10 shall consist of beans which will not pass through a 10/64 inch slotted hole;
 - (B) Size 12 shall consist of beans which will not pass through a 12/64 inch slotted hole; and
 - (C) Size 13 shall consist of beans which will not pass through a 13/64 inch slotted hole.

In order to allow for variations incident to proper sizing for type I and type II green or natural coffee, not more than a total of ten per cent, by weight, of the beans in any lot may be smaller than the size specified.

(c) When size is specified, not more than a total of three per cent by weight other type beans shall be permitted in any lot.

(d) Offgrade is not a grade within the meaning of these standards but is a descriptive term applicable to mixed natural coffee which has a market value and designates a quality lower than Hawaii Mixed Natural Prime coffee. Use of the terms "Hamakua", "Hawaii", "Kau", "Kona", "Kauai", "Maui", "Molokai", "Oahu", or "Hawaii [~~island~~] Island" in conjunction with the term offgrade is prohibited. [Eff and comp 5/24/2014; am and comp] (Auth: HRS §§147-4, 147-22) (Imp: HRS §§147-4, 147-22)

§4-143-13 Record keeping. (a) Every person who produces, processes, transports, or distributes

Hawai'i-grown cherry, parchment, green, or natural coffee shall maintain records of each purchase, transport, or sale.

(b) Records shall include:

- (1) The name, address, and telephone number of the seller;
- (2) The name, address, and telephone number of the buyer;
- (3) The name, address, and telephone number of the transporter;
- (4) The quantity of Hawai'i-grown coffee purchased, transported, or sold;
- (5) The grade of Hawai'i-grown coffee purchased, transported, or sold, if applicable;
- (6) The date of the sale or purchase; and
- (7) A lot number, tax map key, or other identifying mark for each transaction.

(c) Records of each sale, purchase, or transport of Hawai'i-grown coffee shall be retained for a minimum of six years." [Eff and comp 5/24/14; am and comp] (Auth: §147-4) (Imp: §147-4)

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2. Material, except source notes, to be repealed is bracketed and sticken. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 4-143, Hawaii Administrative Rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on Month xx, XXXX, and filed with the Office of the Lieutenant Governor.



Scott E. Enright
Chairperson
Board of Agriculture

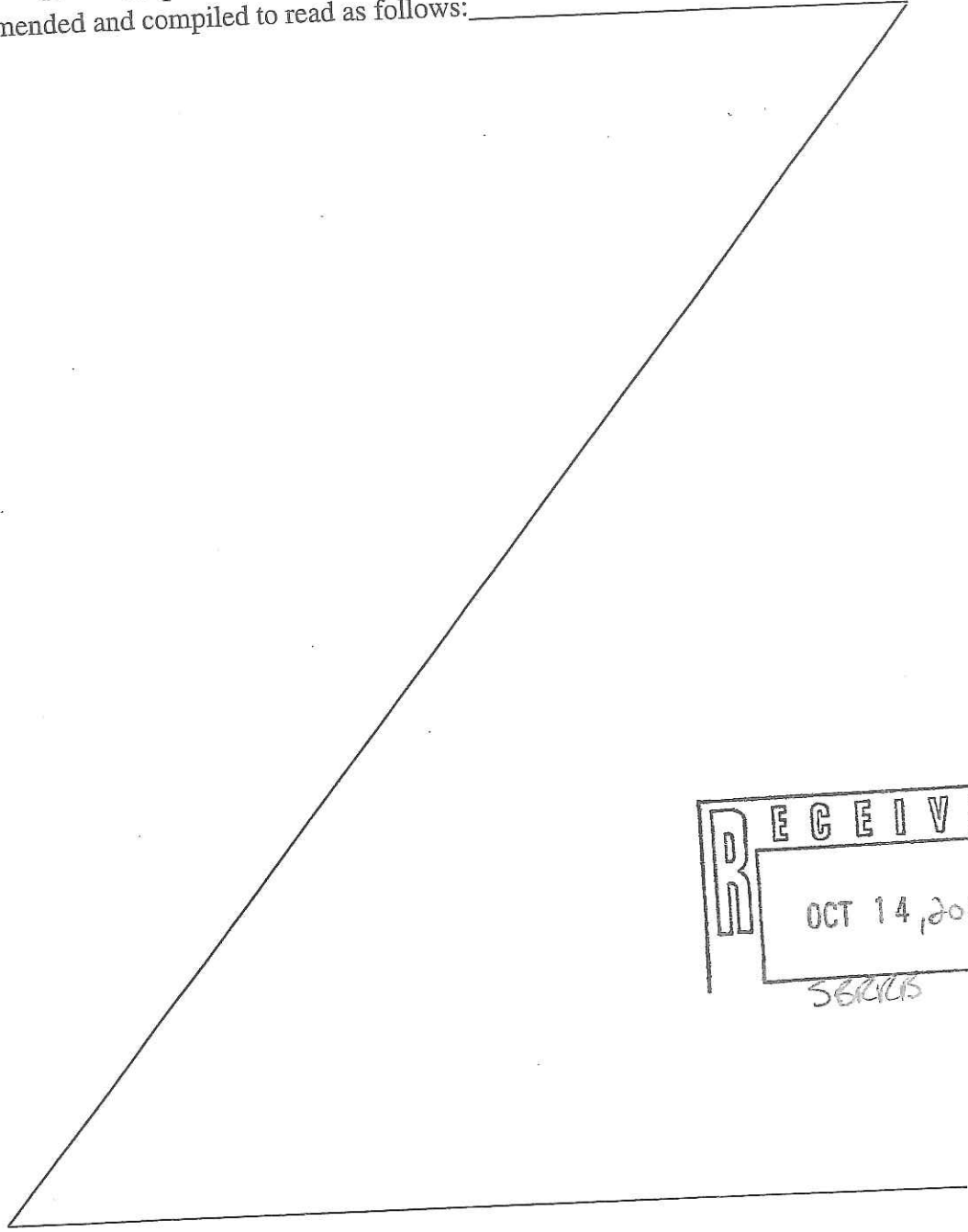
APPROVED AS TO FORM:


Deputy Attorney General

Exhibit 2

Amendment and Compilation of Chapter 16-77
Hawaii Administrative Rules

1. Chapter 16-77, Hawaii Administrative Rules, entitled "Contractors"
is amended and compiled to read as follows:



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OCT 14, 2016
SBR/US

HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 77

CONTRACTORS

Subchapter 1 General Provisions

- §16-77-1 Authority
- §16-77-2 Objective
- §16-77-3 Definitions
- §16-77-4 Licenses required

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- §16-77-7 Repealed
- §16-77-8 Responsibility of applicant to furnish information; notice by the board
- §16-77-9 Signing and verification of application
- §16-77-10 Supporting documents required
- §16-77-11 Denial of license application
- §16-77-12 Application fees
- §16-77-13 When partnership or joint venture requires a license
- §16-77-14 Posting of information in license application
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Subchapter 3 License Qualifications

- §16-77-18 Experience requirement
- §16-77-19 Power of board to approve training as experience
- §16-77-20 Power of board to accept equivalent knowledge

Subchapter 4 Conditional License

- §16-77-24 Power of board to issue conditional licenses

Subchapter 5 Classification

§16-77-28 All contractors classified

Subchapter 6 Scope of Classifications

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§16-77-33 Limitation of classifications
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§16-77-40 Examination - part II
§16-77-41 Examination not required
§16-77-42 Use of interpreters
§16-77-43 Notice of examination
§16-77-44 Passing grade
§16-77-45 Failure to pass examination
§16-77-46 Examination misconduct

Subchapter 8 Renewal of Licenses

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§16-77-50 Date for filing
§16-77-51 Restoration of forfeited license
§16-77-52 Board may refuse to renew
§16-77-53 Proper filing authorizes contractor to operate
§16-77-54 Renewal fees
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Subchapter 10 Suspension, Revocation, Dissociation, Dissolution

§16-77-63 Alternatives in lieu of revocation or suspension

- §16-77-64 Notice due board on death, dissociation, or disability of RME;
forfeiture of license
- §16-77-65 Board jurisdiction to proceed

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- §16-77-69 License issued
- §16-77-70 Direct management of the contracting business
- §16-77-71 Principal and subordinate RMEs
- §16-77-72 RME for more than one contracting entity
- §16-77-73 License nontransferable
- §16-77-74 Repealed
- §16-77-75 Revocation, suspension, termination, withdrawal, forfeiture, and
refusal to renew license of RME; fines
- §16-77-76 Maintenance of bond

Subchapter 12 Disclosure to Owners; Contracts

- §16-77-79 Disclosure to homeowners
- §16-77-80 Homeowner contracts

Subchapter 13 Advertising Practices

- §16-77-83 Advertising through the media

Subchapter 14 Place of Business

- §16-77-87 All licensees to have place of business
- §16-77-88 Change of address
- §16-77-89 Place of business for out-of-state licensees

Subchapter 15

- §16-77-93 Repealed

Subchapter 16 Responsibility for Good Workmanship

- §16-77-97 Performance

Subchapter 17 Recovery and Education Funds

- §16-77-100 Recovery fund assessments

§16-77-101 Use of education fund fees

Subchapter 18 Administrative Procedures

§16-77-105 Administrative practice and procedure
§16-77-106 Oral testimony
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Subchapter 19 Asbestos Contractors

§16-77-111 Definitions
§16-77-112 License required
§16-77-113 Requirements for license
§16-77-114 Training requirements
§16-77-115 Examination
§16-77-116 Conditions for renewal of license; refresher training courses
§16-77-117 Revocation, suspension, and renewal of license

SUBCHAPTER 1

GENERAL PROVISIONS

§16-77-1 Authority. Authority to adopt rules by the board is found in chapter 444, Hawaii Revised Statutes. [Eff 8/14/80; am and ren §16-77-1, 6/22/81; am and comp 11/7/83; comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §444-4)

§16-77-2 Objective. The board interprets the primary intent of the legislature in creating the contractors license board to be the protection of the public health, safety, and general welfare, in dealing with persons engaged in the construction industry, and affording to the public effective and practical protection against the incompetent, inexperienced, unlawful, and unfair practices of contractors with whom the public contracts. All rules adopted by the board shall be interpreted and construed in light of the policies set forth in this section. [Eff 8/14/80; am and ren §16-77-2, 6/22/81; am and comp 11/7/83; comp 4/14/88; comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §444-4)

§16-77-3 Definitions. As used in this chapter or in chapter 444, HRS:

"Board" means the contractors license board.

"Building permit" means and includes any type of permit issued or required by the county or other local subdivision of the State as a condition precedent to the construction, alteration, improvement, demolition, or repair of any building or structure.

"Contracting entity" means any individual who has met the experience and financial integrity requirements for a license to engage in the contracting business or a corporation, partnership, joint venture, limited liability company, or other entity who has met the financial integrity requirements to engage in the contracting business and who has in its employ, a responsible managing employee.

"Current credit report" means a credit report covering at least the previous five years and issued within six months of the application date.

"Current financial statement" means a financial statement prepared within twelve months of the application date.

"Current proof of payment arrangement" means a payment arrangement issued by the department of taxation within six months of the application date, or September 30 of the even-numbered year if renewing a license.

"Current state tax clearance" means a tax clearance issued within six months of the application date, or September 30 of the even-numbered year if renewing a license.

"Employee" as used in section 444-2(6), HRS, means an individual who receives wages as sole compensation from, and works under the supervision of, an employer who is a contracting entity and who is liable for paying the social security and unemployment taxes on the individual and provides workers' compensation coverage for the individual.

"Fabrication" as used in defining the scope of work in various specialty classifications means field fabrication as opposed to shop fabrication which does not require a contractor's license.

"Financial integrity" means financial responsibility, financial capacity, and history of personal integrity to operate as a contractor and to engage in the contracting business.

"Home improvement contracting" means undertaking or holding oneself out as being able to undertake directly or indirectly renovation, remodeling, repairing, or otherwise improving a residential property for compensation.

"Owner builder exemption" means an owner or lessee of property is exempt from the contractors license law if the structure to be built or improved is for the owner's or lessee's own personal use and not for use or occupancy by the general public; provided that the structure so built or improved is not offered for sale or lease in its entirety or in part within one year after its completion; and, provided further

that the owner or lessee registered for the exemption as provided in section 444-9.1, HRS.

"Partnership" includes, without limitation, general partnerships, limited partnerships, and limited liability partnerships.

"Responsible managing employee" or "RME" means the individual who is a bona fide employee of the contracting entity that maintains a current contractor's license, and who qualifies the contracting entity for a contractor's license in the licensed classifications held by the individual.

"SEC" means the Securities and Exchange Commission. [Eff and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp HRS §444-4) (Imp: HRS §§444-2, 444-4, 444-9.1, 444-11)] (Auth:

§16-77-4 Licenses required. (a) No person within the purview of this chapter shall act, or assume to act, or advertise, as a contractor, general engineering contractor, general building contractor, or specialty contractor without a license previously obtained under and in compliance with this chapter and chapter 444, HRS.

(b) A license may be required for work which poses a potential danger to public health, safety, and welfare even if there may be less than ten persons qualified to perform the work.

(c) Any individual, salesperson, associations of salespersons or entity who solicits for or negotiates a contract or offers to undertake construction work on behalf of more than one contractor shall be treated as a contractor and shall be required to have a contractor's license. [Eff and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp HRS §444-2, 444-4, 444-9, 444-11)] (Auth: HRS §§444-2, 444-9)

SUBCHAPTER 2

PROCESSING LICENSING APPLICATIONS

§16-77-6 Application for license. (a) Each applicant for a contractor's license shall fully complete the application form and submit all supporting documents before the application will be accepted. The application is designed to obtain from the applicant the following:

- (1) A complete statement of the general nature of the applicant's contracting business;
- (2) If the applicant is an individual, the applicant's name and address; if a partnership, the names and addresses of all partners and RME(s); if a

corporation, the names and addresses of all officers and RME(s); if a joint venture, the names and addresses of the members thereto, their officers, and RME(s); if a limited liability company, the names and addresses of all members, managers, and RME(s). Persons acting in any of the capacities set forth in this paragraph shall be deemed to be personnel or employees of the applicant;

- (3) A complete record of all previous experience of the applicant (individual or RME) in the field of construction;
- (4) Whether the applicant or the applicant's personnel or employees, or anyone with whom the applicant or the applicant's personnel has been associated with in the contracting vocation, has ever been licensed or had a professional or vocational license refused, suspended, terminated, forfeited, revoked, or otherwise disciplined; and
- (5) Proof that the applicant has currently satisfied all of the applicable requirements of the department's business registration division.

