

September 21, 2016 ~ SBRRB Meeting Checklist

Member Attendance				
	Airline Preference	From	Details	Attend
Anthony Borge, Chair (E)(P)	NA	Oahu	Parking Pass	Yes
Barbara Bennett, 2nd Vice Chair (E)(P)	HA	Kauai	Parking Pass	Yes
Kyoko Kimura (T)(E)(P)	HA	Maui	Parking Pass	Yes
Harris Nakamoto, Vice Chair	NA	Oahu	NA	No
Director's ex officio Mark Richey	NA	Oahu	NA	? Yes/No
Robert Cundiff (E)(P)	NA	Oahu	Parking Pass	Yes
Nancy Atmospera-Walch	NA	Oahu	NA	No
Garth Yamanaka (T)(E)(P)	HA	B.I.	Parking Pass	Yes
<i>x Travel metress</i>				

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

STAFF				
Dawn Apuna	(E)		✓	Yes
Dori Palcovich			✓	Yes

Post Meeting Checklist	

Visitors Sign-in-Sheet - Small Business Regulatory Review Board - September 21, 2016

	Name	Title	Organization	Email	Phone
1	Tyler Rawston	Dr.	citizen		008-358-2982
2	Bill Bustard		OLR		
3	Auna Hikai	Asst Admin	CIC	ahikai@hawaii.gov	7607302
4	Don Pacallo	Admin	CIC	dipac@hawaii.gov	7607303
5	Cathy Goetz		ANIMAL RIGHTS HAWAII	cathy@animalrights-hawaii.org	721-4211
6	Aedward los Banos		HODA		594-0300
7	Deepak Neupane				
8	Garett Kamekamoto				
9	Jackie James	ERP	Anthology	jackie.james@anthologycorp.com	808-371-9366
10	Lance Wong		Dept of Health		586-8000
11	Amber Vinos				11
12	Scott Fernandez		F.K. Fernandez	kfernandez@fkfernandez.com	220-8638
13	Louisa Smith		E.K. Fernandez	ekfernandez@fernandez.com	295-5843
14	Chrystin Eads		FELD / AHFI	ceads@ahfi.com	
15	Christopher Kishimoto		HODA PAB		832-0566

Visitors Sign-in-Sheet - Small Business Regulatory Review Board - September 21, 2016

	Name	Title	Organization	Email	Phone
1	Jonathan Ho		HDOA PQB	Jonathan.K.Ho@hawaii.gov	832-0566
2	John Ueshiro		HDOA PQ	john.t.ueshiro@hawaii.gov	832-0577
3	LEO OBALDO		HDOA	leonard.gobaldo@hawaii.gov	832-0588
4	Kathleen Lee		HPPA	klee@hawaiipublicpolicy.com	
5	Kevin K. Minami		HOOA	kevin.k.minami@hawaii.gov	832-0566
6	Jessica Woolley		IHS	jessicawoolley@gmail.com	864-0400
7	Michael Colon-Yoshimoto		KHON	news@khon2.com	
8	CAT KATANA		AF		
9	Jessica Cole		" "		
10	Jenelle Youngs		Hawaiian Business Society		356-2200
11	Allison Gammell		" "		356-2277
12					
13					
14					
15					



The Maui News / MATTHEW THAYER photos

With bright lights, spinning rides and pumping music, the Maui Fair's Fun Zone lived up to its name last year. Rising shipping costs for the rides are threatening their appearance at future Maui Fair events.

Shipping rate hikes causing ripple effect with Maui Fair

By **MELISSA TANJI**
Staff Writer

As the next Maui Fair rolls around in about two weeks, the longtime fair board director warned of future hurdles to E.K. Fernandez bringing its rides and games to the nearly century-old annual event due to rising interisland shipping costs.

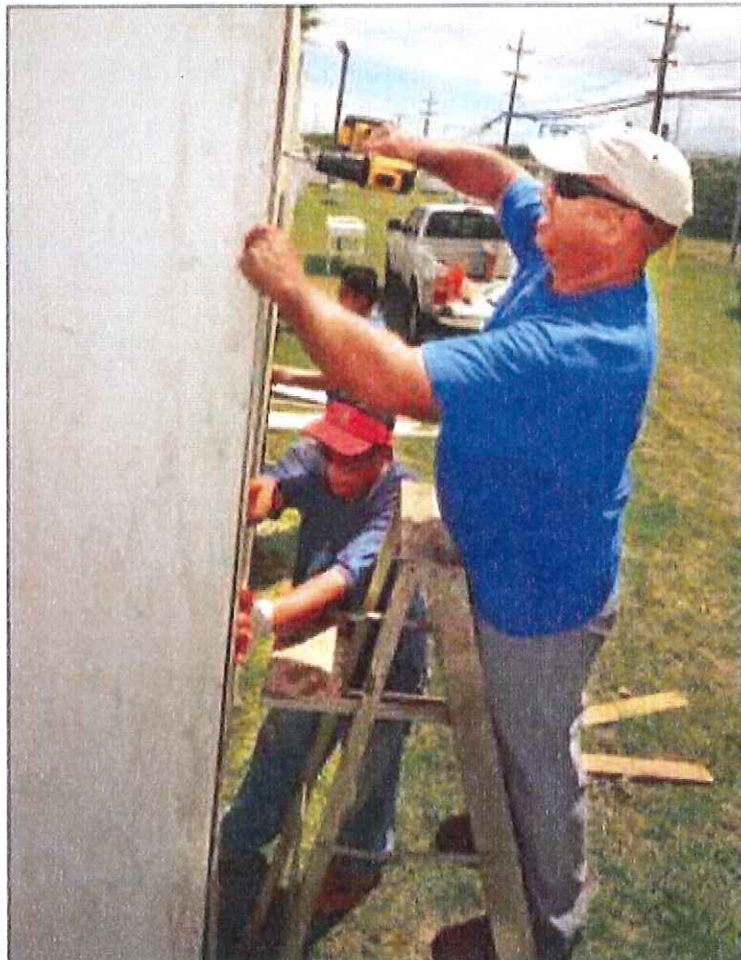
In the past 10 years, shipping rates have doubled for E.K. Fernandez Shows, while revenues have only increased an average of 1.8 percent per year, said Avery Chumbley, president of the Maui Fair Alliance this week.

"They are at a tipping point," Chumbley said, noting that he has been asked by the company to reach out to county and state officials to push for reduced shipping rates.

"What scares me . . . if it (shipping rates) continues to increase, we may not have a fair any longer," Chumbley said.

E.K. Fernandez, a family company on Oahu that was formed in 1903, brings carnival rides and games to the Maui Fair, which is held at the War Memorial Complex. The company takes most of the revenue from the rides, games and food and refreshment booths in the joy zone section of the fair, Chumbley said. The company gives a small portion of revenues to the fair.

This year's 94th fair is scheduled for Oct. 6-9.



St. Anthony High School maintenance staffers Kenneth Ferreira (from foreground), Haiml Kalle and Lee Barbero work on the school's Maui Fair booth Wednesday morning. They said the school will be call-



The Maui News / MATTHEW THAYER photo

A crew from Wasa Electrical Service installs the lighting for a Maui Fair tent Wednesday

Fair

Continued from Page A1

E.K. Fernandez's Vice President Donna Smith declined to comment.

Chumbley was unable to provide exact shipping costs, but noted that if E.K. Fernandez does all four Neighbor Island fairs this year on Maui and Kauai and in Hilo and Kona, the company's shipping costs will be 59 percent higher than last year.

He said that the first leg of the Neighbor Island run this year was from Honolulu to Kauai, where the shipping cost was 13 percent higher than last year.

Roy Catalani, vice president of strategic initiatives and external affairs for Young Brothers, which handles the interisland shipping of E.K. Fernandez rides and other material, said he has not been ap-

proached by Maui Fair officials about the cost of shipping.

"We would like to understand all of the facts and assumptions that underlie Maui Fair's concerns before stating what we could support or consider," he said in an email. "We share Maui Fair's concern for the rising costs that we all experience, and we would very much welcome a direct conversation with Maui Fair on logistics, rates and other matters that contribute to transportation cost."

He said he could not release details about shipping costs for E.K. Fernandez because the information is considered "customer confidential."

Chumbley said that instead of speaking to lawmakers, the Maui Fair and the other Neighbor Island fairs could seek assistance from the state Public Utilities Commission, which regulates interisland shipping

rates. He said he believes that the fairs would have a good case for lower shipping rates for their events.

"Given the choice of raising their prices exponentially and damaging their reputation as a generational source of affordable family entertainment, they have chosen to remain affordable," Chumbley said of E.K. Fernandez. "Relief is needed from Young Brothers in order to sustain this business and ensure Maui and the rest of the Neighbor Islands will continue to have fairs into the future."

Currently, Young Brothers is awaiting word from the PUC on its request for a 4.4 percent general increase to its shipping rates. The company has said the rate increase would make up for rising expenses and low cargo growth. The company has said a decision is expected in November on a proposed rate increase.

The community would lose out if the fair did not happen, said Chumbley, noting that some community groups raise their entire annual revenue at the fair. "If we don't have a fair, all of that goes away," he said.

For some Maui families, the Maui Fair with its rides and games is the closest thing to an amusement or theme park, he said.

"Not everyone has the financial resources to travel to Disneyland. They bring their kids to the Maui Fair. It is the joy zone and the rides and the games and other elements that give them the Maui Disneyland," Chumbley said.

"If freight goes up, there is no Maui Disneyland any more," he said.

■ Melissa Tanji can be reached at mtanji@mauinews.com.



September 21, 2016

Small Business Regulatory Review Board

Background:

E.K. Fernandez Shows has been in business for 113 years, and for 100 years has brought “dangerous wild animals” to the state without incident.

During this year’s 50th State Fair, we had approximately one thousand team members help us produce the fair. Our neighbor island fairs and similar events like Punahou Carnival require a similar effort.

Reference to 1,000 team members:

These team members, who include a number of small businesses, include:

1. Volunteers with nonprofit organizations, a variety of independent contractors, circus performers, petting zoo employees, employees of the companies that we contract to provide amusements for the 50th State Fair, food vendors, advertising professionals, off-duty police officers providing armed security, safety inspectors, service providers, fuel companies, courier companies, restaurant repair and supply companies, around-the-clock security personnel, fencing contractor, marketing consultant, music performers, Hawaii Stars competitors, stage and lighting companies, trucking and shipping companies, Marvel and Warner Brothers costume characters, comfort station providers, Aloha Stadium parking attendants, first-aid providers, ATM providers, and many others.
2. Fernandez Events has less than 25 full-time employees; however, we do hire casual labor---or as we refer to them, “spot help.” A good example of this would be the neighbor island hires. These individuals work for the one weekend the fair is on their island. For example, the Kauai County Fair is a four-day event. These individuals work those four days, and if we are lucky, we get them to return the following year. Although Hawaii state law leaves the definition of part-time and full-time up to the employer, a good metric to determine a part-time employee would be an individual who works a portion of each week for an employer for a majority of weeks in a year. We operate 18 weeks out of 52. Additionally, we stop all operations at the beginning of November and don’t start up again until the Punahou carnival in early February. This puts us into a unique class of business known as a seasonal business.
3. As a seasonal business, much like the farming industry, we make our revenues during ‘the season’ and that gets us through the winter months. Our biggest cash crop, which provides us with our greatest margins, is the 50th State Fair. This is the Fair that provides us the means to produce all of our other events, including the neighbor island fairs.

The impact from the ban on wild animals imposed by Governor Ige's administration:

This year, our revenues from the 50th State Fair were down over one million dollars and our attendance was down 42,231 individuals, which is a 30% reduction in attendance, making this our lowest recorded attendance since the early 80's---or three decades. This also means our overall revenues for the entire year will be down more than 10%.

This is a direct result of a government regulation that seems to be based on someone's political agenda, as there is no factual basis, and it only targets our small business.

This single change is having a ripple effect in our operations, as I have had to cut overhead in terms of staff, and I am selling two of our major rides to raise capital to get us through the end of this year. No additional equipment will be added to our inventory. This is only the first adjustment to our business as a result of this regulation.

The kids at Punahou won't be seeing the Fireball or our Dragon Coaster due to this regulation. But at least they will have their carnival, which will not be the case for the families in Kona. For the first time in our history, we have cancelled an annual event due to shipping and transportation costs, combined with our low cash reserves from this year's 50th State Fair. I am concerned for all of the small businesses and nonprofits that will be affected in Kona, but I cannot risk another loss in capital.

If this regulation continues to go forward into 2017, Kona will be just the first of "not coming attractions." I hate to think how the papers will cover the 95th annual Maui County Fair absent the Fernandez midway, which our family has been providing since the very first Maui County Fair in 1916.

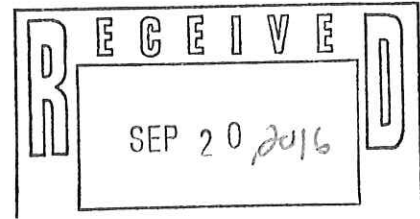
There is a reason there are no other providers of this service; it's a hard business to afford, operate, and manage. Keep in mind that entertainment companies like ours are closing on the US mainland at an accelerated rate, and they are not being replaced due to the difficulties already stated, along with unnecessary and destructive government regulations such as this proposed ban on wild animals that is destroying my family's small business. It's the only one in the Islands, it took a century to build, its replacement cost is prohibitive, and, if not handled correctly, it will be gone forever.

Providing affordable fun and entertainment has been my grandfather's, my father's and now my life's work. I hope that the people of Hawaii will continue to have this opportunity. We will need your help to get this accomplished.

Scott Fernandez
President



THE HUMANE SOCIETY
OF THE UNITED STATES



September 21, 2016

Small Business Regulatory Review Board
Capitol Building No. 1
250 S. Hotel St., Room 436
Honolulu, HI 96813

RE: STRONG SUPPORT for Item IV-E, Amending Chapter 4-71, Relating to Non-Domestic Animal Import Rules

Dear Chair Borge, Vice-Chair Nakamoto and Board Members,

On behalf of our more than 50,000 members and supporters across Hawaii we respectfully urge your support of Agenda Item IV-E to amend Chapter 4-71 to prohibit the import of certain dangerous wild animals for entertainment purposes, and to send this rule proposal out for public hearings. This proposed rule change would not prohibit the continued import of certain wild animals to Government zoos or for limited film production purposes where the public would not have contact with the animals.

On May 7, 2015, Governor David Ige announced he would no longer allow the import of certain dangerous wild animals and directed the Chair of Department of Agriculture (DOA), Scott Enright, to cease issuing such permits. This decision was announced based on the inherent public health and safety risks that certain dangerous wild animals pose to the public and the environment, should a non-native animal escape. Further, Governor Ige recognized the animal welfare concerns posed by shipping exotic animals to Hawaii, given they often must endure a week or more of land travel before being loaded onto a ship for a 5+ day journey to Hawaii. Long distance transport is stressful for animals and increases their likelihood of becoming ill or even developing communicable diseases that can negatively impact human health. In November, the Board of Agriculture unanimously concurred with Governor Ige's decision and approved the proposed rule change to go out for public hearings.

Per HRS §201M the purview of the Board is to determine if the proposed rule changes may negatively impact small businesses, which are defined as having fewer than 100 full-time or part-time employees (HRS §201M-1). Feld Entertainment and its subsidiary, Ringling Brothers and Barnum & Bailey Circus, report having 3000 employees and have not operated in Hawaii (see: https://www.washingtonpost.com/business/feld-entertainment-head-prepares-to-pass-his-empire-to-his-daughters/2012/06/14/gJQAYwN0eV_story.html) EK Fernandez Inc., is listed as the 167th largest business in Hawaii and has reported having 225 to 800 employees (see:



Testimony in support of Item 4-E: Please prohibit dangerous wild animal acts in Hawaii

Matthew Jisa to: SBRRB@DBEDT.HAWAII.GOV

09/20/2016 09:40 PM

Cc: "dbedt.sbrb@hawaii.gov"

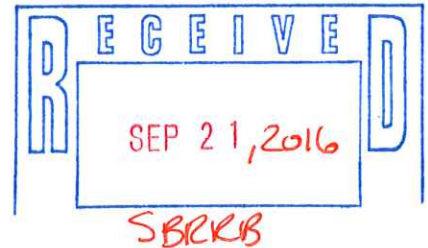
4 attachments



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Small Business Regulatory Review Board,

I'm writing in support of what I understand is item 4-E on your agenda for your Wednesday September 21, 2016 meeting. I'm hoping Hawaii will prohibit dangerous wild animal acts in our state (I live in Honolulu).

I was a witness when Tyke the female circus elephant escaped from an animal circus here in Honolulu in 1994. She ended up at my Kakaako apartment building and was shot as I was watching her from my apartment window. I took part in a recent documentary about Tyke called "Tyke: Elephant Outlaw" which played to a packed house at our Hawaii International Film Festival last November and is now doing well screening to the nation on Netflix. The film is very well done and because it concerns Hawaii and this topic, I would urge you all to see it.

American knows what happened here in Hawaii with the "Tyke the elephant" incident and all eyes have been on Hawaii to make sure we don't let something similar happen again. By banning performing animal acts completely, we would be telling the nation we're not willing to put our citizens at risk again. The Tyke incident is proof positive that performing animal acts can go deathly wrong. Can you imagine if something like that happened here AGAIN at an animal show on on a movie set? It's simply not worth the risk. And speaking of our local film industry, in this day of modern digital movie making and green screen technology, maybe there's no longer a reason to put humans in a movie scene with unrestrained wild animals. It's too risky. Luckily it seems modern movie making techniques can simulate all that anyway so our local film industry wouldn't suffer because of the ban. Thank you for your time. I'm attaching 4 photos I took of Tyke myself.

Matt Jisa
P.O. Box 75157
Honolulu, HI 96836
jisaloha@hotmail.com
(808) 391-9730



Testimony in support of Item 4-E: Please prohibit dangerous wild animal acts in Hawaii

Matthew Jisa to: SBRRB@DBEDT.HAWAII.GOV
Cc: "dbedt.sbrrb@hawaii.gov"

09/20/2016 09:40 PM

4 attachments



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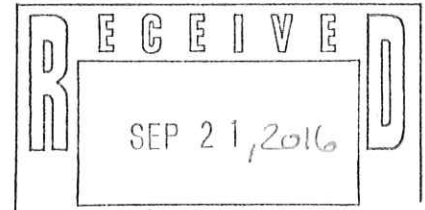
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SBRRB

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Matt Jisa
P.O. Box 75157
Honolulu, HI 96836
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(808) 391-9730



Hawaiian Humane Society

People for animals. Animals for people.

2700 Waialae Avenue Honolulu, Hawaii 96826
808.946.2187 • hawaiianhumane.org



September 19, 2016

Mr. Anthony Borge, Chair
And Members of the Small Business Regulatory Review Board
Department of Business, Economic Development & Tourism
No. 1 Capitol District Building
250 South Hotel Street, 5th Floor
Honolulu, HI 96813

RE: Agenda Item: Discussion and Action on Proposed Amendments to HAR Title 4, Chapter 71, Non-Domestic Animal Import Rules, promulgated by DoAg

Aloha Chair Borge and Members of the Board:

Thank you for allowing the Hawaiian Humane Society to express our strong support for the Department of Agriculture, Plant Industry Division's proposed amendments to Hawaii Administrative Rules, Title 4, Chapter 71.

The proposed amendment to ban the import of "dangerous wild animals" for live performance or exhibition in a circus or carnival addresses an important animal welfare issue and one of public safety as well.

There are many examples where wild animals have been brought to Hawaii strictly for entertainment. One of those is Tyke. Twenty years ago this elephant escaped from the circus, killing one person and injuring others before being shot 88-times and dying on a Honolulu street. Twenty years may seem like a long time ago, but for those of us who were there, it will never be forgotten.

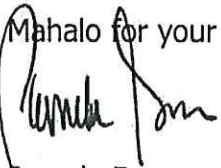
Wild animals are not predictable. The Department of Agriculture reiterates this fact in their Pre-Public Hearing Small Business Impact Statement:

Even under permit conditions carefully tailored to address containment and safety risks, unexpected events can occur that put the public at risk.

When accidents do happen, trainers, promoters and the public blame the animal as they did with Tyke. What they fail to realize is that wild animals such as tigers, lions, bears and monkeys are not meant to be in temporary housing for weeks at a time while they are on-island to entertain us. Confined spaces, unfamiliar surroundings, loud noises and crowds of people can cause these animals to be stressed and exhibit erratic behavior, which is what happened with Tyke. Putting wild animals in such close proximity to large audiences for the thrill of entertainment puts both the humans and animals at risk.

We urge you to approve these proposed amendments to the Hawaii Administrative Rules and move it forward.

Mahalo for your consideration.

A handwritten signature in black ink, appearing to read "Ramela Burns", written over a circular stamp or seal.

Ramela Burns
President & CEO

Donna Smith

From: Avery B. Chumbley <abc@aloha.net>
Sent: Wednesday, September 21, 2016 9:26 AM
To: Donna Smith
Cc: Scott Fernandez; 'Sherri Grimes'
Subject: Wild animal ban on fairs & circuses

Aloha Donna.... Please share with the Small Business Regulatory Review Board, the following comments at today's hearing.

Aloha Chair Tony Borge and Board members;

My name is Avery B. Chumbley, I am the President of the Maui Fair Alliance, the non-profit community based organization responsible for organizing and running the annual Maui Fair. We are the oldest fair in the State of Hawaii and will be conducting our 94th. Annual fair in October of this year.

I had submitted testimony to the Board of Agriculture back in early January expressing concerns over the proposed Administrative Rules to ban wild animals into the State for fair and carnival activities. **If this ban does go into effect and EK Fernandez Shows is prohibited from including wild animal shows as part of its statewide fairs this would have a significant negative impact to the overall sustainability of their business and in turn have a devastating impact to the underserved Neighbor Islands.**

I say that because, if EK Fernandez cannot sustain its business operations and would shut down, that would mean there is no carnival operator in the State to come to the Big Island, Kauai and Maui for our annual fairs. The fairs in each of these Neighbor Islands is the one true grass roots local community event that is enjoyed and cherished by us, the local folks who may not have the financial means to bring our children and families to Oahu to visit the zoo or take our children to the mainland to a Disney theme park. Our fairs on the Neighbor Islands are deeply rooted tradition and the loss of EK Fernandez Shows events would be an injustice to our rural communities.

Please do all you can to reject the proposed changes to HAR 4-71.

Mahalo.....

**Avery B. Chumbley
Wailuku Water Company LLC
P.O. Box 2790
Wailuku, Maui, Hawaii
96793-9355
phone: 808.244.7079 cell: 808.276.3595
fax: 808.242.7068 email: abc@aloha.net
SKYPE: avery.chumbley (work office only)
[Check us out on FACEBOOK by Clicking Here](#)**

Donna Smith

From: Dane Pollock <bigwavedane@gmail.com>
Sent: Tuesday, September 20, 2016 9:04 AM
To: Donna Smith
Subject: 50th State Fair
Attachments: Fair.pdf

Donna,

Below are my comments regarding the Small Business Regulatory Review Board meeting and the impact of the decline in attendance at this year's 50th State Fair on my business.

1. Our corn on the cob volume sales were down 18.3% from 2015 to 2016.
2. If EK Fernandez no longer put on the 50th State Fair, it would be a catastrophic negative financial impact on our business. We need this event financially to carry us through the rest of the year. Without the sales from the 50th State Fair, our corn business would really struggle.

Sincerely,
Dane Pollock
Owner
Noni To Go
DBA Crazy Country Corn

Donna Smith

To: Donna Smith
Subject: 50th State Fair

From: Charlita [<mailto:hawaiian.delights@aol.com>]
Sent: Wednesday, September 21, 2016 10:15 AM
To: Donna Smith
Subject: 50th State Fair

Aloha Donna!

As a food vendor at the 50th State Fair for the past two years I sadly report that sales were down 18% this year from last year. As a small NATIVE HAWAIIAN business we rely on the overall success of the 50th State Fair; EKFernandez Productions. Without the 50th State Fair our business will significantly feel a negative impact.

With proper care and mandated precautions, WILD ANIMALS are the thrill and excitement of Fairs throughout the Country. It has been and will always be. EKFernandez has been the one and only providing this opportunity for the people of Hawaii.

I humbly ask that they be allowed to continue this venue to include Wild Animals.

Be Blessed and Be a Blessing!

Charlita@Mahoe'sHawaiianDelights

Donna Smith

To: Donna Smith
Subject: 50th State Fair

From: Macy Khounkeo [mailto:macy_otf@LIVE.COM]
Sent: Wednesday, September 21, 2016 9:58 AM
To: Donna Smith
Subject: Re: 50th State Fair

Donna,

My revenues at this year's 50th State Fair were down 58% over last year. If there were no longer a 50th State Fair, it would have a negative impact upon my business because it has been a huge part of our business revenue. Also, we had developed a relationship with patrons of the 50th State Fair and they look forward to enjoying our food at the fair. We would hate to disappoint them.

Thank you,

Macy Khounkeo
Olay's Thai Express
macy@olaysthaiexpress.com
(702)683-9635

Palcovich, Dori

From: Inga Gibson <hsushawaii@gmail.com>
Sent: Monday, September 19, 2016 4:09 PM
To: Palcovich, Dori
Subject: Documents for Board Item 4-E
Attachments: Tyke-1-1024x682.jpg

Aloha Dori,

Nice speaking with you earlier. I'll send you my formal written testimony tomorrow morning. In the mean time could you please be sure the Board receives the below articles (the AP covered this when Gov Ige announced no more permits last May so there are literally hundreds of articles, I just linked three of them below) and attached fact sheet/photo of Tyke. Thank you!

<http://www.civilbeat.org/2015/05/hawaii-governor-pledges-to-ban-wild-animals-in-entertainment-acts/>

http://m.huffpost.com/us/entry/us_564bd31fe4b045bf3df1aa88

<http://www.staradvertiser.com/2015/11/25/breaking-news/board-moves-forward-on-proposal-to-ban-wild-animal-imports/>

Inga Gibson
Policy Consultant
The HSUS Hawaii
HSUSHawaii@gmail.com
cell 808.922.9910
www.humanesociety.org

On Sep 15, 2016 10:14 AM, "Palcovich, Dori" <dori.palcovich@hawaii.gov> wrote:

Dear Ms. Gibson:

Per your request, please find attached the SBRRB's September 21, 2016 meeting agenda. I have also enclosed all the documents regarding HAR Chapter 4-71 that the SBRRB received from the Department of Agriculture.

Sincerely,

Dori Palcovich

Administrator to the SBRRB



SCIENCE

Hawaii Moves To Ban Wild Performing Animals

The first state prohibition on exotic wildlife for entertainment appears headed for approval.

© 11/24/2015 11:59 pm ET | Updated Nov 30, 2015

180



Chris D'Angelo
Associate Editor, HuffPost Hawaii

Hawaii likely will become the first U.S. state to ban the use of elephants, bears and other exotic wild animals for entertainment purposes.

The [Hawaii Department of Agriculture](#) board on Tuesday unanimously approved a proposed rules change that would define "dangerous wild animals" and prohibit the import of such animals "for exhibition or performance in public entertainment shows such as circuses, carnivals and state fairs." The rules make exceptions for commercial filming in television or movies and in government zoos.

Animals listed in the proposal include big cats, primates, elephants, rhinoceros, hippopotamus, bears, hyenas and crocodiles.

The move comes just three days after "[Tyke Elephant Outlaw](#)," a documentary about a circus elephant that went on a deadly rampage in Honolulu two decades ago, made its Hawaii premiere.

Tyke, a [20-year-old female African circus elephant](#), escaped from the [Neal Blaisdell Center](#) after trampling a groomer and killing her trainer during a performance with Honolulu's Circus International on Aug. 20, 1994. She charged down Honolulu streets before being gunned down by police.

"You could see blood and bullet holes," [Tyler Ralston](#), a witness, recalled in an interview with The Huffington Post.



What People are Searching For



Broken thumb ends year



Cop shot unarmed man

TRENDING

Trump Jr.'s Poisoned Skittles Tweet Goes Horrifically — And Hilariously — Awry

Trump Won Tax Breaks While Donating Tens Of Thousands To Corrupt Official

Hillary Clinton Burns Jimmy Fallon Over Donald Trump Interview

St. Cloud Police Chief William Blair Anderson Shuts Down Fox News Hosts On Live TV

Seth Meyers Tears Donald Trump To Shreds Over Birther Issue

In October 2014, the [Humane Society of the United States](#) and several other organizations petitioned the state agriculture department to add dangerous wild animals to its list of prohibited species.

Inga Gibson, Hawaii senior state director for the Humane Society, told HuffPost the issue is not only one of animal welfare, but also public health and safety. And in Hawaii — a state well known for its spirit of aloha and values of respect for the environment — the ban is a “long time coming,” she said.

“We’re hoping of course that Hawaii will set an example for other states to take the next step,” Gibson said.

Several countries and [50 municipalities in 22 U.S. states](#) have implemented partial or full bans on circus animals. No U.S. state, however, has taken action, according to the Humane Society.

“We have a golden opportunity to lead the way,” said Ralston, who worked with the petitioning groups.



EFREM LUKATSKY/AP

A bear performs on a bike in Ukraine's National Circus in 2013.

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8.16 M



7.66 M



436 K



Podcast



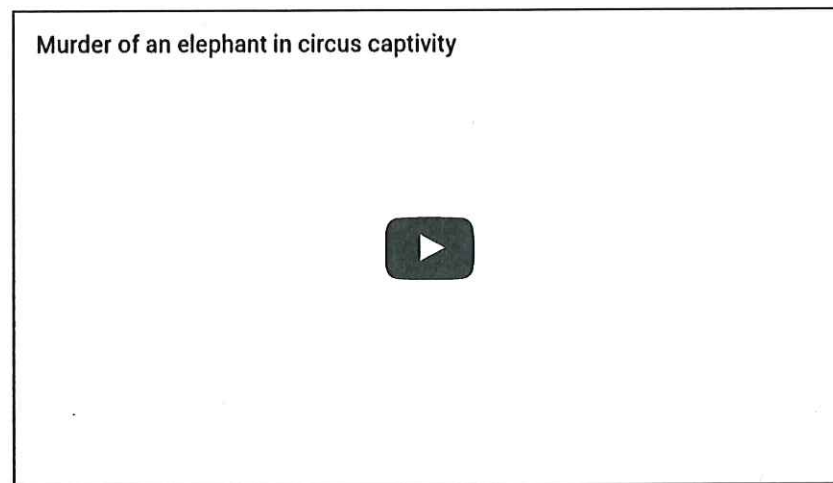
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With Tuesday's preliminary approval, the issue heads to statewide public hearings. Agriculture department spokeswoman Janelle Saneishi told HuffPost in an email that the proposed rules must still be reviewed by the Hawaii Attorney General's office and approved by Hawaii Gov. David Ige.

Ige backed the idea earlier this year, when he pledged to stop issuing permits for wild animal exhibits or performances. Gibson said she expects the new rules to go into effect as soon as early in 2016.

Not surprisingly, the proposal is generating opposition from fair and circus advocates. As the Honolulu Star-Advertiser reported Tuesday, the Circus Fans Association submitted written testimony in which it characterized proponents of the measure as "animal rights extremists" who wrongly claim that the animals are mistreated.

WARNING: The video below is extremely graphic and shows footage from Tyke's deadly rampage and public death.



Also on HuffPost:

THE BEAT

Hawaii Governor Pledges to Ban Wild Animals in Entertainment Acts

Animal rights activists praise the action, which has already been taken in about 40 American cities.

MAY 7, 2015 · By Marina Riker  

Share 0

Hawaii Gov. David Ige has pledged to stop giving permits to entertainment acts that use wild animals, including circuses or other acts.

Animal rights activists say that using wild animals for entertainment purposes risks animal welfare and public safety.

“We thank Gov. Ige for taking a stand against circuses and other acts involving wild animals and urge residents never to attend such cruel spectacles,” said Inga Gibson, who is the state director for the Humane Society of the United States, in a press release Thursday.

Scott Enright, chair of the Hawaii Department of Agriculture, said his department was pleased to work with Hawaii’s animal welfare groups to ban the use of wild animals for entertainment purposes, according to the press release.

Ige’s decision comes at a time when many mainland jurisdictions are considering whether to ban shows that use wild animals in entertainment. About 40 U.S. cities

and several countries, including Mexico and the Netherlands, already have such bans in place, according to the Humane Society.

Cathy Goeggel, president of the non-profit organization Animal Rights Hawaii, said that Hawaii should have banned wild animals in circuses 20 years ago after Tyke the elephant killed her trainer, escaped from a circus and was shot in the streets of Honolulu.



Animal rights activists say wild animals pose a threat to themselves and the public if used in entertainment acts like circuses.

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About the Author

CIVIL BEAT STAFF



Marina Riker  

Marina Riker is a former intern for Civil Beat.

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2 Comments

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Add a comment...



Frank De Giacomo

HSUS makes campaign donations and is getting rewarded for backing Scott Enright. There are very few "wild animal" acts left, and the chances of these smaller acts paying to ship to Hawaii are slim. In the meantime quarantine still sucks, dolphins aren't considered wild animals in need of permitting, and of course, wild animals at the zoo and aqarium don't need permitting either.

Like · Reply ·  2 · May 7, 2015 1:58pm



Frank De Giacomo


Big announcement over nothing but a fundraising mailer for HSUS.

Like · Reply · May 7, 2015 2:00pm



Sherrie Moore · Pahoa, Hawaii

Frank De Giacomo, I disagree. There are actually already two more 'animal act' shows scheduled for Honolulu, approved before this declaration. I definitely agree about the other issues that need to be addressed, dolphins especially should not be used in shows or exhibitions, and the Honolulu Zoo has long been a shame. Hopefully this is a first step. You can't do it all at once, as much as I'd like to see that happen. My feeling is that the Governor took on one issue that is doable here and now, and for that I applaud him. I'll also be watching for other actions.

Like · Reply ·  2 · May 7, 2015 6:41pm



Frank De Giacomo

Aloha Sherrie, I'm amazed that two more animal acts are coming here, but I will take your word for it. Understand though that it is only an administrative judgement call that can change any moment or with any administration. So for backing the new Ag chair who supports lots of animal cruelty, loves pesticides and GMOs, doesn't mind human trafficking, and has zero problem with trashing the aina in Kauai, HSUS got Enright to say no to two animal acts, well, as long as they got a couple grand donated to the governor on top of it. SO, HSUS can send out fundraising mailers to bring in money to pay Ringling Brothers \$16 mil so they can get more wild animals


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Prefer to mail a check? Our mailing address is 3465 Waialae Avenue, Suite 200, Honolulu, HI 96816.

Top News

Board moves forward on proposal to ban wild animal imports

Sophie Cocke

November 25, 2015

The Hawaii Board of Agriculture voted unanimously today to move forward on rules that would ban wild animals from being brought to Hawaii for use in circuses and fairs, above the objections of advocates for the circus industry and to accolades from animal rights supporters who recalled the tragic death of Tyke, the circus elephant that was mowed down in a hail of bullets on a Kakaako street in 1994.

The rules will now go through a public hearing process before going back to the Agriculture Board for approval and decision-making by Gov. David Ige.

Public hearings will likely be held on all of the islands in January, said Scott Enright, who chairs the Agriculture Board. He said he hoped the process would be completed by April.

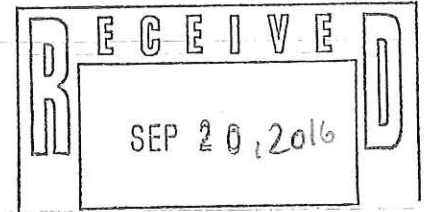
The rules, as they are currently proposed, ban almost two dozen animals, ranging from bears and lions to the lesser-known gavia, a long-nosed, fish-eating crocodile, that have been deemed potentially dangerous to the public. Government-run zoos and the film and television industry are currently exempt from the ban.





Hawaiian Humane Society
People for animals. Animals for people.

2700 Waiālae Avenue Honolulu, Hawaii 96826
808.946.2187 • hawaiianhumane.org



SBRRB

September 19, 2016

Mr. Anthony Borge, Chair
And Members of the Small Business Regulatory Review Board
Department of Business, Economic Development & Tourism
No. 1 Capitol District Building
250 South Hotel Street, 5th Floor
Honolulu, HI 96813

RE: Agenda Item: Discussion and Action on Proposed Amendments to HAR Title 4, Chapter 71, Non-Domestic Animal Import Rules, promulgated by DoAg

Aloha Chair Borge and Members of the Board:

Thank you for allowing the Hawaiian Humane Society to express our strong support for the Department of Agriculture, Plant Industry Division's proposed amendments to Hawaii Administrative Rules, Title 4, Chapter 71.

The proposed amendment to ban the import of "dangerous wild animals" for live performance or exhibition in a circus or carnival addresses an important animal welfare issue and one of public safety as well.

There are many examples where wild animals have been brought to Hawaii strictly for entertainment. One of those is Tyke. Twenty years ago this elephant escaped from the circus, killing one person and injuring others before being shot 88-times and dying on a Honolulu street. Twenty years may seem like a long time ago, but for those of us who were there, it will never be forgotten.

Wild animals are not predictable. The Department of Agriculture reiterates this fact in their Pre-Public Hearing Small Business Impact Statement:

Even under permit conditions carefully tailored to address containment and safety risks, unexpected events can occur that put the public at risk.



Prohibit Wild Animal Acts in Hawaii

Kirsten Petty

to:

SBRRB@DBEDT.HAWAII.GOV

09/19/2016 02:26 PM

Hide Details

From: Kirsten Petty <kdpetty33@yahoo.com>

To: "SBRRB@DBEDT.HAWAII.GOV" <SBRRB@DBEDT.HAWAII.GOV>

Please respond to Kirsten Petty <kdpetty33@yahoo.com>

My name is Kirsten Ramirez and I would like to encourage prohibiting dangerous wild animal acts in Hawaii. I support Item 4-E to end such cruel and unnecessary spectacles. Circuses are known for abusive treatment to so many animals. They are abused and treated poorly. This type of cruelty should never happen to any animal and I urge you not allow what happened to Tyke the Elephant happen again. Let us show the world that Hawaii is against any type of animal cruelty and abuse by not allowing circuses and entertainment shows that use animals to be allowed in Hawaii for good. Tyke never deserved to be shot down and treated in such a horrific manner. Its time we be a voice for animals and show them love and care. I hope you will take my testimony into consideration and hope your voices will be in the best interest of what is right for animals and not for people's entertainment.

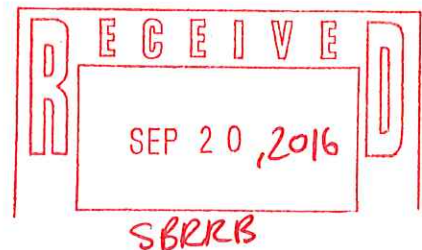
Mahalo,
Kirsten Ramirez





Item 4-E "Remember Tyke!!"
Danica Usova
to:
SBRRB
09/20/2016 03:23 AM
Hide Details
From: Danica Usova <19danica41@gmail.com>
To: SBRRB@dbedt.hawaii.gov

I submit my testimony in support of prohibiting dangerous wild animal acts in Hawaii! I support Item 4-E to end such cruel and unnecessary spectacles.





NO MORE ANIMAL ACTS IN CIRCUS', ANYWHERE!

Babette Lewis

to:

SBRRB@DBEDT.HAWAII.GOV

09/20/2016 05:09 AM

Hide Details

From: Babette Lewis <babzline@att.net>

To: "SBRRB@DBEDT.HAWAII.GOV" <SBRRB@DBEDT.HAWAII.GOV>

Please respond to Babette Lewis <babzline@att.net>

I support Item 4-E to end such cruel and unnecessary spectacles (zoos are exempt) of animals in circuses. The animals are tortured and abused for entertainment purposes and it will not be tolerated any more by the public. I will not go to any zoo or circus that supports animal cruelty!