(b) Nothing in this section shall limit the board's authority to seek from an applicant or applicant's personnel or associates any other information pertinent to the character, experience, reputation for honesty, truthfulness, financial integrity, and fair dealing, and past and future methods of doing business as may be deemed necessary in order to pass upon the applicant's qualifications. [Eff 8/14/80; am and ren §16-77-6, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§444-4, 444-12) (Imp: HRS §§436B-11, 444-9, 444-10, 444-11, 444-12, 444-16)

§16-77-7 Repealed. [R 4/14/88]

§16-77-8 Responsibility of applicant to furnish information; notice by the board. (a) Each individual, RME, officer, director, member, manager, or partner of an applicant or of its joint venturers shall furnish the information requested in the forms prescribed by the board. Any trade name used by a contracting entity shall have been previously registered with the department's business registration division and shall be filed with the board. In the event of any change of information provided on the application, the applicant or the licensee shall notify the board in writing within ten business days of any change.

(b) Any requirement that the board provide notice under chapter 444, HRS, or this chapter shall be deemed met if notice is sent to the last known address on file with the board. [Eff 8/14/80; am and ren §16-77-8, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04;

comp
12, 444-14)

] (Auth: HRS §444-4) (Imp: HRS §§444-4, 444-9, 444-

§16-77-9 Signing and verification of application. Every application for a license shall be signed by the individual applicant or the applicant's authorized representative. Evidence of the authority of the authorized representative shall be filed with the application. [Eff 8/14/80; am and ren §16-77-9, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp 12)] (Auth: HRS §§444-4, 444-9, 444-12) (Imp: HRS §444-

§16-77-10 Supporting documents required. (a) Every applicant shall furnish the following supporting documents:

- (1) A minimum of three notarized letters certifying the individual's or RME's history of honesty, truthfulness, financial integrity, and fair dealing, and experience qualifications in the classification(s) applied for;
- (2) A current credit report covering at least the previous five years of each individual applicant, RME, member of a joint venture, partner of a partnership, manager or member of a limited liability company, and each officer of a corporate entity unless the stock of that corporate entity is publicly traded in which case the requirements in paragraph (3) shall apply;
- (3) Corporate entities that are publicly traded shall, at a minimum, provide the following:
 - (A) Current credit reports of its RME(s);
 - (B) A copy of the prospectus currently filed with the SEC;
 - (C) If available, a copy of the current Standard and Poors, Dun and Bradstreet, or other similar board-approved credit rating report on the corporation;
 - (D) Copies of any proxy statements prepared in the last five years under the requirements of section 14 of the Securities and Exchange Act of 1934, as amended; and
 - (E) If the corporate entity has been publicly traded for:
 - (i) At least five years, the corporate entity shall provide copies of the Form 10-Ks filed within the last five years with the SEC pursuant to section 13 or 15(d) of the Securities and Exchange Act of 1934, as amended; or

- (ii) Less than five years, the corporate entity shall provide copies of the Form 10-Ks currently filed with the SEC; provided that if the corporate entity meets all the other licensing requirements under this chapter and chapter 444, HRS, the corporate entity may be issued a conditional license under section 16-77-24 with the condition that, at a minimum, it continue to provide copies of its future Form 10-Ks filed with the SEC so that the board has at least five years of Form 10-Ks on file.

(b) In addition to the requirements of subsection (a), every applicant, except an RME, shall be required to furnish the board with:

- (1) A current financial statement prepared and signed by a holder of a certificate of certified public accountant or a registered public accountant in the form prescribed by the board;
- (2) A current state tax clearance or current proof of payment arrangement from the department of taxation;

(3) In the case of an applicant who is:

- (A) A corporation or limited liability company organized and existing under the laws of the State, a file-stamped copy of the articles of incorporation or articles of organization, respectively, on file with the department's business registration division;
- (B) A foreign corporation, a file-stamped copy of the certificate of authority on file with the department's business registration division; and
- (C) A domestic or foreign partnership, a copy of the registration statement on file with the department's business registration division.

- (4) A copy of a workers' compensation certificate from an insurer authorized to conduct business in this State that indicates that the policy is in force; or proof that the person has been authorized to act as a self-insurer under chapter 386, HRS, or is excluded from the requirements of chapter 386, HRS. The board shall be notified of any cancellation, termination, or withdrawal of any policy. Applicants claiming an exclusion under chapter 386, HRS, shall submit and sign a statement claiming such exclusion to the board;
- (5) A certificate of insurance from an insurance company or agency authorized to conduct business in this State, an unauthorized insurer in accordance with article 8 of chapter 431, HRS, or a risk retention or risk purchasing group in accordance with chapter 431K, HRS,

showing full policy coverage of the applicant for liability and property damage insurance with the following minimum limits of liability:

Bodily injury liability	\$100,000 each person \$300,000 each occurrence
Property damage liability	\$ 50,000 each occurrence; and

(6) Any surety bond imposed by the board.

(c) The supporting documents required by subsections (a) and (b) (1), (2), and (3) shall be provided with the application, and the documents required by subsections (b)(4), (5), and (6) may be submitted any time prior to issuance of a license.

(d) In the event of any change on these documents at any time, the applicant shall notify the board in writing within thirty days of any change of information. [Eff 8/14/80; am and ren §16-77-10, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp 12] (Auth: HRS §444-4) (Imp: HRS §§444-9, 444-11, 444-12)

§16-77-11 Denial of license application. (a) The board shall deny the issuance of a license when an application is insufficient or incomplete or where the applicant has failed to provide satisfactory proof that the applicant:

- (1) Meets the qualifications under section 444-11, HRS;
- (2) Is qualified by experience or training for the license sought;
- (3) Has the financial integrity to operate as a contractor. As proof of financial integrity, the board may require the applicant to post a surety bond as a condition for licensure; or
- (4) Meets any of the other requirements provided in chapter 444, HRS, or this chapter.

(b) The board may deny issuance of a license when the applicant is known to have committed any of the acts for which a license may be suspended or revoked under chapter 444, HRS, or this chapter.

(c) An application for a license shall be automatically rejected and the applicant shall be denied issuance of a license when:

- (1) The applicant or the applicant's RME, after having been notified to do so, fails to appear for the examination or reexamination, whichever the case may be. The executive officer, upon receiving a written request, may postpone the examination; provided that in no case shall the examination period extend over six months (refer to sections 16-77-43 and 16-77-45); or

(2) The applicant, after having been notified to do so, fails to pay the required fees, fails to file a surety bond as required pursuant to this chapter, or fails to comply with any of the requirements in the law or rules of the board within one hundred twenty days from date of notification.

(d) Any application for a license that has been denied shall remain in the possession of the board for two years and shall not be returned. [Eff 8/14/80; am and ren §16-77-11, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; am and comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-9, 444-10, 444-11, 444-11.1, 444-12, 444-15, 444-16.5, 444-17)

§16-77-12 Application fees. (a) Every application for a license shall be accompanied by the appropriate fees provided in chapter 16-53 and a contractors education fund fee of ten dollars. These fees may be paid by money order or check made payable to the "Department of Commerce and Consumer Affairs."

(b) For purposes of this chapter, the dishonoring of any check upon first deposit shall constitute a failure to meet the fee requirements. [Eff 8/14/80; am and ren §16-77-12, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§26-9, 444-4, 444-11, 444-12, 444-26) (Imp: HRS §§26-9, 444-9, 444-11, 444-12, 444-15, 444-26)

§16-77-13 When partnership or joint venture requires a license. (a) No further license is required when all members of the joint venture or all partners in the partnership submit evidence to the board that all members or partners hold current contractor's licenses; provided that work to be performed is in a classification held by one of the members or partners.

The board shall be notified in writing of all joint ventures and partnerships formed in this manner and the principal RME for the joint venture or partnership.

(b) Joint ventures and partnerships shall be required to obtain a license when any member of the joint venture or any partner in the partnership does not hold a current contractor's license. All unlicensed members in a joint venture or partners in a partnership shall submit current financial statements, credit reports, and a tax clearance, and any other information requested by the board along with the application for licensure.

(c) Except as otherwise provided by law, all joint ventures and partnerships shall be registered with the department's business registration division

prior to engaging in any contracting activity. Joint ventures and partnerships shall provide proof of the registration to the board at the time of application.

(d) A joint venture or partnership licensed under this section shall be required to notify the board of its dissolution within thirty days after its dissolution. Failure to notify the board of the dissolution within the thirty day period shall result in the licenses of the joint venture or partnership being automatically forfeited without a hearing.

(e) The license of a joint venture or partnership shall be automatically forfeited without a hearing if the license of a member or partner is suspended, revoked, terminated, withdrawn, forfeited, or refused to be renewed.

(f) Upon dissolution or forfeiture, the joint venture or partnership shall be prohibited from engaging in contracting and shall not bid upon or enter into new contracts. [Eff 8/14/80; am and ren §16-77-13, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp]
(Auth: HRS §444-4) (Imp: HRS §§444-2, 444-11, 444-11.1, 444-12)

§16-77-14 Posting of information in license application. Whenever an applicant has filed a complete application, the name and address of the applicant, and the names and addresses and official capacity of the applicant's RME(s), officers, members, managers, and partners shall be publicly posted, as part of the board's investigation under section 444-16, HRS, for not less than fourteen days. No license shall be issued until the expiration of the posting period. [Eff 8/14/80; am and ren §16-77-14, 6/22/81; am and comp 11/7/83; comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: §444-16) (Imp: HRS §§444-10, 444-14, 444-16)

§16-77-15 Action on applications. The board shall act upon the license application within one hundred and twenty days after the board's applications committee has determined that the application is proper. [Eff and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§444-4, 444-16) (Imp: HRS §§444-9, 444-16)

SUBCHAPTER 3

LICENSE QUALIFICATIONS

§16-77-18 Experience requirement. (a) Every individual applicant or RME shall have had, within the past ten years immediately preceding the filing of an

application, not less than four years of supervisory experience as a foreman, supervising employee, or contractor in the particular classification in which the applicant intends to engage as a contractor.

(b) Self-employed or unlicensed experience may be acceptable experience in the discretion of the board.

(c) Contracting entities shall qualify through an RME who meets these experience requirements. [Eff 8/14/80; am and ren §16-77-18, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-4, 444-7, 444-8, 444-9, 444-10, 444-11)

§16-77-19 Power of board to approve training as experience. The board in its discretion may approve certain technical training or business administration training as acceptable experience, but in no case shall the training count as more than one year of experience. [Eff 8/14/80; am and ren §16-77-19, 6-22/81; am and comp 11/7/83; am and comp 4/14/88; comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-4, 444-7, 444-8, 444-9, 444-10, 444-11)

§16-77-20 Power of board to accept equivalent knowledge. The board in its discretion may accept any reasonably equivalent knowledge, training, or experience of the applicant in lieu of a specific experience requirement if upon investigation it makes a detailed finding to that effect. [Eff 8/14/80; am and ren §16-77-20, 6/22/81; am and comp 11/7/83; comp 4/14/88; comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-4, 444-7, 444-8, 444-9, 444-10, 444-11)

SUBCHAPTER 4

CONDITIONAL LICENSE

§16-77-24 Power of board to issue conditional licenses. (a) The board may issue a conditional license, provided that the applicant or licensee submits in writing an agreement to comply with any condition the board may establish for the license, including but not limited to the provision that the license may be withdrawn at any time without a hearing upon determination by the board that the licensee has violated the conditions thereof or is otherwise not acting in the best interest of the public in the licensee's contracting business.

- (b) A conditional license may be issued:
- (1) When an applicant or licensee has not met all requirements for the issuance or renewal of a license but the board determines it to be in the best interest of the public to issue or renew the license on a conditional basis;
 - (2) When an applicant or licensee has committed any act which may be grounds for the revocation, suspension, or refusal to renew a license under chapter 444, HRS; but the board has determined it to be in the best interest of the public to have the applicant or licensee obtain or retain the license on a conditional basis; or
 - (3) Under other circumstances in which the board determines it to be in the best interest of the public that a person be issued a conditional license.
- (c) A conditional license shall be subject to the same requirements and license fees as an unconditional license and shall be renewable. Converting a conditional license to an unconditional license shall be by action of the board upon request by the licensee and there shall be no additional fees for this conversion. A conditional license shall remain in that status for at least one year. [Eff 8/14/80; am and ren §16-77-24, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-4, 444-9, 444-11, 444-11.1, 444-12, 444-13)

SUBCHAPTER 5

CLASSIFICATION

§16-77-28 All contractors classified. (a) All persons licensed under chapter 444, HRS, shall be classified by the board into one or more classifications or subclassifications, or both, as follows:

General engineering contractor	"A"
General building contractor	"B"
Specialty contractor	"C"

(b) The definitions of these classifications shall be as provided in section 444-7, HRS.

(c) Exhibit A, entitled Specialty Contractor Classifications, dated May 23, 2003, located at the end of this chapter, is hereby incorporated into and made a part of this chapter.

(d) Classifications under C-68 classified specialist may be established by the board until the work performed is defined and a hearing is held to establish the

proper classification. A C-68 classified specialist shall be subject to the same requirements as other contractor classifications.