Sincerely, Babette Lewis

USA





I support Item 4-E
Rosemary Karlsson

to:

SBRRB

09/19/2016 07:21 PM

Hide Details

From: "Rosemary Karlsson" <rosemarykarlsson@gmail.com>

To: <SBRRB@DBEDT.HAWAII.GOV>

History: This message has been replied to.

I ALWAYS vote and I support Item 4-E. Animals are not entertainment or spectacles.

Don't let Ringling Brothers or any other animal acts in Hawaii. It is abuse and slavery for the animals.

I've rescued/fostered 91 dogs so far. No animal should be enslaved to be 'entertainment'. They know they are enslaved.

Rosemary Karlsson

PO Box 492266

16-1885 Uilani Drive

Keaau, HI 96749

rosemarykarlsson@gmail.com

808-966-6589





Support of Item 4-E

Anthony Hunstiger

to:

SBRRB@DBEDT.HAWAII.GOV

09/20/2016 08:05 AM

Hide Details

From: Anthony Hunstiger <tonyhunstiger@hotmail.com>

To: "SBRRB@DBEDT.HAWAII.GOV" <sbrrb@dbedt.hawaii.gov>

Aloha,

I am writing in strong support of Item 4-E.

Prohibiting dangerous wild animal acts in Hawaii is the right thing to do. We must end the cruel and unnecessary spectacle of wild animals being used for entertainment. These animals belong in the wild not in cages and circus rings.

Elephants, rhinos, lions and other large mammals are on the verge of extinction. They will be gone forever unless the human population begins to treat them with respect. Banning these types of brutal exhibitions is a good starting place. (<https://kirschnerskorner.com/2012/06/30/i-am-an-elephant/>)

Please, show that Hawaii respects Mother Nature.

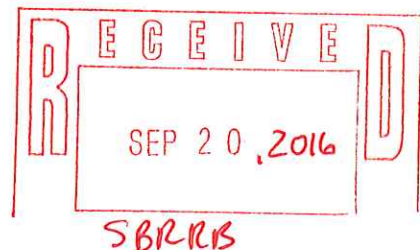
Support Item 4-E.

Regards,

Tony Hunstiger

Secretary/Treasurer Nsefu Wildlife Conservation Foundation

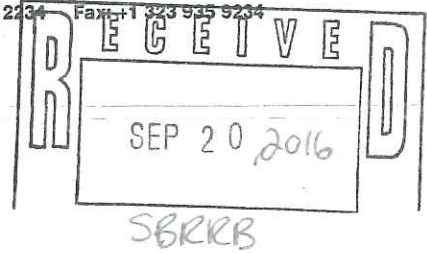
www.nsefu.org





Animal Defenders International

6100 Wilshire Blvd., Suite 1150, LOS ANGELES, CA 90048. Tel: +1 323 935 2234
www.adiusa.org usa@ad-international.org



September 20, 2016

Mr. Anthony Borge, Chair
And Members of the Small Business Regulatory Review Board
Department of Business, Economic Development & Tourism
No. 1 Capitol District Building
250 South Hotel Street, 5th Floor
Honolulu, HI 96813

Sent via email: dbedt.sbrrb@hawaii.gov

RE: Agenda Item: Discussion and Action on Proposed Amendments to HAR Title 4, Chapter 71, Non-Domestic Animal Import Rules, promulgated by DoAg.

Dear Chair Borge and Member of the Board,

I am writing to show our strong support in favor of the Hawaii Department of Agriculture, Plant Industry Division's proposed amendments to Hawaii Administrative Rules, Title 4, Chapter 71. Animal Defenders International (ADI) fully supports the amendment to ban "dangerous wild animals" for live performance, such as circus performance or exhibition. ADI applauds the Small Business Regulatory Review Board for taking the time to consider this important issue.

ADI has particular expertise and has investigated the use of animals in the entertainment industry, especially traveling circuses both here and around the world. We have filmed and photographed the day-to-day treatment of animals, animal care practices, and studied the physical and psychological effects of performing and constant travel in over thirty circuses worldwide. We produce reports and briefings discussing the scientific and empirical evidence of animal suffering, as well as the legal and economic factors, for local and national governments.

Our studies have highlighted that these animals suffer deprived environments, unnatural conditions and violence. For the most part, any discipline or abuse of animals used for entertainment tends to occur off set and behind the scenes, while the animals are being trained. It is almost impossible to ensure that a performing animal has not suffered during a lifetime of training.

Other studies have identified that, in captivity, animals are deprived of all the normal, social and mental stimulation that these animals would enjoy in the wild. They live in barren environments, where they remain until wanted for a performance. Often they are separated from their own kind or live in unnatural groupings where the human trainer is the sole source of food, approval or contact. These animals are trained to do tricks and their compliance may be gained through a withdrawal of food, water or affection.

ADI has also documented the behind-the-scenes suffering of elephants used for public rides, appearances or performances at county fairs, parades and other events. We have filmed shocking scenes of violence during training and handling of elephants supplied for public rides and performances by Have Trunk Will Travel (HTWT), a company operating in Southern California, and Trunks & Humps of Conroe, Texas.

Our video evidence shows elephants at HTWT being beaten, hit with bullhooks (heavy bars with vicious metal hooks on the end) and given electric shocks with stun guns, in order to make them perform. Other scenes show Krissy, owned by Trunks & Humps, being kicked and beaten during a circus tour. Tragically, these are not isolated cases; we have recorded such violence repeatedly, in this industry.

Chimpanzees and monkeys also suffer when used in the entertainment industry. In nature these intelligent, social animals generally live in complex societies, where they communicate and show compassion. But in the name of entertainment primates suffer terribly, with infants torn from their mothers for training, and often enduring social isolation and deprived conditions.

They are turned into figures of derision, dressed in clothes and forced to entertain people – actions which can undermine serious conservation efforts and even stimulate demand for animals to be snatched from the wild because people see these animals as amusing playthings.

Public safety is also an important issue for responsible elected officials to consider. Moving potentially dangerous animals across open ground and in close proximity to the public has resulted in escapes and injuries. The need to control these animals in public also raises the level of animal abuse when workers moving the animals under time pressures, use weapons and beatings to keep control. However the violence increases the fear and stress in, often, powerful wild animals.

ADI's investigation of Carson and Barnes Circus elephants offers a compelling public safety argument against allowing elephants to perform for rides, appearances or performances in public. ADI video footage shows circus workers frantically trying, but failing to control an elephant running amok inside the UCCU Events Center at UVU Orem, Utah. That video also reveals a trainer aggressively and repeatedly using a bullhook and electric shocking device on the elephants before and during performances. (See <http://bit.ly/OutOfControlElephants>.) Earlier this year, three Carson and Barnes elephants escaped from Moolah Shrine Circus in St. Charles, Missouri. A number of cars were damaged, but fortunately no one was hurt. Reportedly, the rampaging elephants were still wearing their ride saddles. People have been injured and killed by stressed and agitated elephants, including experienced elephant handlers like Dr. James Laurita, who was killed by a Carson and Barnes elephant just last month, despite having known the animal more than 30 years.

Elephants are wild, not domestic animals; they are large and therefore dangerous; their fundamental wild nature has not been altered over thousands of years of breeding to make them compliant, like domestic animals such as cats, dogs and horses. Keeping powerful wild animals, stressed and being kept in check by the threat of violence, in dangerously close proximity to people, is a serious threat to public safety. There have been incidents where these animals have simply had enough, and they can rampage – this can result in people being hurt.

The Association of Zoos and Aquariums (AZA) is recognizing this inherent risk as evidenced by a new AZA policy that calls for all elephants handlers at AZA facilities to manage elephants without sharing the same unrestricted space. Effectively, at AZA accredited facilities, elephant handlers will stay safe behind massive elephant proof barriers, which is in sharp contrast with lightweight tape and temporary low fencing often seen when elephants are performing in crowded public venues.

Scientific evidence of suffering

The scientific literature on the effects of captivity, confinement and transportation of animals in a range of industries demonstrates that whether of an exotic/wild or domestic species, animals in traveling circuses entertainment are likely to suffer from the effects of constant travel, poor facilities and limited provision for their welfare.

The scientific evidence is clear – if an animal has no control over its environment, and cannot exercise its body and mind, this can result in repetitive, abnormal (stereotypic) behaviors, indicating compromised welfare, and therefore suffering.

- Transport has been shown to cause indicators of stress including increased heart rate, raised hormone levels, lowered immunity to disease, hormone levels that affect pregnancies, weight loss, aggression and stereotypic behaviors (a stereotypy is a repeated movement with no obvious function, it indicates that the animal is not coping with its environment).
- The limited space available and inadequate care makes it impossible for animals to express their normal behavior patterns. This leads to a high number of stereotypies and other abnormal behaviors, increased aggression, increased susceptibility to disease, hormone changes and increased death rates.
- Isolation or separation from companions leads to complex changes in behavior, including a decreased interest in surroundings, apathy, stereotypies, increased heart rate, vocalizations and higher levels of physiological stress.
- Animals forced to live in close proximity with one another show a greater frequency of fighting and competitive behaviors and a greater incidence of stereotypies.
- When predators are in close proximity to prey species, the prey shows anxiety behaviors, changes in their nervous systems, a suppression of feeding and grooming behaviors.

ADI's studies, and others in the scientific literature, have been supported by a comprehensive scientific study of animal welfare in circuses in March 2009. This concluded that circuses fail to provide some of the most basic welfare needs of wild animals, such as space and social groups. The authors found that there was no evidence to suggest that the needs of wild animals can be met in circuses as "neither natural environment nor much natural behavior can be recreated." [Iossa, G, Soulsbury C.D., Harris S., 'Are wild animals suited to a traveling circus life?', *Animal Welfare*, 2009, 18: 129-140]

Another recent comprehensive analysis of the latest science and the industry worldwide, completed through the *University of Bristol* and supported by the *British Veterinarians Association*, which consulted 658 experts and organizations globally, including 138 animal trainers; 206 lawyers/veterinarians with wild animal expertise; 107 NGO representatives; 144 biologists, researchers, and species experts; 58 zoo and sanctuary staff; and relevant government officials/wildlife experts ("2016 Welsh Report") concluded, without distinction to particular species, that **animals compelled to this existence have 'no life worth living.'** [Dorning, Harris, Picket, *The welfare of wild animals in travelling circuses*, University of Bristol (for the Welsh government) (2016) (which review includes mobile zoos, cub petting, and photo operations), available at https://www.ad-international.org/admin/downloads/adi_c01d3ee14f17115f6f5c51e93beb52b9.pdf]

Even with the best will in the world, the nature of the traveling circus means that it cannot provide standards of welfare and husbandry that will enable animals to maintain optimum physical and psychological health.

A culture of cruelty

Although the domestic species used in traveling circuses are also abused, we have noted that the wild animals, due to the fact that they have not been bred over thousands of years for

compliance like horses and dogs, suffer particular cruelty during handling and training. The fact that they are often large and potentially dangerous, increases the severity of their treatment.

Our investigations, and those of others, have exposed the culture of animal handling and training in the circus industry to be abusive. Many hours of video evidence have shown that pain, punishment and fear are the methods used to force wild animals such as lions, tigers, bears, elephants and others, to perform tricks.

Trainers and workers have been filmed routinely using whips, goads, metal bars, pitchforks, shovels, the ankus/bullhook (a bar with a metal hook on the end), as well as electric prods and even stun guns on the animals.

In summary, animal welfare is inevitably compromised by the traveling and temporary nature of the circus, with severe confinement inevitable and physical abuse commonplace.

33 countries around the world have adopted national legislation prohibiting or restricting the use of wild and exotic animals in circuses. Hundreds of local bans in towns and districts are in place worldwide, in Europe, the UK, US and South America, as well as Asia.

Education and conservation?

Some animal exhibitors claim to be helping education or conservation; the evidence does not support such claims. The use of animals in circuses provides no educational or conservation value to the audience. What the audience sees is a caricature, with the animals performing unnatural tricks and behaviors not seen in the wild, but appearing 'amusing' to the audience. This is entirely the wrong message for children, especially, as they do not learn about the behavior, intelligence, emotions and needs of the species they are seeing. Circuses cannot contribute to serious conservation efforts; the animals they breed are unsuited to conservation programs due to their uncertain genetic background and lifelong proximity with humans. They can also carry diseases that could devastate wild populations.

And what does it say about us?

Forcing these animals perform, and allowing this suffering in the name of entertainment, is completely unacceptable in a modern, civilized and advanced society.

We fully support creative entertainment using human performers, but this should not include the use of animals. And certainly using wild or exotic animals for something as trivial as entertainment is not only cruel, but sends entirely the wrong message about how we should protect endangered species and conserve our planet's ecosystems.

The entertainment industry must adapt to changes in audience tastes, just like all businesses, and the popularity of human-only circus shows and CGI technology in the film industry points the way. Cirque du Soleil, for example appears eight times in the top ranking international shows alongside Madonna and Lady Gaga world tours (*Top 50 Highest Earning World Tours in 2012*), with combined ticket sales of nearly \$400 million. Not a single animal circus made the list. And 20th Century Fox's *Rise of the Planet of the Apes* refused to use any performing chimpanzees. Instead they used computer generated images.

Please consider the evidence in our 'Stop Circus Suffering' DVD and 'Stop Circus Suffering' report which, for your convenience, are available electronically at:

Stop Circus Suffering DVD: http://bit.ly/DVD_StopCircusSufferingUS
Science on Suffering Report U.S.: <http://bit.ly/ScienceOnSufferingUS>

ADI can also provide printed copies of our evidence briefings upon your request.

A tragic lesson about what can go horribly wrong with traveling exotic animal acts was learned right here in Hawaii twenty years ago with the death of Tyke the African elephant, who was killed after escaping from the circus while performing at the Blaisdell Arena in Honolulu, Hawaii. Her death sent shockwaves across the US and led many to campaign to help animals like her from suffering a similar fate. Despite this tragic incident, during which Tyke's trainer was fatally injured and her groom seriously so, wild animal acts are still permitted in Hawaii. This Petition is the solution to this longstanding problem.

Thank you for your leadership on this important matter.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Jan Creamer". The signature is written in a cursive style with a long, sweeping underline.

Jan Creamer
President



Support Item 4-E

Jessica D

to:

SBRRB

09/20/2016 01:42 PM

Hide Details

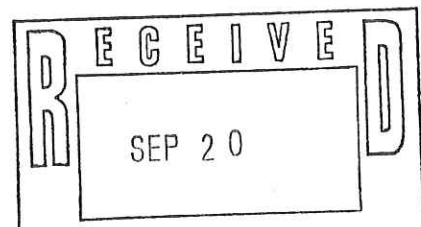
From: Jessica D <jessdunn24@gmail.com>

To: SBRRB@dbedt.hawaii.gov

To whom it may concern:

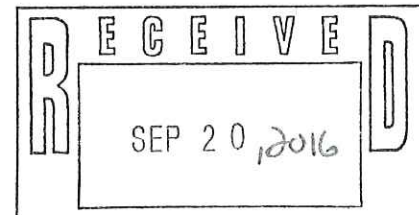
I fully support item 4E the prohibition of dangerous wild animal acts in Hawaii. The trip to Hawaii is torment enough for the animals. I do not support the traveling circus or their inhumane treatment for our entertainment purposes. The terrible way Tyke died should teach us all a lesson or else he died in vain.

Jessica Woo



text_0

I support 4E to end such cruel and unnecessary spectacles.





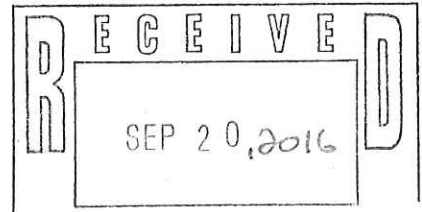
4109379149 to: sbrrb

09/20/2016 11:00 AM

1 attachment



text_0.txt





Item 4-E

McKenna Fisher

to:

SBRRB@DBEDT.HAWAII.GOV

09/19/2016 05:17 PM

Hide Details

From: McKenna Fisher <mgracefisher@yahoo.com>

To: "SBRRB@DBEDT.HAWAII.GOV" <SBRRB@DBEDT.HAWAII.GOV>

Please respond to McKenna Fisher <mgracefisher@yahoo.com>

I support Item 4-E to end such cruel and unnecessary spectacles. Animals used for human entertainment is insidious in this day and age of the 21st century that we are living in. The cycle of slavery and abuse needs to end.

~ Sincerely,

McKenna Grace Fisher

Portland Oregon

"Until you see with your eyes what you are complicit to, you will not know the devastation of your choices" ©mgf

Live Vegan ~ Abolition for all life

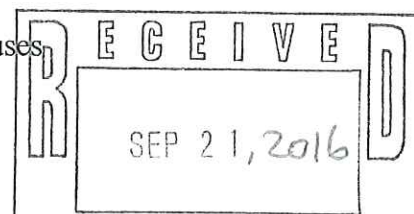
blessings mgf

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Item 4-E Ban on Importation and Use of Wild Animals in Circuses
 Global March for Elephants & Rhinos
 09/20/2016 09:01 PM



To:
 SBRRB
 Sent by:
 lorisirianni@gmail.com

Cc:

dbedt.sbrb

Hide Details

From: "Global March for Elephants & Rhinos" <march4elesandrhinus@gmail.com>

To: SBRRB@dbedt.hawaii.gov

Cc: dbedt.sbrb@hawaii.gov

Sent by: lorisirianni@gmail.com

Security:

To ensure privacy, images from remote sites were prevented from downloading. Show Images

Dear Small Business Review Board,

Please accept this letter as testimony from the Global March for Elephants and Rhinos (GMFER) in support of Item 4-E, banning the use of wild animals in circuses, carnivals and state fairs in the State of Hawaii. We understand that the Small Business Review Board will be considering this proposed ban on Wednesday, September 21st, hope that the Board will *support* Item 4-E and that Governor Ige will likewise support it.

Wild animals are trained for circus tricks using harsh training methods based on dominance, pain, fear, and negative reinforcement using bullhooks, electrical shocks and whips. Many of the circus tricks they're forced to perform are stressful to their joints and degrading, unnatural behaviors for their respective species, from elephants standing on tiny pedestals or sitting up begging in the harmful "dog-sit" pose which can cause herniations, to tigers jumping through rings of fire to bears wearing tutus riding bicycles.

In addition, these animals spend their lives traveling in trucks or train boxcars, or chained on hard substrates or caged in small enclosures for the majority of the time when not performing, which causes them physical and psychological stress often resulting in abnormal stereotypical behaviors including pacing, rocking, swaying and head-bobbing. In short, wild animals are wholly unsuited to circus captivity and performances.

In August 1994, Honolulu was the site of a circus tragedy in which an elephant named Tyke snapped during a performance at the Neal S. Blaisdell Center, trampled and killed her trainer and injured her groom, then ran from the arena and rampaged through the city's streets. She was ultimately killed when police fired 86 bullets into her, and she collapsed covered in blood.

This incident shocked the nation and was neither the first nor the last time that a circus elephant has rebelled against circus abuse, injured and/or killed people and attempted to flee. Using elephants and other dangerous, wild animals in circuses is **harmful to the animals and extremely risky to circus employees and the public.**

Elephants used in circuses are also often exposed to the human strain of tuberculosis (TB), which is spread between elephants through close, cramped conditions during circus travel and is transmissible between elephants and humans. TB in elephants not only presents a risk to their health and lives but a

risk to human health.

In 2009 the US Centers for Disease Control (CDC) conservatively estimated that 12% of captive Asian elephants and 2% of captive African elephants in the US are thought to be infected with *M.tuberculosis*; it is widely believed that the actual percentage is much higher. The USDA has since made TB testing for elephants *only voluntary for all exhibitors* which further places circus employees and the public at risk if circus elephants are not tested, diagnosed and treated for TB exposure.

To date, according to the international organization Animal Defenders International, there are now thirty-eight countries with nationwide bans on the use of wild or exotic animals in circuses; Norway has also just banned their use, becoming the thirty-ninth country, and there are dozens of municipal bans in countries like Canada and the US. In the United States ADI reports "50 partial or full bans on circus animals in municipalities in the US, in 22 states". ADI's full list can be viewed at this link: <http://www.stopcircussuffering.com/circus-bans/>

GMFER **fully supports municipal, state and nationwide bans** on the use of wild, exotic and domesticated animals in circuses. The public is becoming educated to the suffering of animals who are forced to endure abusive training methods, harmful captivity and traveling conditions and the risks to themselves and their children from circuses that use wild animals. As humanity evolves and our understanding of these magnificent animals like elephants, big cats, primates, bears and others expands through science, states and nations are rightly and justly enacting bans on their involuntary, forced and abusive use by the circus industry.

The phenomenal worldwide success of animal-free circuses such as Cirque du Soleil, which uses only willing human performers and earns more than \$1 billion in annual revenue, is a testament to humankind's evolution and compassion, and the fact that circuses can be *even more successful* without forcing animals into performing unnatural, degrading and harmful tricks for our amusement.

GMFER applauds Hawaii's progressive actions to protect wild elephants with the passage of ivory ban bill SB 2647 into law, and to protect captive elephants and many other captive species with this proposed ban on the importation and use of wild animals in circuses, carnivals and state fairs.

GMFER strongly and respectfully urges the Small Business Review Board to support this important protection for animals and to make American history by being the first state in our great nation to ban the use of wild animals for entertainment.

Thank you.

Lori Sirianni, on behalf of the Global March for Elephants and Rhinos

Global March for Elephants and Rhinos
www.March4ElephantsAndRhinos.org



Pass #4E
Wayne Johnson to: SBRRB

09/20/2016 05:30 PM

Stop the use and abuse of Wild Animals on the Islands

Wayne Johnson Ph.D.
441 Walina
Honolulu

RECEIVED
SEP 21, 2016
SBRRB



re: prohibiting dangerous wild animal acts in Hawaii (support)

nomi image to: SBRRB

Please respond to nomi image

09/20/2016 03:37 PM

Twenty two years ago, a tragic event happened here in the streets of Kakaako.

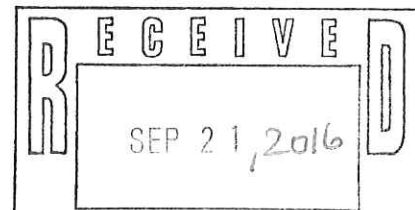
You don't have to be an animal activist or animal lover to shed tears after viewing footage from this heartbreaking day. Tyke the female African elephant was gunned down and died in undeniable pain, her eyes reflecting loneliness and despair. But she was finally free from the misery and bondage of cruel circus life.

When not performing, elephants are confined in tiny boxcars for weeks at a time, their legs shackled in chains. Their majestic heads and trunks sway back and forth indicating frustration and boredom, their spirits broken. Out of intense fear, they are forced to perform silly tricks for humans or face being beaten with sharp bullhooks. Elephants have gotten sick and died from TB.

Let's honor Tyke's memory by not using wild and exotic animals in circuses or venues that come to Hawaii, but instead patronize animal-free circuses like Cirque du Soleil. We can then not have to worry about animals...or humans dying.

I fully support item 4-E and hope you will too.

Naomi Egami
Palolo Valley



SBRRB



Three Ring Ranch Exotic Animal Sanctuary

75-809 Keaolani Dr., Kailua-Kona, Hawaii 96740 phone 808 331-8778
animals@threeringranch.org www.threeringranch.org

Aloha Small Business Review Board,

This is testimony **against agenda item 4-E**, the proposed Amendments to Chapter 4-71, Hawaii Administrative Rules, "Non-Domestic Hawaii Import Rules" (HAR) that include the amendment banning import of Dangerous, Wild Non-Domestic Wild Animals for Performance in Circus or Carnivals, as preliminarily approved by the BOD of Ag in the meeting 11/24/2015. We ask that SBRRB not approve the current wording of the proposed rule and return it to the Dept. of Ag. for minor revision before returning it to SBRRB.

The Three Ring Ranch (3RR) is Hawaii's only fully accredited animal sanctuary, dually accredited by the American Sanctuary Association (ASA) and the Global Federation of Animal Sanctuaries (GFAS) which are recognized as the most stringent of all sanctuary accreditation bodies. As the American Zoological Association (AZA) is to zoos GFAS is to sanctuaries. 3RR has worked with the Hawaii Department of Agriculture, USDA & USF&W Service since 1998.

We do not feel that the Department of Ag deliberately excluded 3RR in the wording change in January 2016. The change removed the following words "*AZA accredited zoos and GFAS accredited sanctuaries*" from being exempt. It was meant to allow the Hilo zoo, which does not have accreditation status to continue being allowed import animals. But as the proposed rule stands it will allow import of the animals for the zoos, even non-accredited zoos, but not for the accredited Three Ring Ranch.

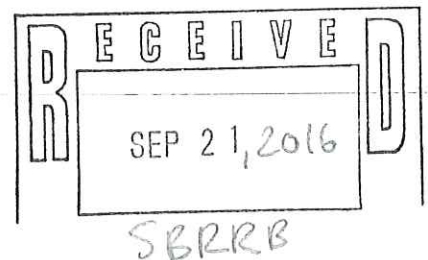
The wording change created in January of 2016 will create an exclusionary rule that would bar the Three Ring Ranch from serving its mission. 3RR is fully permitted by the Dept. of Ag, USDA, USF&W Service as a sanctuary and educational facility. 3RR has been accredited and USDA licensed without any loss of status since 1999. This shows the degree of responsibility and professionalism of 3RR.

We are a small non-profit business, based on the Big Island providing educational programs to over 2000 people per year. Including internships, mentoring for local children, college students, visitors and vet students. The sanctuary provides a lifetime home to animals in need. Most are voluntary owner surrender but some are state or federal placements. We need to remain a safe and secure place where the animals can go to.

We ask that the wording change be modified to include ASA and or GFAS accredited sanctuaries before this rule takes effect. We have supported the rule since inception however feel this later wording change creates an exclusionary rule. I testified and wrote in support of the rule as originally written at the meeting 11/24/2015. We believe in protecting Hawaii from animals which could bring disease to our state or put Hawaii's people at risk. We believe that the intent of the proposed rule change is good, the January wording change is not.

Regards,

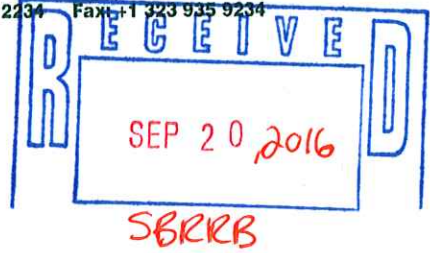
Ann Goody PhD
Executive Director
Three Ring Ranch





Animal Defenders International

6100 Wilshire Blvd., Suite 1150, LOS ANGELES, CA 90048. Tel: +1 323 935 2234 Fax: +1 323 935 9234
www.adiusa.org usa@ad-international.org



September 20, 2016

Mr. Anthony Borge, Chair
And Members of the Small Business Regulatory Review Board
Department of Business, Economic Development & Tourism
No. 1 Capitol District Building
250 South Hotel Street, 5th Floor
Honolulu, HI 96813

Sent via email: dbedt.sbrrb@hawaii.gov

RE: Agenda Item: Discussion and Action on Proposed Amendments to HAR Title 4, Chapter 71, Non-Domestic Animal Import Rules, promulgated by DoAg.

Dear Chair Borge and Member of the Board,

I am writing to show our strong support in favor of the Hawaii Department of Agriculture, Plant Industry Division's proposed amendments to Hawaii Administrative Rules, Title 4, Chapter 71. Animal Defenders International (ADI) fully supports the amendment to ban "dangerous wild animals" for live performance, such as circus performance or exhibition. ADI applauds the Small Business Regulatory Review Board for taking the time to consider this important issue.

ADI has particular expertise and has investigated the use of animals in the entertainment industry, especially traveling circuses both here and around the world. We have filmed and photographed the day-to-day treatment of animals, animal care practices, and studied the physical and psychological effects of performing and constant travel in over thirty circuses worldwide. We produce reports and briefings discussing the scientific and empirical evidence of animal suffering, as well as the legal and economic factors, for local and national governments.

Our studies have highlighted that these animals suffer deprived environments, unnatural conditions and violence. For the most part, any discipline or abuse of animals used for entertainment tends to occur off set and behind the scenes, while the animals are being trained. It is almost impossible to ensure that a performing animal has not suffered during a lifetime of training.

Other studies have identified that, in captivity, animals are deprived of all the normal, social and mental stimulation that these animals would enjoy in the wild. They live in barren environments, where they remain until wanted for a performance. Often they are separated from their own kind or live in unnatural groupings where the human trainer is the sole source of food, approval or contact. These animals are trained to do tricks and their compliance may be gained through a withdrawal of food, water or affection.

ADI has also documented the behind-the-scenes suffering of elephants used for public rides, appearances or performances at county fairs, parades and other events. We have filmed shocking scenes of violence during training and handling of elephants supplied for public rides and performances by Have Trunk Will Travel (HTWT), a company operating in Southern California, and Trunks & Humps of Conroe, Texas.

Our video evidence shows elephants at HTWT being beaten, hit with bullhooks (heavy bars with vicious metal hooks on the end) and given electric shocks with stun guns, in order to make them perform. Other scenes show Krissy, owned by Trunks & Humps, being kicked and beaten during a circus tour. Tragically, these are not isolated cases; we have recorded such violence repeatedly, in this industry.

Chimpanzees and monkeys also suffer when used in the entertainment industry. In nature these intelligent, social animals generally live in complex societies, where they communicate and show compassion. But in the name of entertainment primates suffer terribly, with infants torn from their mothers for training, and often enduring social isolation and deprived conditions.

They are turned into figures of derision, dressed in clothes and forced to entertain people – actions which can undermine serious conservation efforts and even stimulate demand for animals to be snatched from the wild because people see these animals as amusing playthings.

Public safety is also an important issue for responsible elected officials to consider. Moving potentially dangerous animals across open ground and in close proximity to the public has resulted in escapes and injuries. The need to control these animals in public also raises the level of animal abuse when workers moving the animals under time pressures, use weapons and beatings to keep control. However the violence increases the fear and stress in, often, powerful wild animals.

ADI's investigation of Carson and Barnes Circus elephants offers a compelling public safety argument against allowing elephants to perform for rides, appearances or performances in public. ADI video footage shows circus workers frantically trying, but failing to control an elephant running amok inside the UCCU Events Center at UVU Orem, Utah. That video also reveals a trainer aggressively and repeatedly using a bullhook and electric shocking device on the elephants before and during performances. (See <http://bit.ly/OutOfControlElephants>.) Earlier this year, [three Carson and Barnes elephants escaped](#) from Moolah Shrine Circus in St. Charles, Missouri. A number of cars were damaged, but fortunately no one was hurt. Reportedly, the rampaging elephants were still wearing their ride saddles. People have been injured and killed by stressed and agitated elephants, including experienced elephant handlers like Dr. James Laurita, who [was killed by a Carson and Barnes elephant just last month](#), despite having known the animal more than 30 years.

Elephants are wild, not domestic animals; they are large and therefore dangerous; their fundamental wild nature has not been altered over thousands of years of breeding to make them compliant, like domestic animals such as cats, dogs and horses. Keeping powerful wild animals, stressed and being kept in check by the threat of violence, in dangerously close proximity to people, is a serious threat to public safety. There have been incidents where these animals have simply had enough, and they can rampage – this can result in people being hurt.

The Association of Zoos and Aquariums (AZA) is recognizing this inherent risk as evidenced by a new AZA policy that calls for all elephants handlers at AZA facilities to manage elephants without sharing the same unrestricted space. Effectively, at AZA accredited facilities, elephant handlers will stay safe behind massive elephant proof barriers, which is in sharp contrast with lightweight tape and temporary low fencing often seen when elephants are performing in crowded public venues.

Scientific evidence of suffering

The scientific literature on the effects of captivity, confinement and transportation of animals in a range of industries demonstrates that whether of an exotic/wild or domestic species, animals in traveling circuses entertainment are likely to suffer from the effects of constant travel, poor facilities and limited provision for their welfare.

The scientific evidence is clear – if an animal has no control over its environment, and cannot exercise its body and mind, this can result in repetitive, abnormal (stereotypic) behaviors, indicating compromised welfare, and therefore suffering.

- Transport has been shown to cause indicators of stress including increased heart rate, raised hormone levels, lowered immunity to disease, hormone levels that affect pregnancies, weight loss, aggression and stereotypic behaviors (a stereotypy is a repeated movement with no obvious function, it indicates that the animal is not coping with its environment).
- The limited space available and inadequate care makes it impossible for animals to express their normal behavior patterns. This leads to a high number of stereotypies and other abnormal behaviors, increased aggression, increased susceptibility to disease, hormone changes and increased death rates.
- Isolation or separation from companions leads to complex changes in behavior, including a decreased interest in surroundings, apathy, stereotypies, increased heart rate, vocalizations and higher levels of physiological stress.
- Animals forced to live in close proximity with one another show a greater frequency of fighting and competitive behaviors and a greater incidence of stereotypies.
- When predators are in close proximity to prey species, the prey shows anxiety behaviors, changes in their nervous systems, a suppression of feeding and grooming behaviors.

ADI's studies, and others in the scientific literature, have been supported by a comprehensive scientific study of animal welfare in circuses in March 2009. This concluded that circuses fail to provide some of the most basic welfare needs of wild animals, such as space and social groups. The authors found that there was no evidence to suggest that the needs of wild animals can be met in circuses as "neither natural environment nor much natural behavior can be recreated." [Iossa, G, Soulsbury C.D., Harris S., 'Are wild animals suited to a traveling circus life?', *Animal Welfare*, 2009, 18: 129-140]

Another recent comprehensive analysis of the latest science and the industry worldwide, completed through the *University of Bristol* and supported by the *British Veterinarians Association*, which consulted 658 experts and organizations globally, including 138 animal trainers; 206 lawyers/veterinarians with wild animal expertise; 107 NGO representatives; 144 biologists, researchers, and species experts; 58 zoo and sanctuary staff; and relevant government officials/wildlife experts ("2016 Welsh Report") concluded, without distinction to particular species, that **animals compelled to this existence have 'no life worth living.'** [Dorning, Harris, Pickett, *The welfare of wild animals in travelling circuses*, University of Bristol (for the Welsh government) (2016) (which review includes mobile zoos, cub petting, and photo operations), available at https://www.ad-international.org/admin/downloads/adi_c01d3ee14f17115f6f5c51e93beb52b9.pdf]

Even with the best will in the world, the nature of the traveling circus means that it cannot provide standards of welfare and husbandry that will enable animals to maintain optimum physical and psychological health.

A culture of cruelty

Although the domestic species used in traveling circuses are also abused, we have noted that the wild animals, due to the fact that they have not been bred over thousands of years for

compliance like horses and dogs, suffer particular cruelty during handling and training. The fact that they are often large and potentially dangerous, increases the severity of their treatment.

Our investigations, and those of others, have exposed the culture of animal handling and training in the circus industry to be abusive. Many hours of video evidence have shown that pain, punishment and fear are the methods used to force wild animals such as lions, tigers, bears, elephants and others, to perform tricks.

Trainers and workers have been filmed routinely using whips, goads, metal bars, pitchforks, shovels, the ankus/bullhook (a bar with a metal hook on the end), as well as electric prods and even stun guns on the animals.

In summary, animal welfare is inevitably compromised by the traveling and temporary nature of the circus, with severe confinement inevitable and physical abuse commonplace.

33 countries around the world have adopted national legislation prohibiting or restricting the use of wild and exotic animals in circuses. Hundreds of local bans in towns and districts are in place worldwide, in Europe, the UK, US and South America, as well as Asia.

Education and conservation?

Some animal exhibitors claim to be helping education or conservation; the evidence does not support such claims. The use of animals in circuses provides no educational or conservation value to the audience. What the audience sees is a caricature, with the animals performing unnatural tricks and behaviors not seen in the wild, but appearing 'amusing' to the audience. This is entirely the wrong message for children, especially, as they do not learn about the behavior, intelligence, emotions and needs of the species they are seeing. Circuses cannot contribute to serious conservation efforts; the animals they breed are unsuited to conservation programs due to their uncertain genetic background and lifelong proximity with humans. They can also carry diseases that could devastate wild populations.

And what does it say about us?

Forcing these animals perform, and allowing this suffering in the name of entertainment, is completely unacceptable in a modern, civilized and advanced society.

We fully support creative entertainment using human performers, but this should not include the use of animals. And certainly using wild or exotic animals for something as trivial as entertainment is not only cruel, but sends entirely the wrong message about how we should protect endangered species and conserve our planet's ecosystems.

The entertainment industry must adapt to changes in audience tastes, just like all businesses, and the popularity of human-only circus shows and CGI technology in the film industry points the way. Cirque du Soleil, for example appears eight times in the top ranking international shows alongside Madonna and Lady Gaga world tours (*Top 50 Highest Earning World Tours in 2012*), with combined ticket sales of nearly \$400 million. Not a single animal circus made the list. And 20th Century Fox's *Rise of the Planet of the Apes* refused to use any performing chimpanzees. Instead they used computer generated images.

Please consider the evidence in our 'Stop Circus Suffering' DVD and 'Stop Circus Suffering' report which, for your convenience, are available electronically at:

Stop Circus Suffering DVD: http://bit.ly/DVD_StopCircusSufferingUS
Science on Suffering Report U.S.: <http://bit.ly/ScienceOnSufferingUS>

ADI can also provide printed copies of our evidence briefings upon your request.

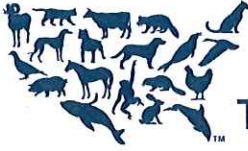
A tragic lesson about what can go horribly wrong with traveling exotic animal acts was learned right here in Hawaii twenty years ago with the death of Tyke the African elephant, who was killed after escaping from the circus while performing at the Blaisdell Arena in Honolulu, Hawaii. Her death sent shockwaves across the US and led many to campaign to help animals like her from suffering a similar fate. Despite this tragic incident, during which Tyke's trainer was fatally injured and her groom seriously so, wild animal acts are still permitted in Hawaii. This Petition is the solution to this longstanding problem.

Thank you for your leadership on this important matter.

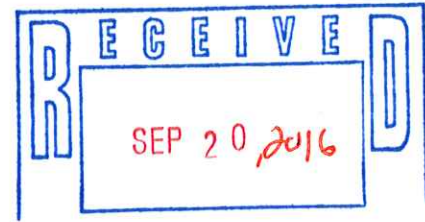
Yours sincerely,

A handwritten signature in blue ink, appearing to read "Jan Creamer", with a horizontal line underneath.

Jan Creamer
President



THE HUMANE SOCIETY
OF THE UNITED STATES



September 21, 2016

Small Business Regulatory Review Board
Capitol Building No. 1
250 S. Hotel St., Room 436
Honolulu, HI 96813

RE: STRONG SUPPORT for Item IV-E, Amending Chapter 4-71, Relating to Non-Domestic Animal Import Rules

Dear Chair Borge, Vice-Chair Nakamoto and Board Members,

On behalf of our more than 50,000 members and supporters across Hawaii we respectfully urge your support of Agenda Item IV-E to amend Chapter 4-71 to prohibit the import of certain dangerous wild animals for entertainment purposes, and to send this rule proposal out for public hearings. This proposed rule change would not prohibit the continued import of certain wild animals to Government zoos or for limited film production purposes where the public would not have contact with the animals.

On May 7, 2015, Governor David Ige announced he would no longer allow the import of certain dangerous wild animals and directed the Chair of Department of Agriculture (DOA), Scott Enright, to cease issuing such permits. This decision was announced based on the inherent public health and safety risks that certain dangerous wild animals pose to the public and the environment, should a non-native animal escape. Further, Governor Ige recognized the animal welfare concerns posed by shipping exotic animals to Hawaii, given they often must endure a week or more of land travel before being loaded onto a ship for a 5+ day journey to Hawaii. Long distance transport is stressful for animals and increases their likelihood of becoming ill or even developing communicable diseases that can negatively impact human health. In November, the Board of Agriculture unanimously concurred with Governor Ige's decision and approved the proposed rule change to go out for public hearings.

Per HRS §201M the purview of the Board is to determine if the proposed rule changes may negatively impact small businesses, which are defined as having fewer than 100 full-time or part-time employees (HRS §201M-1). Feld Entertainment and its subsidiary, Ringling Brothers and Barnum & Bailey Circus, report having 3000 employees and have not operated in Hawaii (see: https://www.washingtonpost.com/business/feld-entertainment-head-prepares-to-pass-his-empire-to-his-daughters/2012/06/14/gJQAYwN0eV_story.html) EK Fernandez Inc., is listed as the 167th largest business in Hawaii and has reported having 225 to 800 employees (see:

<http://www.hawaiibusiness.com/top-250-inside-the-bottom-line/>) The DOA submittal notes that during the 50th State Fair, EK Fernandez employs up to 1000 employees. We have reviewed the wild animal permits issued by the DOA for the past 10 years and find no other business in Hawaii requesting permits for the import of the proposed listed dangerous wild animals. Dangerous wild animal acts and displays are only a small component of fairs, festivals, and similar events and could easily be replaced with another non-animal attraction, thus having no negative impact on the success of these events. Further, there are a number of species that may continue to be imported for entertainment purposes, and the proposed rule change does not apply to the import of domesticated animals used for agricultural, farming or ranching purposes. Prohibiting the import of the certain dangerous wild animals will simply not negatively impact any Hawaii small business.

As is standard procedure, the Attorney General's Office reviewed the proposed rule changes prior to their coming before the Board. Importing animals for entertainment purposes is not a right under the State or Federal Constitution and a state's ability to strictly regulate the possession and exhibition of dangerous wild animals has withstood constitutional challenges. *See, e.g., Wilkins v. Daniels*, 913 F. Supp. 2d 517, 542 (S.D. Ohio, 2012), *aff'd* 744 F.3d 409 (6th Cir. 2014) (upholding Ohio law prohibiting unqualified facilities from obtaining and transferring exotic animals); *Nicchia v. People of State of New York*, 254 U.S. 228, 230 (1920) (property in animals "is of an imperfect or qualified nature and they may be subjected to peculiar and drastic police regulations by the state without depriving their owners of any federal right."); *DeHart v. Town of Austin*, 39 F.3d 718 (7th Cir. 1994) (holding that the federal Animal Welfare Act does not preempt state law regulating the possession and use of exotic animals); *Viva! Int'l Voices for Animals v. Adidas Promotional Retail Ops., Inc.*, 162 P.3d 569 (2007) (finding that the federal Endangered Species Act effectuates a "joint cooperative state-federal approach to wildlife preservation" and that states can prohibit actions involving wildlife that are not expressly authorized by federal permit). It is clearly within the authority of the state to determine which species may or may not enter the state in order to protect public health, safety or our fragile island ecosystem. *See* HRS § 150A-6; HRS § 150A-5.6.

We again urge your support of amending Chapter 4-71 and recommending that these rules go out for statewide public hearings, in the best interest of protecting Hawaii's citizens, the environment and promoting humane wild animal care standards.

Sincerely,

Inga Gibson
Policy Consultant
The Humane Society of the United States
PO Box 89131
Honolulu, HI 96830
808.922.9910



Item 4-E "Remember Tyke!!"

Danica Usova

to:

SBRRB

09/20/2016 03:23 AM

Hide Details

From: Danica Usova <19danica41@gmail.com>

To: SBRRB@dbedt.hawaii.gov

I submit my testimony in support of prohibiting dangerous wild animal acts in Hawaii! I support Item 4-E to end such cruel and unnecessary spectacles.





NO MORE ANIMAL ACTS IN CIRCUS', ANYWHERE!

Babette Lewis

to:

SBRRB@DBEDT.HAWAII.GOV

09/20/2016 05:09 AM

Hide Details

From: Babette Lewis <babzline@att.net>

To: "SBRRB@DBEDT.HAWAII.GOV" <SBRRB@DBEDT.HAWAII.GOV>

Please respond to Babette Lewis <babzline@att.net>

I support Item 4-E to end such cruel and unnecessary spectacles (zoos are exempt) of animals in circuses. The animals are tortured and abused for entertainment purposes and it will not be tolerated any more by the public. I will not go to any zoo or circus that supports animal cruelty!

Sincerely, Babette Lewis

USA





I support Item 4-E
Rosemary Karlsson

to:

SBRRB

09/19/2016 07:21 PM

Hide Details

From: "Rosemary Karlsson" <rosemarykarlsson@gmail.com>

To: <SBRRB@DBEDT.HAWAII.GOV>

History: This message has been replied to.

I ALWAYS vote and I support Item 4-E. Animals are not entertainment or spectacles.

Don't let Ringling Brothers or any other animal acts in Hawaii. It is abuse and slavery for the animals.

I've rescued/fostered 91 dogs so far. No animal should be enslaved to be 'entertainment'. They know they are enslaved.

Rosemary Karlsson
PO Box 492266
16-1885 Uilani Drive
Keaau, HI 96749
rosemarykarlsson@gmail.com
808-966-6589





Support of Item 4-E

Anthony Hunstiger

to:

SBRRB@DBEDT.HAWAII.GOV

09/20/2016 08:05 AM

Hide Details

From: Anthony Hunstiger <tonyhunstiger@hotmail.com>

To: "SBRRB@DBEDT.HAWAII.GOV" <sbrrb@dbedt.hawaii.gov>

Aloha,

I am writing in strong support of Item 4-E.

Prohibiting dangerous wild animal acts in Hawaii is the right thing to do. We must end the cruel and unnecessary spectacle of wild animals being used for entertainment. These animals belong in the wild not in cages and circus rings.

Elephants, rhinos, lions and other large mammals are on the verge of extinction. They will be gone forever unless the human population begins to treat them with respect. Banning these types of brutal exhibitions is a good starting place. (<https://kirschnerskorner.com/2012/06/30/i-am-an-elephant/>)

Please, show that Hawaii respects Mother Nature.

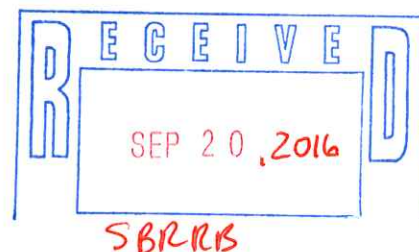
Support Item 4-E.

Regards,

Tony Hunstiger

Secretary/Treasurer Nsefu Wildlife Conservation Foundation

www.nsefu.org





Item 4-E

McKenna Fisher

to:

SBRRB@DBEDT.HAWAII.GOV

09/19/2016 05:17 PM

Hide Details

From: McKenna Fisher <mgracefisher@yahoo.com>

To: "SBRRB@DBEDT.HAWAII.GOV" <SBRRB@DBEDT.HAWAII.GOV>

Please respond to McKenna Fisher <mgracefisher@yahoo.com>

I support Item 4-E to end such cruel and unnecessary spectacles. Animals used for human entertainment is insidious in this day and age of the 21st century that we are living in. The cycle of slavery and abuse needs to end.

~ Sincerely,

McKenna Grace Fisher

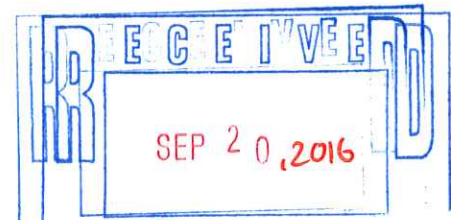
Portland Oregon

"Until you see with your eyes what you are complicit to, you will not know the devastation of your choices" ©mgf

Live Vegan ~ Abolition for all life

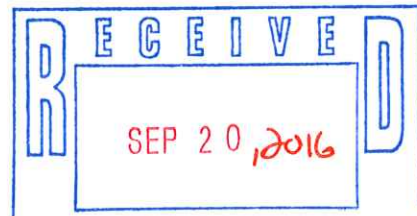
blessings mgf

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text_0

I support 4E to end such cruel and unnecessary spectacles.





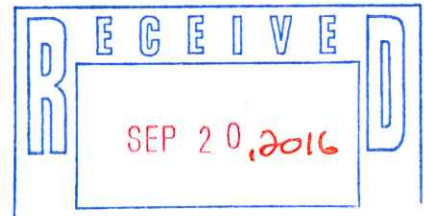
4109379149 to: sbrrb

09/20/2016 11:00 AM

1 attachment



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Item 4-E Ban on Importation and Use of Wild Animals in Circuses

Global March for Elephants & Rhinos

09/20/2016 09:01 PM

To:

SBRRB

Sent by:

lorisirianni@gmail.com

Cc:

dbedt.sbrrb

Hide Details

From: "Global March for Elephants & Rhinos" <march4elesandrhinus@gmail.com>

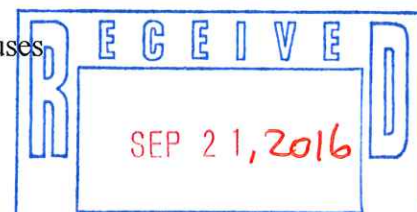
To: SBRRB@dbedt.hawaii.gov

Cc: dbedt.sbrrb@hawaii.gov

Sent by: lorisirianni@gmail.com

Security:

To ensure privacy, images from remote sites were prevented from downloading. Show Images



SBRRB

Dear Small Business Review Board,

Please accept this letter as testimony from the Global March for Elephants and Rhinos (GMFER) in support of Item 4-E, banning the use of wild animals in circuses, carnivals and state fairs in the State of Hawaii. We understand that the Small Business Review Board will be considering this proposed ban on Wednesday, September 21st, hope that the Board will *support* Item 4-E and that Governor Ige will likewise support it.

Wild animals are trained for circus tricks using harsh training methods based on dominance, pain, fear, and negative reinforcement using bullhooks, electrical shocks and whips. Many of the circus tricks they're forced to perform are stressful to their joints and degrading, unnatural behaviors for their respective species, from elephants standing on tiny pedestals or sitting up begging in the harmful "dog-sit" pose which can cause herniations, to tigers jumping through rings of fire to bears wearing tutus riding bicycles.

In addition, these animals spend their lives traveling in trucks or train boxcars, or chained on hard substrates or caged in small enclosures for the majority of the time when not performing, which causes them physical and psychological stress often resulting in abnormal stereotypical behaviors including pacing, rocking, swaying and head-bobbing. In short, wild animals are wholly unsuited to circus captivity and performances.

In August 1994, Honolulu was the site of a circus tragedy in which an elephant named Tyke snapped during a performance at the Neal S. Blaisdell Center, trampled and killed her trainer and injured her groom, then ran from the arena and rampaged through the city's streets. She was ultimately killed when police fired 86 bullets into her, and she collapsed covered in blood.

This incident shocked the nation and was neither the first nor the last time that a circus elephant has rebelled against circus abuse, injured and/or killed people and attempted to flee. Using elephants and other dangerous, wild animals in circuses is **harmful to the animals and extremely risky to circus employees and the public.**

Elephants used in circuses are also often exposed to the human strain of tuberculosis (TB), which is spread between elephants through close, cramped conditions during circus travel and is transmissible between elephants and humans. TB in elephants not only presents a risk to their health and lives but a

risk to human health.

In 2009 the US Centers for Disease Control (CDC) conservatively estimated that 12% of captive Asian elephants and 2% of captive African elephants in the US are thought to be infected with *M.tuberculosis*; it is widely believed that the actual percentage is much higher. The USDA has since made TB testing for elephants ***only voluntary for all exhibitors*** which further places circus employees and the public at risk if circus elephants are not tested, diagnosed and treated for TB exposure.

To date, according to the international organization Animal Defenders International, there are now thirty-eight countries with nationwide bans on the use of wild or exotic animals in circuses; Norway has also just banned their use, becoming the thirty-ninth country, and there are dozens of municipal bans in countries like Canada and the US. In the United States ADI reports “50 partial or full bans on circus animals in municipalities in the US, in 22 states”. [ADI’s full list](http://www.stopcircussuffering.com/circus-bans/) can be viewed at this link:
<http://www.stopcircussuffering.com/circus-bans/>

GMFER **fully supports municipal, state and nationwide bans** on the use of wild, exotic and domesticated animals in circuses. The public is becoming educated to the suffering of animals who are forced to endure abusive training methods, harmful captivity and traveling conditions and the risks to themselves and their children from circuses that use wild animals. As humanity evolves and our understanding of these magnificent animals like elephants, big cats, primates, bears and others expands through science, states and nations are rightly and justly enacting bans on their involuntary, forced and abusive use by the circus industry.

The phenomenal worldwide success of animal-free circuses such as Cirque du Soleil, which uses only willing human performers and earns more than \$1 billion in annual revenue, is a testament to humankind’s evolution and compassion, and the fact that circuses can be ***even more successful*** without forcing animals into performing unnatural, degrading and harmful tricks for our amusement.

GMFER applauds Hawaii’s progressive actions to protect wild elephants with the passage of ivory ban bill SB 2647 into law, and to protect captive elephants and many other captive species with this proposed ban on the importation and use of wild animals in circuses, carnivals and state fairs.

GMFER strongly and respectfully urges the Small Business Review Board to support this important protection for animals and to make American history by being the first state in our great nation to ban the use of wild animals for entertainment.

Thank you.

Lori Sirianni, on behalf of the Global March for Elephants and Rhinos

Global March for Elephants and Rhinos
www.March4ElephantsAndRhinos.org



Pass #4E
Wayne Johnson to: SBRRB

09/20/2016 05:30 PM

Stop the use and abuse of Wild Animals on the Islands

Wayne Johnson Ph.D.
441 Walina
Honolulu

RECEIVED
SEP 21, 2016
SBRRB



re: prohibiting dangerous wild animal acts in Hawaii (support)

nomi image to: SBRRB

Please respond to nomi image

09/20/2016 03:37 PM

Twenty two years ago, a tragic event happened here in the streets of Kakaako.

You don't have to be an animal activist or animal lover to shed tears after viewing footage from this heartbreaking day. Tyke the female African elephant was gunned down and died in undeniable pain, her eyes reflecting loneliness and despair. But she was finally free from the misery and bondage of cruel circus life.

When not performing, elephants are confined in tiny boxcars for weeks at a time, their legs shackled in chains. Their majestic heads and trunks sway back and forth indicating frustration and boredom, their spirits broken. Out of intense fear, they are forced to perform silly tricks for humans or face being beaten with sharp bullhooks. Elephants have gotten sick and died from TB.

Let's honor Tyke's memory by not using wild and exotic animals in circuses or venues that come to Hawaii, but instead patronize animal-free circuses like Cirque du Soleil. We can then not have to worry about animals...or humans dying.

I fully support item 4-E and hope you will too.

Naomi Egami
Palolo Valley





Support Item 4-E

Jessica D

to:

SBRRB

09/20/2016 01:42 PM

Hide Details

From: Jessica D <jessdunn24@gmail.com>

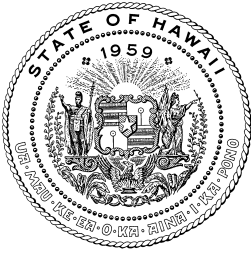
To: SBRRB@dbedt.hawaii.gov

To whom it may concern:

I fully support item 4E the prohibition of dangerous wild animal acts in Hawaii. The trip to Hawaii is torment enough for the animals. I do not support the traveling circus or their inhumane treatment for our entertainment purposes. The terrible way Tyke died should teach us all a lesson or else he died in vain.

Jessica Woo





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

Tel 808 586-2594

David Y. Ige
Governor

Luis P. Salaveria
DBEDT Director

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Maui

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Oahu

Nancy Atmospera-Walch
Oahu

Garth Yamanaka
Hawaii

Director, DBEDT
Voting Ex Officio

AGENDA

Wednesday, September 21, 2016 ★ 1:00 p.m.
No. 1 Capitol District Building
250 South Hotel Street - Conference Room 436

I. Call to Order

II. Approval of August 17, 2016 Meeting Minutes

III. Old Business

A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to Hawaii Administrative Rules (HAR) Title 12, Subtitle 8, Part 11, **Elevators and Related Systems**, promulgated by Department of Labor and Industrial Relations, as follows, and *attached and incorporated as Exhibit 1*:

1. Chapter 229, **General, Administrative, and Legal Provisions**; and
2. Chapter 230.1, **Elevators, Escalators, Dumbwaiters, Moving Walks, and Material Lifts and Dumbwaiters with Automatic Transfer Devices**

B. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 4, Chapter 138, **Hawaii-Grown Cacao and Hawaii Chocolate Products**, promulgated by Department of Agriculture (DoAg) – *attached and incorporated as Exhibit 2*

IV. New Business

A. Discussion and Action on Proposed Amendments to **Rules of the Liquor Commission, City and County of Honolulu**, Title 3, Subtitle 6, promulgated by the Liquor Commission, City and County of Honolulu, as follows - *and attached and incorporated as Exhibit 3*:

1. Chapter 80, **General Provisions**
2. Chapter 82, **Licenses and Permits, General Provisions**
3. Chapter 83, **Procedure for Obtaining License**
4. Chapter 84, **Duties of and Supervision over Licensee**
5. Chapter 86, **General Violations and Prosecutions**

B. Discussion and Action on Proposed Amendments to HAR Title 11, Chapter 50, **Food Safety Code**, promulgated by Department of Health – *attached and incorporated as Exhibit 4*

C. Discussion and Action on Proposed Amendments to HAR Title 15, Chapter 210, **Rules, Regulations, Charges and Fees for Public Parks**, promulgated by Hawaii Community Development Authority (HCDA) / Department of Business, Economic Development and Tourism (DBEDT) – *attached and incorporated as Exhibit 5*

D. Discussion and Action on Proposed Amendments to HAR Title 15, Chapter 218, **Kakaako Reserved Housing Rules**, promulgated by HCDA / DBEDT – *attached and incorporated as Exhibit 6*

- E. Discussion and Action on Proposed Amendments to HAR Title 4, Chapter 71, **Non-Domestic Animal Import Rules**, promulgated by DoAg – *attached and incorporated as Exhibit 7*

V. Administrative Matters

- A. Discussion and Training on Board Member I-pads
- B. Update on Proposed Amendments to Chapter 201M, Hawaii Revised Statutes (HRS)
- C. Discussion and Action on the Board's Budget Proposal for Fiscal 2017 and 2018
- D. Update on this Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers, under Section 201M-5, HRS
- E. Discussion on Changing the Dates/Times of the Board Meetings

VI. Next Meeting: Scheduled for Wednesday, October 19, 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

"HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 8

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

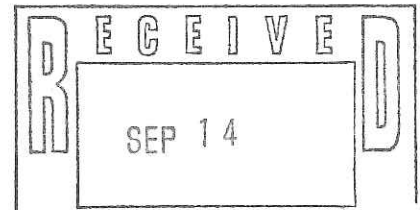
PART 11

ELEVATORS AND RELATED SYSTEMS

CHAPTER 229

GENERAL, ADMINISTRATIVE, AND LEGAL PROVISIONS

§12-229-1	Scope and application
§12-229-2	Definitions
§12-229-3	Repealed
§12-229-3.1	Codes incorporated and adopted by reference
§12-229-4	Repealed
§12-229-4.1	Installation and alteration permits
§12-229-5	Repealed
§12-229-5.1	Permits to operate
§12-229-6	Repealed
§12-229-6.1	Fees
§12-229-7	Repealed
§12-229-7.1	Inspections and tests
§12-229-8	Repealed
§12-229-8.1	Rights and enforcement
§12-229-9	Repealed
§12-229-9.1	Complaints
§12-229-10	Repealed
§12-229-10.1	Reporting of accidents
§12-229-11	Repealed
§12-229-11.1	Investigations
§12-229-12	Repealed
§12-229-12.1	Violations and penalties
§12-229-13	Repealed
§12-229-13.1	Review and appeal
§12-229-14	Repealed
§12-229-14.1	Trade secrets



§12-229-15	Repealed
§12-229-15.1	Notifications of transfer and location
§12-229-16	Repealed
§12-229-16.1	Variances
§12-229-17	Records

Historical Note: Chapter 12-229 is based substantially on chapter 12-241, Hawaii Administrative Rules. [Eff 7/6/98; R 6/19/00]

§12-229-1 Scope and application. This part contains general and administrative rules and legal provisions which apply to this part. This part applies to all elevators, escalators, moving walks, dumbwaiters, material lifts, lifts for the mobility impaired, personnel hoists, and amusement rides in the State, with the following exceptions:

- (1) Equipment or apparatus installed in private residences provided the equipment or apparatus is not accessible to the general public or to other occupants in the building;
- (2) Coin or token operated amusement rides considered or known in the amusement trade as kiddie rides;
- (3) Material hoists used to raise or lower materials during construction, alteration or demolition (within the scope of ANSI A10.5); and
- (4) Equipment or apparatus installed in buildings or structures wholly owned and operated by the United States government. [Eff 6/19/00; am and comp 6/30/14; comp] (Auth: HRS §394-4) (Imp: HRS §397-4)

§12-229-2 Definitions. As used in this part:

"Alteration" means any change to equipment, including parts, components, or subsystems other than maintenance, repair or replacement.

"Amusement ride" means a mechanically or electrically operated device designed to carry passengers in various modes and used for entertainment and amusement.

"ANSI" means the American National Standards Institute.

"ANSI/American Society of Safety Engineers A10.4" means ANSI/ASSE, Personnel Hoists and Employee Elevators on Construction and Demolition Sites, as adopted and incorporated by reference in section 12-229-3.1.

"Appeals board" means the labor and industrial relations appeals board, department of labor and industrial relations.

"Approved" means approved by the department.

"Appurtenance" means a device installed on and used in the normal operation of an elevator, escalator, or kindred equipment.

"ASME" means American Society of Mechanical Engineers.

"ASME A17.1" means ASME A17.1, Safety Code for Elevators and Escalators, as adopted and incorporated by reference in section 12-229-3.1.

"ASME A17.3" means ASME A17.3, Safety Code for Existing Elevators and Escalators, as adopted and incorporated by reference in section 12-229-3.1.

"ASME A17.6" means ASME A17.6, Standard for Elevator Suspension, Compensation and Governor Systems, as adopted and incorporated by reference in section 12-229-3.1.

"ASME A18.1" means ASME A18.1, Safety Standard for Platform Lifts and Stairway Chairlifts, as adopted and incorporated by reference in section 12-229-3.1.

"ASTM" means American Society for Testing and Materials.

"ASTM-F24" means ASTM-F24 1997 standard on amusement rides and devices.

"Attorney general" means the attorney general of the State of Hawaii or any of the attorney general's deputies.

"Authority Having Jurisdiction" or "AHJ", means the director of labor and industrial relations or the director's designee.

"Authorized inspection agency" means the department of labor and industrial relations, elevator inspection section.

"Building code" means the currently adopted, applicable county code in the revised ordinances of the applicable county, or the code adopted by the State of Hawaii for state buildings.

"Certificate of competency" means a certificate issued to a person who has passed the examination prescribed by the director.

"Contractor" means any person, firm, or corporation installing, repairing, or servicing any amusement ride, elevator, or kindred equipment or structure inspected pursuant to chapter 397, HRS.

"Department" means the department of labor and industrial relations, State of Hawaii.

"Director" means the director of the department of labor and industrial relations or the director's designee.

"Discrepancy" means the non-conformance to codes, standards, rules, or regulations required by this part.

"Division" means the Hawaii occupational safety & health, department of labor and industrial relations, State of Hawaii.

"Elevator" means a hoisting and lowering mechanism equipped with a car that moves within guides and serves two or more fixed landings, and is classified by elevator types as described in ASME A17.1, as adopted and incorporated by reference in section 12-229-3.1.

"Elevators and related systems" means elevators and kindred equipment and amusement rides.

"Existing installation" means any device or equipment where the application for the installation was properly filed with the department before the effective date of this chapter.

"HAW" means the registration number assigned to an elevator and kindred equipment or amusement ride by the AHJ.

"Hawaii Revised Statutes" or "HRS" means laws enacted by the Hawaii state legislature.

"IBC" means the International Building Code, as adopted and incorporated by reference in section 12-229-3.1.

"Installation" means a complete elevator or kindred equipment, including its hoistway, hoistway enclosures and related construction, and all machinery and equipment necessary for its operation.

"Installation or alteration permit" means a document, which may be electronic, issued by the department authorizing the installation or alteration of an elevator or kindred equipment, or the department approval of a new amusement ride.

"Kindred equipment" means escalators, moving walks, dumbwaiters, permanently installed material lifts, platform lifts, stairway chairlifts, personnel hoists, and any other similar mechanized equipment used to convey people in places other than a public right-of-way, but does not include amusement rides.

"May" means not mandatory.

"New installation" means any device or equipment that is not an existing installation or an existing installation that is being relocated.

"NFPA" means the National Fire Protection Association.

"NFPA 1, UFC" means the NFPA 1, Uniform Fire Code, as adopted and incorporated by reference in section 12-229-3.1.

"NFPA 70" means NFPA 70, National Electrical Code, as adopted and incorporated by reference in section 12-229-3.1.

"Operating permit" means a permit issued by the department authorizing the operation of an elevator, kindred equipment, or amusement ride.

"Order" means a command to perform a mandatory act issued by the department.

"Overtime" means hours outside a regular eight-hour working day.

"Owner" means any person, firm, or corporation with legal title to any amusement ride, and elevator and kindred equipment inspected pursuant to chapter 397, HRS.

"Permit to operate" means a document, which may be electronic, issued by the department authorizing the operation of an elevator, kindred equipment, or an amusement ride.

"Qualified elevator inspector" means an elevator inspector [appointed by the director and] employed by the department holding a valid certificate of competency issued by the department[.] and a Qualified Elevator Inspector certification that meets the criteria of the American Society of Mechanical Engineers and the standards for the qualification of elevator inspectors of the American National Standards Institute. The certificate of competency is valid only while the inspector is employed by the department.

"Regular operating permit" means an operating permit that is not indicated as temporary.

"Shall" means mandatory.

"Unsafe" means potential exposure to a recognized hazard.

"Violation" means the failure to comply with any citation, notice, or order of the department, or rule or standard promulgated under chapter 397, HRS. [Eff 6/19/00; am and comp 6/30/14; am and comp] (Auth: HRS §§397-4, 397-6) (Imp: HRS §§397-4, 397-6)

§12-229-3 REPEALED. [R 6/30/14]

§12-229-3.1 Codes incorporated and adopted by reference.
The following codes are incorporated and adopted by reference and made a part of this chapter and shall apply to elevators, kindred equipment, and amusement rides in this part, unless otherwise modified by the rules pertaining to elevators, kindred equipment, and amusement rides.

- (1) ANSI/ASSE A10.4-2007, Personnel Hoists and Employee Elevators on Construction and Demolition Sites, as copyrighted and published in 2007 by American National Standards Institute, Inc., 25 West 43rd Street, New York, NY 10036.
- (2) ASME A17.1-2010/CSA-B44-10, Safety Code for Elevators and Escalators, as copyrighted and published in 2010 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.
- (3) ASME A17.3-2011, Safety Code for Existing Elevators and Escalators, as copyrighted and published in 2011 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.
- (4) ASME A17.5-2011, Elevator and Escalator Electrical Equipment, as copyrighted and published in 2011 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.
- (5) ASME A17.6-2010, Standard for Elevator Suspension, Compensation and Governor Systems, as copyrighted and published in 2010 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.
- (6) ASME A18.1-2011, Safety Standard for Platform Lifts and Stairway Chairlifts, as copyrighted and published in 2011 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990.
- (7) International Building Code, 2012 edition, as copyrighted and published in 2012 by the International Code Council, Incorporated, 500 New Jersey Avenue, 6th Floor, Washington, DC 20001.
- (8) ICC A17.1-2009, Accessible and Usable Buildings and Facilities, as copyrighted and published in 2010 by the International Code Council, Incorporated, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001.
- (9) NFPA 1, Uniform Fire Code, 2009 Edition, as copyrighted and published in 2009 by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-7471.
- (10) NFPA 72, National Fire Alarm and Signaling Code, 2010 edition, as copyrighted and published in 2010 by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-7471.
- (11) NFPA 13, Standard for the Installation of

Sprinkler Systems, 2010 edition, as copyrighted and published in 2010 by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-7471.

- (12) NFPA 70, National Electrical Code, 2011 edition, as published in 2011 by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-7471. [Eff and comp 6/30/14; comp]
 (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-4 REPEALED. [R 6/30/14]

§12-229-4.1 Installation and alteration permits. (a) No person shall install, construct, reconstruct, relocate, or make an alteration to any elevator, [or] kindred equipment, or amusement ride subject to this part without first obtaining an installation or alteration permit from the department. [Owners of new or altered amusement rides must register the new apparatus or its alteration by submitting an application for review and registration of the ride.]

The owner shall be responsible for contracting the work with a licensed elevator contractor, and shall ensure that the contractor obtains all permits and inspections required by this part. The contractor shall be responsible for the safe operation of equipment during the installation, alteration, or relocation, until a permit to operate has been issued by the department.

An amusement ride owner shall register the new apparatus or an alteration by submitting an application for review and registration.

An application on a form [prescribed] provided by the department shall be submitted and approved prior to commencement of work. The application shall include:

- (1) Applicant's name (elevator contractor licensed to perform the work), business address and license number, expiration date of the license, name and contact information of the licensed mechanic or supervisor in charge of the work;
- (2) Building name and complete address, including island and zip code, of the installation or alteration;
- (3) The name and complete address of the legal owner of the elevator, kindred equipment, or amusement ride;

- (4) The anticipated start date of the installation or alteration and the anticipated completion date;
- (5) The type of equipment to be installed or altered, manufacturer of equipment, maximum rise and number of floors;
- (6) The plans and specifications for installation or alteration of elevators and kindred equipment together with the building details that are pertinent to the installation;
- (7) Copies of engineering data, tests, and laboratory reports, and any other pertinent information deemed necessary by the department;
- (8) For amusement rides, the application to review, approve, and register the new apparatus shall be submitted on a form authorized by the department and shall include manufacturer's drawings, and engineering and test data; and
- (9) Any other information indicated as required by the application.

(b) Applications to install, alter, or register must be accompanied by the [remittance] payment of the appropriate installation or alteration processing fee for each conveyance subject to this part as per the schedules in Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated [July 1, 2012,] January 1, 2017, which is made a part of this chapter and located at the end of this chapter, and Exhibit B, titled "Elevator and Kindred Equipment Inspection Fees", dated [July 1, 2012,] January 1, 2017, which is made a part of this chapter and located at the end of this chapter.

- (1) Refunds of the initial installation or alteration processing fee minus the department's cost to review the application thus far may be refunded upon written or electronic request to the department. A refund of the initial installation or alteration processing fee may be granted upon satisfactory showing that the withdrawal or amendment of the application was due to circumstances beyond the control of the applicant.
- (2) No refunds will be issued for expired permits.

(c) Only a person who is licensed to engage in the business of installing or repairing elevators and kindred equipment by the contractors license board of the Hawaii department of commerce and consumer affairs may apply for an installation permit or alteration

permit, except the application to install a personnel hoist may be made by a licensed construction contractor and the application to register an amusement ride may be made by the owner.

(d) All alteration work on elevators and kindred equipment requires an alteration permit prior to the work being performed. Alteration work includes:

- (1) All alterations to elevators and kindred equipment as described in ASME A17.1, section 8.7, and
- (2) Any alteration that requires the equipment or conveyance to be tested by the department prior to being returned to service, including:
 - (A) The replacement or repair of any part or parts that would require recalibration or testing per ASME A17.1, section 8.7; or
 - (B) Work performed on components or equipment affecting or necessary for fire safety (e.g., cab interiors, systems associated with fire recall, etc.); and
- (3) Any alteration, renovation, or change to the original design of the car's interior.

(e) The application shall be deemed approved if not acted on by the department within thirty calendar days following the receipt of the completed application. The maximum period of time for the department to act on an application for installation or alteration established pursuant to this section shall be extended in the event of a national disaster, state emergency, or union strike that would prevent the applicant or the department from fulfilling application review requirements until the time the emergency conditions improve or are reasonably under control.

(f) Installation or alteration permits issued by the department shall be posted in a conspicuous place on the jobsite near the elevator, kindred equipment, or amusement ride prior to the start of any work being done. They shall remain posted until the department has witnessed all acceptance tests and issued an operating permit for the elevator or kindred equipment.

(g) Installation or alteration permits shall expire within one year of the issuance date if the installation or alteration work described on the application has not yet commenced. Otherwise, the permit is valid for a period of three years.

(h) All new elevators and kindred equipment shall have the Hawaii registration number (HAW) assigned by the department painted on or permanently attached to both the [driving mechanism] car top crosshead and the controller. The owner is responsible for having the [registration] HAW number painted on or attached to the device

or equipment, and ensuring that the number remains legible. [Eff
and comp 6/30/14; am and comp] (Auth: HRS
§397-4) (Imp: HRS §397-4)

§12-229-5 REPEALED. [R 6/30/14]

§12-229-5.1 Permits to operate. (a) The department shall issue a "permit to operate" for any elevator, kindred equipment, or amusement ride where the inspection and tests required by the department show that the equipment has been designed and installed in accordance with the requirements of chapter 397, HRS, and its related rules, and are in compliance with this part. It shall be a violation for any person, firm, association, partnership, or corporation to operate an elevator, kindred equipment, or amusement ride regulated by this part unless a permit for the operation has been issued by the department and the permit remains in effect.

(b) A permit to operate an elevator or related systems shall be issued only after a qualified inspector has determined that the equipment, device, or apparatus meets all applicable requirements of this part. A permit to operate elevators or [kindred equipment] related systems shall be valid [for one year,] per the schedules in Exhibit C, titled "Inspection and Test Intervals (In Months)", dated January 1, 2017, which is made a part of this chapter and located at the end of this chapter, unless revoked sooner, and may be renewed only upon satisfactory completion of an inspection by a qualified inspector. A valid permit may be extended for cause by the department if so requested in writing by the owner or contractor prior to the expiration date.

(c) The owner, or the owner's duly appointed agent, shall be responsible for:

- (1) The safe operation and proper maintenance of elevators and [kindred equipment] related systems after the installation or alteration has been approved and an initial permit to operate has been issued;
- (2) Conducting all periodic or maintenance tests required by this part;
- (3) Arranging for inspections of closed buildings and not readily accessible elevators and related systems by qualified inspectors. Elevators and kindred equipment

not inspected as a result of the owner's failure to provide convenient access shall be considered removed from service and shall comply with section 12-229-7.1(b)(4); and

- (4) Requesting and scheduling with the department all safety tests in accordance with the schedule in Exhibit C, titled "Inspection and Test Intervals (In Months)", dated [July 1, 2012,] January 1, 2017, which is made a part of this chapter and located at the end of this chapter.

(d) The permit to operate shall indicate the type of equipment for which it is issued. In the case of elevators and kindred equipment, the permit shall state whether it is passenger or freight, and the rated load and speed for the elevator, dumbwaiter, escalator, moving walk. [The permit to operate shall be posted conspicuously in the car of the elevator, and on or near the dumbwaiter, escalator, moving walk, or other kindred equipment.] For new or altered elevators, after the effective date of these rules, a copy of the permit to operate shall be posted conspicuously in the car of the elevator, and on or near the dumbwaiter, escalator, moving walk, or other kindred equipment. [Where posting the permit to operate in the elevator car is impractical or infeasible, the owner may petition the director to allow posting in another location in the building. The petition for an alternate posting location shall only apply to regular operating permits, and shall comply with the following conditions:

- (1) The current permit to operate must be available for review by passengers of the elevator whenever the elevator is in operation; and
- (2) There is a permanent sign within the elevator, conspicuously displayed, in letters not less than 1/4-inch high, that identifies the equipment by the state registration number and states where the operating permit may be viewed.]

(e) The department may immediately revoke any permit to operate for any equipment required to be inspected by this chapter that is found to be in an unsafe condition; or when an owner or contractor fails to comply with a department order to correct specific defects or hazards and continues to use or operate the equipment, device, or apparatus without abating the hazards or defects.

The department shall reissue a permit to operate when a subsequent inspection by a qualified inspector finds that the hazardous condition has been corrected or when the department receives documentation that the noncompliant item has been abated.

(f) Exhibit C, titled "Inspection and Test Intervals (In Months)", dated [July 1, 2012,] January 1, 2017, which is made a part of this chapter and located at the end of this chapter, establishes the required maximum intervals for the periodic reinspection and renewal of the permits to operate. The department may require that specific equipment be re-inspected more frequently if conditions found during an inspection require closer or more frequent monitoring to ensure its safe operation.

(g) The department may provide for the issuance of a temporary permit to operate while any noncomplying elevator or kindred equipment is being brought into full compliance with chapter 397, HRS.

(h) The owner or contractor may petition the department for additional time to correct any discrepancy or violation by submitting a request in writing by no later than the correction due date or the expiration date of the temporary permit, whichever is applicable, and shall include:

- (1) Specific additional time needed;
 - (2) Efforts made to date to effect correction; and
 - (3) Any interim steps or actions taken to ensure the safe operation of the equipment, device, or apparatus.
- (i) No elevator, kindred equipment, or amusement ride that is required to be inspected pursuant to chapter 397, HRS, shall be operated except as necessary to install, repair, or test the elevator, kindred equipment, or amusement ride unless a permit to operate has been issued by the department and remains valid. [Eff and comp 6/30/14; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-6 REPEALED. [R 6/30/14]

§12-229-6.1 Fees. (a) Departmental inspection fees. The department shall collect from the owner or contractor, the fee listed in the schedules in Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated [July 1, 2012,] January 1, 2017, which is made a part of this chapter and located at the end of this chapter, and Exhibit B, titled "Elevator and Kindred Equipment Inspection Fees", [dated July 1, 2012,] January 1, 2017, which is made a part of this chapter and located at

the end of this chapter, for each inspection made by a qualified inspector.

- (1) The fees for scheduled inspections delayed or canceled by the requester, shall be charged to the requester in accordance with the scheduled fee for the type of inspection scheduled; however, if the notice of cancellation or delay of the scheduled inspection is provided at least forty-eight hours prior to the scheduled date and time, not counting weekends and state holidays, no additional fee will be charged. A delayed inspection includes situations where the equipment is not ready for the inspection or the requester is not ready to conduct the required tests within one hour of the scheduled date and time.
- (2) Where an inspection must be re-scheduled due to untimely notification of delay or cancellation, the appropriate inspection fee must be paid prior to the re-scheduling of the inspection.
- (3) Permit renewal and witness fees are per inspection, which may constitute one day or part of the day. If the inspector is required or requested to return on another day or at another time on the same day, additional fees shall be assessed at the rate of \$300 per day for up to two hours and \$600 per day for more than two hours. Fees for overtime hours shall be \$600 per day for up to two hours and \$1,200 per day for more than two hours.
- (4) When [an unscheduled] a special or dedicated inspection is made at the request of the owner, contractor, or vendor, the sum of expenses incurred shall be charged in addition to the inspection fee.
- (5) Whenever the requester of an inspection fails to pay the fees required pursuant to this section within sixty days after notification, the requester shall pay, in addition to the fees required, a penalty equal to fifty per cent of the fee. For the purpose of this section, the date of invoice shall be considered the date of notification. For online inspection requests, fees must be paid at the time of the request, except for additional fees for [unscheduled,] special, dedicated, return, or overtime inspections for which the amount owed could not be determined in advance. In such cases, the requester shall be invoiced by the department. [If the online fee transaction fails due to insufficient funds or inadequate financial routing instructions, an additional fee of \$5 shall be assessed for the cost of the initial

notification to the requester of the failed transaction.]