(e) The board, after a hearing, may establish or modify or delete existing classifications, based on established usage in the construction industry. [Eff 8/14/80; am and ren §16-77-28, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; am and comp 4/15/04; comp] (Auth: HRS §§444-4, 444-7, 444-8) (Imp: HRS §§444-7, 444-8, 444-9, 444-10, 444-11, 444-13)

SUBCHAPTER 6

SCOPE OF CLASSIFICATIONS

§16-77-32 General engineering, general building, and specialty contractors.
(a) Licensees who hold the "A" general engineering contractor classification shall automatically hold the following specialty classifications without further examination or paying additional fees:

- (1) C-3 asphalt paving and surfacing;
- (2) C-9 cesspool;
- (3) C-10 scaffolding;
- (4) C-17 excavating, grading, and trenching;
- (5) C-24 building moving and wrecking;
- (6) C-31a cement concrete;
- (7) C-32 ornamental guardrail, and fencing;
- (8) C-35 pile driving, pile and caisson drilling, and foundation;
- (9) C-37a sewer and drain line;
- (10) C-37b irrigation and lawn sprinkler systems;
- (11) C-38 post tensioning;
- (12) C-43 sewer, sewage disposal, drain, and pipe laying;
- (13) C-49 swimming pool;
- (14) C-56 welding;
- (15) C-57a pumps installation;
- (16) C-57b injection well;
- (17) C-61 solar energy systems.

(b) The "A" general engineering contractor may also install poles in all new pole lines and replace poles, provided that the installation of the ground wires, insulators, and conductors is performed by a contractor holding the C-62 pole and line classification. The "A" general engineering contractor may also install duct lines, provided that the installation of conductors is performed by a contractor holding the C-13 electrical classification.

(c) Licensees who hold the "B" general building contractor classification shall automatically hold the following specialty classifications without further examination or paying additional fees:

- (1) C-5 cabinet, millwork, and carpentry remodeling and repairs;
- (2) C-6 carpentry framing;
- (3) C-10 scaffolding;
- (4) C-12 drywall;
- (5) C-24 building moving and wrecking;
- (6) C-25 institutional and commercial equipment;
- (7) C-31a cement concrete;
- (8) C-32a wood and vinyl fencing;
- (9) C-42a aluminum and other metal shingles;
- (10) C-42b wood shingles and wood shakes.

(d) Licensees who hold a specialty contractors license shall automatically hold the subclassifications of the licensee's particular specialty without examination or paying additional fees. [Eff 8/14/80; am and ren §16-77-32, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§444-4, 444-8) (Imp: HRS §§444-7, 444-8, 444-9, 444-10)

§16-77-33 Limitation of classifications. (a) A licensee classified as an "A" general engineering contractor or as a "B" general building contractor shall not act, assume to act, or advertise as a specialty contractor except in the specialty classifications which the licensee holds.

(b) A general building contractor license does not entitle the holder to undertake a contract unless it requires more than two unrelated building trades or crafts or unless the general building contractor holds the specialty license to undertake the contract. Work performed which is incidental and supplemental to one contractor classification shall not be considered as unrelated trades or crafts.

(c) A licensee classified as a specialty contractor shall not act, assume to act, or advertise as a contractor in any classification other than those which the licensee holds.

(d) Any licensee who acts, assumes to act, or advertises in any classification other than for which the licensee is duly licensed under this chapter shall be construed to be engaged in unlicensed activity. [Eff 8/14/80; am and ren §16-77-33, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§444-4, 444-8) (Imp: HRS §§444-7, 444-8, 444-9, 444-9.2, 444-10)

§16-77-34 Work incidental and supplemental. (a) "Incidental and supplemental" is defined as work in other trades that is subordinate to, directly related to, and necessary for the completion of the [project undertaken by a licensee pursuant to] work of greater importance that is within the scope of the licensee's license (i.e., the primary work the specialty contractor is licensed to perform).

(b) In addition to subsection (a), to qualify as incidental and supplemental work, that work must also represent less than a majority of the project (as measured in relation to the project's total cost or extent of work).

(c) For purposes of this section, "majority" means any amount greater than fifty per cent. [Eff 8/14/80; am and ren §16-77-34, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; am and comp] (Auth: HRS §§444-4, 444-7) (Imp: HRS §§444-7, 444-8, 444-9)

§16-77-35 Additional classifications. (a) A licensee may obtain additional classifications by filing an application, paying the appropriate fees, meeting the requirements regarding experience in the classification requested, and passing the appropriate part II examination.

(b) A licensee holding a specialty contractor's license who is applying for an "A" general engineering or "B" general building contractor's license may be required to submit a current financial statement and other supporting documents. [Eff 8/14/80; am and ren §16-77-35, 6/22/81; am and comp 11/7/83; comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§444-4, 444-7) (Imp: HRS §§444-7, 444-8, 444-9, 444-15)

SUBCHAPTER 7

EXAMINATIONS

§16-77-39 Examination - part I. All applicants for a contractor's license shall be required to take and successfully pass a written examination designed to test the applicant's general knowledge of the building, safety, health, labor, and lien laws of the State and of the basic administrative principles of the contracting business. [Eff 8/14/80; am and ren §16-77-39, 6/22/81; am and comp 11/7/83; comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-10, 444-11)

§16-77-40 Examination - part II. All applicants for a contractor's license shall be required to take and successfully pass a written examination designed to test the applicant's specialized knowledge in the particular classification in which the applicant desires to be licensed. [Eff 8/14/80; am and ren §16-77-40, 6/22/81; am and comp 11/7/83; comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-10, 444-11)

§16-77-41 Examination not required. An examination shall not be required when the applicant has previously qualified by written examination within a period of four years prior to application, or within four years from the date the applicant was last licensed in good standing or in an inactive status, provided the applicant applies for a license in the same classification in which the applicant previously qualified by examination. [Eff 8/14/80; am and ren §16-77-41, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-10, 444-11)

§16-77-42 Use of interpreters. (a) In exceptional cases with the express approval of the board, an applicant may use an interpreter to read and translate the examination questions to the applicant in the examination room.

(b) An interpreter shall be prohibited from answering, in any way, the questions for the applicant. Any violation of this subsection shall constitute examination misconduct and the applicant shall be subject to penalties provided in section 16-77-46. The applicant shall be responsible for obtaining an interpreter, who shall not currently be or have been in the construction business, and shall pay a fee in addition to the examination fee. The board may evaluate the person's qualifications to be an interpreter and may restrict the number of times a person can be an interpreter in a twelve-month period. [Eff 8/14/80; am and ren §16-77-42, 6/22/81; comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-10, 444-11)

§16-77-43 Notice of examination. All applicants whose applications have been approved shall be given an application for examination and shall apply to the testing agency for examination. The board shall send notice to the applicant's last known address on file with the board. Examinations are given monthly. Unless applicants are otherwise notified, examinations shall be taken at the regularly scheduled time. [Eff 8/14/80; am and ren §16-77-43, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-10, 444-11)

§16-77-44 Passing grade. A grade of seventy-five per cent shall be a minimum passing grade for each part of any examination. [Eff 8/14/80; am and ren §16-77-44, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-10, 444-11)

§16-77-45 Failure to pass examination. Applicants failing to obtain a passing grade on the first examination may schedule a second examination and shall pay the appropriate fees. Applicants who fail to pass the examination within six months shall file a new application and application fee. [Eff 8/14/80; am and ren §16-77-45, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §444-4)

§16-77-46 Examination misconduct. (a) Any misconduct by an applicant during an examination shall be prohibited and subject to action by the board. Acts of misconduct during an examination include, but are not limited to, any of the following:

- (1) Failure to follow examination instructions or procedures;
 - (2) Unauthorized communication between candidates or with others inside or outside of the examination room;
 - (3) Copying another candidate's answers or allowing one's answers to be copied;
 - (4) Allowing another person to sit in the examination room and take the examination for the applicant;
 - (5) Reference to crib sheets, outlines, textbooks, or other unauthorized materials inside or outside the examination room;
 - (6) Leaving the examination room without prior approval; or
 - (7) Removal of any examination booklet, answer booklet, answer sheet, or workpapers from the examination room without permission.
- (b) Action by the board may include invalidating the entire examination

and suspending an applicant from taking the examination again for a period of up to three years. Prior to imposing any action under this subsection, the applicant shall be afforded an opportunity to appear before the board. [Eff and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§436B-7, 444-4) (Imp: HRS §§436B-7, 444-4, 444-11)

SUBCHAPTER 8

RENEWAL OF LICENSES

§16-77-49 Notice of renewal. Before August 15 of each even-numbered year the board shall mail to every licensee, except those whose license has been revoked, forfeited, terminated, withdrawn, or under suspension, a notice of renewal application to the last known address of the licensee on file with the board. [Eff 8/14/80; am and ren §16-77-49, 6/22/81; comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4)
(Imp: HRS §444-15)

§16-77-50 Date for filing. All licensees shall complete and submit a renewal application as provided by the board together with all documents required under section 16-77-55 and pay the required fees, including the recovery and education fund fees, on or before September 30 of each even-numbered year. Failure, neglect, or refusal of any licensee to pay the fees and submit all required documents by September 30 of each even-numbered year shall result in the automatic forfeiture of the licensee's license without a hearing. The license shall be forfeited as of October 1 of the even-numbered year. [Eff 8/14/80; am and ren §16-77-50, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04 comp] (Auth: HRS §444-4) (Imp: HRS §§444-11.1, 444-13, 444-15)

§16-77-51 Restoration of forfeited license. Forfeited licenses may be restored by filing a renewal application along with all required documents, and paying the renewal fees, including the recovery and education fund fees, plus a penalty fee on or before November 30 of the renewal year. Licensees who fail to restore their licenses by November 30 shall be required to apply as new applicants, and shall file a new license application form along with all required supporting documents and fees. [Eff 8/14/80; am and ren §16-77-51, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §444-15)

§16-77-52 Board may refuse to renew. The board may refuse to renew or restore a license for failure or refusal of the licensee:

- (1) To properly complete the renewal application form and submit all documents required under section 16-77-55 and all fees required under section 16-77-54;
- (2) To comply with the rules of the board or section 444-17, HRS; or
- (3) To meet any of the qualifications under section 444-11, HRS, or this chapter. [Eff 8/14/80; am and ren §16-77-52, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-4, 444-11, 444-11.1, 444-15, 444-17)

§16-77-53 Proper filing authorizes contractor to operate. The proper filing of a renewal application by September 30 of the even-numbered year authorizes operation as a contractor by the licensee until the actual issuance of the renewal license for the ensuing license period. The date upon which a renewal application is filed shall be determined:

- (1) If sent by mail, by the date of the United States Postal Service postmark appearing upon the envelope containing the application; or
- (2) If personally delivered, by the time stamp marked immediately upon receipt thereof. [Eff 8/14/80; am and ren §16-77-53, 6/22/81; am and comp 11/7/83; comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-13, 444-15)

§16-77-54 Renewal fees. (a) Prior to September 30 of each even-numbered year, all licensees shall submit the appropriate renewal fees provided in chapter 16-53 and the following:

- (1) A contractors education fund fee of five dollars; and
 - (2) A contractors recovery fund fee of ten dollars.
- (b) These fees shall be payable to the "Department of Commerce and Consumer Affairs". [Eff 8/14/80; am and ren §16-77-54, 6/22/81; comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§26-9, 444-4, 444-15) (Imp: HRS §§26-9, 444-15)

§16-77-55 Conditions for renewal of license. (a) No license shall be renewed until the licensee continues to meet the requirements of sections 444-11, 444-11.1, and 444-17, HRS, and of this chapter including, but not limited to, proof of financial integrity.

- (b) To establish financial integrity, the licensee shall submit:
- (1) A current state tax clearance or proof of payment arrangement, and a statement disclosing or denying the existence of any liens, undisputed debts or judgments against the licensee relating to services or materials rendered in connection with operations as a contractor; and
 - (2) Proof that the licensee has continuously maintained workers' compensation insurance, is authorized to act as a self-insurer under chapter 386, HRS, or is excluded from the requirements of chapter 386, HRS;
 - (3) Proof that liability and property damage insurance has been maintained in the following amounts:

Bodily injury	\$100,000 each person \$300,000 each occurrence
Property damage	\$ 50,000 each occurrence; and

- (4) Proof that any surety bond imposed by the board is current.
- (c) The board may, at the time of renewal, consider any material

submitted to it concerning a licensee's financial integrity and shall give the licensee an opportunity to respond before the board to any allegations made concerning the licensee's financial integrity.

(d) The board may refer any allegations concerning a licensee's lack of financial integrity for a hearing conducted pursuant to chapter 91, HRS. [Eff 8/14/80; am and ren §16-77-55, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-11, 444-11.1, 444-15, 444-17)

§16-77-56 Inactive status. (a) An inactive licensee may reactivate the license by submitting an application, application fee, current financial statement, tax clearance, and credit report to the board. An inactive licensee may reactivate the license as an RME by submitting an application, application fee, and a current credit report.

(b) The board shall review the request and supporting documents as if the request was a new application for a license. [Eff and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-11, 444-11.1, 444-12, 444-15)

SUBCHAPTER 9

§16-77-59 Repealed. [R 4/14/88]

SUBCHAPTER 10

SUSPENSION, REVOCATION, DISSOCIATION, DISSOLUTION

§16-77-63 Alternatives in lieu of revocation or suspension. (a) Failure of any licensee, including RMEs, to comply with any provision of chapter 444, HRS, or this chapter shall be grounds for suspension, revocation, or refusal to renew the license. The board may, in its discretion and in lieu of suspension, revocation, or non-renewal of license, impose a bond, fine, or other condition acceptable to all interested parties.