- (6) Departmental reports of inspections for which expenses must be added to the basic fee shall be accompanied by an itemized account of the inspections made and the expenses incurred.
 - (7) For elevators that have considerable rise but few openings, such as observation or deep well elevators, each ten feet of vertical rise shall be considered one floor in determining installation permit fees.
 - (8) The department shall charge and collect the fee listed in Exhibit B, titled "Elevator and Kindred Equipment Inspection Fees", dated [July 1, 2012] January 1, 2017, which is made a part of this chapter and located at the end of this chapter, for each category 3 or 5, or internal escalator inspection, witnessed by qualified inspectors of the department during regular working hours. If the inspector is required or requested to return on another day or at another time on the same day, additional fees shall be assessed at the rate of \$300 per day for up to two hours and \$600 per day for more than two hours. Fees for overtime hours shall be \$600 per day for up to two hours and \$1,200 per day for more than two hours.
- (b) Departmental installation and alteration permit and test fees.
- (1) The department, before accepting an application for installing, constructing, re-constructing, or relocating an elevator or a related system, shall charge and collect a fee for each object in accordance with Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", [dated July 1, 2012,] January 1, 2017, which is made a part of this chapter and located at the end of this chapter.
 - (2) The department, before accepting an application for an alteration, shall charge and collect a fee for each object in accordance with Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", [dated July 1, 2012,] January 1, 2017, which is made a part of this chapter and located at the end of this chapter. For online applications, fees must be paid electronically at the time of the application. [If the online fee transaction fails due to insufficient funds or inadequate financial routing instructions, an additional fee of \$5 shall be assessed for the cost of

- the initial notification to the requester of the failed transaction.] Any [subsequent] transaction failure shall void the application.
- (3) For each instance requiring an installation or alteration permit fee, the department shall provide the final installation drawing review, inspection and witnessing of the initial acceptance test on the installation, any resulting permit to operate, and one additional follow-up inspection per permit, and the follow-up inspection shall be at the convenience of the department.
- (4) Fees in accordance with Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", [dated July 1, 2012,] January 1, 2017, which is made a part of this chapter and located at the end of this chapter, or the fee in effect on the application submittal date shall be charged and collected for all applications for installation or alteration permits.
- (5) For each instance requiring a building plan review, the department shall charge a fee in accordance with Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated January 1, 2017, which is made a part of this chapter and located at the end of this chapter.
- [(5)] (6) For additional follow-up inspections for final acceptance, the fee shall be \$300 per day for up to two hours and \$600 per day for more than two hours if during the normal workday. Fees for overtime hours shall be \$600 per day for up to two hours and \$1,200 per day for more than two hours.
- [(6)] (7) For elevators that have considerable rise but few openings, such as observation or deep well elevators, each ten feet of vertical rise shall be considered one floor in determining installation permit fees.
- (c) Amusement rides, fees.
- (1) The fee for an inspection of an amusement ride shall be [\$100.] \$200.
- (2) Inspections, for which a fee is to be charged, shall include, but are not limited to:
- (A) A reinspection of a ride at a site to allow it to operate at that site after the ride was found at an earlier inspection to be unsafe;
- (B) An inspection made at a site after being unable to complete an earlier inspection at that site due to delay within the control of the requester;

- (C) A permit to operate; and
 - (D) Scheduled inspections delayed or canceled by the requester where notification was provided to the department less than forty-eight hours prior to the scheduled inspection date and time (not including weekends and state holidays).
- (3) When an unscheduled inspection is made at the request of the owner or contractor, the sum of expenses incurred shall be charged in addition to the inspection fee.
 - (4) For additional follow-up inspections for final acceptance, the fee shall be \$300 per day for up to two hours and \$600 per day for more than two hours if during the normal workday. Fees for overtime hours shall be \$600 per day for up to two hours and \$1,200 per day for more than two hours.
 - (5) Whenever the requester fails to pay the fees required under this section within sixty days after notification, the requester shall pay, in addition to the fees required, a penalty equal to fifty per cent of the fee. For the purpose of this section, the date of invoice shall be considered the date of notification. For online inspection requests, fees must be paid at the time of the request, except for additional fees for unscheduled, return, or overtime inspections, which will be invoiced to the requester. [If the online fee transaction fails due to insufficient funds or inadequate financial routing instructions, an additional fee of \$5 shall be assessed for the cost of the initial notification to the requester of the failed transaction.] [Eff and comp 6/30/14; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-5)

§12-229-7 REPEALED. [R 6/30/14]

§12-229-7.1 Inspections and tests. (a) The department shall inspect to ensure compliance with chapter 397, HRS, any activity related to the erection, construction, alteration, demolition, or maintenance of buildings, structures, bridges, highways, roadways, dams, tunnels, sewers, underground buildings or structures, underground pipelines or ducts, and other construction projects or facilities containing elevators or kindred equipment.

- (b) Elevators and kindred equipment.
- (1) All permit renewal inspections and witnessing of tests of elevators or kindred equipment as required under this chapter[,] shall be performed by qualified inspectors employed by the department.
- (2) Where notations of discrepancies, recommendations, or requirements are made, these notations shall refer to the applicable code, rule, or standard.
- (3) Elevator or kindred equipment regulated under this part shall be inspected and tested in accordance with the schedule in Exhibit C, titled "Inspection and Test Intervals (In Months)", [dated July 1, 2012,] January 1, 2017, which is made a part of this chapter and located at the end of this chapter.
 - (A) Internal inspections of escalators and moving walks shall be performed at intervals of thirty-six months.
 - (B) Personnel hoists shall be load tested at intervals of [six] three months.
 - (C) The category 3 test may be waived or the interval extended at the discretion of the department for those hydraulic elevator installations such as holeless hydraulic elevators in which all components are readily accessible for visual inspection.
 - (D) The period between inspections may be extended by the department for cause. A written application by the owner must be received by the department prior to the expiration date for review.
- (4) Any elevator or kindred equipment [which] that is [out-of-service] out of service and not continuously maintained for a period exceeding one year or has not been inspected in accordance with paragraph (3) shall be taken out of service by the owner by complying with the following:
 - (A) Car and counterweight (if any) shall be landed at the bottom of the hoistway and hoisting ropes shall be disconnected at both ends;
 - (B) All electric power shall be removed by disconnecting and removing the power feeders; and
 - (C) All hoistway entrances or escalator entrances and exits shall be permanently blocked or barricaded to prevent inadvertent entry. The owner or the owner's agent shall submit a certification that the unit has been properly taken out of service as

indicated in this paragraph, on a form provided by the department. Prior to placing the elevator or kindred equipment back in service, the department shall be notified and an inspection made.

- (5) While conducting tests and inspections required by section 12-229-5.1 for acceptance of new elevators for load testing of elevators, a positive means of communication, such as a walkie-talkie system, between the various testing and witnessing personnel shall be furnished by the elevator maintenance company performing the test or inspection.
- (c) Amusement rides.
 - (1) The department shall inspect and witness load tests, in accordance with ASTM-F24 and [section 12-250-7,] chapter 12-250 at least semi-annually, for all amusement rides at a carnival, circus, fair, amusement park, or other public venue, for protecting the safety of the public.
 - (2) After the initial inspection, each amusement ride shall be inspected as often as necessary to ensure safe operation but not less than twice annually at intervals of not less than five months nor greater than seven months.
 - (3) If the department finds, upon inspection, that an amusement ride is in a safe operating condition and meets with the requirements of this chapter and chapter 12-250, the department shall affix to the ride in a prominent location a permit to operate bearing upon its face the date of the inspection and the permit expiration date.
 - (4) No ride shall be operated unless it has affixed to it a current permit to operate. [Eff and comp 6/30/14; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-8 REPEALED. [R 6/30/14]

§12-229-8.1 Rights and enforcement. (a) Rights.

- (1) Authorized representatives of the director may enter without delay during regular working hours and at other reasonable times, any place, establishment, or premises in which are located amusement rides, or

elevators and kindred equipment requiring inspection pursuant to chapter 397, HRS.

- (2) The department may question any employer, owner, operator, agent, or employee in investigation, enforcement, and inspection activities covered by this chapter.
 - (3) Any employee of the State acting within the scope of the employee's office, employment, or authority under this chapter shall not be liable for or made a party to any civil action growing out of administration and enforcement of chapter 397, HRS.
- (b) Enforcement.
- (1) Whenever the right of entry to a place to inspect an amusement ride, elevator, or kindred equipment required by this chapter to be inspected is refused to an authorized representative of the director, the department may apply to the circuit court where the equipment is located for a search warrant providing on its face that the wilful interference with its lawful execution may be punished as a contempt of court.
 - (2) Whenever the department finds that the construction of or the operation of any amusement ride, or elevator and kindred equipment required to be inspected under this part is not safe, or that any practice, means, method, operation, or process employed or used is unsafe or is not in conformance with the standards and codes adopted pursuant to chapter 91, HRS, the department shall issue an order to render the construction or operation safe or in conformance with chapter 397, HRS, or its standards and codes and deliver the same to the contractor or owner. Each order shall be in writing and may be delivered by mail, electronically, or in person. The department may in the order direct that, in the manner and within a time specified, such additions, repairs, improvements, or changes be made and such safety devices and safeguards be furnished, provided, and used as are reasonably required to ensure compliance with the purposes and provisions of chapter 397, HRS. An order to bring the operation of elevator or kindred equipment into compliance may require the owner to submit a plan of compliance that addresses interim corrective plans to ensure public and worker safety as well as the schedule for the correction of the non-conforming element. A plan of compliance shall not exceed five years for residential buildings or three years for all other

buildings. The owner or contractor shall obey and observe all orders issued by the department or be subject to appropriate civil penalties.

- (3) Whenever, in the opinion of the department, the condition of or the operation of amusement rides, or elevators and kindred equipment required to be inspected by chapter 397, HRS, or any practice, means, method, operation, or process employed or used, is unsafe, or is not properly guarded, or is dangerously placed, its use may be prohibited by the department. An order to that effect shall be posted prominently on the equipment or near the place or condition referred to in the order. The order shall be removed when a determination has been made by an authorized representative of the department that the amusement rides, or elevators and kindred equipment are safe and the required safeguards or safety devices are provided.
- (4) Pursuant to section 397-4(d) (4), HRS, when an imminent hazard exists, the department may apply for a restraining order from a circuit court to effect enforcement restraining the use or operation until the use or operation is made safe.
- (5) Pursuant to section 397-4(d) (5), HRS, the director, or an authorized representative, shall have the same powers as are possessed by the court respecting administering of oaths, compelling attendance of witnesses, producing documentary evidence, and examining witnesses or causing them to be examined, and may take depositions and certify to official acts.
- (6) Where a condition or practice involving any amusement ride, or elevator and kindred equipment required to be inspected by chapter 397, HRS, could reasonably be expected to cause death or serious physical harm, the department shall have the right, independent of any other enforcement powers under this chapter, to:
 - (A) Immediately take steps to obtain abatement by informing the owner, contractor, and all persons in harm's way of the hazard by meeting, posted notice, or otherwise;
 - (B) Take steps to immediately obtain abatement through direct control or elimination of the hazard if, after reasonable search, the owner, contractor, or their representative is not available;

- (C) Take steps to obtain immediate abatement when the nature and imminence of the danger or hazard does not permit a search for the owner or contractor; and
 - (D) Where appropriate, initiate necessary legal proceedings to require abatement by the owner or contractor.
- (7) The department may prosecute, defend, and maintain actions in the name of the department for the enforcement of the provisions of chapter 397, HRS, including the enforcement of any order issued by it, the appeal of an administrative or court decision, and other actions necessary to enforce chapter 397, HRS. [Eff and comp 6/30/14; comp _____] (Auth: HRS §397-4) (Imp: HRS §§397-4, 397-6, 397-8)

§12-229-9 REPEALED. [R 6/30/14]

§12-229-9.1 Complaints. (a) Complaints may be made to the department and where reasonable grounds exist for the department to believe there may be a hazard, there shall be an inspection in response to the complaint.

(b) Names of all complainants and witnesses shall be held in confidence by the department, unless prior permission has been given by the complainants or witnesses to release his or her names, or unless it has been determined by the state attorney general that disclosure is necessary for the enforcement and review under this chapter. [Eff and comp 6/30/14; comp _____] (Auth: HRS §397-4) (Imp: HRS §397-7)

§12-229-10 REPEALED. [R 6/30/14]

§12-229-10.1 Reporting of accidents. (a) Whenever an accident occurs involving either an amusement ride, or an elevator and kindred equipment, the owner shall promptly notify the division within eight hours by telephone at (808)586-9141. For reporting purposes, "accident" is defined as an occurrence resulting in

significant damage to an elevator and kindred equipment and amusement device, including when it is rendered inoperative or any occurrence resulting in physical injury to [person(s)] a person or persons.

An accident report shall be submitted to the department within two calendar days after the owner has completed the accident investigation, and shall include the following information:

- (1) The date and time of the accident;
- (2) Hawaii registration number (HAW number) of the amusement ride, elevator, or kindred equipment involved;
- (3) Name and address of the [victim(s)] victim or victims;
- (4) A brief description of the accident, including the nature and scope of the injuries;
- (5) Whether the amusement ride, elevator or kindred equipment sustained any damage rendering it inoperative for any period of time;
- (6) Names and contact information of any witnesses interviewed;
- (7) A brief description of any inspections or tests conducted of the equipment to determine probable causation and who conducted them;
- (8) The investigators' conclusions as to the cause of the accident; and
- (9) The name and contact information of the investigator.

For purposes of this section, the owner may contract another to perform the actual accident investigation, however, the owner is responsible for the report and its timely submittal to the department. If the accident investigation cannot be completed within three months of the date of the incident, the owner shall submit the incomplete report to the department with information as to when the investigation is expected to be completed. The final report shall be submitted as soon as the investigation is completed.

(b) Whenever an accident occurs which results in loss of life, the owner shall promptly notify the division by telephone at (808)586-9141, or messenger, within eight hours, and neither the amusement ride, or elevator and kindred equipment, or any of their parts, shall be removed or disturbed before permission has been given by the department except for the purpose of saving human life or limiting consequential damage.

(c) Additional reports, in writing or otherwise, may be required by the director. [Eff and comp 6/30/14; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-11 REPEALED. [R 6/30/14]

§12-229-11.1 Investigations. The department may investigate accidents reported under section 12-229-10.1 involving amusement rides, and elevators and kindred equipment inspected under this chapter and may issue orders and recommendations with respect to the elimination and control of the causal factors. [Eff and comp 6/30/14; comp] (Auth: HRS §397-4) (Imp: HRS §§397-4, 397-6)

§12-229-12 REPEALED. [R 6/30/14]

§12-229-12.1 Violations and penalties. (a) The director may assess all civil penalties provided in this section, giving due consideration to the gravity of the violation, the good faith of the owner or contractor, and the history of previous violations.

(b) Violations.

- (1) Any owner or contractor who violates chapter 397, HRS, or any safety standards and codes adopted pursuant to chapter 91, HRS, or who violates or fails to comply with any order made under or by virtue of chapter 397, HRS, or who defaces, displaces, destroys, damages, or removes without the authority of the department any safety device, safeguard, notice, order, or warning required by chapter 397, HRS, its standards, or codes, shall be assessed a civil penalty of not more than \$10,000 for each such violation.
- (2) Any owner who allows the installation, construction, reconstruction, relocation, or alteration of any elevator or kindred equipment prior to obtaining an installation or alteration permit as required by section 12-229-5.1 shall be assessed a civil penalty of not more than \$10,000. The penalty may be reduced by a maximum of ten per cent for history of past violations.
- (3) Owners who fail to report an accident as required by section 12-229-10.1 shall be assessed a civil penalty of not more than \$5,000 per instance. Consideration may be given for good faith and history of violations.

- (4) Owners who fail to maintain or provide records or reports to the department as required by this part shall be assessed a civil penalty of not more than \$5,000 per record not maintained or provided.
- (5) Repeated violations shall be assessed a civil penalty of not more than \$10,000. Consideration may be given for gravity only.
- (6) Owners who fail to [properly] take an elevator or kindred equipment [out-of-service] out of service as specified in section 12-229-7.1(b) (4) shall be assessed a civil penalty of not more than \$10,000.
- (7) Each day a violation continues shall constitute a separate violation except during an abatement period.
- (c) Discrepancies and penalties.
 - (1) Any conditions found not in conformance with applicable standards or codes adopted pursuant to chapter 397, HRS, shall be regarded as discrepancies and shall be made known to the owner or contractor by letter or written order to correct or both. All discrepancies shall be satisfactorily resolved as soon as possible. When, in the opinion of the department, a discrepancy constitutes a potentially serious hazard, the department may prohibit the use of the equipment until the condition is abated. Failure to abate unsafe conditions or failure to correct discrepancies within the time prescribed shall be a violation subject to the civil penalties prescribed in this section.
 - (2) Assessing penalties.
 - (A) Consideration shall be given to the gravity of the violation. For a violative condition [that could] that could not or probably would not result in serious harm to life the penalty may be reduced by forty per cent.
 - (B) Consideration shall be given to the good faith of the owner or contractor. For immediate correction or for attempts to make corrections or abate hazards that have been thwarted by conditions beyond the control of the owner or contractor, the penalty may be reduced by forty per cent.
 - (C) Consideration shall be given for the history of previous violations. For [few or] no previous violations by the owner or contractor, the penalty may be reduced by ten per cent.
 - (d) Anyone who knowingly makes a false statement on any document required by chapter 397, HRS, [shall,] upon conviction,

shall be punished by a fine of not more than \$10,000 or imprisonment or both. Any evidence suggesting that a false statement may have been made shall be immediately referred to the director, who shall consult with the state attorney general for purposes of initiating appropriate action. [Eff and comp 6/30/14; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-8)

§12-229-13 REPEALED. [Eff 6/19/00; R 6/30/14]

§12-229-13.1 Review and appeal. (a) Any order or citation of the director shall be final and conclusive against an owner or contractor, unless an appeal is made in writing, clearly stating what items are being contested. The notice of contest must be addressed to the director and received or, if mailed, postmarked by no later than the twentieth calendar day following receipt of the order or citation.

(b) The director or the director's designee may hold a formal hearing, which shall result in a decision and order by the director. Any party who disagrees with the director's decision may appeal in writing to the director within twenty calendar days of receipt of the decision and order. The director shall promptly notify the labor and industrial relations appeals board of the notice of contest. Where a prior formal hearing is held at the department level, the labor and industrial relations appeals board shall conduct a case review using only the record.

(c) An owner or contractor may petition the director for modification of the abatement requirements in an order, as provided in section 397-9, HRS. [Eff and comp 6/30/14; comp] (Auth: HRS §397-4) (Imp: HRS §397-9)

§12-229-14 REPEALED. [R 6/30/14]

§12-229-14.1 Trade secrets. Information obtained by the department containing or revealing a trade secret shall be held confidential and access shall be limited to authorized representatives of the director for purposes

of carrying out chapter 397, HRS. [Eff and comp
6/30/14; comp] (Auth: HRS §397-4)
(Imp: HRS §397-110)

§12-229-15 REPEALED. [R 6/30/14]

§12-229-15.1 Notifications of transfer and location. (a)
The seller of any elevator or kindred equipment regulated by this
part shall notify the department in writing using a form provided by
the department within thirty calendar days of the sale giving the
[registration number (HAW number)] HAW number, location name,
location address of the equipment, and the name and address of the
purchaser. (b) The owner of any elevator or kindred equipment who
gives, scraps, demolishes, or removes the device shall report the
transaction and the name and address of the new owner, if any,
within thirty calendar days of the transaction to the department
using the form provided by the department. [Eff and comp 6/30/14;
am and comp] (Auth: HRS §397-4) (Imp: HRS
§397-4)

§12-229-16 REPEALED. [Eff 6/19/00; R 6/30/14]

§12-229-16.1 Variances. (a) In cases of practical
difficulties, undue hardships, or new developments, an owner may
apply for a variance from any elevator safety standard. The
application must be in writing, clearly stating the standard from
which a variance is sought, the conditions, means, practices,
methods, operations, or processes proposed to be used, together
with drawings, specifications, and other supporting data. The
director may issue an order for a variance if what is proposed
will provide a substantially equivalent level of safety to that
provided by the standard.

(b) All variances granted pursuant to this chapter shall
have only a future effect. The director may decline to entertain
an application for variance on a subject or issue for which a
discrepancy letter or citation has been issued to the owner or

contractor involved and the discrepancy or violation has not yet been satisfactorily corrected or resolved.

(c) Before granting the variance, the director shall publish a notice in a paper of general circulation or post notice on the department's website notifying all potentially affected parties of the director's intent to grant the variance. The notice shall provide a period of thirty calendar days to object to the granting of the variance, after which time the variance shall become final if no objections are filed or a hearing is requested. The cost of the publication shall be borne by the petitioning party. Every notice shall specify the alternative to the safety standard being considered.

(d) Any party objecting to the granting of the variance must notify the director in writing within the thirty-day period, stating the reasons why the variance should not be granted and the resultant specific impact on public safety. The objecting party's reasons for objection may also be based on grounds other than impact on public safety such as feasibility of compliance or lack of undue hardship to the petitioner. The objecting party may also elect to provide the reasons for the objection at a hearing.

(e) The hearing requested by the objecting party shall be held no later than forty-five days after the thirty-day period stated in the public notice.

- (1) The objecting party or parties and the variance applicant shall be provided notice of the date, time, and place of the hearing at least fourteen calendar days before the scheduled hearing.
- (2) Each party shall be prepared to provide evidence supporting the party's case, including a brief oral statement summarizing such evidence.
- (3) The director shall provide a written determination to all parties.
- (4) If the director determines that the evidence does not support denial of the variance request, no further notice is required.
- (5) If the director determines that the evidence supports a denial of the variance request, a notice shall be published in a newspaper of general circulation stating the reasons why the variance is not granted.

(f) If the variance application does not include all relevant information as indicated in subsection (a), the director may deny the application. The denial shall be submitted in writing to the applicant within thirty calendar days. A notice of denial shall include a brief statement of the grounds for the denial. A

denial of an application shall be without prejudice to the filing of another application.

(g) Requests for reconsideration on denied variance requests. The variance applicant whose variance request was denied may file a petition for reconsideration of the denial with the director. The petition must be filed in writing within twenty calendar days of the denial notice and should include all pertinent facts regarding why the variance should be granted.

- (1) The director may review the record on the case along with any additional information provided by the applicant or conduct further inquiries on the matter.
- (2) Any party objecting to the director's decision shall use the review and appeal process as provided for in in section 12-229-13.1. [Eff and comp 6/30/14; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-17 Records. Records shall be maintained by the elevator inspection branch of the department of labor and industrial relations for the purpose of preserving reports of inspections, witnessing of test and accident investigations, correspondence, prints, and memoranda for all objects inspected pursuant to this chapter. These records shall be maintained for a period of not less than five years for amusement rides, and elevators, and kindred equipment. [Eff and comp 6/30/14; comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

EXHIBIT A
ELEVATOR AND KINDRED EQUIPMENT INSTALLATION AND
ALTERATION FEES

[July 1, 2012] January 1, 2017

Alterations¹:

Involving only the replacement of up to two parts (such as a valve, a jack or a cylinder)	\$150
Involving only cosmetic changes (such as car interior modernizations)	\$300
Involving more than two parts, or components and/or subsystems:	
1-3 floors	\$600
4-9 floors	\$650
10-19 floors	\$700
20-29 floors	\$750
30-39 floors	\$800
40 or more floors	\$900

New Installations²

Dumbwaiter or material lift	\$500
Escalator, moving walk, or moving ramp	\$500
Platform lifts or stairway chairlifts	\$500
Elevator:	
1-3 floors	\$600
4-9 floors	\$650
10-19 floors	\$700
20-29 floors	\$750
30-39 floors	\$800
40 or more floors	\$900
Personnel hoists	[\$250] \$450
Temporary use permits (construction car)	\$450

Additional inspections:

Normal workday, up to two hours	\$300/day
Normal workday, more than two hours	\$600/day
Overtime hours, up to two hours	\$600/day
Overtime hours, more than two hours	\$1,200/day

Building plan reviews

\$200

¹Where alterations to four or more units at the same location are identical, the fee for each additional alteration permit (beyond the initial four) shall be reduced by fifty percent. The applications shall be submitted at the same time to qualify for the fee reduction.

²For elevators which have considerable rise but few openings, such as observation or deep-well elevators, each ten feet of vertical rise shall be considered one floor for the purpose of determining installation or alteration permit fees.

EXHIBIT B**ELEVATOR AND KINDRED EQUIPMENT INSPECTION FEES****[July 1, 2012] January 1, 2017****Permit and Renewal Inspection Fees:**

Dumbwaiter or material lift	[\$140]	<u>\$150</u>
Escalator, moving walk, or moving ramp	[\$150]	<u>\$200</u>
Platform Lift or Stairway Chairlift	[\$150]	<u>\$200</u>
Hydraulic elevator - holed	[\$150]	<u>\$250</u>
Hydraulic elevator - holeless	[\$200]	<u>\$250</u>
<u>Hydraulic elevator - roped holeless</u>		<u>\$300</u>
Traction elevators:		
1-3 floors		\$225
4-9 floors		\$250
10-19 floors		\$275
20-29 floors		\$325
30-39 floors		\$400
40 or more floors		\$475
Personnel hoist	[\$175]	<u>\$300</u>
Temporary Use Permit (construction car)	[\$150]	<u>\$300</u>

Safety, load or internal test (witness fees):

Category 3 test	[\$200]	<u>\$300</u>
Category 5 test	[\$300]	<u>\$400</u>
<u>Category 5 with counterweight test</u>		<u>\$500</u>
Escalator, internal	[\$100]	<u>\$400</u>

Permit renewal and witness fees are per inspection, which may constitute one day or part of the day. If the inspector is required to return on another day or at another time on the same day, additional fees shall be assessed at the rate of \$300 per day for up to two hours and \$600 per day for more than two hours. Fees for overtime hours shall be \$600 per day for up to two hours and \$1,200 per day for more than two hours.

EXHIBIT C

INSPECTION AND TEST INTERVALS (IN MONTHS)

[July 1, 2012] January 1, 2017

Equipment Type	Permit Renewal	Category 3	Category 5
Electric elevators	12	N/A	60
Hydraulic elevators	12	36	N/A
Escalators and moving walks ^[1]	[6] <u>12</u>	[N/A] <u>36</u>	N/A
Dumbwaiters	[6] 12	36	60
Material lifts	[6] 12	36	60
Platform lifts and stairway chairlifts	[6] <u>12</u>	N/A	N/A
Inclined elevators	12	36	60
Screw-column elevators	12	36	60
Roof-top elevators	12	36	60
Limited-use/limited- application elevators	3	36	60
Construction cars	3	36	60
Personnel hoists ^[2]	3	N/A	N/A
Amusement rides	6	N/A	N/A

¹ Internal inspections of escalators and moving walks shall be performed at intervals of 36 months.

^[2] Personnel hoists shall be load tested at intervals of [6] 3 months.

Where an equipment is listed under both Category 3 of 36 months and Category 5 of 60 months, the appropriate testing interval is dependent on whether the lifting mechanism is rope or hydraulic or a combination of rope and hydraulic. "

"HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 8

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

PART 11

ELEVATORS AND RELATED SYSTEMS

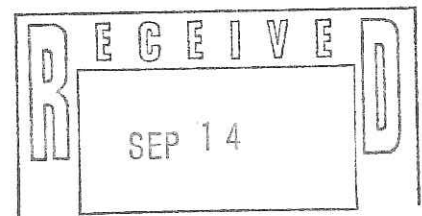
CHAPTER 230.1

ELEVATORS, ESCALATORS, DUMBWAITERS, MOVING WALKS, AND
MATERIAL LIFTS AND DUMBWAITERS WITH
AUTOMATIC TRANSFER DEVICES

- §12-230.1-1 Applicability
- §12-230.1-2 General requirements
- §12-230.1-3 Requirements for the installation of new
 elevators and kindred equipment [and/or]
 or the relocation of existing equipment
- §12-230.1-4 Requirements for existing elevators,
 escalators, dumbwaiters, moving walks,
 and material lifts and dumbwaiters with
 automatic transfer devices

Historical Note: Chapter 230.1 is based on chapter 230 of title 12 of the Hawaii Occupational Safety and Health Standards, Rules and Regulations. [Eff. 7/12/82; am 12/19/83; am 12/8/86; am, ren, and comp 12/6/90; am 11/5/93; am 7/6/98; R 6/30/14]

§12-230.1-1 Applicability. The requirements of this chapter shall be applicable to the design, construction, installation, plans review, testing, inspection, certification, operation, use, maintenance, repair, alteration and relocation of, and investigation of accidents involving elevators and



kindred equipment subject to chapter 397, Hawaii Revised Statutes, including elevators, escalators, dumbwaiters, moving walks, and material lifts and dumbwaiters with automatic transfer devices. [Eff 6/30/14; comp]
(Auth: HRS §397-4) (Imp: HRS §397-4)

§12-230.1-2 General requirements. (a) All new and existing installations of elevators and kindred equipment shall be reasonably safe to persons and property and in conformity with the provisions of this chapter.

(b) Conditions found not in conformity with the provisions of this chapter for which the director had not previously issued a discrepancy letter may be regarded as discrepancies. All discrepancies shall be satisfactorily resolved as soon as possible or within the time specified by the director. Failure to correct discrepancies or failure to abate an unsafe condition within the time specified shall be deemed a violation.

(c) All passenger elevators shall have a clearly legible "Smoking Prohibited by Law" or "No Smoking" sign installed inside of the cab. The letters on the sign shall not be less than one inch in height. The sign shall be posted in elevators in buildings open to the public, including elevators in apartments and other multi-unit residential buildings. The international no-smoking symbol may be posted in lieu of the sign provided that the diameter of the circle is not less than four inches. [Eff 6/30/14; comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-230.1-3 Requirements for the installation of new elevators and kindred equipment [and/or] or the relocation of existing equipment. (a) The design, construction, installation, operation, inspection, testing, maintenance, alteration, and repair of elevators, escalators, dumbwaiters, moving walks, and material lifts and dumbwaiters with automatic transfer devices, and its associated parts, shall conform to [the rules in] this chapter and the American Society of

Mechanical Engineers A17.1-2010, which is adopted by reference and made a part of this chapter with the following amendments:

- (1) Section 5.2 of the American Society of Mechanical Engineers A17.1, Limited-Use/Limited-Application Elevators, is amended to read: "Limited-use/limited-application elevators (see 1.3) are not permitted to be installed or used, unless:
 - (A) The building is required to be accessible in accordance with the Department of Justice's ADA Standards for Accessible Design (2010), or in accordance with section 103-50, Hawaii Revised Statutes;
 - (B) The building is also on the National or Hawaii Register of Historic Places; and
 - (C) Accessibility cannot otherwise be achieved without adversely altering the historically protected features of the structure".
- (2) Section 8.6.1.2.1(c) of the American Society of Mechanical Engineers A17.1 is amended to read: "A written Maintenance Control Program in electronic or paper form created for the equipment is the property of the equipment owner, and shall be made available to the department and be located on site".
- (3) Section 8.9.2 of the American Society of Mechanical Engineers A17.1 is amended to read: "The data plate shall be in plain view and securely attached to the controller door. An additional data plate shall be installed in the vicinity of the top key operated starting switch on the exterior of escalators and moving walks".

(b) A stairway or ladder shall be provided at all personnel points of access where there is a break in elevation of eight inches (two hundred mm) or more and when no ramp or runway is provided.

(c) International Building Code, 2012 edition, chapter 30, Elevators and Conveying Systems, is adopted by reference and made a part of this chapter, and shall apply to all new elevators and kindred equipment.

(d) International Code Council A117.1-2009, Accessible and Usable Buildings and Facilities, sections 407, 410, and

related portions of sections 106, 302, 308, 309, 703, and 705 are adopted by reference and made a part of this chapter, and shall apply to all new installations.

(e) Chapter 21 of the National Fire Protection Association 72 National Fire Alarm and Signaling Code, 2010 edition, and its related annexes and provisions are adopted by reference and made a part of this chapter, and shall apply to all new elevators.

(f) Article 620 of the National Fire Protection Association 70, National Electric Code, 2011 edition, and its related provisions are adopted by reference and made a part of this chapter, and shall apply to all new elevators.

(g) Paragraph 8.15.5, of National Fire Protection Association 13, Standard for the Installation of Sprinkler Systems, 2010 edition, is adopted by reference and made a part of this chapter, and shall apply to all new elevators and escalators. The annexes A.8.15.5.1 to A.8.15.5.4, D.1.1.9.2, D.1.1.10.2, D.2.23.2.2, and D.2.24.2.2, are explanatory and informational only.

(h) In each machine room, control room, machinery space, control space, and hoistway pit, there shall be provided at least one 125 volt, single phase, 15- or 20-ampere ground fault circuit interrupter (GFCI) duplex receptacle.

(i) A machine room light bulb shall be externally guarded [if the bulb is ten feet or lower from the floor].

(j) Section 2.27.8 (switch keys) of American Society of Mechanical Engineers A17.1 is amended to read: "The key switches required by 2.27.2 through 2.27.5 for all elevators in a building shall be operable by the "FEO-K1" key. The keys shall be Group 3 Security (see 8.1). A separate key shall be provided for each switch. These keys shall be kept inside the firefighter's lockbox. The firefighter's lockbox shall be located 6 feet above the floor on the left hand side of the elevator wall when facing the elevator and 6 feet above the floor on the left hand side of the left elevator when facing the elevators for a group of elevators. The fire key switch shall be located adjacent to the firefighter's lockbox. This key shall be of a tubular, 7 pin, style 137 construction and shall have a bitting code of 6143521 starting at the tab sequenced clockwise as viewed from the barrel end of the key. The key shall be coded "FEO-K1". The possession of the "FEO-K1" key shall be limited to elevator personnel, emergency

personnel, elevator equipment manufacturers, and authorized personnel during checking of the Firefighters' Emergency Operation (see 8.1 and 8.6.11.1)". [Eff 6/30/14; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-230.1-4 Requirements for existing elevators, escalators, dumbwaiters, moving walks, and material lifts and dumbwaiters with automatic transfer devices. (a) All existing elevators, escalators, moving walks, and dumbwaiters and material lifts without automatic transfer devices shall comply with the code in effect at the time of installation or alteration[.] as illustrated in Exhibit A, titled "Existing Elevator and Kindred Equipment Code Application Dates", dated January 1, 2017, which is made a part of this chapter and located at the end of this chapter, provided that for those years where the Hawaii Registration number (HAR) did not specify code year, the code version of the American Society of Mechanical Engineers A17.1 in effect at the time of installation or alteration shall apply. The director shall have the discretion to apply a specific code to any elevator and related system if the applicable code cannot be readily ascertained. If the installation or alteration permit was issued after 1997, then the elevator or kindred equipment shall comply with American Society of Mechanical Engineers A17.3-2011, which is adopted by reference and made a part of this chapter. [with the following amendments:

- (1) Nonmandatory Appendix C of American Society of Mechanical Engineers A17.3 is mandatory.
- (2) Rule 211.3 of American Society of Mechanical Engineers A17.3 Nonmandatory Appendix C, Firefighter's Service - Automatic Elevators, is amended to read: "All automatic (nondesignated attendant) operation elevators shall conform to the requirements of this rule".]

(b) The following provisions of American Society of Mechanical Engineers A17.1-2010 are adopted by reference and shall apply to existing elevators and kindred equipment as stated:

- (1) Part 1, General, shall apply to all existing elevators, escalators, moving walks, and dumbwaiters, and material lifts;

- (2) Section 5.10, Elevators Used for Construction, shall apply to all existing elevators used for construction;
- (3) Section 8.1, Security, shall apply to all existing elevators, escalators, and moving walks;
- (4) Section 8.6, Maintenance, Repair, Replacement and Testing, shall apply to all existing elevators, escalators and moving walks, and dumbwaiters and material lifts with automatic transfer devices with the following amendment: [Section 8.6.1.2.1(c) of the American Society of Mechanical Engineers A17.1 is amended to read: "The written Maintenance Control Program in electronic or paper form created for the equipment is the property of the equipment owner, and shall be made available to the department and be located on site".] Section 8.6.1.2.1(c) of the American Society of Mechanical Engineers A17.1 shall not apply.
- (5) Section 8.7, Alterations, shall apply to all existing elevators, escalators, moving walks, and material lifts and dumbwaiters with automatic transfer devices.
- (6) Section 8.8, Welding, shall apply to all existing elevators, escalators, moving walks, and material lifts and dumbwaiters with automatic transfer devices.
- (7) Section 8.9, Code Data Plate, shall apply to all existing elevators, escalators, moving walks, and material lifts and dumbwaiters with automatic transfer devices, except section 8.9.2 is amended to read: "The data plate shall be in plain view and securely attached to the controller door. An additional data plate shall be installed in the vicinity of the top key operated starting switch on the exterior of escalators and moving walks".
- (8) Section 8.10, Acceptance Inspections and Tests, shall apply to all existing elevators, escalators, moving walks, and material lifts and dumbwaiters with automatic transfer devices.
- (9) Section 8.11, Flood Resistances, shall apply to all existing elevators, escalators, moving walks, and

material lifts and dumbwaiters with automatic transfer devices.

(c) Chapter 12-240 shall apply to all elevators where the installation or alteration application was received by the department after December 6, 1990.

(d) American Society of Mechanical Engineers 17.6 2010 shall apply to existing elevators with other types of suspension means and steel cables less than three-eighths of an inch in diameter. [Eff 6/30/14; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

**EXHIBIT A
EXISTING ELEVATOR AND KINDRED EQUIPMENT
CODE APPLICATION DATES**

January 1, 2017

YEAR Implemented	CODE/RULE	A17.1 REFERENCE YEAR
1958	HAR Chapter 22	No year specified, Applicable ANSI Edition 1955
1964	HAR Chapter 22	1960
1969	HAR Chapter 22	1965
1982	HAR Chapter 230	1981
1990	HAR Chapter 230	1987
1993	HAR Chapter 230	1990
1998	HAR Chapter 230	1996
2000	HAR Chapter 230	1996
2014	HAR Chapter 230-1	2010

11

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

4. Additions to update source notes to reflect these amendments are not underscored.

5. These amendments to and compilation of chapters 12-229-1 and 12-230-1, 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 [Effective Date], and filed with the Office of the Lieutenant Governor.

LINDA CHU TAKAYAMA
Director of Labor and
Industrial Relations

APPROVED AS TO FORM:

Deputy Attorney General

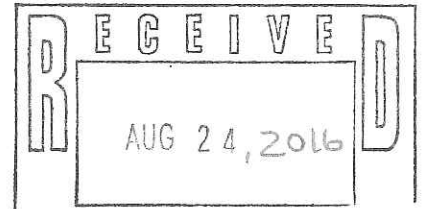
Exhibit 2

DEPARTMENT OF AGRICULTURE

Adoption of Chapter 4-138
Hawaii Administrative Rules

<Date of Adoption>

1. Chapter 4-138, Hawaii Administrative Rules,
entitled "HAWAII-GROWN CACAO AND HAWAIIAN CHOCOLATE
PRODUCTS," is adopted to read as follows:



"HAWAII ADMINISTRATIVE RULES

TITLE 4

DEPARTMENT OF AGRICULTURE

SUBTITLE 7

QUALITY ASSURANCE DIVISION

CHAPTER 138

HAWAII-GROWN CACAO AND HAWAIIAN CHOCOLATE PRODUCTS

§4-138-1	Definitions
§4-138-2	Labeling requirements
§4-138-3	Recordkeeping; inspection
§4-138-4	Penalties

§4-138-1 Definitions. As used in this chapter:

"Cacao" or "cacao nibs" means the roasted, cracked, winnowed pieces of the cacao beans.

"Cacao beans" means the fermented and dried seeds of the cacao plant.

"Cacao liquor" means the paste prepared by finely grinding cacao nibs.

"Chocolate" means the food prepared with cacao, and other essential ingredients such as cocoa butter, sugar, vanilla, lecithin and other flavoring.

"Department" means the department of agriculture.

"Geographic region" means the geographic areas designated as follows:

Hawaii is the State of Hawaii; Hawaii Island is the island of Hawai'i; Kauai is the island of Kaua'i; Maui is the island of Maui; Molokai is the island of Moloka'i; and Oahu is the island of Oahu.

"Hawaii cacao" or "Hawaii cacao nibs" means roasted, cracked, and winnowed pieces of the cacao beans which are grown in the State of Hawaii.

"Hawaii cacao beans" means cacao beans which are grown in the State of Hawaii.

"Hawaii chocolate" means chocolate prepared from Hawaii cacao.

"Hawaii cacao blend chocolate" means chocolate prepared from not less than fifty-one per cent Hawaii-grown cacao regardless of island.

"Hawaii Island cacao" or "Hawaii Island cacao nibs" means roasted, cracked, and winnowed pieces of the cacao beans which are grown in the island of Hawai'i.

"Hawaii Island cacao beans" means cacao beans which are grown in the island of Hawai'i.

"Hawaii Island chocolate" means chocolate prepared from one hundred per cent Hawaii Island cacao.

"Kauai cacao" or "Kauai cacao nibs" means roasted, cracked, and winnowed pieces of the cacao beans which are grown in the island of Kaua'i.

"Kauai cacao beans" means cacao beans which are grown in the island of Kaua'i.

"Kauai chocolate" means chocolate prepared from one hundred per cent Kauai cacao.

"Maui cacao" or "Maui cacao nibs" means roasted, cracked, and winnowed pieces of the cacao beans which are grown in the island of Maui.

"Maui cacao beans" means cacao beans which are grown in the island of Maui.

"Maui chocolate" means chocolate prepared from one hundred per cent Maui cacao.

"Molokai cacao" or "Molokai cacao nibs" means roasted, cracked, and winnowed pieces of the cacao beans which are grown in the island of Moloka'i.

"Molokai cacao beans" means cacao beans which are grown in the island of Moloka'i.

"Molokai chocolate" means chocolate prepared from one hundred per cent Molokai cacao.

"Oahu cacao" or "Oahu cacao nibs" means roasted, cracked, and winnowed pieces of the cacao beans which are grown in the island of Oahu.

"Oahu cacao beans" means cacao beans which are grown in the island of Oahu.

"Oahu chocolate" means chocolate prepared from one hundred per cent Oahu cacao. [Eff]
(Auth: HRS §486-118) (Imp: HRS §486-118)

§4-138-2 Labeling requirements. (a) In addition to all other labeling requirements, no identity statement used for labeling or advertising cacao, chocolate, or other products produced in whole or in part from Hawaii cacao, shall contain the phrase "Hawaii cacao", "Hawaiian cacao", "Hawaii chocolate", or "Hawaiian chocolate", unless:

- (1) The product contains cacao ingredients made from one or more various geographic regions mentioned above and from no other cacao or chocolate flavoring. The phrases "Hawaii cacao", "Hawaiian cacao", "Hawaii chocolate" or "Hawaiian chocolate" may be followed by the phrase "made with" or "contains", and list each geographic region identified in descending order of per cent by weight and expressed as a number followed by a per cent and ends with the word "cacao".

(b) Each word or character in the identity statement shall be of the same type size and shall be contiguous. The smallest letter or character of the identity statement on packages of sixteen ounces or less net weight shall be at least one and one-half times the type size required by federal law for the statement of net weight or three-sixteenths of an inch in height, whichever is smaller. The smallest letter or character of the identity statement on packages of greater than sixteen ounces net weight shall be at least one and one-half times the type size required under federal law for the statement of net weight.

(c) It shall be a violation of this section to:

- (1) Use a geographic region as defined in this chapter in labeling or advertising of a cacao or chocolate product if the product

contains less than one hundred per cent cacao by weight from that geographic region, except that if the product contains one hundred per cent Hawaii cacao from more than one geographic region, a list of the geographic regions may be shown if it is preceded by the words "contains", or "made with", and each geographic region is identified in descending order of per cent by weight and expressed as a number followed by a per cent sign and ends with the word "cacao".

- (2) Misrepresent on a label or in advertising of a cacao or chocolate product, the per cent cacao by weight of any cacao from a geographic region defined in this chapter.
- (3) Use a geographic region on the front label or any panel of a package or in the identity statement of a cacao or chocolate product, other than in a trademark or trade name as provided in this section or as authorized in subsections (a) and (b), unless one hundred per cent of the cacao contained in the product is grown in that geographic region.
- (4) Use the term "Hawaii cacao blend", "Hawaii cacao blend chocolate" or similar language on a cacao or chocolate product if the product contains more than forty-nine per cent cacao produced or grown outside of Hawaii.
- (5) Use more than one trademark or trade name on a cacao or chocolate product unless one hundred per cent of the cacao used in that product is grown in the geographic region specified by the trademark or trade name.
- (6) Use a trademark or trade name that begins with the name of a geographic region on a cacao or chocolate product unless one hundred per cent of the cacao used in the product is grown in that geographic region or the trademark or trade name ends with words that indicate a business entity; or

- (7) Print the identity statement required in this chapter in a smaller font size than that used for a trademark or trade name that includes the name of a geographic region and in a location other than the front label of a package of a cacao or chocolate product. [Eff] (Auth: HRS §486-118)
(Imp: HRS §486-118)

§4-138-3 Recordkeeping; inspection.

Manufacturers and other persons who package cacao or chocolate products covered in this chapter shall maintain and make available to the department for inspection or copying, for a period of two years, records on the weight and geographic origins of cacao beans purchased and sold and any other record required by the department for the purposes of enforcing this chapter. Authorized employees of the department shall be allowed access to these records upon request during normal business hours. [Eff] (Auth: HRS §486-118) (Imp: HRS §486-118)

§4-138-4 Penalties. Any person who violates any provision of this chapter may be subject to the actions, procedures, and penalties provided in section 486-32, Hawaii Revised Statutes." [Eff] (Auth: HRS §486-118) (Imp: HRS §§486-32, 486-118)

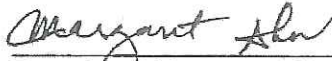
2. The adoption of chapter 4-138, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

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 3

EXHIBIT A TO PRE-PUBLIC HEARING SMALL BUSINESS IMPACT STATEMENT

Proposed Amendments to
Rules of the Liquor Commission of the City and County of Honolulu (2015)

Note: Material to be repealed is **[bracketed]**.

New material is **underscored** (new rule/standalone section is **bold face** only, not underscored).

Licensee focus group change is **ALL CAPS**.

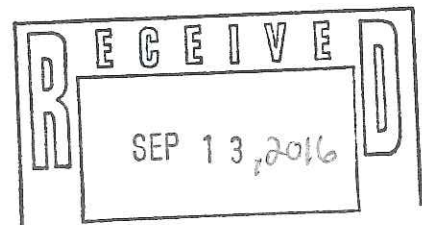
SUMMARY: Amends catering definition to conform with new catering license type; deletes stacking definition if stacking rule is repealed; and adds definition for undue noise or disturbance for Rule §3-84-78.03.

§3-80-1.1. Definitions.

“Caterer” as it pertains to a Class 13(a) licensee means a restaurant (class 2), hotel (class 12), or condominium hotel (class 15) licensee which provides off-premise liquor service in connection with food service, as stated in ~~[Sec. 281-31(n)]~~ Sec. 281-31(m) HRS.

~~["Stacking" of liquor by the licensee means allowing the service for consumption, of more than one drink at a time per customer, except that beer may be served with a straight or unmixed serving of liquor. This shall not apply to Commission approved authorized showroom facilities which may serve the "minimum" number of drinks at the same time to lessen disturbance to the show.]~~

“Undue noise” or “undue disturbance” means disturbance to the peace and quiet of the residents OR TENANTS of the neighborhood from music, customers, or other noise originating from a licensed premises that is unreasonable. Music, customers, or other noise originating from a licensed premises is unreasonable within the meaning of Rule §3-84-78.03 if considering the nature and purpose of the licensee’s conduct and the circumstances known to the licensee, including the nature AND ZONING DISTRICT of the location and the time of the day or night, the licensee’s conduct involves a gross deviation from the standard of conduct that a law-abiding citizen CONDUCTING THE SAME TYPE OF BUSINESS would follow in the same situation; or the failure to heed the REASONABLE admonition of a Commission investigator that the noise is unreasonable and should be stopped or reduced.



Note: Material to be repealed is [bracketed]; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

SUMMARY: Adds license fees for new catering license type, winery, BYOB, and small craft producer pub licenses; corrects inadvertent omission of license fee for Category 2 brewpub license; and deletes license fee for repealed license class (Vessel).

§3-81-17.51 License Fees.

...		
7	Vessel	\$660 ...
13	(a) Caterer, General (Class 2, Class 12, Class 15 only)	\$30 per day
	(b) Caterer, General (Food Service Business Type) (1) Category 1 – Standard (2) Category 2 – Music/Dancing	\$600, and one-half of one percent (0.005) of the total gross liquor sales less a *deductible*, not to exceed \$25,000, plus \$30 per day. \$720, and one-half of one percent (0.005) of the total gross liquor sales less a *deductible*, not to exceed \$25,000, plus \$30 per day.
14	Brewpub (1) Category 1 – Standard (2) Category 2 – Music/Dancing	\$1,680, and three-fourths of one percent (0.0075) of the total gross liquor sales less a *deductible*, not to exceed \$40,000. \$1,800, and three-fourths of one percent (0.0075) of the total gross liquor sales less a *deductible*, not to exceed \$40,000. ...
16	Winery	\$1,200, and one-half of one percent (0.005) of the total gross liquor sales less a *deductible*, not to exceed \$25,000.
17	BYOB (1) Category 1 – Music only (2) Category 2 – Music/Dancing	\$360 \$420
18	Small Craft Producer Pub (1) Category 1 – Standard	\$1,680, and three-fourths of one percent (0.0075) of the total gross liquor sales less a

Note: Material to be repealed is [bracketed]; new material is underscored or boldfaced; licensee focus group change is **ALL CAPS**.

<p>(2) Category 2 – Music/Dancing</p>	<p>*deductible*, not to exceed \$40,000.</p> <p>\$1,800, and three-fourths of one percent (0.0075) of the total gross liquor sales less a *deductible*, not to exceed \$40,000.</p>
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SUMMARY: Makes conforming changes for BYOB license; makes other amendments to clarify requirements; and deletes repealed license class (Vessel).

§3-81-17.54. Gross Sales Reports.

- (a) All licensees, except [vessel,] transient vessel (per day), [and] special, and bring-your-own-beverage, shall file a report as directed by the Commission showing the true and accurate gross sales of liquor and purchases of liquor. The report shall be signed by the owner, partner, corporate officer, member, or authorized agent and submitted with the original signature of the authorized party. The gross sales report shall also indicate the additional license fee due and payable which exceeds the minimum fees established by §3-81-17.51.
- (b) All tour and cruise vessel licensees shall file a report on a prescribed form as directed by the Commission showing the true and accurate declaration of liquor purchases. The report shall be signed by the owner, partner, corporate officer, member, or authorized agent and submitted with the original signature of the authorized party. The gross sales report shall also indicate the additional fee due and payable which exceeds the minimum fees established by §3-81-17.51.
- (c) The report shall be completed and filed not sooner than July 1 nor later than July 31 of each year, or at such other times as the Commission may direct. In cases of a transfer of a license, the report shall be filed by the transferor before the actual transfer of the license. Where licenses are revoked, canceled, or expired by term, a final report shall be filed within thirty-one (31) days following such revocation, cancellation or expiration. All reports shall be complete and filed with the additional license fee, if applicable, on or before the required filing dates by delivering them to the office of the Liquor Commission or by depositing them, properly addressed and stamped, in the United States mail. A postmark shall be evidence as to the time and date a report is mailed. The Commission shall not be responsible for failure of the post office to postmark the mailed report in a timely manner. A report received through the mail after the filing dates shall be considered late if received more than seven (7) calendar days after the postmark.
- (d) All licensees, except [vessel,] transient vessel (per day), [and] special, and bring-your-own-beverage, shall produce within three (3) calendars days for Commission inspection books or records showing all income, purchases and expenses of their liquor licensed business. These books and records, including

Note: Material to be repealed is [bracketed]; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

- but not limited to daily sales records and invoices, shall be made available for inspection and/or auditing by the Commission, through its auditors or otherwise, at any time and shall be preserved for a period of four years, except that the Commission may, in its discretion, consent to destruction of those books and records within the period or may require that they be kept longer.
- (e) Gross sales from off-premises catering shall be included in the gross sales report of the Restaurant, Hotel, or Condominium Hotel licensee.
 - (f) Licensees who give complimentary drinks or samples without charge shall report the value of those drinks in their annual gross sales report. If there is no sales price related to the complimentary drink, the licensee shall report the complimentary drink's value at four (4) times the amount of liquor purchased.
 - (g) In addition to the report for the period ending June 30th, wholesale licensees shall complete and file an interim gross sales of liquor report for the period July 1 to December 31. The interim report is due not later than March 1st of the following year. The Commission may direct the wholesale class to file additional interim gross sales of liquor reports, and establish the respective due date(s).

* * * * *

SUMMARY: Redesignation of section paragraph only.

§3-82-31.3. Determination of Nudity in Cabarets.

- (a) The Administrator shall classify each cabaret license to determine whether the cabaret licensee is permitted to provide professional entertainment by a dancer pursuant to Section 281-31~~(j)~~**(k)**, Hawaii Revised Statutes.
- (b) Any cabaret licensee aggrieved by the decision of the administrator may file a written notice of appeal to the Commission within thirty (30) days after receipt of the notice of classification. The Commission shall hold a hearing and issue a final decision on the matter.
- (c) A cabaret licensee seeking to provide professional entertainment by a dancer shall file an application on a form prescribed by the Commission and comply with Sections 281-51 to 281-60, Hawaii Revised Statutes.

* * * * *

SUMMARY: Redesignation of section paragraph only.

§3-82-31.5. Brew Pub Licenses.

- (a) Brew Pub categories shall only be as follows:
 - (1) A standard bar; or
 - (2) A premise in which live entertainment or recorded music is provided. Facilities for dancing may be permitted as provided by Liquor Commission rules.

Note: Material to be repealed is [bracketed]; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

- (b) All Brew Pub licensees shall file a report as directed by the Commission showing the total number of barrels of malt beverages manufactured on the licensee's premises during the license year, which report shall be completed and filed not sooner than July 1 nor later than July 31 of each year, or at such other times as the Commission may direct. In cases of a transfer of a license, the report shall be filed by the transferor before the actual transfer of the license. Where licenses are revoked, canceled, or expired by term, a final report shall be filed within thirty-one (31) days following such revocation, cancellation or expiration. All reports shall be filed on or before the required filing dates by delivering them to the office of the Liquor Commission or by depositing them, properly addressed and stamped, in the United States mail. A postmark shall be evidence as to the time and date a report is mailed. The Commission shall not be responsible for failure of the post office to postmark the mailed report in a timely manner. A report received through the mail after the filing dates shall be considered late if received more than seven (7) calendar days after the postmark.
- (c) Any Brew Pub licensee is permitted to conduct the activities described in paragraphs (1) through (8) of Section 281-31~~(e)~~(n), HRS, upon written approval of the Commission, subject to the following conditions:
 - (1) An application for the designation of a second location other than the licensed premises shall be submitted by the licensee on a form prescribed by the Commission.
 - (2) The designated second location shall be in an area zoned for the proposed activity.
 - (3) An application for the designation of a second location shall be accompanied by a lease agreement or any other document showing that the licensee has the exclusive right to legally occupy the proposed premises, and a floor plan of the premises drawn to scale.
 - (4) Invoices for all malt beverages manufactured and/or sold at the designated second location shall be kept on the premises. All such records shall be kept for not less than three (3) years.

SUMMARY: Amends provisions to conform with new catering license type; provides more specificity regarding food sales that must accompany catered liquor sales.

§3-82-31.7. Catering By Restaurant, Hotel, or Condominium Hotel Licensees.

- (a) Restaurant, hotel, and condominium hotel licensees may provide catering if that activity is directly related to the licensee's operation as a restaurant, hotel, or condominium hotel.
- (b) Businesses that wish to provide on or off-premises catering service shall apply for a restaurant (class 2), hotel (class 12), or condominium hotel (class 15) license, as applicable by law and rule, which will permit the sale of liquor (other than alcohol) while performing food catering functions.

Note: Material to be repealed is [bracketed]; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

- (c) Off-premises catering will only be authorized upon the issuance of a caterer (class 13(a)) license. A caterer event license is required for each off-premises catered event where liquor is served.
- (d) For each off-premises catered event, the licensee shall submit an application for a caterer (class 13(a)) event license. The application shall include a notice stating the date, time, and location of the event; a floor plan showing the boundaries of the proposed catered licensed premises; a written statement signed by the owner or representative of the property that the function will be subject to the liquor laws and Rules of the Commission and open to inspection by the Commission's investigators.
- (e) A caterer event license fee, as established by §3-81-17.51, shall be submitted with the application.
- (f) A duly registered manager shall be in active charge of the licensed, catered premises during times that the premises is open for business. No other employees on the catered, licensed premises need to be registered with the Commission.
- (g) Gross sales from on or off-premises catering shall be included in the gross sales report of the restaurant, hotel, or condominium hotel licensee. **Each catered event must include food and liquor. At least thirty (30) per cent of the establishment's gross revenue FROM ALL catered EVENTS must come for the sale of foods.**
- (h) The licensee shall clearly post the issued license at the catered premises.
- (i) A catering licensee shall have available for inspection and review the contract indicating the parties involved in the catered event or activity.

* * * * *

SUMMARY: Amends rule to conform with Hawaii, Kauai, and Maui county liquor commission practice.

§3-82-31.8. Recorking.

Unless inconsistent with Chapter 281 of the Hawaii Revised Statutes or the Rules of the Liquor Commission, any licensee engaged in meal service **[shall]** **may** allow a patron who has purchased or brought unto the licensed premises wine, liquor or beer for consumption with a meal to remove the partially consumed product from the licensed premises, which shall be recorked or resealed in its original container.

* * * * *

Note: Material to be repealed is *[bracketed]*; new material is underscored or **boldfaced**; licensee focus group change is ALL CAPS.

SUMMARY: Implementing rule for new catering license type.

§3-82-31.9. Catering By Food Service Businesses.

- (a) Food service businesses may provide liquor service if that activity is directly related to the business's operation as a food service provider or food catering service.
- (b) Minimum requirements of a caterer (class 13(b)) license shall be that it is an enterprise which is regularly and in a bona fide manner in the business of preparing meals for patrons for compensation, and which has kitchen facilities connected therewith, containing the necessary equipment and supplies for cooking an assortment of foods which may be required for meals, and operated in compliance with State Department of Health laws and regulations.
- (c) If liquor for catered events will be stored other than at the kitchen facilities identified in (b), approval for outside warehousing must be obtained in accordance with §3-82-42.1.
- (d) A per-event caterer license is required for each catered event where liquor is served.
- (e) For each catered event, the caterer (class 13(b)) licensee shall submit an application for a caterer event license. The application shall include a notice stating the date, time, and location of the event; a floor plan showing the boundaries of the proposed catered licensed premises; a written statement signed by the owner or representative of the property that the function will be subject to the liquor laws and Rules of the Commission and open to inspection by the Commission's investigators.
- (f) A per-event caterer license fee, as established by §3-81-17.51, shall be submitted with the application.
- (g) A duly registered manager ~~[AND BARTENDER]~~ shall be in active charge of the licensed, catered premises during times that the premises is open for business and licensed. No other employees on the catered, licensed premises need to be registered with the Commission.
- (h) The licensee shall clearly post the issued license at the catered premises.
- (i) A caterer (class (b)) licensee shall have available for inspection and review the contract indicating the parties involved in the catered event or activity.
- (j) Liquor sales, service, and consumption shall be limited to the catered event. Each catered event must include food and liquor. At least thirty (30) per cent of the establishment's gross revenue FROM ALL catered EVENTS must come from the sale of foods.
- (k) Retail dealer (class 3), dispenser (class 5), club (class 6), cabaret (class 11), brewpub (class 15), winery (class 16), and small craft producer pub (class 18) licensees may not apply for a caterer (class 13(b)) license.

* * * * *

Note: Material to be repealed is *[bracketed]*; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

SUMMARY: Implementing rule for winery license.

§3-82-31.10. Winery Licenses.

All Winery licensees shall file a report as directed by the Commission showing the total number of barrels of wine manufactured on the licensee's premises during the license year, which report shall be completed and filed not sooner than July 1 nor later than July 31 of each year, or at such other times as the Commission may direct. In cases of a transfer of a license, the report shall be filed by the transferor before the actual transfer of the license. Where licenses are revoked, canceled, or expired by term, a final report shall be filed within thirty-one (31) days following such revocation, cancellation or expiration. All reports shall be filed on or before the required filing dates by delivering them to the office of the Liquor Commission or by depositing them, properly addressed and stamped, in the United States mail. A postmark shall be evidence as to the time and date a report is mailed. The Commission shall not be responsible for failure of the post office to postmark the mailed report in a timely manner. A report received through the mail after the filing dates shall be considered late if received more than seven (7) calendar days after the postmark.

* * * * *

SUMMARY: New rule permits manufacturers to charge for sampling (not permitted for any other off-premises consumption class of license).

§3-82-31.11 Manufacturer Licenses.

If on-premises sampling of beer, wine, or other specified liquor manufactured or distilled from fruits or other products grown in the State has been approved by the Commission, manufacturer licensees may charge for sampling to offset costs. The value of the charges for the samples shall be reported in the licensee's annual gross sales report.

* * * * *

SUMMARY: Makes conforming changes for winery, BYOB and small craft producer pub licenses.

§3-82-38.4. Employee Records.

- (a) All dispenser, cabaret, hotel, club, restaurant, brewpub, *[and]* condominium hotel, winery, bring-your-own-beverage, and small craft producer pub licensees, including temporary licenses, shall have available on the licensed premises a time card or other adequate record showing in English the month, day, year, and time, indicating a.m. or p.m. and the legal first name and surname

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of each employee when that employee is on duty. This rule also applies to managers but does not apply to entertainers or kitchen staff who do not handle, serve or sell liquor.

- (b) Time record entries shall be made at the time the employee reports on duty and again when the employee goes off duty. If the employee is a minor, the licensee shall print on the time record below the employee's name that said employee is a minor. Employee time records shall be preserved for at least six months.
- (c) Electronic or otherwise recorded payroll registration may be used for the purposes of this rule with the Administrator's approval.

* * * * *

SUMMARY: Makes conforming changes for new catering type, winery, BYOB and small craft producer pub licenses; makes other amendments to conform with agency practice.

§3-82-38.5. Registration of Employees.

- (a) All dispenser, cabaret, hotel, club, brewpub, ~~[or]~~ condominium hotel, winery, bring-your-own-beverage, or small craft producer pub licensees shall employ only persons in that section of the licensed premises where liquor is sold, served or consumed who are registered with the Commission prior to the start of employment. For restaurant **and class 13(b) caterer** licensees, only managers and bartenders are required to be registered prior to the start of employment. Licensees shall ensure that any bartender currently employed in these classes of licenses successfully completes the server-training program within ninety (90) days of the publication of these rules. A temporary registration is allowed for each employee who has an unexpired certificate of registration. This temporary registration shall not exceed three (3) consecutive days, and will only become effective if the licensee timely advised the Commission by facsimile time stamp of the temporary employment. Further, the employee temporarily registered with the Commission must permanently register not later than the first working day after the temporary registration expires. An employee need not obtain a new certificate of registration because of a name change only. This rule shall apply to the registration of employees under a temporary license based upon a new license application as stated in §3-82-32.1. However, this rule shall not apply to employees under a temporary license based upon a transfer license application where the employee is registered under the pre-existing license.
- (b) Certificates of registration issued by the Commission shall be valid only for the licensed premises for which the employee registers and the license number of the premises shall be printed on the certificate of registration. Employees may be employed to work at more than one licensed premises; however, a separate certificate of registration shall be required for each licensed premises. Certificates of registration for employees, except for dancers, bartenders, or managers shall be valid for four (4) years from the date of issue. For bartenders

Note: Material to be repealed is *[bracketed]*; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

- or managers, certificates of registration shall be valid for four (4) years from the date of successful completion of the server training program required under subparagraph (f) of this rule (including passing the examination).
- (c) Persons who apply to the Commission for registration shall present:
- (1) ~~*[Positive identification in the form of either a passport, a laminated driver's license with photograph, or other laminated government identification with a photograph]*~~ A valid, unexpired government issued ID card, containing the registrant's name, photo, and date of birth (e.g., Driver's License, State ID, US Passport, or Military ID; and
 - (2) ~~*[Proof of a Social Security number]*~~ An original Social Security Card or a Wage and Tax Statement Form W-2, provided the Social Security Number is printed on the document. A printed electronically transmitted copy is acceptable.;
 - ~~(3) *A current satisfactory tuberculosis (TB) clearance report].*~~
- (d) Each person registered shall be photographed and issued a certificate of registration which shall be valid until the expiration date indicated thereon or when recalled, suspended, or revoked by the Commission. The certificate of registration shall be retained by each employee and not surrendered to or held by the employer. A processing fee shall be charged for each certificate of registration issued to cover the cost of materials and processing.
- (e) Licensees shall ensure that all employees who are required to register with the Commission have their certificate of registration for the licensed premises readily available for inspection while on duty at that licensed premises.
- (f) All dispenser, cabaret, restaurant, tour or cruise vessel, annually licensed transient vessel, hotel, club, brewpub, or condominium hotel licensees shall employ only bartenders who have successfully completed the server-training program administered by the Commission, including an examination and instruction in the following areas:
- (1) Identifying and dealing with intoxicated persons,
 - (2) Reviewing liquor laws and rules, and
 - (3) Dangers of driving while intoxicated.
- In these classes, the licensees shall ensure that individuals currently employed as a bartender successfully complete the server-training program within ninety (90) days of publication of these rules. A person may be issued a certificate of registration as a bartender for the same or another licensed premises and need not retake the server-training program if that person had successfully completed the server-training program within the past four (4) years.
- (g) If an employee has been issued a manager's certificate of registration for a particular licensed premises, the employee with the manager's certificate need not be issued a separate employee's certificate of registration of another category, except dancers, for the same licensed premises.
- (h) Entertainers are not required to be registered as employees pursuant to this rule.
- (i) The licensee shall ensure that any employee who performs duties of a hostess, as defined in §3-80-1.1, in a class 5 Dispenser, Category 4 licensed premises, is

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duly registered as a hostess with the Liquor Commission. Licensed premises not authorized Category 4 (hostess) shall not have employees registered or performing duties as hostesses, except as defined in §3-80-1.1.

- (j) For hotel and condominium hotel licensees, only managers, bartenders and staff who handle, serve or sell liquor are required to be registered as employees pursuant to this rule.

* * * * *

SUMMARY: Reduces frequency of reporting to conform with agency practice (reflecting change from employee lists stored as hard copy versus digital copy).

§3-82-38.8. [Semi-]Annual [Submission] Update of Employee List.

All ~~[brewpub, tour or cruise vessels, dispenser, cabaret, hotel, club, restaurant, condominium hotel,]~~ licensees required to register employees pursuant to §3-82-38.5 shall submit to the Commission, [semi-]annually on a date and in such manner as the Commission may direct, and on such other dates as may be required by the Commission, the name of every person then employed on the licensed premises who is registered with the Commission or who is subject to registration. The employment of a person who had previously registered for a particular premises and whose name does not appear on the licensee's [semi-]annual list of employees shall be considered terminated and the registration of that person shall be voided. A person whose registration with the Commission for a particular premises has expired and who then applies for re-registration shall be considered an original applicant and shall appear in person at the Commission's office to complete this registration. It shall be presumed evidence of a violation of §3-82-38.5, Registration of Employees; §3-82-38.6, Dancers; and §3-82-38.9, Managers; that an unregistered employee's name appears on any employee time card or employment records.

* * * * *

SUMMARY: Makes conforming changes for new catering type, winery, BYOB and small craft producer pub licenses; makes other amendments to conform with agency practice.

§3-82-38.9. Licensee and Manager in Charge of Premises.

- (a) Each dispenser, cabaret, tour or cruise vessel, annually licensed transient vessel, restaurant, class 13(b) caterer, club, hotel, caterer, brewpub, ~~[and]~~ condominium hotel, winery, and small craft producer pub licensee shall have a duly registered manager in active charge of the licensed premises during the time the establishment is open for business and licensed to sell or serve liquor.
 - (1) Managers on catered premises shall be registered with the hotel, restaurant, class 13(b) caterer, or condominium hotel licensee performing the catering.

Note: Material to be repealed is *[bracketed]*; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

- (2) Retail (class 4) licensees shall have a duly registered manager or assistant manager assigned to each licensed premises (or group of premises if ownership has multiple properties) to insure employees are knowledgeable in applicable Commission laws and rules. It is not required that these managers be present at all times but shall assume responsibility for training and monitoring their assigned stores. These managers shall complete the server-training program and pass the examination prior to being assigned those duties or within one hundred eighty (180) days after publication of these rules, if currently performing those duties.
- (3) Bring-your-own-beverage (class 17) licensees shall have a duly registered manager in charge of the licensed premises during the time the establishment is licensed to permit consumption on the premises by patrons.**
- (b) A person shall successfully complete the server-training program and pass the examination administered by the Commission before that person can be registered with the Commission as a manager or permitted to renew the manager's certificate of registration. However, a person may be issued a manager's certificate of registration for the same or another licensed premises and need not retake the server-training program and pass the examination if that person had successfully completed the server training program within the past four years.
- (c) Certificates of registration issued by the Commission shall be valid only for the licensed premises in which the manager is registered. A person may be employed to work as a manager at more than one licensed premises, however, that person shall have a manager's certificate of registration for each licensed premises. Retail licensees shall be exempt from the "one certificate-one premises" limitation.
- (d) Certificates of registration for managers shall be valid for four (4) years from the date of successful completion of the server training program required under subparagraph (b) of this rule (including passing the examination). Any person registered as a manager for a licensed premises may also perform any other duties at the same premises, except for performing as a dancer, which does require a separate registration, or sit with customers in the case of a cabaret. Managers of licensed cabarets are not permitted to sit with customers during hours of operation.
- (e) Persons who apply to the Commission for registration as a manager for a particular premises shall present:
- (1) ~~*[Positive identification in the form of either a passport, a laminated driver's license with photograph, or other laminated government identification with photograph]*~~ A valid, unexpired government issued ID card, containing the registrant's name, photo, and date of birth (e.g., Driver's License, State ID, US Passport, or Military ID);

Note: Material to be repealed is *[bracketed]*; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

- (2) ~~*[Proof of a Social Security number]*~~ An original Social Security Card or a Wage and Tax Statement Form W-2, provided the Social Security Number is printed on the document (a printed electronically transmitted copy is acceptable);
- (3) Proof that the applicant is at least twenty-one (21) years of age; and
- (4) A letter from the ~~*[licensee]*~~ holder of the liquor license, principal of the licensee entity, or authorized agent of the licensee entity certifying that the applicant will be or is a manager of the licensed premises~~;~~
- ~~(5) *A current satisfactory tuberculosis (TB) clearance report]*.~~
- (f) Each person registering as a manager shall be photographed and issued a certificate of registration which shall be valid for use only at the designated licensed premises until the expiration date or until recalled, suspended or revoked by the Commission. The certificate of registration shall be retained by each manager and not surrendered to or be held by the employer. A processing fee shall be charged for each certificate of registration issued to cover the cost of materials and processing.
- (g) Licensees shall ensure that all managers who are required to register with the Commission shall have the manager's certificate of registration for the licensed premise readily available for inspection while on duty at that premises.
- (h) All retail, dispenser, cabaret, tour or cruise vessel, restaurant, class 13(b) caterer, club, hotel, brewpub, [and] condominium hotel, bring-your-own-beverage, winery, and small craft producer pub licensees shall ensure that responsible managers have successfully completed the server-training program administered by the Commission, including passing an examination and instruction in the following areas:
 - (1) Identifying and dealing with intoxicated persons,
 - (2) Reviewing liquor laws and rules, and
 - (3) Dangers of driving while intoxicated.

* * * * *

SUMMARY: Deletes kitchen and dining room requirement to conform with statutory amendment repealing same; clarifies requirements for hotel licensees who provide off-premises catering.

§3-82-38.12. Requirements of a Hotel License.

- (a) Minimum requirements for a hotel license shall be an establishment consisting of one or more buildings containing~~[-(1)]~~ at least fifty hotel guest rooms ~~*[and (2) a kitchen and dining room approved by the Commission in which at least two meals consisting of either breakfast, lunch or dinner are regularly prepared and served to hotel guests and other customers. The kitchen and dining room must be located within the hotel property].*~~ Hotel licensees providing off-premises catering services shall have a kitchen approved by the Commission and located within the hotel property. Room service, self-

Note: Material to be repealed is [bracketed]; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

service and service at private parties in areas which are the property of and contiguous to the hotel are permitted.

- (b) Upon the opening or closing of any section within the hotel licensed premises which serves alcoholic beverages, the licensee must notify the Liquor Commission with details and floor plan changes in writing not less than thirty (30) days prior to the commencement of such event.

* * * * *

SUMMARY: Makes conforming changes for winery, BYOB and small craft producer pub licenses; makes other amendments pertaining to sampling activity and growler sales; and deletes repealed license class (Vessel).

§3-82-38.19. Hours of Business.

A licensee shall be authorized to sell, [or] serve, or allow consumption of liquor based upon its class of license during the hours specified as follows:

- (a) Dispenser, Club, Restaurant, Brewpub, Caterer, [Vessel,] Transient Vessel, Tour or Cruise Vessel, [and] Special, Winery, and Small Craft Producer Pub: From 6:00 a.m. to 2:00 a.m. the following day.
- (b) Cabaret: From 10:00 a.m. to 4:00 a.m. the following day. Liquor may be dispensed during the prescribed hours only when service is confined to customers within the area where live or amplified recorded music for dancing is provided for patrons, including a dance floor, or professional entertainment as permitted by Section 281-31, Hawaii Revised Statutes, or authorized by the Commission, is both visible and audible to customers. In areas that do not comply with the foregoing requirement, liquor may be sold, served or consumed no later than the closing hour prescribed for dispenser premises.
- (c) Retail: From 6:00 a.m. to 12:00 midnight.
- (d) Manufacturer and Wholesaler: 24 hours a day; sampling shall be limited to from 6:00 a.m. to 2:00 a.m. the following day.
- (e) Hotel: From 6:00 a.m. to 4:00 a.m. the following day.
- (f) Temporary: The hours of the class of the license for which the application has been submitted.
- (g) Condominium Hotel: From 6:00 a.m. to 2:00 a.m. the following day.
- (h) Class 17 Bring-Your-Own-Beverage: From 6:00 a.m. to 2:00 a.m. the following day.
- (i) Manufacturers, Restaurants, Retail Dealers, Brewpubs, Wineries, and Small Craft Producer Pubs for product sold for off-premises consumption: From 6:00 a.m. to 12:00 midnight.

* * * * *

Note: Material to be repealed is *[bracketed]*; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

SUMMARY: Deletes kitchen and dining room requirement to conform with statutory amendment repealing same; clarifies requirements for condominium hotel licensees who provide off-premises catering.

§3-82-38.24. Requirements of a Condominium Hotel License.

- (a) Minimum requirements for a condominium hotel license shall be a condominium hotel, as defined in Sec. 281-1, HRS, containing~~[- (1)]~~ at least fifty (50) condominium hotel guest rooms~~[-; and (2) a kitchen and dining room approved by the Commission that are regularly and in a bona fide manner used and kept open for the serving of at least one meal (consisting of either breakfast, lunch, or dinner) to condominium hotel guests and other customers. The kitchen and dining room must be located within the condominium hotel premises].~~ Condominium Hotel licensees providing off-premises catering services shall have a kitchen approved by the Commission and located within the hotel property. Room service, self-service, and service at private parties in areas which are within the condominium hotel premises are permitted.
- (b) As part of its initial application, (1) a condominium hotel license applicant shall submit a list of the initial condominium hotel guest rooms that are part of the proposed licensed premises and (2) the number of condominium hotel guest rooms that are part of the proposed licensed premises must equal at least fifty percent (50%) of the total number of guest rooms in the condominium hotel. If the condominium hotel is a phased project (meaning built and/or administered in separate phases), for purposes of determining the total number of condominium hotel guest rooms in the condominium hotel, each phase shall be treated as a separate condominium hotel. After said application is approved by the Commission, the condominium hotel licensee shall update the list of condominium hotel guest rooms on a quarterly basis.
- (c) In addition to the quarterly update obligation in subparagraph (b), the condominium hotel licensee shall maintain for inspection at the premises by any authorized employee of the Commission a current list of the condominium hotel guest rooms.
- (d) Upon the opening or closing of any section within the condominium hotel premises which serves alcoholic beverages, the licensee must notify the Liquor Commission with details and floor plan changes (which may be shown using relevant portions of the condominium map) in writing not less than thirty (30) days prior to the commencement of such event.

Note: Material to be repealed is *[bracketed]*; new material is underscored or **boldfaced**; licensee focus group change is ALL CAPS.

SUMMARY: New rule to prevent growler sellers from claiming “pop top” or other single-use containers qualify for growler sales.

§3-82-38.27. “Growlers” or Containers used for Off-Premises Consumption.

A growler or other glass, ceramic, or metal container used by Manufacturers, Restaurants, Retail Dealers, Brewpubs, Wineries, and Small Craft Producer Pubs for sale of product for off-premises consumption by patrons shall be a container that is re-sealable once opened, and intended for multiple fills and use.

* * * * *

SUMMARY: Shifts compliance focus from Commission-approval process to licensee-notification/certification process and “fit and proper” quality of manager/operator.

§3-82-41.4. Management or Operating Agreements.

Prior to any management or operating agreement taking effect, an existing [Licensee] licensee shall [apply for and secure approval for any management or operating agreement from] notify the Commission, in writing, about such agreement [prior to such agreement taking effect,] and shall affirm to the Commission that any proposed person or any principal of the management or operating entity is a fit and proper person to hold a liquor license in the person’s or principal’s own right in conformance with Section 281-45, Hawaii Revised Statutes. [subject to the following conditions:]

- (a) The signed notice shall include the following:
 - (1) Identification of the manager, operator, or entity, and submittal of the documents required under Rule §3-83-53.1(a)(1)(i)-(iv), substituting the manager, operator, or entity for “applicant” in submitting documents under those sections; and
 - (2) Except in the case of a management or operating agreement pertaining to a Hotel or Condominium Hotel license, the expected date for the transfer of the license to the manager, operator, or entity.
- (b) The signed notice shall constitute certification by the licensee that the following is true:
 - ~~[(a)]~~(1) The agreement [shall be] is restricted to permitting the operator to manage and operate the licensed premises on behalf of the licensee, and the licensee shall remain [responsible for and maintain exclusive control] in possession and control of the licensed premises.
 - ~~[(b)]~~(2) EXCEPT IN THE CASE OF A MANAGEMENT OR OPERATING AGREEMENT PERTAINING TO A HOTEL OR CONDOMINIUM HOTEL LICENSE, the agreement shall be for the entire licensed premises[, unless otherwise approved by the Commission].
 - (3) To the best of the licensee’s knowledge, information, and belief, any proposed person or any principal of the management or operating

Note: Material to be repealed is *[bracketed]*; new material is underscored or **boldfaced**; licensee focus group change is ALL CAPS.

entity is a fit and proper person to hold a liquor license in the individual's or principal's own right in conformance with Section 281-45, Hawaii Revised Statutes.