(b) To reinstate a license which was under suspension, the licensee may, in addition to meeting any conditions imposed for reinstatement, be required to show proof of workers' compensation, liability, and property damage insurance, submit a current financial statement, credit report, tax clearance, and as added proof of financial integrity, a bond in an amount to be determined by the board. [Eff 8/14/80; am and ren §16-77-63, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4)
(Imp: HRS §§444-11, 444-16.5, 444-17)

§16-77-64 Notice due board on death, dissociation, or disability of RME; forfeiture of license. (a) A contracting entity who qualified for licensure by employment of an RME shall within sixty days after the death, dissociation, or disability of the RME, notify the board of the death, dissociation, or disability of the RME. The contracting entity shall submit an application to qualify a new RME or place its license on inactive status within ninety days of the death, dissociation, or disability of the RME. The contracting entity may continue to operate until the board makes a final determination upon its timely application to qualify a new RME; provided that the entity may not bid upon or enter into new contracts until the board's determination is made.

(b) "Disability" includes any situation in which the direct management of the licensed contracting entity's business is no longer under the control of the principal RME or when a subordinate RME is unable to be responsible for all construction activities relating to the license classifications held by the subordinate RME.

(c) Failure of the contracting entity to notify the board of the death, dissociation, or disability of the RME within the sixty-day period shall result in the license being automatically forfeited without a hearing. The license may be restored when the contracting entity employs another licensed individual as the contracting entity's RME and the entity files a new application with the board.

(d) Failure of the contracting entity to submit an application for a new principal RME within ninety days of the death, dissociation, or disability, and to qualify a new principal RME within the time period allowed by the board shall result in the automatic forfeiture of the contracting entity's license without a hearing.

(e) Contracting entities shall not bid or enter into contracts without having a principal RME in its employ who has direct management of the contracting business.

(f) An RME who dissociates from the contracting entity shall notify the board within sixty days of the dissociation. The RME shall, within ninety days of the dissociation:

- (1) Apply to become a contracting entity by submitting a current financial statement, fees, tax clearance or proof of payment arrangement, credit report, and required insurance;
- (2) Obtain employment with another contracting entity which shall submit a proper application thereof; or
- (3) Place the license on an inactive status.

(g) Failure of the RME to complete one of the three actions in subsection (f) within ninety days of the dissociation shall cause the automatic forfeiture of the license without a hearing. [Eff 8/14/80; am and ren §16-77-64, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; am and comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-4, 444-11, 444-11.1, 444-12, 444-15, 444-16, 444-21)

§16-77-65 Board jurisdiction to proceed. The lapsing, forfeiture, termination, or suspension of a license by operation of law, or by order or decision by the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license. [Eff 8/14/80; am and ren §16-77-65, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: §§436B-22, 444-35)

SUBCHAPTER 11

OWNERSHIP AND MANAGEMENT OF LICENSE

§16-77-69 License issued. A contracting entity shall have a contractor's license prior to engaging in contracting. A contractor's license shall only be issued to a contracting entity if:

- (1) The contracting business is under the direct management of an individual who holds an appropriate and current license and who is the principal RME thereof; and
- (2) The contracting entity has met the financial integrity and capacity requirements to engage in the contracting business provided in this chapter and chapter 444, HRS. [Eff 8/14/80; am and ren §16-77-69, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: §444-4) (Imp: HRS §§444-1, 444-11, 444-12)

§16-77-70 Direct management of the contracting business. (a) "Direct management of the contracting business" as used in chapter 444, HRS, and this chapter means the general supervision of the construction projects undertaken by the contracting entity, the control of technical and administrative decisions, personnel management, the review of construction contracts, and enforcing compliance with all laws and rules affecting the contracting business.

(b) The contracting business of a contracting entity shall be under the direct management of a principal RME. [Eff 8/14/80; am and ren §16-77-70, 6/22/81; am and comp 11/7/83; comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §444-4)

§16-77-71 Principal and subordinate RMEs. (a) Contracting entities may have in their employ more than one RME, but shall designate in every case a principal RME who shall be primarily responsible for the direct management of the business of the contracting entity and who shall be:

- (1) In a position to secure full compliance with the laws governing contractors, including but not limited to chapter 444, HRS, and this chapter;
- (2) Familiar with all contracts the contracting entity enters into, sees that all contract provisions are carried out, and signs or initials all contracts;

- (3) Familiar with all projects the contracting entity undertakes and sees that records are kept on the projects, which shall include the amount of time the principal RME spends with the contracting entity and payroll records of the principal RME;
 - (4) In residence in the State during the time the license of the contracting entity is in effect or during the period a project is under construction; and
 - (5) Held responsible for any violation of this chapter or chapter 444, HRS.
- (b) Other RMEs employed but not designated by the contracting entity as the principal RME shall be referred to as subordinate RMEs and shall be responsible for all activities relating to the classifications held by the subordinate RME.
- (c) An RME shall not be considered a contracting entity and shall be considered to be engaging in unlicensed activity if the RME enters into a contract other than for the contracting entity by whom the RME is employed. [Eff 8/14/80; am and ren §16-77-71, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4)
(Imp: HRS §§444-4, 444-9, 444-11, 444-15, 444-17, 444-21)

§16-77-72 RME for more than one contracting entity. An individual may be an RME for more than one contracting entity if:

- (1) There is a common ownership of at least fifty-one per cent of the equity of each contracting entity for which the individual acts as the RME;
- (2) A contracting entity is a subsidiary of or joint venture with another contracting entity;
- (3) There is a direct family relationship between the RME and the officers, directors, members, managers, or partners of the other contracting entities for which the individual acts as the RME; or
- (4) There is a direct family relationship between the officers, directors, members, managers, and partners of all contracting entities for which the individual acts as the RME; and
- (5) The board is satisfied that it is in the public's interest and that the individual is competent, able, and qualified to be an RME for more than one contracting entity. [Eff 8/14/80; am and ren §16-77-72, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-4, 444-9, 444-11)

§16-77-73 License nontransferable. Any license issued under chapter 444, HRS, or this chapter shall be nontransferable. [Eff 8/14/80; am and ren §16-77-73, 6/22/81; am and comp 11/7/83; comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: §§444-4, 444-9)

§16-77-74 Repealed. [R 4/15/04]

§16-77-75 Revocation, suspension, termination, withdrawal, forfeiture, and refusal to renew license of RME; fines. (a) The license of an RME may be suspended, revoked, terminated, withdrawn, forfeited, or refused to be renewed if the license of the contracting entity for which the person is the RME is revoked, terminated, withdrawn, forfeited, suspended, or refused renewal pursuant to chapter 444, HRS, and this chapter. An RME may be fined if the contracting entity for which the person is the RME is fined for violating the provisions of chapter 444, HRS, and this chapter.

(b) The license of the principal RME shall be automatically terminated upon issuance of a court order authorizing payment from the contractors recovery fund. The license of the subordinate RME who holds the classification within which arose the activities leading to a court order authorizing payment from the contractors recovery fund shall be automatically terminated upon issuance of a court order authorizing payment from the contractors recovery fund. [Eff 8/14/80; am and ren §16-77-75, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 2/9/02; comp 4/15/04; comp] (Auth: HRS §§444-4, 444-17) (Imp: §§444-4, 444-17, 444-28)

§16-77-76 Maintenance of bond. (a) All licensees shall be required to maintain any surety bond imposed by the board for at least one year before requesting a waiver of the surety bond.

(b) The board may, in its discretion, waive the surety bond if a licensee demonstrates that it has financial integrity. The board may require a licensee to submit current credit reports, current financial statements, a current state tax clearance or proof of payment arrangement, and other documents to show evidence of financial integrity. [Eff and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §§444-11.1, 444-16.5)

SUBCHAPTER 12

DISCLOSURE TO OWNERS; CONTRACTS

§16-77-79 Disclosure to homeowners. (a) Contractors engaging in home construction or home improvements shall, prior to obtaining a binding contract from the homeowner and prior to applying for a building permit:

- (1) Disclose all information pertaining to the contract and its performance, the absence of which might mislead the homeowner to the homeowner's detriment including but not limited to the lien rights of labor, suppliers, and subcontractors;
 - (2) Disclose the scope of work to be performed;
 - (3) Disclose the approximate percentage of work to be subcontracted;
 - (4) Disclose whether the contractor is bonded or not and whether the owner has a right to demand bonding on the work to be performed; provided that if the contractor is not bonded, the contractor shall disclose the extent of the financial security available to assure performance of the contract;
 - (5) Disclose the contractor's license number and contractor classification(s);
 - (6) Disclose all warranties, if any; and
 - (7) Provide an estimate of the cost of work to be performed.
- (b) For purposes of this chapter, "homeowner" means the owner or lessees of residential real property, including without limitation owners or lessees of private residences, condominiums, or cooperative units. [Eff 8/14/80; am and ren §16-77-79, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§444-4, 444-25.5) (Imp: HRS §444-25.5)

§16-77-80 Homeowner contracts. (a) All contractors shall provide homeowners with a written contract involving home construction or improvements which shall provide the following:

- (1) The name, address, license number, and classification(s) of the contractor;
- (2) The exact dollar amount due from the homeowner under the contract;
- (3) The date work is to commence and number of days for completion;
- (4) The scope of the work to be performed and materials to be used;
- (5) The approximate percentage of work to be subcontracted and the names and license numbers of all subcontractors, if any;

- (6) A clear statement of the risk of loss of any payments made to a sales representative (printed in distinct capital letters next to the owner's signature line);
 - (7) A provision explaining the lien rights of all parties performing under the contract including the contractor, any subcontractor, or any materialman supplying commodities or labor on the project;
 - (8) The terms of any warranty offered; and
 - (9) The signatures of the homeowner and the contractor.
- (b) The contract shall be executed prior to the performance of any home construction or improvement.

(c) For purposes of section 444-25.5, HRS, and this section, "home construction or improvements" shall not include service-type work (e.g., maintenance work performed by electrical and plumbing contractors) that does not require a permit by a county or other local subdivision of the State. [Eff and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: §§444-4, 444-25.5) (Imp: HRS §444-25.5)

SUBCHAPTER 13

ADVERTISING PRACTICES

§16-77-83 Advertising through the media. A contracting entity advertising through any media shall be identified as a licensed contractor by listing the name under which the licensee is licensed or the licensee's trade name which has been filed with the board, and the licensee's license number. For the purpose of this section, "media" includes, but is not limited to, newspapers, magazines, radio, television, the Internet, and directories, including all listings in the yellow pages. [Eff 8/14/80; am and ren §16-77-83, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: §§444-4, 444-9.2) (Imp: HRS §444-9.2)

SUBCHAPTER 14

PLACE OF BUSINESS

§16-77-87 All licensees to have place of business. No license shall be issued or renewed to any contracting entity, except RMEs, who does not maintain a permanent place of business within the State where the contracting entity may be served notice and legal process, and where the contracting entity's license is

prominently displayed. For purposes of this section, "permanent place of business" means a physical address, not a post office box number. [Eff 8/14/80; am and ren §16-77-87, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp HRS §444-14) (Imp: HRS §444-14)

§16-77-88 Change of address. A licensee shall notify the board of any change of address within ten business days of the change. All notices required to be sent by the board under this chapter or chapter 444, HRS, shall be sent to the last known address on file with the board. [Eff 8/14/80; am and ren §16-77-88, 6/22/81; am and comp 11/7/83; comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp HRS §444-4) (Imp: HRS §444-14)

§16-77-89 Place of business for out-of-state licensees. (a) For out-of-state licensees, this section shall apply as to a place of business in the State.

(b) Attorney's offices or other similar offices in the State may be listed as the place of business for out-of-state licensees; provided that an individual (or individuals) within the office is or acts as an agent or representative of the licensee who:

- (1) Can be served with notice and legal process;
- (2) Will receive all inquiries and other correspondence on behalf of the licensee; and
- (3) Will be responsible to see that the inquiries and other correspondence are expeditiously taken care of.

If an attorney's office or other similar office in the State is listed as the place of business for an out-of-state licensee, information regarding the name of the agent or representative, and a telephone number where the agent or representative can be contacted shall be provided to the board and made available to the public.

(c) Out-of-state addresses may be listed as the place of business for out-of-state licensees; provided that the contractor's license of the licensee is on inactive status. Inactive status is provided for in section 444-15, HRS.

(d) Post office box numbers shall not be listed as the place of business for out-of-state licensees.

(e) The contractor's license shall be prominently displayed in the out-of-state licensee's place of business in this State. [Eff 8/14/80; am and ren §16-77-89, 6/22/81; am and comp 11/7/83; am and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp HRS §444-14) (Imp: HRS §444-14)

SUBCHAPTER 15

§16-77-93 Repealed. [R 4/14/88]

SUBCHAPTER 16

RESPONSIBILITY FOR GOOD WORKMANSHIP

§16-77-97 Performance. Licensees shall perform all work in a workmanlike manner. Workmanship shall conform to trade standards. [Eff 8/14/80; am and ren §16-77-97, 6/22/81; comp 11/7/83; comp 4/14/88; comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §444-4) (Imp: HRS §444-4)

SUBCHAPTER 17

RECOVERY AND EDUCATION FUNDS

§16-77-100 Recovery fund assessments. (a) If a contractor fails to pay the contractors recovery fund fee provided in section 444-27, HRS, within sixty days from the date of the assessment, the contractor's license shall be automatically forfeited without a hearing.

(b) A license forfeited under subsection (a) may be restored upon submittal of the assessed contractors recovery fund fee plus a penalty fee of ten dollars within thirty days of forfeiture. Failure to submit these fees within this time period shall require the contractor to apply as a new applicant. The contractor shall be required to pay these fees, in addition to meeting the other requirements contained in this chapter and chapter 444, HRS, as a condition of relicensure. [Eff and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§444-4, 444-27) (Imp: HRS §444-27)

§16-77-101 Use of education fund fees. (a) The board may authorize the use of the funds deposited in the contractors education fund for the consuming public, licensees, board members, and staff.

(b) The education funds may be used for publications, media exposure, seminars, participation in national associations, classes, and any other educational purposes the board deems necessary.