- ~~[(e)] *If the agreement is effected without the prior approval of the Commission, the Commission may in its discretion revoke or suspend the license, or assess and collect a penalty, or reprimand the licensee.*~~
- ~~[(d)] *In conjunction with its request for approval, the licensee shall submit an executed copy of the agreement, and can be subject to submittal of any or all documents required under Rule §3-83-53.1, and shall be subject to a hearing before the Commission.*~~
- (c) If the Commission finds that any proposed person or any principal of the agreement is an unfit or improper person to hold a liquor license in the person's or principal's own right pursuant to Section 281-45, Hawaii Revised Statutes, ~~[(*it shall not approve the agreement*)],~~ the notification requirement herein shall be deemed to have not been met. The licensee shall confirm within 30 days of the written notification to the licensee of the Commission's aforementioned finding, that such management or operating agreement has been terminated.
- (d) In addition to the documents required under (a)(1), licensee will provide any additional documents or information related to the arrangement contemplated by the management or operating agreement upon request.
- (e) If at any time the Commission finds that notwithstanding the terms of the agreement and notification the licensee is not in possession and control of the licensed premises, or the entire premises is not being managed and operated by the manager or operator, the Commission may in its discretion revoke or suspend the license, or assess and collect a penalty, or reprimand the licensee.

The term "management agreement" or "operating agreement" shall include any agreement, verbal or written, where through such agreement the licensee allows an operator to manage and operate the licensed premises on behalf of the licensee.

[clean version]

§3-82-41.4. Management or Operating Agreements.

Prior to any management or operating agreement taking effect, an existing licensee shall notify the Commission, in writing, about such agreement and shall affirm to the Commission that any proposed person or any principal of the management or operating entity is a fit and proper person to hold a liquor license in the person's or principal's own right in conformance with Section 281-45, Hawaii Revised Statutes.

- (a) The signed notice shall include the following:
- (1) Identification of the manager, operator, or entity, and submittal of the documents required under Rule §3-83-53.1(a)(1)(i)-(iv), substituting the manager, operator, or entity for "applicant" in submitting documents under those sections; and

Note: Material to be repealed is [bracketed]; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

- (2) Except in the case of a management or operating agreement pertaining to a Hotel or Condominium Hotel license, the expected date for the transfer of the license to the manager, operator, or entity.
- (b) The signed notice shall constitute certification by the licensee that the following is true:
 - (1) The agreement is restricted to permitting the operator to manage and operate the licensed premises on behalf of the licensee, and the licensee shall remain in possession and control of the licensed premises.
 - (2) Except in the case of a management or operating agreement pertaining to a hotel or condominium hotel license, the agreement shall be for the entire licensed premises.
 - (3) To the best of the licensee’s knowledge, information, and belief, any proposed person or any principal of the management or operating entity is a fit and proper person to hold a liquor license in the individual’s or principal’s own right in conformance with Section 281-45, Hawaii Revised Statutes.
- (c) If the Commission finds that any proposed person or any principal of the agreement is an unfit or improper person to hold a liquor license in the person’s or principal’s own right pursuant to Section 281-45, Hawaii Revised Statutes, the notification requirement herein shall be deemed to have not been met. The licensee shall confirm within 30 days of the written notification to the licensee of the Commission’s aforementioned finding, that such management or operating agreement has been terminated.
- (d) In addition to the documents required under (a)(1), licensee will provide any additional documents or information related to the arrangement contemplated by the management or operating agreement upon request.
- (e) If at any time the Commission finds that notwithstanding the terms of the agreement and notification the licensee is not in possession and control of the licensed premises, or the entire premises is not being managed and operated by the manager or operator, the Commission may in its discretion revoke or suspend the license, or assess and collect a penalty, or reprimand the licensee. The term “management agreement” or “operating agreement” shall include any agreement, verbal or written, where through such agreement the licensee allows an operator to manage and operate the licensed premises on behalf of the licensee.

SUMMARY: Makes conforming changes for new catering type, winery, BYOB and small craft producer pub licenses.

§3-83-53.1. License Applications; Notice of Hearing; Affidavits.

- (a) An applicant applying for a new license or for the transfer of an existing license of a manufacturer, restaurant, wholesale, retail, dispenser, club, annual transient vessel, tour or cruise vessel, cabaret, hotel, caterer class 13(b), brewpub, ~~or~~

Note: Material to be repealed is [bracketed]; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

condominium hotel, winery, bring-your-own-beverage, or small craft producer pub shall file in support of the application:

- (1) With the application:
 - (i) If the applicant is a sole proprietor or an unincorporated association, a personal history and affidavit for each natural person listed in the application on forms provided by the Commission.
 - (ii) If the applicant is a partnership, the partnership agreement, a certificate of good standing from the Department of Commerce and Consumer Affairs that is not more than 60 days old, and a list of the current partners to the partnership. For each partner, a personal history and affidavit on a form provided by the Commission or, if the partner is not a natural person, the partnership agreement, articles of organization, articles of incorporation, or other agreement, as applicable, of that partner, and a list of current principals of that partner.
 - (iii) If the applicant is a limited liability company, the articles of organization and operating agreement, a certificate of good standing from the Department of Commerce and Consumer Affairs that is not more than 60 days old, and a list of the current managers and current members of the company with their percentage of ownership. For each manager and member, a personal history and affidavit on a form provided by the Commission or, if the manager or member is not a natural person, the partnership agreement, articles of organization, articles of incorporation, or other agreement, as applicable, of that manager or member, and a list of current principals of that manager or member.
 - (iv) If the applicant is a corporation, the articles of incorporation, a certificate of good standing from the Department of Commerce and Consumer Affairs that is not more than 60 days old, and a list of current officers, current directors, and current stockholders of 25% or more of the outstanding capital stock of the corporation. For each officer, director, or stockholder of 25% or more of the outstanding capital stock, a personal history and affidavit on a form provided by the Commission or, if the stockholder is not a natural person, the partnership agreement, articles of organization, articles of incorporation, or other agreement, as applicable, of that stockholder, and a list of current principals of that stockholder.
 - (v) Except for a caterer class 13(b) or condominium hotel license, a floor plan to scale of the licensed premises or proposed licensed premises with the area to be licensed demarcated in red and showing all fixtures, a square footage calculation for the area to be licensed, and the scale and orientation of the plan, and, in the case of an application regarding a license for consumption on the premises, the restrooms for the premises and a preliminary

Note: Material to be repealed is [bracketed]; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

approval stamp from the State Department of Health. If the applicant is applying for a class or category of license that permits dancing, the designated dance floor shall be shown on the floor plan.

- (vi) A copy of the floor plan required by paragraph (v) on an 8½-inch by 11-inch piece of paper.
- (vii) A copy of the deed, lease, sublease, assignment of lease, rental agreement, or other conveyance of the use of the property to the applicant permitting the activity for which the license is applied. A copy of the executed document with applicable consents shall be submitted before the license is issued and may be submitted in fulfillment of the requirement of this paragraph.
- (viii) For applications for new licenses and for the transfer of an existing dispenser or cabaret license, a tax map drawn to a scale of one inch to each forty, fifty, or sixty feet showing the area within 500 feet of the licensed area or proposed licensed area of the premises and also indicating 100 feet from the premises.
- (ix) For applications for new licenses and for the transfer of an existing dispenser or cabaret license, a list of names and addresses of all property owners, recorded lessees, condominium projects, and cooperative apartment projects within 500 feet of the premises, which list shall also designate those owners, lessees, condominiums, and cooperatives which are within 100 feet of the premises.
- (x) Except in the matter of a hotel as defined in HRS Section 486K-1, a restaurant, or a convenience store, for applications for new licenses and for the transfer of an existing dispenser or cabaret license, a list of small businesses within 500 feet and of small businesses within 100 feet of the premises.
- (xi) A full, true, and accurate statement of the complete financial condition of the applicant, which shall not be over six months old, or that is less than one year old and certified by the applicant to be substantially correct.
- (xii) Documents substantiating the financial statement and showing sufficient finances to cover proposed expenditures related to the application and including initial operating expenses for the first six months of operation.
- (xiii) For the transfer of a license, an instrument documenting the consideration for the proposed transfer.
- (xiv) Except when the applicant will do business under its own name, exactly, for an application for a new license, a Certificate of Registration of trade name from the Department of Commerce and Consumer Affairs or other sufficient documentation of the permitted use of the trade name in accordance with §3-81-17.58, or for an

Note: Material to be repealed is [bracketed]; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

- application for the transfer of a license, a statement of what trade name is proposed to be used, which shall be confirmed before the transfer is effected by a Certificate of Registration of trade name or other sufficient documentation.
- (xv) A description detailing the kind of business that the applicant proposes to operate. For applications for transferred restaurant licenses, a financial report of gross revenue for the year preceding the application demonstrating that at least thirty percent of the establishment's gross revenue was derived from the sale of foods. For applications for new restaurant licenses if not previously operated as an establishment serving meals to patrons for compensation, a business plan demonstrating the applicant's ability to meet the minimum gross revenue from the sale of foods required of restaurant licensees.
 - (xvi) A 4-inch by 6-inch photoimage or photograph of the front of the licensed premises or proposed licensed premises and a 4-inch by 6-inch photoimage or photograph showing the licensed premises or proposed licensed premises street location.
 - (xvii) For applications for new condominium hotel licenses or for the transfer of an existing condominium hotel license:
 - a. A list of the condominium hotel guest rooms within the proposed licensed premises as of the application date.
 - b. A copy of the application for registration of the condominium hotel operator approved by the real estate commission, if applicable.
 - c. A floor plan (which may be a copy of all or portions of the recorded condominium map) marked to show:
 - (i) the portion or portions of the licensed premises or proposed licensed premises in which alcoholic beverages will be served, with such portion or portions marked in red and showing all fixtures and any designated dance floor in such portion or portions; a square footage calculation of such portion or portions; the scale of the map; and, if liquor will be consumed within such portion or portions, the restrooms for such portion or portions;
 - (ii) the locations of all condominium hotel guest rooms in the condominium hotel (which locations may be indicated by narrative description or coloring of the condominium map); and
 - (iii) the locations of the apartments, common elements and/or limited common elements over which access will be provided to and from the portion or portions of the licensed premises or proposed licensed premises

Note: Material to be repealed is [bracketed]; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

in which alcoholic beverages will be served and the condominium hotel guest rooms (which locations may be indicated by narrative description or coloring of the condominium map).

- d. A preliminary approval stamp from the State Department of Health for the portion or portions of the licensed premises or proposed licensed premises in which alcoholic beverages will be served.
 - e. The identity of the AOA manager and, if the applicant is not a rental program manager for condominium hotel guest rooms in the condominium hotel, the rental program manager that manages the most condominium hotel guest rooms in the condominium hotel.
- (2) Concurrent with filing the application:
- (i) A request for criminal history record clearance for liquor license, for each person required to submit a personal history and affidavit, with the Hawaii Criminal Justice Data Center.
 - (ii) A request for zoning clearance with the Department of Planning and Permitting, Aloha Tower Development Corporation, or Hawaii Community Development Authority, as appropriate.
 - (iii) A request for the required list of registered voters, if required, with the City Clerk. A statement that each request has been made, with the date that it was made, shall accompany the application filed with the Commission.
- (3) During the processing of the application:
- (i) Each person required to submit a personal history and affidavit is required to submit fingerprints on a fingerprint card provided by the Commission. Fingerprints for those principals not fingerprinted by an investigator for the Commission shall be submitted, with a letter of authority by the person who made the fingerprints, with the application or as soon after its submission as possible. The Commission in its discretion may waive part or all of this requirement.
 - (ii) Each applicant required to make a mailing of notification of public hearing following the preliminary hearing shall submit an affidavit of mailing on a form provided by the Commission and the master mailing lists for the mailing as provided by law.
 - (iii) Each applicant required to notify the registered voters in the area of the premises and each applicant who can be denied its application by a percentage of the voters shall submit the list of registered voters within 500 feet and within 100 feet to the Commission with the affidavit of mailing and the master mailing lists.
 - (iv) The zoning clearance shall be submitted to the Commission as soon as possible and before the license is issued or the transfer is effected.

Note: Material to be repealed is ~~[bracketed]~~; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

- (v) Each applicant for a new license shall directly notify the chair of the neighborhood board in which the applicant's place of business is to be located, in writing and delivered by certified mail, return receipt requested. The Commission, for just cause, may waive this requirement.
- (b) Except as excused by HRS Section 281-52 or 281-57, an application for a change of location, change of class, change of kind, or change of category will be treated as a new application.
- (c) An applicant for a special license, other than a one-day special license for a fund raising event by a not for profit organization, shall fulfill the requirements of paragraphs (a)(1)(i)-(iv) and (xv), (a)(2)(i) and (ii), and (a)(3)(i), (iv), and (v). Additionally, the applicant shall submit a detailed floor plan and site plan with dimensions, permission of the landlord for the event or other document conveying the use of the premises to the applicant, or permission from the government entity property owner allowing the sale or consumption of liquor on the premises, and a detailed description of the event and kind of business that the applicant proposes to conduct.
- (d) An applicant for a transient vessel license shall file in or with the application:
 - (1) If the application is made by an agent for the owner, a copy of a contract or other document establishing the agent's relationship with the vessel's owner and a document establishing the identity of the agent.
 - (2) The pier and port at which the vessel will berth and the times and dates of arrival and departure.
 - (3) The name, city, and state or country of the vessel's fee titled owner.
 - (4) A personal history and affidavit, partnership agreement, articles of organization, articles of incorporation, or other organizational document of the proposed licensee.
 - (5) If the proposed licensee is not a sole proprietor, a list of the principals of the proposed licensee.
 - (6) A current financial statement of the proposed licensee.
 - (7) A photograph of the vessel.
 - (8) A description of the vessel and deck plans showing proposed liquor outlets, dance floors, and so forth.
- (e) An applicant for a caterer license shall file with the application a detailed floor plan and site plan with dimensions, permission of the landlord for the event or other document conveying the use of the premises to the applicant, or permission from the government entity property owner allowing the sale or consumption of liquor on the premises, and a detailed description of the event and kind of business that the applicant proposes to conduct.
- (f) After granting of a new license or the transfer of an existing license other than for special license, transient vessel license, or caterer license and before the license is issued or transferred, the applicant shall request a final inspection of the proposed licensed premises by Commission staff. Before the issuance of a

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license allowing live music or other entertainment, Commission staff will evaluate the premises regarding its suitability for live music or other entertainment.

- (g) If a new license is not issued or the transfer of a license is not effected within six months from the date of granting, the Commission will review the granting. The applicant may show good cause why the license has not been effected, and the Commission may, at the hearing, reconsider its granting.
- (h) If the Commission finds that the applicant has made a false statement as part of the application, it may deny the application, suspend or revoke any current license, or assess and collect a penalty.

* * * * *

SUMMARY: Makes conforming changes for winery, BYOB and small craft producer pub licenses

§3-84-72.1. Sanitation Requirements.

Licensed premises, including all furnishings, equipment, and paraphernalia on the premises, shall be kept in a clean and sanitary condition, and drinking glasses shall be effectively sanitized. The licensee shall also comply with all rules of the State Department of Health. Restaurant, hotel, condominium hotel, club, cabaret, dispenser, **[and] brewpub, winery, bring-your-own-beverage, and small craft producer pub** licensees shall also provide access to adequate toilet facilities which have been approved by the State Department of Health.

* * * * *

SUMMARY: Clarifies elements for violation of this rule.

§3-84-78.03. Entertainment.

- (a) Entertainment which causes undue noise or disturbs the peace and quiet of the **residents OR TENANTS of the** neighborhood is prohibited on licensed premises.
- (b) Entertainment which causes complaints from the public or reports from the Commission's investigators indicating that sounds emanating from the licensed premises cause undue disturbance which disrupts the peace and quiet of the **residents OR TENANTS of the** neighborhood is prohibited.
- (c) Entertainment which causes complaints from the public or reports by the Commission's investigators indicating that noise created by patrons departing the premises disturbs residents **OR TENANTS** of the neighborhood in which the premises are located is prohibited.

* * * * *

Note: Material to be repealed is *[bracketed]*; new material is underscored or **boldfaced**; licensee focus group change is **ALL CAPS**.

SUMMARY: Proposed for repeal; may be making licensees focus on calculating drink number and volume, which are not "safe harbors" for claims of overservice, allowing access by minors, etc.

~~§3-84-78.52. Stacking of Drinks.~~

~~The stacking of liquor by the licensee for consumption by customers is prohibited. "Stacking" is defined as having more than two standard servings of drinks before a customer at any one time. A standard serving means a drink containing distilled spirits in a container not to exceed sixteen ounces, or six ounces of wine, or twenty-two ounces of beer; provided that a serving in excess of these amounts shall be limited to one per customer. A multiple-serving container, not to exceed sixty ounces, may be served to two or more persons.~~

~~At last call, multiple-serving container service or any drink exceeding a single standard serving shall be prohibited.]~~

* * * * *

SUMMARY: Redesignation of section paragraph only.

§3-86-101.54. Minors on Licensed Premises with Nude Dancing.

No licensee holding a dispenser general category 2 (nudity) license or cabaret license which is permitted to have entertainment by a nude dancer, pursuant to Section 281-31~~(f)~~**(k)**, Hawaii Revised Statutes, shall permit any person under twenty-one years of age to enter or remain within the licensed premises, except as provided by Section 281-78(b)(3), HRS, which allows employees age 18 and above.

* * * * *

Exhibit 4

Rules Amending Title 11
Hawaii Administrative Rules

February 24, 2014

1. Chapter 50 of Title 11, Hawaii Administrative Rules,
entitled "Food Safety Code" is amended and compiled to read
as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

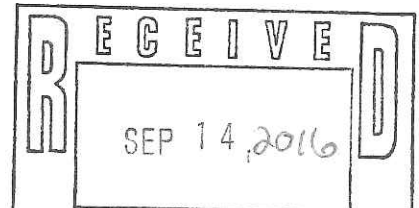
CHAPTER 50

FOOD SAFETY CODE

Subchapter 1 General Provisions

§11-50-1	Purpose
§11-50-2	Definitions
§11-50-3	Permits, special events, homemade food products and hand-pounded poi, and exemptions
§11-50-4	Permit application and supporting documentation
§11-50-5	Repealed
§11-50-6	Repealed
§11-50-7	Fees
§11-50-8	Inspection and correction of violations
§11-50-9	Placarding
§11-50-10	Embargo and detention
§11-50-11	Prevention of foodborne disease transmission by employees
§11-50-12	Permit suspension
§11-50-13	Variances
§11-50-14	Penalties and remedies
§11-50-15	Severability
§§11-50-16 to	11-50-19 (Reserved)

Subchapter 2 Personnel



§11-50-20 Supervision
§11-50-21 Employee health
§11-50-22 Personal cleanliness
§11-50-23 Hygienic practices
§§11-50-24 to 11-50-29 (Reserved)

Subchapter 3 Food

§11-50-30 Characteristics
§11-50-31 Source, specifications for receiving,
original containers and records
§11-50-32 Protection from contamination after
receiving
§11-50-33 Destruction of organisms of public health
concern
§11-50-34 Limitation of growth of organisms of public
health concern
§11-50-35 Food identity, presentation, and
on-premises labeling
§11-50-36 Contaminated food
§11-50-37 Special requirements for highly susceptible
populations
§§11-50-38 to 11-50-44 (Reserved)

Subchapter 4 Equipment, Utensils, and Linens

§11-50-45 Materials for construction and repair
§11-50-46 Design and construction
§11-50-47 Numbers and capacities
§11-50-48 Location and installation
§11-50-49 Maintenance and operation
§11-50-50 Cleaning of equipment and utensils
§11-50-51 Sanitization of equipment and utensils
§11-50-52 Laundering
§11-50-53 Protection of clean items
§§11-50-54 to 11-50-59 (Reserved)

Subchapter 5 Water, Plumbing, and Waste

§11-50-60 Water
§11-50-61 Plumbing system
§11-50-62 Repealed
§11-50-63 Sewage, other liquid waste, and rainwater

§11-50-64 Refuse, recyclables, and returnables
§§11-50-65 to 11-50-69 (Reserved)

Subchapter 6 Physical Facilities

§11-50-70 Materials for construction and repair
§11-50-71 Design, construction, and installation
§11-50-72 Numbers and capacities
§11-50-73 Location and placement
§11-50-74 Maintenance and operation
§§11-50-75 to 11-50-79 (Reserved)

Subchapter 7 Poisonous or Toxic Materials

§11-50-80 Labeling and identification
§11-50-81 Operational supplies and applications
§11-50-82 Stock and retail sale
§§11-50-83 to 11-50-84 (Reserved)

Subchapter 8 Mobile Food Establishments - Repealed

§§11-50-85 to 11-50-94 Repealed

Subchapter 9 Temporary Food Establishments -
Repealed

§§11-50-95 to 11-50-104 Repealed

Historical Note: Chapter 11-50, Hawaii Administrative
Rules is based substantially on Chapter 11-12, Food
Establishment Sanitation, Department of Health, State of
Hawaii. [Eff 11/22/96; comp 3/15/99; comp 6/15/2007;
R 2/24/14]

SUBCHAPTER 1

GENERAL PROVISIONS

§11-50-1 Purpose. The purpose of this chapter is to provide minimum requirements for the protection of the life, health, safety, and welfare of the general public.

- (1) This chapter applies to all food establishments, or portions thereof, used, designed, or intended to be used as a food establishment or food operation within the State;
- (2) The minimum requirements established herein shall not be construed as lowering the standards established by local ordinances or rules;
- (3) Whenever local requirements contain more stringent provisions than any of the minimum requirements of this chapter, the more stringent requirements shall govern; and
- (4) No ordinance, rules, ruling, or decision of any municipal body or officer of authority of any county shall repeal, amend, modify, or dispense with any of the minimum requirements provided in this chapter. [Eff 2/24/2014; comp (Auth: HRS §321-11) (Imp: HRS §321-11)]

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§11-50-2 Definitions. As used in this chapter:

"Adulterated" has the meaning stated in section 402 of the Federal Food, Drug, and Cosmetic Act.

"Approved" means acceptable to the department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

"Asymptomatic" means without obvious symptoms; not showing or producing indications of a disease or other medical condition, such as an individual infected with a pathogen but not exhibiting or producing any signs or symptoms of vomiting, diarrhea, or jaundice. Asymptomatic includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

" A_w " means water activity which is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol A_w .

"Balut" means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.

"Beverage" means a liquid for drinking, including water.

"Bottled drinking water" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

"Casing" means a tubular container for sausage products made of either natural or artificial (synthetic) material.

"Certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

"CFR" means the [2009] 2013 Code of Federal Regulations. Citations in this chapter to the CFR refer sequentially to the Title, Part, and Section numbers, such as, 40 CFR 180.194 refers to Title 40, Part 180, Section 194.

"CIP" means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine. The term does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

"Color additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, section 201(t) and 21 CFR 70.3(f).

"Commingle" means:

- (1) To combine shellstock harvested on different days or from different growing areas as identified on the tag or label; or
- (2) To combine shucked shellfish from containers with different container codes or different shucking dates.

"Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing. Comminuted includes fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, and sausage; and a mixture of two

or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

"Conditional employee" means a potential food employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential food employees who may be suffering from a disease that can be transmitted through food and done in compliance with Title 1 of the Americans with Disabilities Act of 1990.

"Confirmed disease outbreak" means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as the source of the illness.

"Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

"Corrosion-resistant material" means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

"Counter-mounted equipment" means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

"Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

"Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

"Cut leafy greens" means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term "leafy greens" includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula, and chard. The term "leafy greens" does not include herbs such as cilantro or parsley.

"Dealer" means a person who is authorized by a shellfish control authority for the activities of shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to

the provisions of the National Shellfish Sanitation Program.

"Department" means the department of health, State of Hawaii.

"Director" means the director of health of the department of health, State of Hawaii, or an authorized representative.

"Disclosure" means a written statement that clearly identifies the animal-derived foods which are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

"Drinking water" means water that meets criteria as specified in 40 CFR 141, entitled "National primary drinking water regulations", and is traditionally known as "potable water". Drinking water includes the term "water" except where the term used connotes that the water is not potable, such as "boiler water", "mop water", "rainwater", "wastewater", and "nondrinking" water.

"Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous (time/temperature control for safety food) and dry goods such as single-service items.

"Easily cleanable" means a characteristic of a surface that:

- (1) Allows effective removal of soil by normal cleaning methods;
- (2) Is dependent on the material, design, construction, and installation of the surface; and
- (3) Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.
- (4) Easily cleanable includes a tiered application of the criteria that qualify the surface as easily cleanable as specified in paragraph (1) to different situations in which varying degrees of cleanability are required such as:
 - (A) The appropriateness of stainless steel for a food preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for consumer dining; or

- (B) The need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a decorative attachment or accessory in the consumer dining area.

["Easily movable" means:

- (1) Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and
- (2) Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.]

"Egg" means the shell egg of avian species such as chicken, duck, goose, guinea, quail, ratites, or turkey.

[(1)] Egg does not include:

[(A)] (1) A balut;

[(B)] (2) The egg of reptile species such as alligator; or

[(C)] (3) An egg product.

"Egg product" means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen, or liquid eggs. The term does not include food which contains eggs only in a relatively small proportion such as cake mixes.

"Employee" means the permit holder, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

["Enterohemorrhagic Escherichia Coli" (EHEC) means E. Coli which cause hemorrhagic colitis, meaning bleeding enterically or bleeding from the intestine. The term is typically used in association with E. Coli that has the capacity to produce Shiga toxins and to cause attaching and effacing lesions in the intestine. EHEC is a subset of STEC, whose members produce additional virulence factors. Infections with EHEC may be asymptomatic but are classically associated with bloody diarrhea (hemorrhagic colitis) and hemolytic uremic syndrome (HUS) or thrombotic thrombocytopenic purpura (TTP). Examples of serotypes of EHEC include: E. Coli O157:H7; E. Coli O157:NM; E. Coli

O26:H11; E. Coli O145:NM; E. Coli O103:H2; or E. Coli O111:NM. See also Shiga toxin-producing E. Coli.]

"EPA" means the U.S. Environmental Protection Agency.

"Equipment" means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine. ["Equipment"] This does not include apparatuses used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

"Exclude" means to prevent a person from working as an employee in a food establishment or entering a food establishment as an employee.

"FDA" means the U.S. Food and Drug Administration.

"Fish" means fresh or saltwater finfish, crustaceans and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption. Fish includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

"Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

"Food additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, section 201(s) and 21 CFR 170.3(e) (1).

"Food-contact surface" means:

- (1) A surface of equipment or a utensil with which food normally comes into contact; or
- (2) A surface of equipment or a utensil from which food may drain, drip, or splash:
 - (A) Into a food; or
 - (B) Onto a surface normally in contact with food.

"Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

"Food establishment" means:

- (1) Any place or portion thereof, maintained, used, or operated for the purpose of storing,

preparing, serving, manufacturing, packaging, transporting, or otherwise handling food [at the] for distribution at retail or wholesale [level;] to the public; and

- (2) Any place or portion thereof, used [for cleaning food equipment or utensils] in support of [another] and in conjunction with any other food establishment[; and
- (3) Any operation that is conducted in or in conjunction with a mobile, stationary, temporary, or permanent facility or location where food is served or provided to the public, with or without charge, regardless of whether the food is consumed on or off the premises].

"Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption, and provides food for sale or distribution to other business entities such as food processing plants or food establishments.

"Game animal" means an animal, the products of which are food, that is not classified as livestock, sheep, swine, goat, horse, mule, or other equine in 9 CFR 301.2, entitled "Definitions", or as poultry, or fish.

- (1) Game animals includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes.
- (2) Game animals does not include ratites.

"General use pesticide" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175, entitled "Pesticides classified for restricted use".

"Grade A standards" means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" with which certain fluid and dry milk and milk products comply.

"HACCP" means Hazard Analysis and Critical Control Point.

"HACCP plan" means a written document that delineates the formal procedures for following the hazard analysis and critical control point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

"Hand-pounded poi" means a product made from the process of manually pulverizing cooked taro with a stone

implement on a wooden board designed for the purpose of pounding poi.

"Handwashing sink" means a lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of the hands. A handwashing sink includes an automatic handwashing facility.

"Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

"Health practitioner" means a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, physician assistant, or similar medical professional.

"Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

"Highly susceptible population" means persons who are more likely than other people in the general population to experience foodborne disease because they are:

- (1) Immunocompromised; preschool age children, or older adults; and
- (2) Obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

["HRS" means Hawaii Revised Statutes.]

"Home kitchen" means a kitchen designed and intended for use by the residents of a home but that is also used by a resident for the production of homemade food products.

["Homeless" means:

- (1) An individual or family who lacks a fixed, regular, and adequate night-time residence; or
- (2) An individual or family who has a primary night-time residence that is:
 - (A) A supervised publicly or privately operated shelter designed to provide temporary living accommodations;
 - (B) An institution that provides temporary residence for individuals intended to be institutionalized; or

- (C) A public or private place not designed for or ordinarily used as sleeping accommodations for human beings.

This term does not include any individual imprisoned or otherwise detained under an Act of Congress or a state law.]

"Homemade food products" means not potentially hazardous food produced or packaged in a home kitchen but does not include fermented foods, acidified foods, canned or bottled foods, dried meats or seafood, low acid canned foods and garlic in oil.

"HRS" means the Hawaii Revised Statutes.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:

- (1) The number of potential injuries; and
- (2) The nature, severity, and duration of the anticipated injury.

"Injected" means manipulating meat to which a solution has been introduced into its interior by processes that are referred to as "injecting", "pump marinating", or "stitch pumping".

"Juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or purée. The term does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.

"Kitchenware" means food preparation and storage utensils.

"Law" means applicable local, state, and federal statutes, regulations, rules, and ordinances.

"Linens" means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

"Major food allergen":

- (1) Means:
 - (A) Milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or

- (B) A food ingredient that contains protein derived from a food as specified in subparagraph (A);
- (2) Major food allergen does not include:
 - (A) Any highly refined oil derived from a food specified in paragraph (1)(A) and any ingredient derived from such highly refined oil; or
 - (B) Any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282).

"Meat" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game animals as specified in section 11-50-31(g)(1)(C).

"Mechanically tenderized" means manipulating meat with deep penetration by processes which may be referred to as "blade tenderizing", "jaccarding", "pinning", "needling", or using blades, pins, needles or any mechanical device. The term does not include processes by which solutions are injected into meat.

"Menu change" means a modification of a food establishment's menu that would require a change in the food establishment's food preparation methods, equipment, or storage capacity previously approved by the [department.] director. These changes may include but are not limited to, the addition of potentially hazardous foods to a menu, installation of new food preparation or storage equipment, or increasing storage capacity.

"mg/L" means milligrams per liter, which is the metric equivalent of parts per million (ppm).

["Mobile food establishment" means a vehicle-mounted food establishment capable of being readily moved that operates in conjunction with an approved food establishment. This includes but is not limited to, licensed trailer-type vehicles, push carts, lunchwagons, tour cruise boats and peddlers.]

"Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

"Natural disaster" means any disaster such as a tsunami, hurricane, volcanic eruption, typhoon, earthquake, or flood.

"Non-continuous cooking" means the cooking of food in a food establishment using a process in which the initial heating of the food is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service. The term does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.

"Owner" means a person who has vested rights in equity or at law in the real property or proprietary interests of the food establishment or any part of it.

"Operator" means the person responsible for the overall management of the food establishment.

"Packaged" means bottled, canned, cartoned, [securely] bagged, or [securely] wrapped, whether packaged in a food establishment or a food processing plant. The term does not include [a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.] food wrapped or placed in a carry-out container to protect it during service or delivery to the consumer by a food employee.

"Permit" means the document issued by the [department] director that authorizes a person to operate a food establishment.

"Permit holder" means the entity that:

- (1) Is legally responsible for the operation of the food establishment such as the owner, the owner's agent, or other person; and
- (2) Possesses a valid permit to operate a food establishment.

"Person" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

"Personal care items" means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance. Personal care items include medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

"Person in charge" means the individual present at a food establishment who is responsible for the operation at the time of inspection.

"pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between zero and seven indicate acidity and values between seven and fourteen indicate alkalinity. The value for pure distilled water is seven, which is considered neutral.

"PHF" means potentially hazardous food.

"Physical facilities" means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

"Plumbing fixture" means a receptacle or device that:

- (1) Is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or
- (2) Discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

"Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

"Poisonous or toxic materials" means substances that are not intended for ingestion and are included in four categories:

- (1) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
- (2) Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;
- (3) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and
- (4) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

"Potentially hazardous food (time/temperature control for safety food)" means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

- (1) Potentially hazardous food includes:

- (A) An animal food that is raw or heat treated; a plant food that is heat treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and
- (B) Except as specified in paragraph (2) (D), a food that because of the interaction of its A_w and pH values is designated as Product Assessment Required (PA) in Table 2-1 or Table 2-2:

Table 2-1 Interaction of pH and A_w for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged

A_w values	pH values		
	4.6 or less	> 4.6 to 5.6	> 5.6
≤0.92	non-PHF/non-TCS food	non-PHF/non-TCS food	non-PHF/non-TCS food
>0.92 to 0.95	non-PHF/non-TCS food	non-PHF/non-TCS food	PA
>0.95	non-PHF/non-TCS food	PA	PA

Table 2-2 Interaction of pH and A_w for control of vegetative cells and spores in food not heat-treated or heat-treated but not packaged

A_w values	pH values			
	< 4.2	4.2 to 4.6	> 4.6 to 5.0	> 5.0
<0.88	non-PHF/non-TCS food	non-PHF/non-TCS food	non-PHF/non-TCS food	non-PHF/non-TCS food
0.88 to 0.90	non-PHF/non-TCS food	non-PHF/non-TCS food	non-PHF/non-TCS food	PA
>0.90 to 0.92	non-PHF/non-TCS food	non-PHF/non-TCS food	PA	PA
>0.92	non-PHF/non-TCS food	PA	PA	PA

- (2) Potentially hazardous food does not include:
- (A) An air-cooled hard-boiled egg with shell intact, or an egg with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable salmonellae;
 - (B) A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;
 - (C) A food that because of its pH or A_w value, or interaction of A_w and pH values, is designated as a non-PHF/non-TCS food in Table 2-1 or Table 2-2 of this definition;
 - (D) A food that is designated as Product Assessment Required (PA) in Table 2-1 or Table 2-2 of this definition and has undergone a Product Assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:
 - (i) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients;
 - (ii) Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use; or
 - (iii) A combination of intrinsic and extrinsic factors; or
 - (E) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the paragraph (2) (A), (2) (B), (2) (C), or (2) (D) of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

"Poultry" means:

- (1) Any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs), whether live or dead, as defined in 9 CFR 381.1; and
- (2) Any migratory waterfowl or game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 CFR 362.1.

"Premises" means:

- (1) The physical facility, its contents, and the contiguous land or property under the control of the permit holder; or
- (2) The physical facility, its contents, and the land or property not described in paragraph (1) if its facilities and contents are under the control of the permit holder and may impact food establishment personnel, facilities, or operations, and a food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

"Primal cut" means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.

"Public water system" has the meaning stated in 40 CFR 141, entitled "National primary drinking water regulations".

"Ratite" means a flightless bird such as an emu, ostrich, or rhea.

"Reduced oxygen packaging":

- (1) Means:
 - (A) The reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately twenty-one per cent at sea level); and
 - (B) A process as specified in subparagraph (A) that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form;
- (2) Reduced oxygen packaging includes:
 - (A) Vacuum packaging, in which air is removed from a package of food and the package is

- hermetically sealed so that a vacuum remains inside the package;
- (B) Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen;
 - (C) Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material;
 - (D) Cook chill packaging, in which cooked food is hot filled into impermeable bags which have the air expelled and are then sealed or crimped closed. The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens; or
 - (E) Sous vide packaging, in which raw or partially cooked food is placed in a hermetically sealed, impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens.

"Refuse" means solid waste not carried by water through the sewage system.

"Regulatory authority" means the local, state, or federal enforcement body or authorized representative having jurisdiction over the food establishment.

"Reminder" means a written statement concerning the health risk of consuming animal foods raw, undercooked, or without otherwise being processed to eliminate pathogens.

"Re-service" means the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer, to another person.

"Restrict" means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

"Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR 590.

"Restricted use pesticide" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175, entitled "Pesticides classified for restricted use" and that is limited to use by or under the direct supervision of a certified applicator.

"Risk" means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.

"Safe material" means:

- (1) An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food;
- (2) An additive that is used as specified in section 409 of the Federal Food, Drug, and Cosmetic Act; or
- (3) Other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

"Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of five logs, which is equal to a 99.999 per cent reduction, of representative disease microorganisms of public health importance.

"Sealed" means free of cracks or other openings that allow the entry or passage of moisture.

"Service animal" means an animal that meets the criteria as specified in 28 CFR 36, entitled "Nondiscrimination on the basis of disability in public places and commercial facilities".

"Servicing area" means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

"Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

"Shellfish control authority" means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

"Shellstock" means raw, in-shell molluscan shellfish.

"Shiga toxin-producing Escherichia Coli" (STEC) means any *E. Coli* capable of producing Shiga toxins [(also called verocytotoxins or "Shiga-like" toxins).] (also called verocytotoxins). STEC infections can be asymptomatic or may result in a spectrum of illness ranging from mild non-bloody diarrhea, to hemorrhagic colitis (i.e., blood diarrhea), to hemolytic uremic syndrome (HUS - a type of kidney failure). Examples of serotypes of STEC include [both O157 and non-O157 *E. Coli*. Also see Enterohemorrhagic Escherichia Coli.] : *E.coli* O157:H7; *E.coli* O157:NM; *E.coli* O26:H11; *E.coli* O145:NM; *E.coli* O103:H2; and *E.coli* O111:NM. STEC are sometimes referred to as VTEC (verocytotoxigenic *E.coli*) or as EHEC (Enterohemorrhagic *E.coli*). EHEC are a subset of STEC of which can cause hemorrhagic colitis or HUS.

"Shucked shellfish" means molluscan shellfish that have one or both shells removed.

"Single-service articles" means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

"Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded. Single-use articles include items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications in sections 11-50-45(a) and 11-50-46(a) and (c) for multiuse utensils.

"Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of minus ten degrees Fahrenheit to twenty-five degrees Fahrenheit in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as shrimp.

"Smooth" means:

- (1) A food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel;
- (2) A nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and
- (3) A floor, wall, or ceiling having an even or level surface with no roughness or projections that renders it difficult to clean.

"Special event" means a planned activity where food is distributed to the public with or without charge at a single specified location held indoors or outdoors, in public or privately owned or leased premises, and may include a sporting event, carnival, fairs, farmer's markets, public exhibition, festival, religious organization function, parade or other similar gathering.

"State" means the State of Hawaii.

"Support kitchen" means a food establishment that provides facilities or services in support of another food establishment for cleaning, storage, food preparation, cooking, cooling, reheating, servicing water supply, or wastewater disposal. A private home kitchen shall not be used as an approved support kitchen.