(c) The board may also use these funds to improve the services of the board's staff to the consuming public and licensees. [Eff and comp 11/7/83; comp

4/14/88; am and comp 12/9/02; comp 4/15/04; comp
HRS §§444-4, 444-29) (Imp: HRS §444-29)

] (Auth:

SUBCHAPTER 18

ADMINISTRATIVE PROCEDURES

§16-77-105 Administrative practice and procedure. The rules of practice and procedure of the department, chapter 16-201, are incorporated by reference herein and made a part of this chapter. [Eff and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§91-2, 91-3, 91-8, 91-9, 444-4) (Imp: HRS §§91-2, 91-9)

§16-77-106 Oral testimony. (a) The board shall accept oral testimony on any item which is on the board's agenda, provided that the testimony shall be subject to the following conditions:

- (1) Each person seeking to present oral testimony shall so notify the board not later than forty-eight hours prior to the meeting, and at that time shall state the item on which testimony is to be presented;
- (2) The board may request that any person providing oral testimony submit the remarks, or a summary of the remarks, in writing to the board;
- (3) The board may rearrange the items on the agenda for the purpose of providing for the most efficient and convenient presentation of oral testimony;
- (4) Persons presenting oral testimony shall, at the beginning of the testimony, identify themselves and the organization, if any, that they represent;
- (5) The board may limit oral testimony to a specified time period but in no case shall the period be less than five minutes, and the person testifying shall be informed prior to the commencement of the testimony of the time constraints to be imposed; and
- (6) The board may refuse to hear any testimony which is irrelevant, immaterial, or unduly repetitious to the agenda item on which it is presented.

(b) Nothing in this section shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is currently the subject of a proceeding which is subject to the hearings relief, declaratory relief, or rule relief provisions of chapter 16-201.

(c) Nothing in this section shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the board on any particular matter on the board's agenda. [Eff and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp]
(Auth: HRS §444-4) (Imp: HRS §92-3)

§16-77-107 Referral for hearing. The board may refer any disputed matter to a hearing pursuant to chapter 91, HRS, including but not limited to allegations concerning the experience or financial integrity of an applicant or a licensee. [Eff and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp]
(Auth: HRS §444-4) (Imp: HRS §§444-11, 444-11.1, 444-16)

SUBCHAPTER 19

ASBESTOS CONTRACTORS

§16-77-111 Definitions. As used in this subchapter or in chapter 444, HRS: "Asbestos-containing material" means any material that contains more than one per cent asbestos.

"Asbestos project" means any activity involving the demolition, renovation, or encapsulation of friable asbestos materials.

"Demolition" means the wrecking or taking of any load-supporting structural member related to or containing friable asbestos materials, and any related removing or stripping of friable asbestos materials.

"Encapsulate" means to coat, bind, or resurface walls, ceilings, pipes, or other structures to prevent friable asbestos from becoming airborne.

"Friable asbestos" means any asbestos-containing material that can be crumbled, pulverized, or reduced to powder, when dry, by hand pressure and includes previously non-friable material after such previously non-friable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

"Renovation" means the removal or stripping of friable asbestos materials used on any pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member. [Eff and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§444-4, 444-7.5) (Imp: HRS §444-7.5)

§16-77-112 License required. (a) Any person or contracting entity who engages in any activity involving the application, enclosure, removal, encapsulation,

renovation, repair, demolition, or other disturbances of friable asbestos or asbestos-containing material that may become friable during the activity shall be licensed as an asbestos contractor by the board under chapter 444, HRS, and this chapter.

(b) Contractors holding licenses which include maintenance, repair, or removal of asbestos pipe or sheets, vinyl asbestos floor materials, or asbestos bituminous or resinous materials in their scope of activity of the license are exempt from obtaining a separate asbestos classification provided the activity is performed in a manner that no health hazard is posed to the public, the contractor, or the contractor's employees. [Eff and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§444-4, 444-7.5) (Imp: HRS §§444-7, 444-7.5, 444-9, 444-11)

§16-77-113 Requirements for license. (a) Applicants for an asbestos contractor's license shall meet all licensing requirements as required for other specialty contractors with the exception of the experience requirements under section 16-77-18. In lieu of these experience requirements, applicants shall meet the asbestos training requirements under section 16-77-114.

(b) Applicants shall submit proof of training obtained pursuant to this subchapter by the applicant, the RME, and all asbestos abatement workers or employees hired by the applicant. [Eff and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§444-4, 444-7.5) (Imp: HRS §§444-7, 444-7.5, 444-8, 444-9, 444-11)

§16-77-114 Training requirements. (a) Applicants shall submit proof of the successful completion by the applicant or the applicant's RME, as the case may be, of a four-day Environmental Protection Agency (EPA) or board approved asbestos training course taken within two years prior to the filing of the application for license. The training shall include lectures, demonstrations, six hours of hands-on training, individual respirator fit testing, course review, and a written examination. The written examination shall consist of one hundred multiple choice questions and the passing score shall be seventy per cent. The following topics shall be adequately addressed in the training:

- (1) The physical characteristics of asbestos, and asbestos-containing materials, including identification of asbestos, aerodynamic characteristics, typical uses, and physical appearance; a review of hazard assessment considerations; and a summary of abatement control options;
- (2) Potential health effects related to asbestos exposure, including the nature of asbestos-related diseases; routes of exposure; dose-response

- relationships and the lack of a safe exposure level; synergism between cigarette smoking and asbestos exposure; and latency period for disease;
- (3) Employee personal protective equipment, including classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of a personal protective clothing; use, storage, and handling of non-disposable clothing; and regulations covering personal protective equipment;
 - (4) State-of-the-art work practices, including proper work practices for asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lockout; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation equipment; use of high efficiency particulate air (HEPA) vacuums; proper clean-up and disposal procedures; work practices for removal, encapsulation, enclosure, and repair; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures, and recommended and prohibited work practices; and any new abatement-related techniques and methodologies;
 - (5) Personal hygiene, including entry and exit procedures for the work area; use of showers; and avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area; and other potential exposures, such as family exposure;
 - (6) Additional safety hazards, including hazards encountered during abatement activities and how to deal with them, such as electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, scaffold and ladder hazards, slips, trips, and falls, and confined spaces;
 - (7) Medical monitoring, including Occupational Safety and Health Administration (OSHA) requirements for a pulmonary function test, chest X-rays, and a medical history for each employee;
 - (8) Air monitoring, including procedures to determine airborne concentrations of asbestos fibers that will provide a description of

aggressive sampling, sampling equipment and methods; reasons for air monitoring, types of samples, and interpretation of results, specifically from analysis performed by polarized light, phase-contrast, and electron microscopy analyses;

- (9) Relevant federal, state, and local regulatory requirements including:
 - (A) Requirements of the Toxic Substances Control Act Title II, Asbestos Hazard Emergency Response (P.L. 99-519, 100 Stat. 2970, et seq., 15 U.S.C. §2641 et seq.);
 - (B) National Emission Standards for Hazardous Air Pollutants, (40 CFR Part 61, Subparts A (General Provisions) and M (National Emission Standard for Asbestos));
 - (C) OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR §1910.134);
 - (D) OSHA Asbestos Construction Standard (29 CFR §1926.1101); and
 - (E) EPA Worker Protection Rule (40 CFR Part 763, Subpart G (Asbestos Abatement Projects));
- (10) Respiratory protection programs and medical surveillance programs;
- (11) Insurance and liability issues, including contractor issues; workers' compensation coverage and exclusions; third-party liabilities and defenses; insurance coverage and exclusions;
- (12) Recordkeeping for asbestos abatement projects, including records required by federal, state, and local regulations; and records recommended for legal and insurance purposes;
- (13) Supervisory techniques for asbestos abatement activities, including supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices;
- (14) Contract specifications, involving key elements that are included in contract specifications; and
- (15) Course review of key aspects of the training course.

(b) Applicants shall submit proof of the successful completion by the applicant's asbestos abatement workers or employees of a three-day EPA or board approved asbestos training course taken within two years prior to the filing of the application for license. The training shall include lectures, demonstrations, six hours of hands-on training, individual respirator fit testing, course review, and a written examination. The written examination shall consist of fifty multiple choice questions and the passing score shall be seventy per cent. The following topics shall be adequately addressed in the training:

- (1) Physical characteristics of asbestos, including identification of asbestos, aerodynamic characteristics, typical uses, and physical appearance, and a summary of abatement control options;
- (2) Potential health effects related to asbestos exposure, including the nature of asbestos-related diseases, routes of exposure, dose-response relationships and the lack of a safe exposure level, synergism between cigarette smoking and asbestos exposure, and latency period for disease;
- (3) Employee personal protective equipment, including classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of non-disposal clothing; and regulations covering personal protective equipment;
- (4) State-of-the-art work practices, including proper asbestos abatement activities which describe proper construction and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lockout; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation equipment; use of high efficiency particulate air (HEPA) vacuums; proper clean-up and disposal procedures; work practices for removal, encapsulation, enclosure, and repair; emergency procedures for sudden releases, potential exposure situations; transport and disposal procedures; and recommended and prohibited work practices;
- (5) Personal hygiene, including entry and exit procedures for the work area; use of showers; avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area; and potential exposures, such as family exposure;
- (6) Additional safety hazards, including hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire, and explosion hazards, scaffold and ladder hazards, slips, trips, and falls, and confined spaces;
- (7) Medical monitoring, including OSHA requirements for a pulmonary function test, chest X-rays and a medical history for each employee;

- (8) Air monitoring, including procedures to determine airborne concentrations of asbestos fibers, focusing on how personal air sampling is performed and the reasons for it;
 - (9) Relevant federal, state, and local regulatory requirements, procedures, and standards, including relevant EPA, OSHA, and state regulations concerning asbestos abatement workers;
 - (10) Establishment of respiratory protection programs; and
 - (11) Course review of key aspects of the training course.
- (c) One day of training shall equal eight hours, including breaks and lunch. [Eff and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§444-4, 444-7.5) (Imp: HRS §§444-7, 444-7.5, 444-8, 444-9, 444-11)

§16-77-115 Examination. Applicants shall take and successfully pass Part I of the board's examination as described in subchapter 7 and shall submit proof of passing the EPA or board approved training course examination by a score of seventy per cent. [Eff and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§444-4, 444-7.5) (Imp: HRS §§444-7, 444-7.5, 444-8, 444-9, 444-11)

§16-77-116 Conditions for renewal of license; refresher training courses.

(a) In addition to meeting all other requirements for renewal pursuant to subchapter 8, asbestos contractors shall submit proof of completion by the individual, RME, and asbestos abatement workers or employees of a sixteen-hour EPA or board approved asbestos refresher training course for the previous biennium; or eight hours of training if the individual, RME, and asbestos abatement workers or employees were licensed in the second year of the biennium.

(b) The refresher training course shall review and discuss changes in federal and state regulating developments in state-of-the-art procedures and a review of key aspects of the initial training course. [Eff and comp 4/14/88; am and comp 12/9/02; comp 4/15/04; comp] (Auth: HRS §§444-4, 444-7.5, 444-15) (Imp: HRS §§444-7, 444-7.5, 444-8, 444-9, 444-11, 444-15)

§16-77-117 Revocation, suspension, and renewal of license. The board may revoke, suspend, or refuse to renew any asbestos specialty contractor's license for any of the causes provided in section 444-17, HRS, or for any of the following causes:

- (1) Failing to meet any Hawaii and federal OSHA or EPA health, safety or environmental requirements or standards;
- (2) Deviating from any Hawaii and federal OSHA or EPA asbestos procedures;
- (3) Allowing any individual, asbestos abatement worker or employee who has not received the required asbestos training to work on any asbestos project;
- (4) Failing to have present at the work site at all times while the work is in progress, the RME or supervisor who has received the required asbestos training;
- (5) Failing to provide an asbestos abatement worker or employee access to the asbestos-trained RME or supervisor at the work site throughout the duration of the project;
- (6) Refusing entry to the work site to any representative of the departments of health, labor and industrial relations, or commerce and consumer affairs;
- (7) Failing to maintain proof that all RMEs, job site supervisors, and asbestos abatement workers or employees have successfully completed the appropriate asbestos training; and
- (8) Failing to make accessible any records of the licensee for the purpose of inspection for health or safety reasons, to any representative of the departments of health, labor and industrial relations, or commerce and consumer affairs. [Eff and comp 4/18/88; am and comp 12/9/02; comp 4/15/04; comp _____] (Auth: HRS §§444-4, 444-7.5) (Imp: HRS §§444-7, 444-7.5, 444-8, 444-9, 444-11, 444-17)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 16-77, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

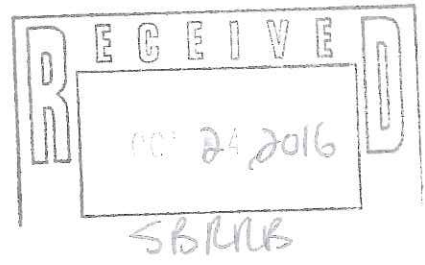
I certify that the foregoing are copies of the rules drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ and filed with the Office of the Lieutenant Governor.

JOHN J. POLISCHECK JR., Chairperson
Contractors License Board

APPROVED AS TO FORM

Deputy Attorney General

Exhibit 3



Rules Amending Title 19
Hawaii Administrative Rules

1. Chapter 135 of Title 19, Hawaii Administrative Rules, entitled "Periodic Safety Inspection of Mopeds" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

SUBTITLE 5

MOTOR VEHICLE SAFETY OFFICE

CHAPTER 135

PERIODIC SAFETY INSPECTION OF MOPEDS

Subchapter 1 General Provisions

- \$19-135-1 Scope
- \$19-135-2 Purpose
- \$19-135-3 Definitions
- \$19-135-4 Specific requirements
- \$19-135-5 Administration and enforcement

Subchapter 2 Inspection Stations

- \$19-135-6 Inspection stations; permits
- \$19-135-7 Types of inspection station permits
- \$19-135-8 Application for inspection station permits
- \$19-135-9 Issuance of inspection station permits
- \$19-135-10 Inspection station permit form
- \$19-135-11 Inspector certification; county

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responsibilities

§19-135-12 Application for inspector certification
§19-135-13 Issuance of inspector certificates
§19-135-14 Inspector certificate form
§19-135-15 Inspection stations; operating procedures
§19-135-16 Safety inspection records
§19-135-17 Inspection stations; supervision by the
county agency
§19-135-18 Enforcement by the county agency
§19-135-19 Operating procedures for inspectors
§19-135-20 Supervision of inspectors

Subchapter 3 General Procedure for Inspection

§19-135-21 Application for inspection certification
§19-135-22 Causes for refusal to inspect
§19-135-23 Inspection fees
§19-135-24 Failure to qualify for certification and
correction of defects
§19-135-25 Issuance of certificates of inspection and
affixing of inspection stickers
§19-135-26 Replacement of lost or stolen certificates
or stickers
§19-135-27 Items to be inspected
§19-135-28 Scope of inspection
§19-135-29 Standards and criteria
§19-135-30 Severability

SUBCHAPTER 1

GENERAL PROVISIONS

§19-135-1 Scope. This chapter shall apply to every moped offered for use upon, sold for use upon, or used upon the roadways and highways of the State. [Eff 9/15/86; comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-2 Purpose. The purpose of this chapter

is to establish:

- (1) Minimum periodic inspection requirements for mopeds; and
- (2) Procedures concerning the issuance of a certificate of inspection upon satisfactory compliance with certification requirements. [Eff 9/15/86; comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-3 Definitions. As used in this chapter:

"Certified moped inspector" or "inspector" means a person who possesses a current, valid, moped inspector certificate issued by the county agency.

"Clockwise" and "counterclockwise" mean opposing directions of rotation around the following axes, as applicable:

- (1) The operational axis of the ignition control, viewed from in front of the ignition lock opening;
- (2) The axis of the right handlebar on which the twist-grip throttle is located, viewed from the end of that handlebar; or
- (3) The axis perpendicular to the center of the speedometer when viewed from the operator's normal eye position.

"County agency" means the county department designated by the county council as the department having the responsibility for supervising and administering the periodic moped inspection program in that county.

"Director" means the director of the state department of transportation.

"Electronic inspection form" means a computerized inspection form that lists the components to be inspected and can be filled out by electronic means and then transfer the data to a server immediately upon completion of the inspection.

"Electronic form contractor" means the entity that contracts with the director to implement the electronic form program.

"FMVSS" means Federal Motor Vehicle Safety

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Standard as prescribed in 49 CFR Part 571, as it existed on [~~April 1, 1985~~] October 1, 2016.

"Moped" shall mean as defined in section 291C-1, HRS.

"Official inspection station" or "inspection station" means a person, partnership, or corporation that is authorized and issued a permit by the county agency to conduct official moped safety inspections.

"Official moped safety inspection" or "inspection" means that safety inspection of moped equipment and components as required by this chapter.

"Periodic Moped Inspection Handbook" means the inspection criteria and procedures promulgated by the Department of Transportation [~~on September 18, 1984, and hereafter referred to as "The Handbook", and is made a part of this chapter.~~] referenced in §19-135-29.

"State" means the State of Hawaii. [Eff 9/15/86; am and comp] (Auth: HRS §291C-202)
(Imp: HRS §291C-202)

§19-135-4 Specific requirements. All mopeds shall be inspected and certified once every twelve months. [Eff 9/15/86; comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-5 Administration and enforcement. (a) [~~Each~~] By authority of the director, each county shall designate a county agency to administer and enforce this chapter with respect to the certification of inspection stations and inspectors in that county.

- (b) The county agency shall be responsible for:
- (1) Issuing permits for and the furnishing of instructions and all necessary [~~forms~~] documents to official inspection stations within the county, provided electronic inspection form equipment shall be provided by the electronic form contractor;
 - (2) Supervising and inspecting official inspection stations;
 - (3) Suspending or revoking permits issued to a

- station whenever the county agency determines through inspection or investigation that the station is not properly conducting moped inspections in accordance with this chapter; and
- (4) Certifying persons as being authorized to conduct moped inspections. [Eff 9/15/86; am and comp] (Auth: HRS §§286-27, 291C-202) (Imp: HRS §§286-27, 291C-202)

SUBCHAPTER 2 INSPECTION STATIONS

§19-135-6 Inspection stations; permits; county responsibilities. The county agency shall be responsible for the following duties with respect to the application for an official moped inspection station permit:

- (1) Issuing permits designating each inspection station that meets the minimum standards required by this chapter to conduct moped inspections;
- (2) Inspecting the station facilities and equipment of each applicant to insure that the minimum standards required by this chapter are met;
- (3) Ascertaining that each applicant meets the minimum requirements of this chapter with respect to having a certified moped inspector in its employ;
- (4) Recording the results of all inspections of station facilities and equipment of each applicant;
- (5) Maintaining a file of all records for each applicant from the date of application till the date of termination;
- (6) Providing official application forms, approved by the director, for an inspection station permit; and
- (7) [~~Developing and issuing~~] Issuing additional forms necessary to administer the issuance of official moped inspection station

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permits. [Eff 9/15/86; am and
comp] (Auth: HRS §291C-202)
(Imp: HRS §291C-202)

§19-135-7 Types of inspection station permits.
There shall be two types of inspection station permits
to be designated as:

- (1) Public permits - to conduct inspections on
any moped that requires inspection; or
- (2) Private permits - to conduct inspections
only on those mopeds which are owned by the
owner and operator of the official
inspection station. A private station
qualification shall be determined by the
county agency. [Eff 9/15/86;
comp] (Auth: HRS §291C-202)
(Imp: HRS §291C-202)

§19-135-8 Application for inspection station
permits. (a) Each applicant for certification as an
inspection station shall comply with the procedures
set forth in this section.

(b) Application for the permit shall be made on
an official form approved by the director and
furnished by the county agency.

(c) The applicant shall provide the following
information, to the county agency, on the approved
form:

- (1) The registered business name of the station;
- (2) The exact address and location of the
applicant's place of business where the
moped inspections will be conducted. A
separate application shall be made for each
additional location owned or operated by the
applicant which is to be certified as an
inspection station;
- (3) The name of the owner, manager, or
supervisor who will be responsible and
accountable for the moped inspections and
the performance of the moped inspectors;

- (4) The applicant's type of business; e.g., service station, moped rental, repair shop, moped dealer;
- (5) Type of permit requested (public or private); ~~and~~
- (6) A list of the names and inspector certificate numbers of certified moped inspectors presently employed by the applicant as regular employees~~-~~; and
- (7) Evidence that the station location is properly zoned and that the station has all required state and county permits or licenses to conduct business as an official inspection station.

(d) The application form shall contain a statement that the applicant agrees to equip and maintain, at the applicant's own expense, all moped safety inspection facilities in accordance with the minimum standards set by this chapter, and conduct moped safety inspections as required by this chapter and the standards and criteria [~~prescribed in "The Handbook" located at the end~~] of this chapter.

(e) Each application for certification as an inspection station shall be signed by:

- (1) The owner [~~and notarized~~], if the applicant is a sole proprietorship;
- (2) All partners [~~and notarized~~], if the applicant is a partnership; or
- (3) A person authorized to sign the application, if the applicant is a corporation. Written evidence of this authority shall be attached with the corporate seal affixed to the application form. [Eff 9/15/86; am and comp] (Auth: HRS §291C-202)
(Imp: HRS §291C-202)

§19-135-9 Issuance of inspection station permits. (a) The county agency shall issue inspection station permits only to those applicant stations which have been certified by the county agency as meeting the standards set forth in this

section.

(b) Each inspection station serving the public shall have a certified moped inspector scheduled to be immediately available at the station to conduct moped inspections [~~for a total of four hours~~] at least four hours per day, five days per week between [~~7:00~~] 6:00 a.m. to [~~7:00~~] 6:00 p.m. [~~daily~~], except [~~Saturdays, Sundays, and~~] designated holidays.

(c) Personnel requirements: [~~shall be as follows:~~

- ~~(1) One~~ one supervisor, manager, or owner of each business operating one or more inspection stations shall be a certified moped inspector[~~; and~~
- ~~(2) A minimum of two employees, including a supervisor, manager, or owner, at each inspection station shall be a certified moped inspector].~~

(d) Each inspection station shall conform to the following requirements:

- (1) The inspection area shall:
 - (A) Have a minimum dimension of eight feet by ten feet;
 - (B) Have overhead protection from the weather;
 - (C) Be designated and marked as the inspection area;
 - (D) Be clean and orderly;
 - (E) Have a hard surface, such as concrete, and be in sound condition. Wood or dirt floors shall not be acceptable;
 - (F) Have a surface limited to a 2.5 per cent slope (three inches in ten feet); and
 - (G) Have no hazardous conditions that may injure persons or damage the moped;
- (2) The total interior floor area and the exterior ground space, including parking areas which are used by the public, shall be free of dirt, gravel, grease, oil, debris, or other noxious, hazardous, or repulsive foreign substances;

- (3) Every inspection station shall have a moped headlamp test area that is flat and level; and
- (4) All inspection stations serving the public shall provide an off street parking area available for mopeds waiting to be inspected.
- (e) Every inspection station shall have the following tools, and equipment [~~and replacement parts~~] available and in good working condition at the station location:
 - (1) One headlamp aiming device such as a mechanical aimer, optical or photoelectric aiming device, or aiming screen of a type approved by the director;
 - (2) A moped repair stand or similar device for lifting the wheels off the ground to check wheel bearings, runout and sound level;
 - (3) A tire tread depth gauge scored in 1/32 inch increments or fifteen centimeters scored in increments of one millimeter;
 - (4) A tire pressure gauge marked in pounds per square inch or its metric equivalent [~~;~~]
 - ~~(5) A standard assortment of tools for removing and replacing wheels and tires, for removing and replacing exhaust pipes and mufflers, and for adjusting brakes;~~
 - ~~(6) Assorted types and sizes of replacement parts, including:
 - ~~(A) Insulated wires;~~
 - ~~(B) Fuses; and~~
 - ~~(C) Light bulbs].~~~~
- (f) Each public inspection station shall provide proof that there is in effect a liability insurance policy issued to the station owner or operator by an insurance company authorized to do business in the State. The policy shall insure the owner or operator and any other employee authorized to inspect mopeds in the minimum amount of \$10,000 for comprehensive public liability for one person, \$20,000 for one accident, and \$5,000 for comprehensive property damage. [Eff 9/15/86; am and comp] (Auth: HRS

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§291C-202) (Imp: HRS §291C-202)

§19-135-10 Inspection station permit form. (a)

The inspection station permit shall be in a form approved by the director.

(b) The following information shall appear on the face of the permit:

- (1) The registered name of the person, partnership, or corporation owning and operating the inspection station;
- (2) The trade "dba" name of the inspection station;
- (3) The address and location of the inspection station. If the inspection is conducted at a different location than the listed address, then both addresses and locations shall be included on the permit;
- (4) A permit control number;
- (5) The date the permit is issued;
- (6) The type of inspection station, public or private (fleet); and
- (7) The signature of the county agent authorized to issue inspection station permits, with the agent's position, title, and the name of the county agency typed under the signature.

(c) The permit shall be posted in a conspicuous place at the location where the inspections are conducted, and shall be visible to all moped owners who present their mopeds for inspection.

(d) The permit shall not be assigned, transferred, or used at any location other than the location listed on the face of the permit as the place where the inspection is to be conducted. [Eff 9/15/86; comp] (Auth: HRS §291C-202)
(Imp: HRS §291C-202)

§19-135-11 Inspector certification; county responsibilities. The county agency shall be responsible for:

- (1) Issuing certificates authorizing persons to

- conduct moped inspections;
- (2) Administering written and performance examinations for all applicants;
- (3) Recording the results of all examinations;
- (4) ~~[Maintaining a record of examination results for a period of one year from the date the applicant took the examination;~~
- ~~(5)]~~ Maintaining a record of examination results for the entire period for which an inspector's certificate is valid;
- ~~[(6)]~~ (5) Maintaining a file for all formerly certified moped inspectors for a period of one year after decertification; and
- ~~[(7)]~~ (6) Developing and issuing additional forms as may be necessary for administering the moped inspector certification process. All supplemental forms shall first be approved by the director. [Eff 9/15/86; am and comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-12 Application for inspector certification. (a) Application for moped inspector certification shall be made on a form furnished by the county agency and approved and provided by the director.

(b) The applicant shall provide the following on the approved form:

- (1) Type of application (original or renewal);
- (2) Applicant's last name, first name, and middle initial(s);
- (3) Applicant's home address;
- (4) Applicant's telephone number (one or more, i.e., land, cell, or business);
- (5) Applicant's date of birth;
- (6) Type of Hawaii driver license and driver license number of the applicant;
- ~~[(7)]~~ ~~Applicant's driving experience in years and by type of vehicle;~~
- ~~[(8)]~~ (7) Applicant's technical licenses or certificates;

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- ~~[(9)]~~ (8) Applicant's attendance at vocational and technical training schools, accompanied by a copy of certificates of successful completion and major subject studied;
- ~~[(10)]~~ (9) Applicant's formal schooling and the highest level successfully completed;
- ~~[(11)]~~ (10) Applicant's experience in vehicle, moped or motorcycle safety inspection, automotive, moped or motorcycle mechanics, or related experience;
- ~~[(12)]~~ (11) Applicant's signature and date of signature to the declaration that all furnished information is true, and that upon certification as a moped inspector, the applicant shall conduct moped safety inspections in accordance with this chapter; and
- ~~[(13)]~~ (12) The date the application is filed. [Eff 9/15/86; am and comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-13 Issuance of inspector certificates.