"Tableware" means eating, drinking, and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, and tumblers; and plates.

"TCS food" means time/temperature control for safety food.

"Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

["Temporary food establishment" means any food establishment which operates at a fixed location for a limited period of time and does not exceed twenty days in any one hundred twenty day period and does not sell products to other food establishments.]

"USDA" means the U.S. Department of Agriculture.

"Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-

type price or identification tags used in contact with food.

"Variance" means a written document issued by the [department] director that authorizes a modification or waiver of one or more requirements of this chapter if, in the opinion of the [department,] director, a health hazard or nuisance will not result from the modification or waiver.

"Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

"Vending machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines.

"Water activity" means the measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol A_w .

"Whole-muscle, intact beef" means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

"Warewashing" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment. [Eff 2/24/2014; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-3 Permits[.], special events, homemade food products and hand-pounded poi, and exemptions. (a) [A] Permits. No person may [not] operate a food establishment without a valid permit [to operate] issued by the [department.] director, except as otherwise provided in this section, which shall be valid for one year from the date of issuance after which it shall become void unless renewed in accordance with section 11-50-4. [A permit shall be valid for one year after the date of issuance as indicated by the expiration date printed on the permit, after which the permit becomes void.

(b) To qualify for a permit, an applicant shall:

- (1) Be an owner of the food establishment or an officer of the legal ownership;
- (2) Acknowledge that application for an issuance of a permit is in agreement to be familiar with and operate in compliance with the requirements of the chapter;
- (3) As specified in section 11-50-8(c), agree to allow access to the food establishment and to provide any requested information reasonably necessary to determine compliance with this chapter; and
- (4) Pay the applicable permit fees at the time the application is submitted.]

(b) Special events. Any person who intends to operate a food establishment in conjunction with a special event may apply for a special event permit:

- (1) An applicant for a special event permit must submit an application in accordance with, and otherwise conform to the requirements of section 11-50-4.
- (2) The director may issue a special event permit to the operator of a food establishment in conjunction with a special event only after that person has provided all the documents and any other information required by section 11-50-4 or otherwise requested by the director.
- (3) The director may attach special conditions to any special event permit that, in its discretion, is reasonably necessary to mitigate any potential impact on public health or the environment associated with the special event and not otherwise addressed by this chapter. These special conditions may be enforceable as a violation of this chapter.
- (4) A special event permit shall be valid for only those particular dates of operation, or period(s) of operation, indicated on the special event permit, but in no event shall that period or those periods of time cumulatively exceed a period of one year from the date of issuance, as indicated on the permit.
- (5) Any person who operates a food establishment in conjunction with a special event shall comply with all the requirements of this chapter except sections 11-50-70, 11-50-71, 11-50-72(d)-(k), 11-50-73 and 11-50-74.

(c) Homemade food products and hand-pounded poi. Any person who operates a food establishment that produces or packages only homemade food products in a home kitchen only produces hand-pounded poi are exempted from the provision of this chapter, except that they shall remain subject to inspection and procedures in sections 11-50-10, 11-50-11, 11-50-14, and shall adhere to the following special conditions, violations of which shall be violations of this chapter:

- (1) Ensure that a handwashing sink with appropriate cleaning compound is available at all times during food preparation activities and is used to maintain cleanliness pursuant to sections 11-50-22(b) and (c);
- (2) Label all food in accordance with the requirements of section 11-50-35(c); and
- (3) Distribute their food products only directly to the consumer.

[(c) A permit is not required for:] (d) Exemptions. The following food establishments are exempted from the provisions of this chapter, except that they shall remain subject to inspection in accordance with sections 11-50-8, the requirements and procedures in sections 11-50-10, 11-50-11, and 11-50-14:

- (1) [An] A food establishment that [offers] sells or otherwise distributes only prepackaged foods that are not potentially hazardous food (time/temperature control for safety food) manufactured and packaged in [an approved] a food establishment[;] permitted by the director or otherwise approved by an equivalent agency in another jurisdiction;
- [(2) A food establishment offers for sale only whole, uncut fresh fruits and vegetables;
- (3) A kitchen in a private home, operating as a small family child-care provider, or a bed-and-breakfast operation that prepares and offers only not potentially hazardous food (time/temperature control for safety food) to guests if the home is owner occupied, the number of guests does not exceed six, and the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the department;

(4)] (2) Food establishments that are inspected by another federal [or Hawaii], state, or county regulatory agency, provided that the agency has entered into a memorandum of understanding or a memorandum of agreement [has been filed] with the [department] director and the agency [assumes] has regulatory responsibility for the establishment;

[(5) A producer of hand-pounded poi, where the producer:

- (A) Sells hand-pounded poi directly to the consumer;
- (B) Has available a permanent or temporary hand-wash sink and adequate soap and disposable hand towels supplied, within ten feet of the operating area;
- (C) Labels each container of poi with the name and contact information of the producer;
- (D) Labels each container of poi with a prominent and clear label stating that "This hand-pounded poi was not prepared in a Department of Health approved facility, and consuming this product may increase your risk of contracting a foodborne illness";
- (E) Attends a department of health approved food safety workshop and pass the food safety certification exam;
- (F) Complies with any and all other measures authorized by the director of health to protect public health and safety with respect to hand-pounded poi;

(6)] (3) A food establishment that [offers] sells or otherwise distributes only pre-packaged frozen confections produced in [an approved food establishment or food processing plant;] a food establishment permitted by the department or otherwise approved by an equivalent agency in another jurisdiction; or

[(7)] (4) A food establishment that [offers] sells or otherwise distributes only not potentially hazardous hot beverages (such as coffee or hot tea) served directly into sanitary single-service articles[;].

[(8) A establishment that offers only dry, not potentially hazardous, not ready-to-eat foods

- (such as dry beans, dry grains, coffee beans, tea leaves, or herbs for tea); or
- (9) Vending machines dispensing only pre-packaged food manufactured and packaged in an approved food establishment.] [Eff 2/24/2014; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-4 Permit application, renewal and supporting documentation. (a) A permit to operate a food establishment, and any renewal of a permit to operate a food establishment, may [shall not] be issued [unless and until] only after the [department] director receives a complete application on the forms provided by the [department,] director, as well as all necessary plans, menus, operating procedures, the required fee, other information deemed necessary to access the operations of the proposed food establishment, and the preoperational inspection(s) specified in subsection (j) has been completed[.], if required by the director.

(b) For any new permit or [converted existing food establishments,] the renewal of an existing permit, the applicant shall submit to the [department:] director:

- (1) A completed application for food establishment permit[;] or application for renewal;
- (2) The plans and specifications of the food establishment with an application for plan review, if requested by the [department;] director;
- (3) A list of food items to be offered by the food establishment[;] if requested by the director;
- (4) A HACCP plan if requested by the [department; and] director;
- (5) Other information that may be required by the [department] director to assure proper handling of food[.] ;
- (6) Documents detailing any significant operational or menu change has occurred, an inspection shows that the establishment is in compliance with this chapter; and
- (7) Written documentation detailing the operational agreement between a food establishment and the support kitchen, if required.

[(c) For existing food establishments, the department may renew a permit after:

- (1) A statement for renewal is submitted;

- (2) The required fee is submitted; and
- (3) If a significant operational or menu change has occurred, an inspection shows that the establishment is in compliance with this chapter.

(d)] (c) For changes of ownership of food establishments, the [department] director may issue a permit to a new owner of an existing establishment after:

- (1) A completed application for food establishment is submitted;
- (2) The required fee is submitted; and
- (3) An inspection shows that the establishment is in compliance with this chapter.

[(e)] (d) The [department] director shall not act upon nor consider any incomplete application for a food establishment permit. An application shall be deemed complete only when all required and requested information, including the application form, plans, specifications, and other information have been timely submitted.

[(f)] (e) Every application shall be signed by a person with authority to represent the food establishment's owner and operator and shall constitute an acknowledgment and agreement, that the applicant, and those the applicant represents, will comply with all the terms and conditions of this chapter.

[(g)] (f) The [department] director may require the submission of additional information after the application has been submitted, and may ensure that, if an application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied all required information or otherwise corrected the deficiency.

[(h)] (g) The failure of the [department] director to act on a completed application within thirty days of the receipt of the application shall be deemed an approval of the application; provided that the applicant acts consistently with the application process and has submitted all requested information.

[(i)] (h) The [department] director may request that an application for a food establishment permit be accompanied by plans and specifications including but not limited to:

- (1) Intended menu;
- (2) Anticipated volume of food to be stored, prepared, and sold or served;
- (3) Proposed layout, mechanical schematics, construction materials, and finish schedules;

- (4) Proposed equipment types, manufactures, model numbers, locations, dimensions, performance capacity, and installation specifications;
- (5) Evidence that standard procedures that ensure compliance with the requirements of this chapter are developed or are deemed developed;
- (6) A wastewater generation statement if the food establishment will be connected to an individual wastewater system;
- (7) Window and door schedules for naturally ventilated food establishments; and
- (8) Other information that may be required by the director for the proper review of the proposed construction, conversion, or modification, and procedures for operating a food establishment.

[(j)] (i) Hazard Analysis and Critical Control Point (HACCP) plan.

- (1) A HACCP plan shall accompany an application for a food establishment permit when:
 - (A) A variance is required as specified in section 11-50-33(a)(4)(D), 11-50-34(j), or 11-50-46(w)(2);
 - (B) A variance is requested[;] by the applicant;
 - (C) The [department] director determines that a [food preparation or processing method requires a variance] HACCP plan is needed based on information submitted pursuant to an application for permit; or
 - (D) Circumstances discovered during an inspection indicate the need for a HACCP plan.
- (2) For a food establishment that is required to have a HACCP plan, the plans and specifications shall indicate:
 - (A) A categorization of the types of potentially hazardous foods (time/temperature control for safety foods) that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the [department;] director;
 - (B) A flow diagram by specific food or risk category type identifying critical control

points and providing information on the following:

- (i) Ingredients, materials, and equipment used in the preparation of that food; and
 - (ii) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
- (C) Food employee and supervisory training plan that addresses the food safety issues of concern;
- (D) A statement of standard operating procedures for the plan under consideration including clearly identifying:
- (i) Each critical control point;
 - (ii) The critical limits for each critical control point;
 - (iii) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;
 - (iv) The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;
 - (v) Action to be taken by the person in charge if the critical limits for each critical control point are not met; and
 - (vi) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and
- (E) Additional scientific data or other information, as required by the [department,] director, supporting the determination that food safety is not compromised by the proposal.

[(k)] (j) The [department shall] director may conduct one or more preoperational inspections to verify that the food establishment is constructed and equipped in accordance with the approved plans and approved modifications of those plans, has established standard

operating procedures as specified in [section 11-50-4(i)(5),] subsection (h)(5), and is in compliance with this chapter and other laws. [Eff 2/24/2014; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

[§11-50-5 Special provisions regarding temporary food establishment. (a) Any person may operate a temporary food establishment if:

- (1) A completed application for a temporary food establishment permit is submitted to the department and processed;
- (2) That person has a temporary food establishment permit or a copy of an application recognized as a temporary food establishment permit that has been approved and signed by the director;
- (3) The temporary food establishment permit or the copy of the signed application is kept at the site of the temporary operation and shall be made available to any member of the public upon request; and
- (4) The temporary operation does not exceed twenty days in any one hundred twenty day period;

(b) The completed application for a temporary food establishment permit shall be submitted at least ten business days prior to the opening date of the event. If this requirement is not met, the application for permit may not be reviewed and processed;

(c) When a temporary food establishment extends operation beyond twenty days in any one hundred twenty day period, the requirements for a fixed food establishment shall be met and any continued operation without first obtaining for a fixed shall constitute the operation of a food establishment without a permit and a violation of this chapter.

(d) All persons who intend to operate a temporary food establishment shall apply to the department of health to allow a hazard evaluation of the product and proposed operation (or at least to make an informed decision as to whether the food is potentially hazardous food or non-potentially hazardous food). If the food is non-potentially hazardous and there are no specific hazards which must be addressed, no permit will be required.]

[Eff 2/24/2014; R] (Auth: HRS §321-11)
(Imp: HRS §321-11)

[§11-50-6 Responsibilities of the permit holder.

Upon acceptance of the permit issued by the department, the permit holder in order to retain the permit shall:

- (1) Post the permit in a location in the food establishment that is conspicuous to consumers;
- (2) Comply with the provisions of this chapter including the conditions of a granted variance as specified in section 11-50-13(i), and approved plans as specified in section 11-50-4(i);
- (3) If a food establishment is required in section 11-50-4(j) (1) and (2) to operate under a HACCP plan, comply with the plan as specified in section 11-50-13(i);
- (4) Immediately discontinue operations and notify the department if an imminent health hazard may exist as specified in section 11-50-8(i);
- (5) Allow representatives of the department access to the food establishment as specified in section 11-50-8(c);
- (6) Replace existing facilities and equipment with facilities and equipment that comply with this chapter if:
 - (A) The department directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted;
 - (B) The department directs the replacement of the facilities and equipment because of a change of ownership; or
 - (C) The facilities and equipment are replaced in the normal course of operation;
- (7) Comply with directives of the department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the department in regard to the permit holder's food establishment or in response to community emergencies;
- (8) Accept notices issued and served by the department according to law; and
- (9) Be subject to the administrative, civil, and injunctive remedies authorized in law for failure to comply with this chapter or a directive of the department, including time frames for corrective

actions specified in inspection reports, notices, orders, warnings, and other directives.] [Eff 2/24/2014; R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-7 Fees. (a) Each application for issuance or renewal of a food establishment permit shall be accompanied by the payment of a fee.

(b) No food establishment permit shall be issued or renewed unless all fees required by this chapter are paid.

(c) If an establishment fails to qualify for issuance or renewal of a food establishment permit, no part of the fee will be refunded to the applicant.

(d) A renewal fee for each food establishment shall be paid to the department before the permit expiration date.

(e) The fees shall be based on the following permit categories shown in Table 7-1. The permit categories are based on the total number of food operations within the establishment. These food operations include the following:

- (1) Receiving;
- (2) Cold storage, holding, preparation, and thawing;
- (3) Hot storage, holding, and preparation;
- (4) Thermal processing;
- (5) Transportation;
- (6) Cooling;
- (7) Reheating; and
- (8) Display.

(f) The following permit risk categories are as follows:

- (1) Category 1 Any six to eight of the food operations noted in subsection (e);
- (2) Category 2 Any three to five of the food operations noted in subsection (e); and
- (3) Category 3 Any zero to two of the food operations noted in subsection (e);

(g) Annual and renewal permit fees are as specified in Table 7-1.

Table 7-1 [ANNUAL AND RENEWAL] PERMIT FEES SCHEDULE

FOOD ESTABLISHMENT TYPE		s.f. ¹ (size)	RISK CATEGORY	[ANNUAL / RENEWAL] PERMIT FEE
1.	Catering	-	1	\$400
2.	Catering	-	2	\$300
3.	Catering	-	3	\$200
[4.]	Convenience store	≤1,000	1	\$300
5.	Convenience store	≤1,000	2	\$200
6.	Convenience store	≤1,000	3	\$100]
[7.]	4. Food Manufacturer - small	≤1,000	1	\$300
[8.]	5. Food Manufacturer - small	≤1,000	2	\$200
[9.]	6. Food Manufacturer - small	≤1,000	3	\$100
[10.]	7. Food Manufacturer - large	>1,000	1	\$400
[11.]	8. Food Manufacturer - large	>1,000	2	\$300
[12.]	9. Food Manufacturer - large	>1,000	3	\$200
[13.]	10. Food Warehouse - small	≤1,000	-	\$100
[14.]	11. Food Warehouse - large	>1,000	-	\$300
[15.]	12. Hotel Main Kitchen/ Banquet/Convention	-	1	\$600
[16.]	13. Hotel Main Kitchen/ Banquet/Convention	-	2	\$500
[17.]	14. High Risk Institutional Kitchens (pre-schools, elementary schools, hospitals, other high-risk populations)	-	1	\$400
[18.]	15. Institutional Kitchens (schools, adult/child day care facilities, prisons, etc.)	-	1	\$400
[19.]	16. Institutional Kitchens (schools, adult/child day care facilities, prisons, etc.)	-	2	\$300
[20.]	17. Institutional Kitchens (schools, adult/child day care facilities, prisons, etc.)	-	3	\$100
[21.]	18. Market - small	≤1,000	1	\$300
[22.]	19. Market - small	≤1,000	2	\$200
[23.]	20. Market - small	≤1,000	3	\$100

[24.]21.	Market - large	>1,000	1	\$400
[25.]22.	Market - large	>1,000	2	\$300
[26.]23.	Market - large	>1,000	3	\$200
[27.]24.	Mobile [Lunchwagons, Trailers, Boats] Establishments	-	1	\$300
[28.]25.	Mobile [Lunchwagons, Trailers, Boats] Establishments	-	2	\$200
[29.]26.	Mobile [Lunchwagons, Trailers, Boats] Establishments	-	3	\$100
[30.]	Mobile Push Cart	-	1	\$150
31.	Mobile Push Cart	-	2	\$100
32.	Mobile Push Cart	-	3	\$50]
[33.]27.	[Mobile Unit] Support Kitchen	-	1	\$300
[34.]28.	[Mobile Unit] Support Kitchen	-	2	\$200
[35.]29.	[Mobile Unit] Support Kitchen	-	3	\$100
[36.]30.	Restaurant - small	≤1,000	1	\$300
[37.]31.	Restaurant - small	≤1,000	2	\$200
[38.]32.	Restaurant - small	≤1,000	3	\$100
[39.]33.	Restaurant - large	>1,000	1	\$400
[40.]34.	Restaurant - large	>1,000	2	\$300
[41.]35.	Restaurant - large	>1,000	3	\$200
[42.]36.	Service Area - limited food prep	-	-	\$100
[43.]37.	Service Area - no food prep	-	-	\$50
[44.]38.	[Any Food Establishment used only to prepare or serve food to the homeless without compensation, consideration, or donation by the person or persons being served]Homeless Feeding/Charitable or Benevolent organization	-	[-]1	\$0
39.	Homeless Feeding/Charitable or Benevolent Organization	-	2	\$0
40.	Homeless Feeding/Charitable or Benevolent Organization	-	3	\$0

[45.]41.	[Temporary] <u>Special Event</u> Food Establishment: 1-5 days	-	-	\$50
[46.]42.	[Temporary] <u>Special Event</u> Food Establishment: 6-10 days	-	-	\$75
[47.]43.	[Temporary] <u>Special Event</u> Food Establishment: 11-20 days	-	-	\$100
44.	<u>Special Event Food</u> <u>Establishment: 21-365 days</u>	=	=	\$100 +\$5 for each day over 20 days
[48.]45.	[Temporary] <u>Special Event</u> Food Establishment: Value added farm products	-	-	\$25
[49.]46.	[Temporary] <u>Special Event</u> Food Establishment (applicants such as youth groups, schools, hospitals, religious groups, community service organizations, athletic groups, and other charitable or benevolent organizations)	-	-	\$0

¹s.f. means square feet

(h) All permit fees are non-transferable and non-refundable and must be fully paid prior to the issuance of any new or renewed permit.

(i) Food establishment renewal fees that are received by the department after the expiration date will be subject to an additional late fee equal to twenty per cent of the annual permit fee.

(j) Food establishment permits shall not be issued or renewed if any outstanding fines imposed by the [department] director have not been paid in full.

[(j)] (k) Plan review fees are as specified in Table 7-2.

Table 7-2 PLAN REVIEW FEE TABLE

PLAN REVIEW TYPE	SUB-TYPE	FEE
Food Establishment, Liquor Establishment, Mobile Unit	1,000 s.f. or less	\$200
Food Establishment, Liquor Establishment, Mobile Unit	>1,000 s.f.	\$300
Prepackaged Only	Mobile or fixed	No Fee

¹s.f. means square feet

[Eff 2/24/2014; am and comp
§321-11) (Imp: HRS §321-11)

] (Auth: HRS

§11-50-8 Inspection and correction of violations.

(a) Establishing inspection interval.

(1) The [department] director may inspect a food establishment at a frequency based upon the risk of foodborne illness transmission as determined by the [department.] director. Inspections shall also be conducted in response to a complaint or an epidemiological investigation of an alleged foodborne illness outbreak;

(2) The director shall be permitted to examine the records of the establishment to get pertinent information regarding food, supplies, and services purchased, received, or used and persons employed.

(b) The [department] director may prioritize, and conduct more frequent inspections based upon its assessment of a food establishment's history of compliance with this chapter and the establishment's potential as a vector of foodborne illness by evaluating:

- (1) Past performance, for nonconformance with this chapter or HACCP plan requirements that are critical items;
- (2) Past performance, for numerous or repeat violations of this chapter or HACCP plan requirements that are noncritical items;
- (3) Past performance, for complaints investigated and found to be valid;
- (4) The hazards associated with the particular foods that are prepared, stored, or served;

- (5) The type of operation including the methods and extent of food storage, preparation, and service;
- (6) The number of people served; and
- (7) Whether the population served is a highly susceptible population.

(c) After the director presents official credentials and provides notice of the purpose of, and an intent to conduct an inspection, the person in charge shall allow the director to determine if the food establishment is in compliance with this chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this chapter and to which the department is entitled according to law, during the food establishment's hours of operation and other reasonable times.

(d) An inspection report or other electronic record shall be used to document observed violative conditions or other deviations from this chapter that require correction by the permit holder that may include the following:

- (1) Nonconformance with requirements of this chapter;
- (2) Failure of the appropriate food employees to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the department as specified in section 11-50-13(i);
- (3) Failure of the person in charge to provide records required by the department for determining conformance with a HACCP plan as specified in section [11-50-4(j)(2)(D)(vi);] 11-50-4(i)(2)(D)(iv); and
- (4) Nonconformance with critical limits of a HACCP plan.

(e) The director shall specify on the inspection report form the time frame for correction of the violations as specified in subsections (i), (k), and (m).

(f) At the conclusion of the inspection, the director shall request a signature by the person in charge acknowledging receipt of the inspectional findings.

(g) Refusal to sign acknowledgment of inspectional findings will not affect the permit holder's obligation to correct the violations noted in the inspection report within the time frames specified.

(h) The director shall treat the inspection report as a public document and shall make the report available for

disclosure to a person who requests the report as provided in law.

(i) Ceasing operation and report - [Imminent] imminent health hazard.

(1) Except as specified in paragraph (2), a permit holder shall immediately discontinue operations and notify the [department] director if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, natural disaster, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health;

(2) A permit holder may not be required to discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

(j) Resumption of operations. If operations are discontinued as specified in subsection (i) or otherwise according to law, the permit holder shall obtain approval from the department before resuming operations.

(k) Timely correction - violation of critical item.

(1) Except as specified in paragraph (2), a permit holder shall at the time of inspection correct a critical violation of this chapter and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit;

(2) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the director may agree to or specify a longer time frame after the inspection, for the permit holder to correct critical violations or HACCP plan deviations.

(1) Verification and documentation of correction.

(1) After observing at the time of inspection a correction of a critical violation or a HACCP plan deviation, the director shall enter the violation and information about the corrective action on the inspection report;

(2) As specified in subsection (k) (2), after receiving notification that the permit holder has corrected a critical violation or HACCP plan deviation, or at the end of the specified period

of time, the director shall verify correction of the violation, document the information on an inspection report, and enter the report in the department's records.

(m) Time frame for correction - other violations. The permit holder shall correct all other violations by a date and time agreed to or specified by the director.

(n) Upon request, the director shall provide a copy of the completed inspection report to the permit holder or person in charge.

(o) Time frame for correction - [temporary] special event food establishment. The permit holder shall correct all violations immediately. Failure to comply with this notice may result in immediate termination of the [temporary] authorization to operate. [Eff 2/24/2014; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-9 Placarding. (a) Upon completion of [a regular inspection or follow-up inspection,] an inspection, the director [shall] may post at every food establishment a color coded placard indicating the compliance status of that establishment. The placard shall be posted in a location clearly visible to the general public and patrons entering the food establishment.

(1) Clearly visible to the general public and patrons means:

- (A) Posted in the window of the food establishment within five feet of the main entrance to the establishment;
- (B) Posted in a display case (such as a menu box) mounted on the outside wall of the food establishment within five feet of the main entrance to the establishment; or
- (C) Posted in a location approved by the director to ensure proper notice to the general public and patrons.

(b) In the event that a food establishment is operated in the same building as a separately permitted or licensed business, or in the event that a facility shares common patron entrance with a separately permitted facility or licensed business, or in the event of both, the director shall post the placard in the initial patron contact area, or in a location approved by the director.

(c) The placard shall not be defaced, marred, camouflaged, hidden, or removed. It shall be unlawful to operate a food establishment unless the placard is posted in accordance with this chapter.

(d) Removal of the placard is a violation of this chapter and may result in the suspension of the food establishment permit, and may be subject to daily fines as specified in section 321-20, HRS.

(e) A placard shall remain valid from the time of issuance until [a new placard is issued at the completion of a regular inspection, follow-up inspection, or change of ownership.] it is removed or replaced by the director.

(f) Placard color coding:

(1) A green placard shall [be posted when:] indicate:

(A) Zero or one critical violation was observed during [the regular] an inspection, and the critical violation was corrected or mitigated during the inspection; or

(B) A follow-up inspection verifies correction of all critical violations;

(2) A yellow placard shall [be posted when] indicate one violation as described in paragraph (1) (A) remains uncorrected or [when] two or more critical violations were observed during [a regular inspection or foodborne illness] an inspection[:] and the director may conduct a follow-up inspection or take additional corrective action.

(A) [Follow-up inspections will] A follow-up inspection may be conducted within two business days to ensure all critical violations are corrected or mitigated and remain corrected;

(B) The yellow placard shall remain posted until all critical violations are corrected or mitigated [and verified;] to the satisfaction of the director;

(3) A red placard shall [be posted when] indicate there is[:] an immediate danger to public health and closure of the food establishment is necessary to protect public health:

(A) [Closure of the facility due to immediate danger to public health, such as] A red placard may be posted upon a finding by the director that there exists an imminent

health hazard which includes, but is not limited to:

- (i) The director being denied entry into the food establishment or being unable to perform an inspection due to circumstances within the control of the permit holder or person in charge;
- (ii) The food establishment having no valid permit to operate issued by the department;
- (iii) Epidemiological evidence of foodborne illness or disease transmission connected to the food establishment;
- [(ii)] (iv) An employee of the food establishment who is a carrier of a communicable disease working in a capacity whereby the disease may be transmitted through food;
- [(iii)] (v) Hot or cold water not available as required;
- [(iv)] (vi) No power available to operate refrigeration or cooking equipment;
- [(v)] (vii) Rodent or vermin infestation;
- [(vi)] (viii) Sewage overflow or flooding within the establishment;
- [(vii)] (ix) Any other condition that poses an immediate danger to public health[;] as determined by the director;

(B) Upon the posting of a red placard, closure of the food establishment shall be effectuated by an immediate suspension [Suspension] of the food establishment permit[;].

- (i) The red placard shall indicate that the applicable food establishment permit has been suspended and shall constitute written notice to that effect pursuant to section 11-50-12(c).
- (ii) The procedures of section 11-50-12(c) shall become applicable and shall govern the disposition of both the red placard and the permit suspension.

(g) Critical violations may include, but are not limited to:

- (1) Employees with communicable diseases, wounds, and rashes;
 - (2) An employee has discharge from the eyes, nose, or mouth;
 - (3) Hands not clean and not properly washed, gloves not used properly;
 - (4) Handwashing facilities not provided, not supplied, not properly operating, or inaccessible;
 - (5) Improper temperature control of potentially hazardous foods;
 - (6) PHF (time/temperature control for safety food) not properly labeled when using time as a public health control;
 - (7) PHF (time/temperature control for safety food) improperly cooled;
 - (8) Improper cooking time and temperatures not adhered to;
 - (9) Improper reheating procedures for hot holding not adhered to;
 - (10) Re-service of returned food;
 - (11) Food contaminated or adulterated;
 - (12) Food-contact surfaces not cleaned and sanitized as required;
 - (13) Improper warewashing procedure;
 - (14) Non-compliance with proper shellfish handling and service;
 - (15) Non-compliance with HACCP plans, specialized process, and variances;
 - (16) Prohibited food offered to highly susceptible population;
 - (17) Hot or cold water not available as required;
 - (18) Sewage and wastewater not properly disposed of;
 - (19) Rodents, insects, birds, or prohibited animals within establishment;
 - (20) Food not protected from cross contamination;
 - (21) Restrictions on eating and the use of tobacco; and
 - (22) Improper storage or use of poisonous or toxic materials.
- [Eff 2/24/2014; am and comp] (Auth: HRS §321-11)
 (Imp: HRS §321-11)

§11-50-10 Embargo and detention. (a) Based upon inspection findings or other evidence, the director may

embargo or detain any food determined to be a potential health hazard.

- (1) The director may attach a tag or other appropriate marking to food determined to be a potential health hazard. The marking shall be removed only by the director [following verification that the condition has been corrected;];
 - (2) Food embargoed or detained pursuant to this subsection shall not be disturbed, unsealed, moved or used in any way unless the embargo or detention has been rescinded;
 - (3) Within [seventy-two hours] seven days of the embargo or detention, the director shall do one or more of the following:
 - (A) [Inform the establishment of the potential health hazard and supporting evidence justifying the action;
 - (B)] Extend [the holding period for a specified] the embargo or detention for the period of time needed to [complete testing or research] further investigate [to determine] the safety of the food being held; [or]
 - [(C)] (B) Extend the embargo or detention for that period of time necessary to make arrangements for the voluntary disposal of the embargoed food;
 - (C) Extend the embargo or detention for that period of time necessary to accommodate a final decision at a hearing; or
 - (D) Rescind the action.
- (b) [If the director determines the food to be a potential health hazard, the director] The tag or other marking indicating that food has been embargoed or detained shall:
- (1) [State in writing,] Provide the [specific reasons] reason(s) for which the food has been determined to be a potential health hazard; and
 - (2) [Offer an opportunity for a hearing to a] Notify the person whose food has been [determined to be a potential health hazard, provided a written request for a hearing is filed with the director by the permit holder within twenty days after receipt of the notice as specified in subsection

(a) (3) (A);] embargoed or detained of their right to request a hearing.

[(A) If a written request is filed within twenty days, an opportunity for a hearing with the director or the director's designated representative shall be provided;] (c) If the owner of food which has been embargoed or detained submits a written request to the department for a hearing to contest the embargo or detainment within seven days from the date the tag or other marking was affixed to the food, the director shall provide a hearing as soon as practicable. At such hearing the director shall:

- (1) Determine whether the embargoed or detained food is a potential health hazard;
- (2) Determine whether the food must be destroyed and under what circumstances; and
- (3) Issue a final order for the continued embargo or detainment and ultimate disposition of the embargoed or detained food, or rescind the action.

[(B)] (d) If no written request is [filed] submitted to the department within [the twenty day period,] seven days from the date the tag or other marking of embargo or detainment was affixed to the food, or there is a hearing and the action of department is upheld, the [permit holder] owner of the food establishment shall [properly] dispose of the embargoed or detained food[.] in the manner prescribed by the director. [Eff 2/24/2014; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-11 Prevention of foodborne disease transmission by employees. (a) The department shall act when it has reasonable cause to believe that a food employee or conditional employee has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through food; may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected with a boil, an infected wound, or acute respiratory infection, by:

- (1) Securing a confidential medical history of the food employee or conditional employee suspected of transmitting disease or making other investigations as deemed appropriate; and
- (2) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected food employee or conditional employee.

(b) Based on the findings of an investigation related to a food employee or conditional employee who is suspected of being infected or diseased, the department may issue an order to the suspected food employee, conditional employee, or permit holder instituting one or more of the following control measures:

- (1) Restricting the food employee or conditional employee;
- (2) Excluding the food employee or conditional employee; or
- (3) Closing the food establishment by summarily suspending a permit to operate pursuant to section 11-50-12(c).

(c) Based on the findings of the investigation as specified in subsection (a) and to control disease transmission, the department may issue an order of restriction or exclusion to a suspected food employee or the permit holder without prior warning, notice of a hearing, or a hearing if the order:

- (1) States the reasons for the restriction or exclusion that is ordered;
- (2) States the evidence that the food employee or permit holder shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;
- (3) States that the suspected food employee or the permit holder may request an appeal hearing by submitting a timely request as provided in law; and
- (4) Provides the name and address of the department representative to whom a request for an appeal hearing may be made.

(d) The department shall release a food employee or conditional employee from restriction or exclusion according to law and the conditions specified in section 11-50-21(c). [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-12 Permit suspension. (a) The department may suspend a permit whenever:

- (1) An inspection of the establishment reveals that the establishment has not corrected the violations in the required time; or
 - (2) The [department] director is unable to conduct inspections in accordance with this chapter due to circumstances within the control of the permit holder or person in charge.
- (b) Permit suspension procedures.
- (1) The department shall notify the permit holder, or the person in charge in writing, when a permit is to be suspended;
 - (2) The department shall state in writing, specific reasons for which the permit is to be suspended;
 - (3) The department shall offer an opportunity for a hearing to a person whose permit is to be suspended, provided a written request for a hearing is filed with the department by the permit holder, not later than twenty calendar days after receipt of the notice;
 - (4) If a written request for a hearing is filed within twenty calendar days after the notice of suspension, an opportunity for a hearing with the department or the department's designated representative shall be offered;
 - (5) If no written request for a hearing is filed within twenty calendar days after the notice of suspension, the permit shall be suspended upon [serving] service of the suspension notice;
 - (6) The establishment shall be closed and shall remain closed until the permit has been reinstated;
 - (7) A person whose permit has been suspended may request an inspection, and the permit shall be reinstated if the inspection shows the correction of the violation that led to the suspension.

(c) Notwithstanding subsections (a), where the department finds there exists [in an establishment] an imminent health hazard [to the public health,] associated with the food establishment, unless the [hazard] threat to public health is immediately corrected, the department may [temporarily] immediately close the food establishment and suspend the permit [of the establishment], without prior notice and hearing [and order the establishment immediately

closed], by issuing an order in writing[.] or by posting a red placard pursuant to section 11-50-9.

- (1) An imminent health hazard exists under conditions described in the definition of "Imminent health hazard" [and section] in section 11-50-2, sections 11-50-9(f) (3) (A) [(i) to (vii);] and 11-50-9(g), and as may otherwise be determined by the director.
- (2) The food establishment shall remain closed and the permit suspension shall [be] remain in effect until the [opportunity for a hearing is given within twenty-four hours after the service of the suspension order. After] permit is reinstated by the department.
- (3) The department shall provide the permit holder an opportunity to contest the closure and permit suspension and, unless waived by the permit holder, such a hearing shall be held no later than forty-eight (48) hours after the service of the notice of suspension or posting of a red placard, except that in the case of state and federal holidays and non-business days, the hearing shall be provided no later than the next business day thereafter.
- (4) At the hearing, the department or the department's designated representative may affirm, modify, or rescind the order as appropriate.

(d) In the event of a natural disaster, the department has the authority to order an establishment immediately closed if, in the opinion of the department, the establishment cannot operate in a safe and sanitary manner. The [department] director shall decide under what conditions the establishment will be allowed to reopen.

(e) All hearings shall comply with chapter 91, HRS, and the Hawaii Administrative Rules, chapter 11-1, entitled "Rules of Practice and Procedure". [Eff 2/24/2014; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

11-50-13 Variances. (a) The department may grant a variance by modifying or waiving the requirements of this chapter if in the opinion of the [department] director a health hazard or nuisance will not result from the variance. If a variance is granted, the department shall

retain the information specified in subsection (b) in its records for the food establishment.

(b) Before a variance from a requirement of this chapter is approved, the information that shall be provided by the person requesting the variance and retained in the department's file on the food establishment including:

- (1) A statement of the proposed variance of the chapter requirement citing relevant chapter section numbers;
- (2) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant chapter sections will be alternatively addressed by the proposal; and
- (3) A HACCP plan if required as specified in section [11-50-4(j)(1)] 11-50-4(i)(1) that includes the information specified in section [11-50-4(j)(2)] 11-50-4(i)(2) as it is relevant to the variance requested.

(c) Every application for a variance shall be made on forms furnished by the department.

- (1) The department shall not act upon or consider any incomplete application for variance. An application shall be deemed complete only when all required and requested information, including the application form, plans, specifications, applicable fees, and other information have been timely submitted;
- (2) Every application shall be signed by the applicant and shall constitute an acknowledgment and agreement that the applicant will comply with all the terms and conditions of the variance and this chapter;
- (3) The department may require the submission of additional information, including challenge studies if applicable, after the application has been submitted, and may ensure that, if an application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied all required information or otherwise corrected the deficiency. If the variance application requires a challenge study for pathogen inactivation or growth inhibition to determine if a food requires time/temperature control for safety, the study shall follow the guideline entitled "Parameters for Determining

Inoculated Pack/Challenge Study Protocols" by the National Advisory Committee on Microbiological Criteria for Foods, adopted 20 March 2009, Washington D.C.;

- (4) The failure of the department to act on a completed application within thirty days of the receipt of such application shall be deemed an approval of such application provided that the applicant acts consistently with the application process and has submitted all required or requested information.

(d) Any approved variance shall be granted for time periods and under conditions consistent with this chapter and within the following limitations:

- (1) The department may issue a variance for a period not exceeding two years;
- (2) The department may revoke the variance at any time if the variance becomes a threat to public health and safety.

(e) Variance renewal. Any variance granted pursuant to this section may be renewed for periods not exceeding two years provided that:

- (1) All of the conditions specified in the immediately preceding variance are complied with;
- (2) Current food safety concerns and concerns addressed in the immediately preceding variance are addressed;
- (3) A renewal application is submitted at least one hundred eighty days prior to expiration of the preceding variance; and
- (4) A variance renewal fee of \$200 is paid to the department.

(f) The department shall afford a hearing in accordance with chapter 91, HRS, in relation to an application for the denial of a variance.

(g) No variance shall be construed to prevent or limit the application of any emergency provisions and procedures provided by law.

(h) A non-refundable application processing fee of \$200 shall be made payable to the department for all new and renewal variance applications.

(i) If the department grants a variance as specified in subsection (a), or a HACCP plan is otherwise required as specified in section [11-50-4(j)(1)] 11-50-4(i)(1) and (2) the permit holder shall:

- (1) Comply with the HACCP plans and procedures that are submitted as specified in section [11-50-4(j)(2)] 11-50-4(i)(2) and approved as a basis for the modification or waiver;
- (2) Maintain and provide to the department, upon request, records specified in section [11-50-4(j)(2)(D)] 11-50-4(i)(2)(D) and (E) that demonstrate that the following are routinely employed:
 - (A) Procedures for monitoring the critical control points;
 - (B) Monitoring of the critical control points;
 - (C) Verification of the effectiveness of the operation or process; and
 - (D) Necessary corrective actions if there is failure at a critical control point; and
- (3) Provide any additional information and analyses deemed necessary by the [department] director to eliminate or control public health hazards or nuisance. [Eff 2/24/2014; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-14 Penalties and remedies. Any person who violates any provision of this chapter or an order of the [department] director thereunder, shall be subject to a fine as provided in section 321-20, HRS. Each and every violation is a separate offense. [Eff 2/24/2014; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-15 Severability. If any provision of this chapter, or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of the provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby. [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-16 to 11-50-19 (Reserved).

SUBCHAPTER 2

PERSONNEL

§11-50-20 Supervision. (a) Except as specified in subsection (b), the permit holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation.