~~[(a)]~~ The county agency shall issue official moped safety inspector certificates only to those applicants who meet the following minimum standards:

- (1) Be able to read and legibly print the English language and Arabic numerals;
- (2) Be at least eighteen years of age at the time of the application;
- (3) Have a valid Hawaii driver license;
- (4) Have at least:
 - (A) One year of training in automotive [~~mechanics~~], moped or motorcycle mechanics, or a related technical field at a school conducting regularly scheduled classes;
 - (B) [~~Two years~~] One year of employment experience in automotive, motorcycle, or moped maintenance, repair, inspection or service; [~~or~~
 - ~~(C) Satisfactorily completed a course of~~

~~instruction approved by the director in vehicle, motorcycle, or moped safety inspection procedures administered by the proper county agency; and]~~

~~[-5-]~~ (C) Have completed a written and performance examination, approved by the director and administered by the proper county agency. The minimum qualifying score on these examinations shall be eighty per cent[-]; or

~~[-b-] Each applicant may be required to attend a course of instruction in moped safety inspection procedures approved by the director.]~~

(D) Possess a valid inspector certificate for motorcycles. [Eff 9/15/86; am and comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-14 Inspector certificate form. (a) The official moped inspector certificate shall be of a design approved by the director, and contain the following on the face of the certificate:

- (1) The name of the person to whom the certificate is issued;
- (2) The date the certificate is issued;
- (3) The expiration date of the certification as a moped inspector;
- (4) The signature of the county agent authorized to issue the certificate;
- (5) The number of the certificate; and
- (6) The signature of the person to whom the certificate is issued.

(b) The name and location of the inspection station shall be listed on the reverse side of the official moped inspector certificate. The county agency may, upon proper notification by the inspector and presentation of the inspector's valid certificate, list additional inspection stations where the inspector is authorized to conduct moped inspections.

(c) The official moped inspector certificate shall be displayed in a conspicuous place in the area

where inspections are conducted. If the certified moped inspector conducts inspections at more than one location, a duplicate inspector's certificate shall be displayed at each additional location.

(d) The moped or motorcycle inspector's certificate authorizes the inspector to conduct official moped inspections only at station locations listed on the reverse side of the inspector's certificate.

(e) The county agency may issue duplicate moped inspector certificates upon satisfactory explanation by the inspector as to what happened to the original certificate. The duplicate certificate shall contain the following information:

- (1) The original certificate control number with the word "duplicate" written after the number; and
- (2) The expiration date specified on the original certificate.

(f) A moped safety inspector certificate shall expire four years from the date of issuance, unless revoked or suspended by the county agency.

(g) Recertification of moped safety inspectors shall conform to the following requirements:

- (1) Application for renewal of certification shall be made by the moped safety inspector not more than sixty days prior to the expiration of the certificate;
- (2) Recertification shall follow the certification procedure; and
- (3) Every applicant for recertification shall satisfactorily complete both a written and performance examination approved by the director.

(h) The moped safety inspector certificate shall be valid only in the jurisdiction of the issuing county agency. [Eff 9/15/86; am and comp]
(Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-15 Inspection stations; operating procedures. (a) Official moped inspection stations

shall be operated in accordance with this chapter [~~chapter 19-131, and The Handbook~~].

- (1) Inspection stations shall be operated with reasonable regard for the convenience of the public;
- (2) Inspections shall be conducted only at official moped safety inspection stations which have been issued a permit by the county agency; and
- (3) Inspections shall be conducted only by moped or motorcycle [~~safety~~] inspectors who have been issued a certificate by the county agency.
- (4) Inspection stations shall have a contract with the electronic form contractor and require all inspectors to be proficient in the use of all equipment associated with the inspection program.

(b) The county agency shall furnish copies of the required forms, a copy of these rules, chapter 19-131, and The Periodic Moped Inspection Handbook referenced in §19-135-29, HAR to every official moped inspection station. [~~The county agency may require persons receiving any forms, rules, or The Handbook to pay the cost of these items.~~] Each station shall maintain a current, legible copy of these rules for exclusive use at the station. When possible, the above shall also be in the computer provided by the electronic forms contractor.

(c) The county agency may require every inspection station to post a sign with a minimum area of one hundred forty-four square inches, clearly legible from a public area, containing the words "Official Moped Safety Inspection Station", together with the identifying numbers and letters assigned to that station. Every sign shall display a reproduction of the safety inspection logo which appears on the safety inspection sticker. The reproduction shall be displayed upon a contrasting background and shall be of a size at least as large as the largest letter, numeral, or other character appearing elsewhere on the sign. [Eff 9/15/86; am and comp]

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(Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-16 Safety inspection records. [~~(a)~~] A moped [~~safety~~] certificate of inspection, as designated and approved by the director, shall be completed by the moped [~~safety~~] inspector for each moped inspected. If the moped passes the inspection, a sticker shall be affixed to the rear of the moped. The electronic forms contractor shall maintain electronic records of inspection activities of each station.

~~[(b) The inspection station operator shall insure that copies of the completed certificate of inspection are distributed as indicated by printed markings thereon:~~

- ~~(1) One copy shall be sent to the county agency;~~
- ~~(2) One copy shall be retained by the inspection station for a period of at least one year; and~~
- ~~(3) One copy shall be given to the moped owner to be retained with the moped at all times.~~

~~(c) The county agency may require any inspection station operator to provide a summary report, approved by the director, of moped safety inspections conducted. The summary reports shall not be required more frequently than once each month.] [Eff 9/15/86; am and comp] (Auth: HRS §291C-202)~~
(Imp: HRS §291C-202)

§19-135-17 Inspection stations; supervision by the county agency. The county agency shall exercise supervisory control over all inspection stations under its jurisdiction. This supervisory function shall include, but not be limited to the following activities:

- (1) Issuing any forms as may be required for:
 - (A) The preparation and maintenance of electronic records concerning [safety] inspections;
 - (B) [~~The preparation and submission of~~

- ~~reports by inspection station operators;~~
- ~~(C)] The use and condition of inspection station facilities and equipment used [in the safety inspection of] to inspect mopeds;~~
- (2) Monitoring and inspecting inspection stations ~~[to]~~ for compliance with this chapter by observing:
- (A) ~~[Evaluate the]~~ The procedures used ~~[in the [safety] inspection of]~~ to inspect mopeds;
- (B) ~~[Evaluate the]~~ The condition of moped inspection facilities and equipment used in moped ~~[safety]~~ inspections;
- (C) ~~[Evaluate the]~~ The condition and accuracy of test equipment used in moped ~~[safety]~~ inspections;
- (3) Analyzing official electronic moped inspection ~~[reports]~~ records to evaluate the performance of inspection stations and take appropriate action as may be indicated;
- (4) ~~[Preparing and maintaining appropriate]~~ Reviewing electronic records for each inspection station~~;~~ and
- ~~(5) Preparing and submitting a report to the director at the end of each quarter covering periodic moped safety inspection activities within its jurisdiction. This report shall contain, but is not limited to, the following:~~
- ~~(A) The number of moped inspection station applications processed;~~
- ~~(B) The number of official inspection station permits suspended;~~
- ~~(C) The number of official inspection station permits revoked;~~
- ~~(D) The number of official inspection stations voluntarily withdrawing from the program;~~
- ~~(E) The number of official inspection stations active in the jurisdiction;~~

- ~~(F) The number of moped inspector applications processed;~~
- ~~(G) The number of moped inspector certificates suspended;~~
- ~~(H) The number of moped inspector certificates revoked;~~
- ~~(I) The number of certified moped inspectors voluntarily withdrawing from the program;~~
- ~~(J) The number of certified moped inspectors active in the jurisdiction;~~
- ~~(K) The number of moped inspector certificates renewed;~~
- ~~(L) The number of official moped inspection stations monitored; and~~
- ~~(M) A brief narrative describing any problems, innovations, and recommendations-].~~ [Eff 9/15/86; am and comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-18 Enforcement by the county agency director. [~~(a)~~] The county agency by authority of the director shall suspend or revoke inspection station permits or moped safety inspector certificates when it finds that the inspection station or inspector, as the case may be, is not properly conducting inspections or finds any vehicle as defined in section 291C-1, HRS owned by the inspector or station is out of compliance with this chapter. [~~Each county agency shall adopt rules pursuant to chapter 91, HRS, to govern suspensions and revocations.~~] The director shall use the provisions in 19-133.5, HAR for this chapter.

[~~(b)~~] ~~A list of the names of inspection stations for which permits have been suspended or revoked shall be posted at the county agency's office. The station name shall remain posted for the period of suspension or for a minimum of thirty days from the beginning of initial revocation.~~ [Eff 9/15/86; am and comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-19 Operating procedures for inspectors.

~~[(a)]~~ Certified moped inspectors shall conduct all official moped safety inspections in accordance with this chapter, chapter 19-131~~[, The Handbook,]~~ and the following requirements:

- (1) No person shall act as a certified moped inspector or issue any official moped ~~[safety]~~ inspection certificate and sticker unless that person possesses a current, valid, moped inspector's certificate to conduct moped inspections at the inspection station location indicated on the certificate issued by the county agency having jurisdiction over the inspection station;
- (2) Certified moped inspectors shall be the only person authorized to issue and affix safety stickers to a moped after successful completion of the periodic official moped inspection;
- (3) Every certified moped inspector shall conduct moped inspections in accordance with the criteria ~~[prescribed in The Handbook,]~~ of this chapter and:
 - (A) 49 CFR Parts 570 and 571 as they existed on October 1, 2016;
 - (B) Periodic ~~[motor Vehicle]~~ Moped Inspection Manual for Inspectors of Passenger Cars and Light Trucks] Handbook, ~~[August, 2009]~~ October 2016 and addenda and newer versions that are approved by the director;
 - (C) Chapter 19-131, Hawaii Administrative Rules; and
 - (D) Instructions for operation of the hand-held computer provided by the electronic form contractor~~[-]~~;
- (4) A certified moped inspector may be assisted by a noncertified person when conducting an official moped safety inspection, provided

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that the noncertified person is being trained to become an inspector and is under the immediate and personal supervision of the certified moped inspector; and

- (5) Any certified moped inspector, working at a public inspection station, shall not require unnecessary repairs, make excessive charges, or act abusively to customers seeking safety inspection certification for their mopeds.
[Eff 9/15/86; am and comp]
(Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-20 Supervision of inspectors. The county agency by authority from the director shall exercise control over all certified moped inspectors under its jurisdiction. This supervisory function shall include, but is not limited to, the following activities:

- (1) Examining and qualifying all certified moped inspectors;
- (2) Issuing of additional forms as may be required;
- (3) Monitoring official moped inspection activities of certified moped inspectors; and
- (4) Conducting investigations of reported or suspected improper moped safety inspection activities. [Eff 9/15/86; am and comp] (Auth: HRS §291C-202)
(Imp: HRS §291C-202)

SUBCHAPTER 3 GENERAL PROCEDURE FOR INSPECTION

§19-135-21 Application for inspection certification. (a) Any moped owner or operator shall be allowed to make an appointment with any public moped inspection station for inspection of a moped. The appointment shall be scheduled within fifteen days after the date of application for inspection.

- (b) Any moped owner or operator shall not be

obliged to have any repair work performed at the station where the inspection is made. [Eff 9/15/86; comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-22 Causes for refusal to inspect. An inspection station may refuse to inspect any moped whenever the performance of any [~~visually inspectable~~] component that needs to be inspected cannot readily be determined because of an accumulation of dirt, grease, or other foreign material. [Eff 9/15/86; am and comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-23 Inspection fees. (a) The [~~county council of each county~~] director shall determine the fee to be paid to the inspection station by the moped owner for the [~~safety~~] inspection of a moped. This fee shall [~~include the safety sticker fee paid to the county agency by the inspection station operator~~] be the same as the motorcycle fee defined in Chapter 19-133.2-22, HAR.

(b) When an application for certification of moped safety inspection is made at an inspection station, a certified moped [~~safety~~] inspector may first collect the inspection fee, and then conduct the inspection pursuant to this chapter[~~, chapter 19-131, The Handbook,~~ and using a blank certificate of inspection ~~as the checklist~~].

(c) [~~A certified moped inspector may require an additional fee for the reinspection of corrected defects when the moped is presented for certification more than ten days after failure of the applicant's moped to qualify on the initial inspection.~~

(d) If more than thirty days have elapsed since the applicant's moped failed to qualify for certification, a complete reinspection shall be made of the entire moped [~~for which~~] and the [certified moped inspector] full fee for another inspection may [require the payment of an additional fee] be charged

by the inspector.

~~[(e)]~~ (d) An inspection station may charge the ~~[safety inspection]~~ fee determined by the ~~[county council]~~ director as defined at 19-133.2-22(f)(3), HAR for the replacement of destroyed or stolen ~~[safety]~~ inspection stickers. [Eff 9/15/86; am and comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-24 Failure to qualify for certification and correction of defects. (a) When a moped fails to pass an inspection for certification in accordance with this chapter, ~~[chapter 19-131, and The Handbook, the certificate of inspection shall not be signed]~~ a failure notice shall be issued and the authorized sticker shall not be affixed to the moped.

(b) A copy of the ~~[incomplete certificate of inspection]~~ failure notice, shall be given to the applicant ~~[after]~~ if the moped fails inspection, so that corrective repairs may be done on the moped. When, upon reinspection, the moped is found to be in safe operating condition, the certificate of inspection shall be ~~[completed]~~ issued and a sticker affixed to the moped in accordance with this chapter.

(c) If the applicant refuses to have the corrective repairs done immediately, no certificate of inspection shall be ~~[signed]~~ issued by the ~~[safety]~~ inspector, but a copy of the ~~[incomplete certificate of inspection]~~ failure notice shall be given to the applicant. The applicant shall have ~~[ten]~~ thirty days to correct all the deficiencies and return to the station for reinspection at no additional cost.

(d) If, after corrective repair within the ~~[ten-day]~~ thirty-day period, the moped is found to qualify for certification, ~~[all copies of]~~ the certificate of inspection shall be completed and signed by the safety inspector ~~[with the designated copies]~~ and issued to the applicant and a sticker affixed to the moped in accordance with this chapter. No additional fee shall be charged.

(e) This section does not authorize anyone to

operate a moped on the public highways without a valid certificate of inspection or with an expired certificate.

~~[(f) If no certificate of inspection is issued, a notation to that effect shall be made on a copy of the incomplete certificate. All copies of the incomplete certificates held by the inspection station, except the station copy, shall be forwarded to the county agency.]~~ [Eff 9/15/86; am and comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-25 Issuance of certificates of inspection and affixing of inspection stickers. (a) When the moped's equipment is inspected pursuant to this chapter, ~~[chapter 19-131, and The Handbook,]~~ and is found to qualify for certification, a certificate indicating that the vehicle passed inspection and sticker are then automatically printed and the certificate of inspection shall be signed by the certified moped inspector who performed the inspection.

(b) After the certificate of inspection is signed, ~~[a two-part safety]~~ an inspection sticker authorized by the director shall be affixed by the ~~[safety]~~ inspector upon the rearmost nearly vertical portion of the moped or on another appropriate place where, in the opinion of the ~~[county agency]~~ director, the sticker can be clearly viewed by a person who is fifty feet behind the moped. A bracket attached to the side or bottom of the license plate is an appropriate place.

(c) All expired or replaced safety inspection stickers appearing on the moped shall be removed and destroyed, unless the moped owner requests to have the sticker placed upon the old sticker in such a way that only the new one is visible. [Eff 9/15/86; am and comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

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§19-135-26 Replacement of lost or stolen certificates or stickers. (a) ~~[Safety inspection]~~ Inspection stickers which have been lost or stolen may be replaced without reinspection by the inspection station that issued the original inspection certificate and sticker, if the moped owner or operator can furnish proof of inspection and approval, and the loss is reported to the police department before the current certification expires~~[.]~~ and there are no obvious defects on the moped at the time replacement is requested.

(b) Reinspection shall be required if there is no evidence of a previous ~~[safety]~~ inspection or the ~~[safety]~~ inspection certificate has expired.

(c) The certified moped inspector shall record safety inspection sticker replacements ~~[on the original inspection station copy of the certificate of inspection and report the additional information to the county agency]~~ in the inspection computer. [Eff 9/15/86; am and comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

§19-135-27 Items to be inspected. Evidence of the moped's registration and the following original equipment items meeting requirements on the date of manufacture of the moped, plus all additional items subsequently required or permitted to be installed, shall be inspected on all mopeds presented for inspection. The Periodic Moped Inspection Handbook contains details regarding failure criteria.

- (1) Tires;
- (2) Wheels;
- (3) Brakes;
- (4) Steering, suspension, and alignment;
- (5) Lighting and electrical systems;
- (6) Moped glazing (optional equipment);
- (7) Body and frame;
- (8) Exhaust system;
- (9) Fuel intake system or batteries for an electric moped; and
- (10) Speedometer-odometer. [Eff 9/15/86; am and

comp] (Auth: HRS §291C-202)
(Imp: HRS §291C-202)

§19-135-28 Scope of inspection. The inspection shall be conducted as follows:

- (1) The moped license number and identification number shall be inspected for agreement with the corresponding numbers shown on the current year's valid registration certificate. The first eight characters plus the tenth on the moped Vehicle Identification Number (VIN) on the manufacturer's FMVSS certification label must be on Hawaii's list of mopeds that are certified by the manufacturer to comply with Hawaii's moped laws, and beginning 01/01/2017 the horse power (2 or less) and engine displacement (50 cc or 1,492 watts or less) must agree with the information the manufacturer provided to the National Highway Traffic Safety Administration (NHTSA) and displayed on the NHTSA web site. License plates [~~or~~] and registration decals shall be inspected for condition, legibility, proper location, and security of mounting;
- (2) Tires shall be inspected for U.S. Department of Transportation "DOT" marking, load capacity, wear, damage, proper size, type, and tread configuration;
- (3) Wheels shall be inspected for damage, missing parts, excessive runout, loose wheel bearings, and security of mounting;
- (4) Service brake system and parking brake system, when applicable, shall be inspected for performance, wear and condition of friction components and mechanical linkages, leakage of hoses, tubing, pistons, reservoirs, and proper operation of the entire brake system;
- (5) The steering system shall be inspected for

- free movement [~~throughout the entire travel range of the steering control~~] from stop to stop, [~~loose steering~~] bearings play, damage, wear and [~~installation of non-slip design~~] hand grips on handlebar;
- (6) The suspension system shall be inspected for proper mounting, free movement, looseness, damage, and condition of all suspension components;
 - (7) The wheel track alignment shall be inspected for accurate alignment between front and rear wheel;
 - (8) Lamps and reflectors shall be inspected for function, location, color, brightness, and damage. Headlamps shall be tested for aim and operation and operation of high beam indicator if so equipped; (mopeds are not required to have turn signals, so the moped should not fail if they are inoperative or do not work properly);
 - (9) Horns shall be inspected for operation and audibility;
 - (10) Lighting switches shall be inspected for proper operation;
 - (11) Visible electrical wiring shall be inspected for condition, location, security of fastening and insulation;
 - (12) Plastic or other material used in windscreen (optional equipment) shall be inspected for type, damage, discoloration, and obstruction of operator's vision;
 - (13) Body items and frame shall be inspected as follows:
 - (A) Rearview mirrors shall be inspected for location, field of view, condition, mounting, ease of adjustment, and sharp edges;
 - (B) Retracting stand shall be inspected for mounting, operation, and rearward and upward retraction if it contacts the road surface when the moped is moving in the forward direction;

- (C) Drive chain, belt, or shaft protective coverings shall be inspected for condition, mounting, looseness, size, and any hazardous protrusions;
 - (D) Body parts shall be inspected for looseness, damage, improperly assembled parts, non-approved modifications, or replacement parts;
 - (E) Fenders shall be inspected for condition, loose mounting, size, hazardous protrusions, sharp edges, ~~[and non-approved modifications]~~, and spray deflection;
 - (F) Seats shall be inspected for size, loose mounting, and any sharp edges or hazardous protrusions;
 - (G) Footpegs~~[or]~~, pedals or foot rests shall be inspected for proper mounting and operational condition;
- (14) On combustion engines, the exhaust system components shall be inspected for proper condition, damage, mounting, leakage of gases, excessive noise, modifications and missing required components. A sound level test shall be used to provide objective evidence of excessive noise. The decibel reading shall be made with the moped out doors. The sound meter, which will be installed in the Contractor's hand-held computer, shall be placed 20 inches from exhaust pipe exit at a 45-degree angle to the flow of exhaust gas. The height of the microphone should be equal to the exhaust exit, but not less than 8 inches from the ground. The reference axis of the microphone should be parallel to the ground and be directed toward the pipe outlet. The moped must be supported so the rear wheel is off of the ground. Then take two measurements by gradually accelerating the engine to full throttle. If the test shows a decibel reading higher than 100, the muffler shall

- be failed. No exhaust system shall be modified to amplify or increase the noise emitted by the engine above that emitted by the system originally installed on the moped;
- (15) On combustion engines only, all intake and fuel system units, including filler tubes, filler caps, filters, vents, and tanks, and all connecting lines, tubing, and hoses shall be inspected for proper location and connection, security, proper installation, leakage, and damage. If the moped is electric, batteries must not leak and must be securely mounted; and
- (16) The [~~speedometer-odometer optional equipment~~] odometer shall be inspected for proper operation [~~while performing a road test~~]. Indicated moped mileage shall be recorded at the time of inspection. If the moped has a speedometer, it must display miles per hour. [Eff 9/15/86; am and comp] (Auth: HRS §291C-202)
(Imp: HRS §291C-202)

§19-135-29 Standards and criteria. The standards used for moped safety inspection are as follows:

- (1) 49 CFR Parts 566, 567, and 573 to 577 as they existed on [~~April 1, 1985~~] October 1, 2016;
- (2) Federal Motor Vehicle Safety Standard (FMVSS) Numbers 106 (brake hoses), 108 (lamps and reflectors), 111 (rear view mirror), 119 (tires), 122 (motorcycle brake system), 123 (motorcycle controls) and 205 (motorcycle windscreen only) as they existed on [~~April 1, 1985~~] October 1, 2016;
- (3) Chapter 19-131, entitled "Required Equipment on Mopeds" as they existed on [~~April 1, 1985~~] May 16, 2003; and
- (4) Periodic Moped Inspection Handbook, dated

~~[September 18, 1984]~~ November 15, 2016~~[-~~
~~located at the end of this chapter]~~ and
addenda and newer versions that are approved
by the director. [Eff 9/15/86; am and
comp] (Auth: HRS §291C-202)
(Imp: HRS §291C-202)

§19-135-30 Severability. If any portion of this chapter is held invalid for any reason, the invalidity shall not affect the validity of the remainder of this chapter." [Eff 9/15/86; comp] (Auth: HRS §291C-202) (Imp: HRS §291C-202)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 19-135, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on , and filed with the Office of the Lieutenant Governor.

FORD N. FUCHIGAMI
Director of Transportation

APPROVED AS TO FORM:

Deputy Attorney General

Exhibit 4

___ .B. NO. ___

A BILL FOR AN ACT

RELATING TO THE SMALL BUSINESS REGULATORY FLEXIBILITY ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to provide greater
2 clarity and effect to the Small Business Regulatory Flexibility
3 Act with the following amendments:

4 (1) Adopt a more explicit definition of "small business";

5 (2) Clarify the powers of the small business regulatory
6 review board when reviewing administrative rules that
7 impact small business;

8 (3) Increase the number of board members from nine to
9 eleven; and

10 (4) Clarify when reporting by the agencies is required for
11 submission to the small business regulatory review
12 board and when reporting by the board is required for
13 submission to the legislature.

14 SECTION 2. Section 201M-1, Hawaii Revised Statutes, is
15 amended by amending the definition of "small business" to read
16 as follows:

17 "Small business" means a for-profit [~~enterprise consisting~~
18 of] corporation, limited liability company, partnership, limited

____.B.NO.____

1 partnership, sole proprietorship, or other legal entity that:

2 (1) Is domiciled and authorized to do business in Hawaii;

3 (2) Is independently owned and operated; and

4 (3) Employs fewer than one hundred full-time or part-time
5 employees[-] in Hawaii."

6 SECTION 3. Section 201M-5, Hawaii Revised Statutes, is
7 amended by amending subsections (a) and (b) to read as follows:

8 "(a) There shall be established within the department of
9 business, economic development, and tourism, for administrative
10 purposes, a small business regulatory review board to review any
11 proposed new or amended rule [~~or to~~]. If the board determines
12 that a proposed rule will not have a significant economic impact
13 on a substantial number of small businesses, the board shall
14 submit a statement to that effect to the agency that sets forth
15 the reason for the board's decision. If the board determines
16 that the proposed rule will have a significant economic impact
17 on a substantial number of small businesses, the board may
18 submit to the agency suggested changes in the proposed rule to
19 minimize the economic impact of the proposed rule, or may
20 recommend the withdrawal of the proposed rule. The board may
21 also consider any request from small business owners for review
22 of any rule adopted by a state agency and to make

____.B. NO.____

1 recommendations to the agency or the legislature regarding the
2 need for a rule change or legislation. For requests regarding
3 county ordinances, the board may make recommendations to the
4 county council or the mayor for appropriate action.

5 (b) The board shall consist of [~~nine~~] eleven members, who
6 shall be appointed by the governor pursuant to section 26-34,
7 provided that:

8 (1) Three members shall be appointed from a list of
9 nominees submitted to the president of the senate;

10 (2) Three members shall be appointed from a list of
11 nominees submitted by the speaker of the house of
12 representatives;

13 (3) [~~Two~~] Four members shall be appointed by the governor;

14 (4) The director of business, economic development,
15 and tourism, or the director's designated
16 representative, shall serve as an ex officio voting
17 member of the board;

18 (5) The appointments shall reflect representation of
19 a variety of businesses in the State;

20 (6) No more than two members shall be representatives
21 from the same type of business; and

____.B. NO.____

1 (7) There shall be at least one representative from each
2 county.

3 For the purposes of paragraphs (1) and (2), nominations shall be
4 solicited from small business organizations, state and county
5 chambers of commerce, and other interested business
6 organizations."

7 SECTION 4. Section 201M-7, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) Each agency having rules that affect small business
10 shall submit by June 30 of each odd-numbered year[~~7~~] to the
11 board a list of those rules [~~to the small business regulatory~~
12 ~~review board,~~] and a report describing the specific public
13 purpose or interest for adopting the respective rules that
14 affect small business and any other reasons to justify their
15 continued implementation; provided that, by June 30 of each
16 year, each agency shall submit to the [~~small business regulatory~~
17 ~~review]~~ board a list of any rules to be amended or repealed,
18 based upon any new, amended, or repealed statute[~~.—The agency~~
19 ~~shall also submit a report describing the specific public~~
20 ~~purpose or interest for adopting the respective rules that~~
21 ~~affect small business and any other reasons to justify their~~
22 ~~continued implementation.~~] that impacts small business."

____.B. NO.____

1 SECTION 5. Section 201M-7, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) The board may solicit testimony from the public
4 regarding any report submitted by the agency under this section
5 at a public meeting held pursuant to chapter 92. Upon
6 consideration of any report submitted by an agency under this
7 section and any public testimony, the board shall submit an
8 evaluation report to the [~~next regular session of~~
9 legislature[-] each even-numbered year. The evaluation report
10 shall include an assessment as to whether the public interest
11 significantly outweighs a rule's effect on small business and any
12 legislative proposal to eliminate or reduce the effect on small
13 business. The legislature may take any action in response to
14 the report as it finds appropriate."

15 SECTION 6. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval.

18

19 INTRODUCED BY: _____

20 BY REQUEST

21

____.B. NO.____

Report Title:

Small Business Regulatory Flexibility Act

Description:

Adopt a more explicit definition of "small business," clarify the powers of the Small Business Regulatory Review Board, increase the number of board members from nine to eleven, and clarify when reporting by the agencies is required for submission to the board and for submission by the board to the Legislature.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.