(b) In a food establishment with two or more separately permitted departments that are the legal responsibility of the same permit holder and that are located on the same premises, the permit holder may, during specific time periods when food is not being prepared, packaged, or served, designate a single person in charge who is present on the premises during all hours of operation, and who is responsible for each separately permitted food establishment on the premises.

(c) Food protection certification.

(1) The person in charge shall demonstrate knowledge of basic food safety by passing an examination that is part of a department food safety program or other program approved by the department.

(2) The requirements of this section may be waived by the department for any food establishments deemed by the director to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of food preparation.

[(c)] (d) The person in charge shall ensure that:

(1) Food establishment operations are not conducted in a private home or in a room used as living or sleeping quarters as specified in section [11-50-71(s);] 11-50-71(r);

(2) Persons unnecessary to the food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination;

(3) Employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this chapter;

- (4) Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;
- (5) Employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;
- (6) Employees are properly cooking potentially hazardous food (time/temperature control for safety food), being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified in sections 11-50-46(k) and 11-50-49(p) (2);
- (7) Employees are using proper methods to rapidly cool potentially hazardous foods (time/temperature control for safety foods) that are not held hot or are not for consumption within four hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;
- (8) Consumers who order raw; or partially cooked ready-to-eat foods of animal origin are informed as specified in section [11-50-35(e)] 11-50-35(d) that the food is not cooked sufficiently to ensure its safety;
- (9) Employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;
- (10) Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets as specified in section 11-50-32(o);
- (11) Except when approval is obtained from the department as specified in section

- [11-50-32(a)(4),] 11-50-32(a)(5) employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment;
- (12) Employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties; and
- (13) Food employees and conditional employees are informed of their responsibility to report in accordance with law, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified in section 11-50-21(a)(1). [Eff 2/24/2014; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-21 Employee health. (a) Responsibility of permit holder, person in charge, and conditional employees.

(1) The permit holder shall require food employees and conditional employees to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food. A food employee or conditional employee shall report the information in a manner that allows the person in charge to reduce the risk of foodborne disease transmission, including providing necessary additional information, such as the date of onset of symptoms and an illness, or of a diagnosis without symptoms, if the food employee or conditional employee:

(A) Has any of the following symptoms:

- (i) Vomiting;
- (ii) Diarrhea;
- (iii) Jaundice;
- (iv) Sore throat with fever; or
- (v) A lesion containing pus such as a boil or infected wound that is open or draining and is on the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover or on

exposed portions of the arms, unless the lesion is protected by an impermeable cover, or on the other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;

- (B) Has an illness diagnosed by a health practitioner due to:
 - (i) Norovirus;
 - (ii) Hepatitis A virus;
 - (iii) Shigella spp.;
 - (iv) [Enterohemorrhagic or] Shiga toxin-producing Escherichia Coli; [or]
 - (v) Salmonella Typhi; or
 - (vi) nontyphoidal Salmonella;
- (C) Had a previous illness, diagnosed by a health practitioner, within the past three months due to Salmonella Typhi, without having received antibiotic therapy, as determined by a health practitioner;
- (D) Has been exposed to, or is the suspected source of, a confirmed disease outbreak, because the food employee or conditional employee consumed or prepared food implicated in the outbreak, or consumed food at an event prepared by a person who is infected or ill with:
 - (i) Norovirus within the past forty-eight hours of the last exposure;
 - (ii) [Enterohemorrhagic or] Shiga toxin-producing Escherichia Coli[,] or Shigella spp. within the past three days of the last exposure;
 - (iii) Salmonella Typhi within the past fourteen days of the last exposure; or
 - (iv) Hepatitis A virus within the past thirty days of the last exposure; or
- (E) Has been exposed by attending or working in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual who works or attends a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual diagnosed with an illness caused by:

- (i) Norovirus within the past forty-eight hours of the last exposure;
 - (ii) [Enterohemorrhagic or] Shiga toxin-producing Escherichia Coli[,] or Shigella spp. within the past three days of the last exposure;
 - (iii) Salmonella Typhi within the past fourteen days of the last exposure; or
 - (iv) Hepatitis A virus within the past thirty days of the last exposure;
- (2) The person in charge shall ensure that a conditional employee:
- (A) Who exhibits or reports a symptom, or who reports a diagnosed illness as specified in subsection (a)(1)(A) to (C), is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified in subsection (c); or
 - (B) Who will work as a food employee in a food establishment that serves as a highly susceptible population and reports a history of exposure as specified in subsection (a)(1)(D) and (E), is prohibited from becoming a food employee until the conditional employee meets the criteria as specified in subsection (c)(9);
- (3) The person in charge shall ensure that a food employee who exhibits or reports a symptom, or who reports a diagnosed illness or a history of exposure as specified in subsection (a)(1)(A) to (E) is:
- (A) Excluded as specified in subsection (b)(1) to (3), (4)(A), (5)(A), (6)(A), [or] (7)[(A)], or (8)(A) and in compliance with the provisions specified in subsection (c)(1) to [(7);] (8);
 - (B) Restricted as specified in subsection (b)(4)(B), (5)(B), (6)(B), [(7)(B), or] (8)(B) or (9) or (10) and in compliance with the provisions specified in subsection (c)(4) to [(9);] (10);
- (4) A food employee or conditional employee shall report to the person in charge the information as specified in paragraph (1);
- (5) A food employee shall:

- (A) Comply with an exclusion as specified in subsection (b) (1) to (3), and (4) (A), (5) (A), (6) (A), (7) or [(7)] (8) (A) and with the provisions specified in subsection (c) (1) to [(7);] (8);
- (B) Comply with a restriction as specified in subsection (b) (4) (B), (5) (B), (6) (B), (7) [(B), or (8) or (9)], (8) (B), or (8), (9), or (10) and comply with the provisions specified in subsection (c) (4) to [(9);] (10);

(b) The person in charge shall exclude or restrict a food employee from a food establishment in accordance with the following:

- (1) Except when the symptom is from a noninfectious condition, exclude a food employee if the food employee is:
 - (A) Symptomatic with vomiting or diarrhea; or
 - (B) Symptomatic with vomiting or diarrhea and diagnosed with an infection from Norovirus, Shigella spp., nontyphoidal Salmonella, or [Enterohemorrhagic or] Shiga toxin-producing E. Coli;
- (2) Exclude a food employee who is:
 - (A) Jaundiced and the onset of jaundice occurred within the last seven calendar days, unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by hepatitis A virus or other fecal-orally transmitted infection;
 - (B) Diagnosed with an infection from hepatitis A virus within fourteen calendar days from the onset of any illness symptoms, or within seven calendar days of the onset of jaundice; or
 - (C) Diagnosed with an infection from hepatitis A virus without developing symptoms;
- (3) Exclude a food employee who is diagnosed with an infection from Salmonella Typhi, or reports a previous infection with Salmonella Typhi within the past three months as specified in subsection (a) (1) (C);
- (4) If a food employee is diagnosed with an infection from Norovirus and is asymptomatic:

- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population;
- (5) If a food employee is diagnosed with an infection from *Shigella* spp. and is asymptomatic:
- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population;
- (6) If a food employee is diagnosed with an infection from [Enterohemorrhagic or] Shiga toxin-producing *E. Coli*, and is asymptomatic:
- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population;
- (7) If a food employee is diagnosed with an infection from nontyphoidal *Salmonella* and is asymptomatic, restrict the food employee who works in a food establishment serving a highly susceptible population or in a food establishment not serving a highly susceptible population;
- [(7)] (8) If a food employee is ill with symptoms of acute onset of sore throat with fever:
- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population;
- [(8)] (9) If a food employee is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified in subsection (a) (1) (A) (v), restrict the food employee;
- [(9)] (10) If a food employee is exposed to a foodborne pathogen as specified in subsection (a) (1) (D) and (E), restrict the food employee who

works in a food establishment serving a highly susceptible population.

(c) The person in charge shall adhere to the following conditions when removing, adjusting, or retaining the exclusion or restriction of a food employee:

(1) Except when a food employee is diagnosed with an infection from hepatitis A virus or Salmonella Typhi:

(A) Reinstate a food employee who was excluded as specified in subsection (b) (1) (A) if the food employee:

(i) Is asymptomatic for at least twenty-four hours; or

(ii) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition;

(B) If a food employee was diagnosed with an infection from Norovirus and excluded as specified in subsection (b) (1) (B):

(i) Restrict the food employee, who is asymptomatic for at least twenty-four hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in subsection (b) (4) (A) or (B) are met; or

(ii) Retain the exclusion for the food employee, who is asymptomatic for at least twenty-four hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in subsection (b) (4) (A) or (B) are met;

(C) If a food employee was diagnosed with an infection from Shigella spp. and excluded as specified in subsection (b) (1) (B):

(i) Restrict the food employee, who is asymptomatic for at least twenty-four hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as

- specified in paragraph (5) (A) or (B) are met; or
- (ii) Retain the exclusion for the food employee, who is asymptomatic for at least twenty-four hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in subsection (b) (5) (A) or (B), or (5) (A) and (c) (1) (C) (i) are met;
- (D) If a food employee was diagnosed with an infection from [Enterohemorrhagic or] Shiga toxin-producing E. Coli and excluded as specified in subsection (b) (1) (B):
- (i) Restrict the food employee, who is asymptomatic for at least twenty-four hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in subsection (b) (6) (A) or (B) are met; or
 - (ii) Retain the exclusion for the food employee, who is asymptomatic for at least twenty-four hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in subsection (b) (6) (A) or (B) are met;
- (E) If a food employee was diagnosed with an infection from nontyphoidal Salmonella and excluded as specified in subsection (b) (1) (B):
- (i) Restrict the food employee, who is asymptomatic for at least thirty days until conditions for reinstatement as specified in subsection (c) (7) (A) and (B) are met; or
 - (ii) Retain the exclusion for the food employee who is symptomatic, until conditions for reinstatement as specified in subsection (c) (7) (A) and (B) are met;

- (2) Reinstate a food employee who was excluded as specified in subsection (b)(2) if the person in charge obtains approval from the department and one of the following conditions is met:
 - (A) The food employee has been jaundiced for more than seven calendar days;
 - (B) The anicteric food employee has been symptomatic with symptoms other than jaundice for more than fourteen calendar days; or
 - (C) The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a hepatitis A virus infection;
- (3) Reinstate a food employee who was excluded as specified in subsection (b)(3) if:
 - (A) The person in charge obtains approval from the department; and
 - (B) The food employee provides to the person in charge written medical documentation from a health practitioner that states the food employee is free from S. Typhi infection;
- (4) Reinstate a food employee who was excluded as specified in subsection (b)(1)(B) or (4)(A) who was restricted in subsection (b)(4)(B) if the person in charge obtains approval from the department and one of the following conditions is met:
 - (A) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Norovirus infection;
 - (B) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than forty-eight hours have passed since the food employee became asymptomatic; or
 - (C) The food employee was excluded or restricted and did not develop symptoms and more than forty-eight hours have passed since the food employee was diagnosed;
- (5) Reinstate a food employee who was excluded as specified in subsection (b)(1)(B) or (5)(A) or who was restricted in subsection (b)(5)(B) if the

person in charge obtains approval from the department and one of the following conditions is met:

- (A) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a *Shigella* spp. infection based on test results showing two consecutive negative stool specimen cultures that are taken:
 - (i) Not earlier than forty-eight hours after discontinuance of antibiotics; and
 - (ii) At least twenty-four hours apart;
 - (B) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than seven calendar days have passed since the food employee became asymptomatic; or
 - (C) The food employee was excluded or restricted and did not develop symptoms and more than seven calendar days have passed since the food employee was diagnosed;
- (6) Reinstate a food employee who was excluded or restricted as specified in subsection (b) (1) (B) or (b) (6) (A) or who was restricted in subsection (b) (6) (B) if the person in charge obtains approval from the department and one of the following conditions is met:
- (A) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of an infection from [Enterohemorrhagic or] Shiga toxin-producing *Escherichia Coli* based on test results that show two consecutive negative stool specimen cultures that are taken:
 - (i) Not earlier than forty-eight hours after discontinuance of antibiotics;
 - (ii) At least twenty-four hours apart;
 - (B) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than seven

calendar days have passed since the food employee became asymptomatic; or
(C) The food employee was excluded or restricted and did not develop symptoms and more than seven days have passed since the food employee was diagnosed;

(7) Reinstate a food employee who was excluded as specified in subsection (b) (1) (B) or who was restricted as specified in subsection (b) (7) if the person in charge obtains approval from the department and one of the following conditions is met:

(A) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of nontyphoidal Salmonella infection based on test results showing two consecutive negative stool specimen cultures that are taken;

(i) Not earlier than forty-eight hours after discontinuance of antibiotics, and

(ii) At least twenty-four hours apart;

(B) The food employee was restricted after symptoms of vomiting or diarrhea resolved, and more than thirty days have passed since the food employee became asymptomatic; or

(C) The food employee was excluded or restricted and did not develop symptoms and more than thirty days have passed since the food employee was diagnosed.

[(7)] (8) Reinstate a food employee who was excluded or restricted as specified in subsection [(b) (7) (A)] (b) (8) (A) or (B) if the food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee meets one of the following conditions:

(A) Has received antibiotic therapy for Streptococcus pyogenes infection for more than twenty-four hours;

(B) Has at least one negative throat specimen culture for Streptococcus pyogenes infection; or

- (C) Is otherwise determined by a health practitioner to be free of a Streptococcus pyogenes infection;
- [(8)](9) Reinstatement of a food employee who was restricted as specified in subsection [(b)(8)] (b)(9) if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:
- (A) An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist;
 - (B) An impermeable cover on the arm if the infected wound or pustular boil is on the arm; or
 - (C) A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body;
- [(9)](10) Reinstatement of a food employee who was restricted as specified in subsection [(b)(9)] (b)(10) and was exposed to one of the following pathogens as specified in subsection (a)(1)(D) or (E):
- (A) Norovirus and one of the following conditions is met:
 - (i) More than forty-eight hours have passed since the last day the food employee was potentially exposed; or
 - (ii) More than forty-eight hours have passed since the food employee's household contact became asymptomatic;
 - (B) Shigella spp. or [Enterohemorrhagic or] Shiga toxin producing Escherichia Coli and one of the following conditions is met:
 - (i) More than three calendar days have passed since the last day the food employee was potentially exposed; or
 - (ii) More than three calendar days have passed since the food employee's household contact became asymptomatic;
 - (C) S. Typhi and one of the following conditions is met:
 - (i) More than fourteen calendar days have passed since the last day the food employee was potentially exposed; or

- (ii) More than fourteen calendar days have passed since the food employee's household contact became asymptomatic.
- (D) Hepatitis A virus and one of the following conditions is met:
 - (i) The food employee is immune to hepatitis A virus infection because of a prior illness from hepatitis A;
 - (ii) The food employee is immune to hepatitis A virus infection because of vaccination against hepatitis A;
 - (iii) The food employee is immune to hepatitis A virus infection because of IgG administration;
 - (iv) More than thirty calendar days have passed since the last day the food employee was potentially exposed;
 - (v) More than thirty calendar days have passed since the food employee's household contact became jaundiced; or
 - (vi) The food employee does not use an alternative procedure that allows bare hand contact with ready-to-eat food until at least thirty calendar days after the potential exposure, as specified in subsection [(c) (9) (D) (iv) and (v),] (c) (10) (D) (iv) and (v), and the food employee receives additional training about hepatitis A symptoms and preventing the transmission of infection, proper handwashing procedures, and protecting ready-to-eat food from contamination introduced by bare hand contact. [Eff 2/24/2014; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-22 Personal cleanliness. (a) Food employees shall keep their hands and exposed portions of their arms clean.

- (b) Cleaning procedure.
 - (1) Except as specified in paragraph (4), food employees shall clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands or arms for at least

- twenty seconds, using a cleaning compound in a handwashing sink that is equipped as specified in sections 11-50-61(c) and 11-50-72(a) to (f);
- (2) Food employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands and arms:
 - (A) Rinse under clean, running water;
 - (B) Apply an amount of cleaning compound recommended by the cleaning compound manufacturer;
 - (C) Rub together vigorously for at least ten to fifteen seconds while:
 - (i) Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure;
 - (ii) Creating friction on the surfaces of the hands and arms or surrogate prosthetic devices for hands and arms, finger tips, and areas between the fingers;
 - (D) Thoroughly rinse under clean, running water; and
 - (E) Immediately follow the cleaning procedure with thorough drying using a method as specified in section 11-50-72(c);
 - (3) To avoid recontaminating their hands or surrogate prosthetic devices, food employees may use disposable paper towels or similar clean barriers when touching surfaces such as manually operated faucet handles on a handwashing sink or the handle of a restroom door;
 - (4) If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands or surrogate prosthetic devices.
 - (c) Food employees shall clean their hands and exposed portions of their arms as specified in [section 11-50-22(b)] subsection (b) immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles and:

- (1) After touching bare human body parts other than clean hands and clean, exposed portions of arms;
- (2) After using the toilet room;
- (3) After caring for or handling service animals or aquatic animals as specified in section 11-50-23(d) (2);
- (4) Except as specified in section 11-50-23(a) (2), after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;
- (5) After handling soiled equipment or utensils;
- (6) During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;
- (7) When switching between working with raw food and working with ready-to-eat food;
- (8) Before donning gloves [for] to initiate a task that involves working with food; and
- (9) After engaging in other activities that contaminate the hands.

(d) Food employees shall clean their hands in a handwashing sink or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation or warewashing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

(e) Hand antiseptics.

(1) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:

(A) Comply with one of the following:

(i) Be an approved drug that is listed in the FDA publication "Approved Drug Products with Therapeutic Equivalence Evaluations" as an approved drug based on safety and effectiveness; or

(ii) Have active antimicrobial ingredients that are listed in the FDA monograph for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash;

(B) [Comply with one of the following:] Consist only of components which the intended use of each complies with one of the following:

(i) [Have components that are exempted from the requirement of being listed in federal food additive regulations]

- A threshold of regulation exemption as specified in 21 CFR 170.39, entitled "Threshold of regulation for substances used in food-contact articles";
- (ii) Comply with and be listed in 21 CFR 178, entitled "Indirect food additives: adjuvants, production aids, and sanitizers" as regulated for use as a food additive with conditions of safe use; or
 - (iii) [Comply with and be listed in] A determination of generally recognized as safe (GRAS). Partial listings of substances with food uses that are GRAS may be found in 21 CFR 182, entitled "Substances generally recognized as safe", 21 CFR 184, entitled "Direct food substances affirmed as generally recognized as safe", or 21 CFR 186, entitled "Indirect food substances affirmed as generally recognized as safe", for use in contact with food[; and], and in FDA's Inventory of GRAS Notices, or
 - (iv) A prior sanction listed in 21 CFR 181, entitled "Prior Sanctioned Food Ingredients," and
- (C) Be applied only to hands that are cleaned as specified in subsection (b);
- (2) If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified in paragraph (1)(B), use shall be:
- (A) Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; or
 - (B) Limited to situations that involve no direct contact with food by the bare hands;
- (3) A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least one hundred milligrams per liter of chlorine.
- (f) Fingernails maintenance.

- (1) Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough;
- (2) Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails when working with exposed food.

(g) Except for a plain ring such as a wedding band, while preparing food, food employees may not wear jewelry including medical information jewelry on their arms and hands.

(h) Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles. [Eff 2/24/2014; am and comp] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-50-23 Hygienic practices. (a) Eating, drinking, or using tobacco.

- (1) Except as specified in paragraph (2), an employee shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; or other items needing protection cannot result;
- (2) A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:
 - (A) The employee's hands;
 - (B) The container; and
 - (C) Exposed food, clean equipment, utensils, linens, unwrapped single-service, and single-use articles.

(b) Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

(c) Hair restraints effectiveness.

- (1) Except as provided in paragraph (2), food employees may be required to wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep

- their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles;
- (2) This section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.
- (d) Animals handling prohibition.
- (1) Except as specified in paragraph (2), food employees may not care for or handle animals that may be present such as patrol dogs, service animals, or pets that are allowed as specified in section 11-50-74(o)(2)(B) to (E);
- (2) Food employees with service animals may handle or care for their service animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if they wash their hands as specified in section 11-50-22(b) and (c)(3). [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-24 to 11-50-29 (Reserved).

SUBCHAPTER 3

FOOD

§11-50-30 Characteristics. Food shall be safe, unadulterated, and, as specified in section 11-50-35(b), honestly presented. [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-31 Source, specifications for receiving, original containers and records. (a) Compliance with food law.

- (1) Food shall be obtained from sources that comply with law;
- (2) Food prepared in a private home may not be used or offered for human consumption in a food establishment;

- [(3) Packaged food shall be labeled as specified in law, including 21 CFR 101, entitled "Food labeling"; 9 CFR 317, entitled "Labeling, marking devices, and containers", and 9 CFR 381 Subpart N entitled "Labeling and containers", and as specified in subsections (n) and (o);
- (4)] (3) Fish, other than those specified in section 11-50-33(e) (2), that are intended for consumption in raw or undercooked form and allowed as specified in section 11-50-33(a) (4), may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified in section 11-50-33(e); or if they are frozen on the premises as specified in section 11-50-33(e) and records are retained as specified in section 11-50-33(f);
- [(5)] (4) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in section 11-50-33(a) (3) shall be:
- (A) Obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them, to indicate that the steaks meet the definition of whole-muscle, intact beef; or
 - (B) Deemed acceptable by the director based on other evidence, such as written buyer specifications or invoices, that indicates that the steaks meet the definition of whole-muscle, intact beef; and
 - (C) If individually cut in a food establishment:
 - (i) Cut from whole-muscle intact beef that is labeled by a food processing plant as specified in subparagraph (A) or identified as specified in subparagraph (B);
 - (ii) Prepared so they remain intact; and
 - (iii) If packaged for undercooking in a food establishment, labeled as specified in subparagraph (A) or identified as specified in subparagraph (B).
- [(6)] (5) Meat and poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for consumption, shall be labeled to include safe handling

instructions as specified in law, including 9 CFR 317.2(1) and 9 CFR 381.125(b);

[(7)](6) Eggs that have not been specifically treated to destroy all viable Salmonellae shall be labeled to include safe handling instructions as specified in law, including 21 CFR 101.17(h).

(b) Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

(c) Fluid milk and milk products shall be obtained from sources that comply with Grade A Standards as specified in law.

(d) Fish.

(1) Fish that are received for sale or service shall be:

(A) Commercially and legally caught or harvested; or

(B) Approved for sale or service;

(2) Molluscan shellfish that are recreationally caught may not be received for sale or service.

(e) Molluscan shellfish.

(1) Molluscan shellfish shall be obtained from sources according to law or the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish;

(2) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

(f) Wild mushrooms.

(1) Except as specified in paragraph (2), mushroom species picked in the wild shall [be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert;] not be offered for sale or service by a food establishment unless the food establishment has been approved to do so by the department;

(2) This section does not apply to:

(A) Cultivated wild mushroom species that are grown, harvested, and processed in an

- operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or
- (B) Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.
- (g) Game animals. If game animals are received for sale or service they shall be:
- (1) Commercially raised for food and:
 - (A) Raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction; or
 - (B) Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction; and
 - (C) Raised, slaughtered, and processed according to:
 - (i) Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program; and
 - (ii) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee;
 - (2) Under a voluntary inspection program administered by the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR 352, entitled "Exotic animals and horses; voluntary inspection" or rabbits that are "inspected and certified" in accordance with 9 CFR 354, entitled "Voluntary inspection of rabbits and edible products thereof";

- (3) As allowed by law, for wild game animals that are live caught:
 - (A) Under a routine inspection program conducted by a regulatory agency such as the agency that has animal health jurisdiction; and
 - (B) Slaughtered and processed according to:
 - (i) Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program; and
 - (ii) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee; or
- (4) As allowed by law, for field-dressed wild game animals under a routine inspection program that ensures the animals:
 - (A) Receive a postmortem examination by an approved veterinarian or veterinarian's designee; or
 - (B) Are field-dressed and transported according to requirements specified by the agency that has animal health jurisdiction and the agency that conducts the inspection program; and
 - (C) Are processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program.
- (h) Temperature when received.
- (1) Except as specified in paragraph (2), refrigerated, potentially hazardous food (time/temperature control for safety food) shall be at a temperature of forty-one degrees Fahrenheit or below when received;
- (2) If a temperature other than forty-one degrees Fahrenheit for a potentially hazardous food (time/temperature control for safety food) is

specified in law governing its distribution, such as laws governing milk and molluscan shellfish, the food may be received at the specified temperature;

- (3) Raw eggs shall be received in refrigerated equipment that maintains an ambient air temperature of forty-five degrees Fahrenheit or less;
- (4) Potentially hazardous food (time/temperature control for safety food) that is cooked to a temperature and for a time specified in section 11-50-33(a) to (c) and received hot shall be at a temperature of one hundred thirty-five degrees Fahrenheit or above;
- (5) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen;
- (6) Upon receipt, potentially hazardous food (time/temperature control for safety food) shall be free of evidence of previous temperature abuse.
 - (i) Food may not contain unapproved food additives or additives that:
 - (1) Exceed amounts specified in 21 CFR 170-180 relating to food additives;
 - (2) Generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR 181-186;
 - (3) Substances that exceed amounts specified in 9 CFR Subpart C Section 424.21(b), entitled "Food ingredients and sources of radiation"; or
 - (4) Pesticide residues that exceed provisions specified in 40 CFR 180, entitled "Tolerances and exceptions for pesticide chemical residues in food".
 - (j) Eggs shall be received clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by the Agricultural Marketing Service of USDA.
 - (k) Eggs and milk products, pasteurized.
 - (1) Egg products shall be obtained pasteurized;
 - (2) Fluid and dry milk and milk products shall:
 - (A) Be obtained pasteurized; and
 - (B) Comply with Grade A Standards as specified in law;

- (3) Frozen milk products, such as ice cream, shall be obtained pasteurized as specified in 21 CFR 135, entitled "Frozen desserts".
- (4) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified in the CFR, such as 21 CFR 133, entitled "Cheeses and related cheese products", for curing certain cheese varieties.
 - (1) Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.
 - (m) Ice for use as a food or a cooling medium shall be made from drinking water.
 - (n) Shucked shellfish, packaging and identification.
 - (1) Raw shucked shellfish shall be obtained in nonreturnable packages which bear a legible label that identifies the:
 - (A) Name, address, and certification number of the shucker, packer, or repacker of the molluscan shellfish; and
 - (B) The "sell by" or "best if used by" date for packages with a capacity of less than one-half gallon or the date shucked for packages with a capacity of one-half gallon or more;
 - (2) A package of raw shucked shellfish that does not bear a label or which bears a label which does not contain all the information as specified in paragraph (1) shall be subject to a hold order, as allowed by law, or seizure and destruction.
 - (o) Shellstock identification.
 - (1) Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or dealer that depurates, ships, or reships the shellstock, as specified in state rules or the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, and:
 - (A) Except as specified in paragraph (3), the harvester's tag or label shall list the following information in the following order:
 - (i) The harvester's identification number that is assigned by the shellfish control authority;
 - (ii) The date of harvesting;

- (iii) The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested;
 - (iv) The type and quantity of shellfish; and
 - (v) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty or retagged and thereafter kept on file for 90 days"; and
- (B) Except as specified in paragraph (4), each dealer's tag or label shall list the following information in the following order:
- (i) The dealer's name and address, and the certification number assigned by the shellfish control authority;
 - (ii) The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested;
 - (iii) The same information as specified for a harvester's tag in subparagraph (A)(ii) to (iv); and
 - (iv) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty and thereafter kept on file for 90 days";
- (2) A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified in paragraph (1) shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D, entitled "Specific administrative decisions regarding interstate shipments", Section 1240.60(d);

- (3) If a space is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information shall be listed first;
- (4) If the harvester's tag or label is designed to accommodate each dealer's identification as specified in paragraph (1)(B)(i) and (ii), individual dealer tags or labels need not be provided.

(p) When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

(q) Juice treated. Pre-packaged juice shall:

- (1) Be obtained from a processor with a HACCP system as specified in 21 CFR Part 120, entitled "Hazard analysis and critical control (HACCP) systems"; and

- (2) Be obtained pasteurized or otherwise treated to attain a five-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR Part 120.24, entitled "Process Controls".

(r) Molluscan shellfish, original container.

- (1) Except as specified in paragraphs (2) to (4), molluscan shellfish may not be removed from the container in which they are received other than immediately before sale or preparation for service;
- (2) For display purposes, shellstock may be removed from the container in which they are received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:
 - (A) The source of the shellstock on display is identified as specified in subsection (o) and recorded as specified in subsection (s); and
 - (B) The shellstock are protected from contamination;
- (3) Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:

- (A) The labeling information for the shellfish on display as specified in subsection (n) is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and
 - (B) The shellfish are protected from contamination;
- (4) Shucked shellfish may be removed from the container in which they were received and repacked in consumer self service containers where allowed by law if:
- (A) The labeling information for the shellfish is on each consumer self service container as specified in subsection (n) and section 11-50-35(c)(1) and (2)(A) to [(E);] (D);
 - (B) The labeling information as specified in subsection (n) is retained and correlated with the date when, or dates during which, the shellfish are sold or served;
 - (C) The labeling information and dates specified in subparagraph (B) are maintained for ninety days; and
 - (D) The shellfish are protected from contamination.
- (s) Shellstock, maintaining identification.
- (1) Except as specified in paragraph (3)(B), shellstock tags or labels shall remain attached to the container in which the shellstock are received until the container is empty;
 - (2) The date when the last shellstock from the container is sold or served shall be recorded on the tag or label;
 - (3) The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for ninety calendar days from the date that is recorded on the tag or label, as specified in paragraph (2), by:
 - (A) Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date that is recorded on the tag or label, as specified in paragraph (2); and
 - (B) If shellstock are removed from its tagged or labeled container:

- (i) Preserving source identification by using a record keeping system as specified in subparagraph (A); and
 - (ii) Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different certification numbers; different harvest dates; or different growing areas as identified on the tag or label before being ordered by the consumer. [Eff 2/24/2014; am and comp] (Auth: HRS §321-11)
- (Imp: HRS §321-11)

§11-50-32 Protection from contamination after receiving. (a) Preventing contamination from hands.

- (1) Food employees shall wash their hands as specified in section 11-50-22(b);
- (2) Except when washing fruits and vegetables as specified in subsection (g) or as specified in paragraph (4), food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment;
- (3) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form;
- (4) Paragraph (2) does not apply to a food employee that contacts exposed, ready-to-eat food with bare hands at the time the ready-to-eat food is being added as an ingredient to a food that:
 - (A) Contains a raw animal food and is to be cooked in the food establishment to heat all parts of the food to the minimum temperature specified in section 11-50-33(a)(1)-(2) or 11-50-33(b); or
 - (B) Does not contain a raw animal food but is to be cooked in the food establishment to heat all parts of the food to a temperature of one hundred forty-five degrees Fahrenheit.

- [(4)] (5) Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if:
- (A) The permit holder obtains prior approval from the department;
 - (B) Written procedures are maintained in the food establishment and made available to the department upon request that include:
 - (i) For each bare hand contact procedure, a listing of the specific ready-to-eat foods that are touched by bare hands;
 - (ii) Diagrams and other information showing that handwashing facilities, installed, located, equipped, and maintained as specified in sections 11-50-61(g), (l), (o) and 11-50-72(b), (c), and (e), are in an easily accessible location and in close proximity to the work station where the bare hand contact procedure is conducted;
 - (C) A written employee health policy that details how the food establishment complies with section 11-50-21(a), (b), and (c) including:
 - (i) Documentation that food employees and conditional employees acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through food as specified in section 11-50-21(a)(1);
 - (ii) Documentation that food employees and conditional employees acknowledge their responsibilities as specified in section 11-50-21(a)(5); and
 - (iii) Documentation that the person in charge acknowledges the responsibilities as specified in section 11-50-21(a)(2) to (4), (b), and (c);
 - (D) Documentation that food employees acknowledge that they have received training in:

- (i) The risks of contacting the specific ready-to-eat foods with bare hands;
 - (ii) Proper handwashing as specified in section 11-50-22(b);
 - (iii) When to wash their hands as specified in section 11-50-22(c);
 - (iv) Where to wash their hands as specified in section 11-50 22(d);
 - (v) Proper fingernail maintenance as specified in section 11-50-22(f);
 - (vi) Prohibition of jewelry as specified in section 11-50-22(g); and
 - (vii) Good hygienic practices as specified in section 11-50-23(a) and (b);
- (E) Documentation that hands are washed before food preparation and as necessary to prevent cross contamination by food employees as specified in section 11-50-22(a), (b), (c), and (d) during all hours of operation when the specific ready-to-eat foods are prepared;
- (F) Documentation that food employees contacting ready-to-eat food with bare hands use two or more of the following control measures to provide additional safeguards to hazards associated with bare hand contact:
- (i) Double handwashing;
 - (ii) Nail brushes;
 - (iii) A hand antiseptic after handwashing as specified in section 11-50-22(e);
 - (iv) Incentive programs such as paid sick leave that assist or encourage food employees not to work when they are ill; or
 - (v) Other control measures approved by the [department;] director; and
- (G) Documentation that corrective action is taken when subparagraphs (A) to (F) are not followed.
- (b) A food employee may not use a utensil more than once to taste food that is to be sold or served.
- (c) Packaged and unpackaged food - separation, packaging, and segregation.
- (1) Food shall be protected from cross contamination by:

- (A) Except as specified in clause (iii), separating raw animal foods during storage, preparation, holding, and display from:
 - (i) Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as fruits and vegetables; and
 - (ii) Cooked ready-to-eat food;
 - (iii) Frozen, commercially processed and packaged raw animal food may be stored or displayed with or above frozen, commercially processed and packaged, ready-to eat food;
- (B) Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:
 - (i) Using separate equipment for each type;
 - (ii) Arranging each type of food in equipment so that cross contamination of one type with another is prevented; or
 - (iii) Preparing each type of food at different times or in separate areas;
- (C) Cleaning equipment and utensils as specified in section 11-50-50(b)(1) and sanitizing as specified in section 11-50-51(c);
- (D) Except as specified in section 11-50-34(e)(2)(B) and in paragraph (2), storing the food in packages, covered containers, or wrappings;
- (E) Cleaning hermetically sealed containers of food of visible soil before opening;
- (F) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;
- (G) Storing damaged, spoiled, or recalled food being held in the food establishment as specified in section [11-50-73 (c);] 11-50-73(c); and

- (H) Separating fruits and vegetables, before they are washed as specified in subsection (g) from ready-to-eat food;
- (2) Paragraph (1)(D) does not apply to:
 - (A) Whole, uncut, raw fruits and vegetables and nuts in the shell, that requires peeling or hulling before consumption;
 - (B) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;
 - (C) Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;
 - (D) Food being cooled as specified in section 11-50-34(e)(2)(B); or
 - (E) Shellstock.

(d) Except for containers holding food that can be readily and unmistakably recognized, such as dry pasta, working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the food.

(e) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not:

- (1) Cooked as specified in section 11-50-33(a)(1)(A) or (B); or
- (2) Included in section 11-50-33(a)(4).
- (f) Protection from unapproved additives.
 - (1) Food shall be protected from contamination that may result from the addition of, as specified in section 11-50-31(i):
 - (A) Unsafe or unapproved food or color additives; and
 - (B) Unsafe or unapproved levels of approved food and color additives;
 - (2) A food employee may not:
 - (A) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1; or

- (B) Except for grapes, serve or sell food specified in subparagraph (A) that is treated with sulfiting agents before receipt by the food establishment.
- (g) Washing fruits and vegetables.
 - (1) Except as specified in paragraph (2) and except for whole, raw fruits and vegetables that are intended for washing by the consumer before consumption, raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form;
 - (2) Fruits and vegetables may be washed by using chemicals as specified in section 11-50-81(f).
- (h) After use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice may not be used as food.
 - (i) Storage or display of food in contact with water or ice.
 - (1) Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water;
 - (2) Except as specified in paragraphs (3) and (4), unpackaged food may not be stored in direct contact with undrained ice;
 - (3) Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water;
 - (4) Raw poultry and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.
- (j) Food shall only contact surfaces of:
 - (1) Equipment and utensils that are cleaned as specified in section 11-50-50 and sanitized as specified in section 11-50-51; or
 - (2) Single-service and single-use articles[.]; or
 - (3) Linens, such as cloth napkins, as specified in subsection (1) that are laundered as specified in section 11-50-52.

(k) During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored:

- (1) Except as specified in paragraph (2), in the food with their handles above the top of the food and the container;
- (2) In food that is not potentially hazardous (time/temperature control for safety food) with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;
- (3) On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified in sections 11-50-50(b) and 11-50-51(b);
- (4) In running water of sufficient velocity to flush particulates to the drain, if used with moist food such as ice cream or mashed potatoes;
- (5) In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous (time/temperature control for safety food);
- (6) In a container of water if the water is maintained at a temperature of at least one hundred thirty-five degrees Fahrenheit and the container is cleaned at a frequency specified in section 11-50-50(b)(4)(G); or
- (7) In any other manner approved by the department.

(1) Linens [and napkins], such as cloth napkins, may not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.

(m) Wiping cloths, use limitation.

- (1) Cloths in-use for wiping food spills from tableware and carry-out containers that occur as food is being served shall be:
 - (A) Maintained dry; and
 - (B) Used for no other purpose;
- (2) Cloths in-use for wiping counters and other equipment surfaces shall be:
 - (A) Held between uses in a chemical sanitizer solution at a concentration specified in section 11-50-49(m); and

- (B) Laundered daily as specified in section 11-50-52(b)(4);
- (3) Cloths in-use for wiping surfaces in contact with raw animal foods shall be kept separate from cloths used for other purposes;
- (4) Dry wiping cloths and the chemical sanitizing solutions specified in paragraph (2)(A) in which wet wiping cloths are held between uses shall be free of food debris and visible soil;
- (5) Containers of chemical sanitizing solutions specified in paragraph (2)(A) in which wet wiping cloths are held between uses shall be stored off the floor and used in a manner that prevents contamination of food, equipment, utensils, linens, single-service, or single-use articles;
- (6) Single-use disposable sanitizer wipes shall be used in accordance with EPA approved manufacturer's label use instructions.
- (n) Gloves, use limitation.
 - (1) If used, single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation;
 - (2) Except as specified in paragraph (3), slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified in section 11-50-33 such as frozen food or a primal cut of meat;
 - (3) Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove;
 - (4) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required in section 11-50-33 such as frozen food or a primal cut of meat.
- (o) Using clean tableware for second portions and refills.
 - (1) Except for refilling a consumer's drinking cup or container without contact between the pouring

- utensil and the lip-contact area of the drinking cup or container, food employees may not use tableware, including single-service articles, soiled by the consumer, to provide second portions or refills;
- (2) Except as specified in paragraph (3), self-service consumers may not be allowed to use soiled tableware, including single-service articles, to obtain additional food from the display and serving equipment;
- (3) Drinking cups and containers may be reused by self-service consumers if refilling is a contamination-free process as specified in section 11-50-46(p) (1), (2), and (4).
- (p) Refilling returnables.
- [(1) A take-home food container returned to a food establishment may not be refilled at a food establishment with a potentially hazardous food (time/temperature control for safety food);
- (2) Except as specified in paragraph (3), a take-home food container refilled with food that is not potentially hazardous (time/temperature control for safety food) shall be cleaned as specified in section 11-50-50(k) (2);
- (3) Personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified in section 11-50-46(p) (1), (2), and (4).] (1) Except as specified in paragraphs (2)-(5) of this section, empty containers returned to a food establishment for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant.
- (2) A take-home food container returned to a food establishment may be filled at a food establishment with food if the food container is:
- (A) Designed and constructed for reuse and in accordance with the requirements specified under sections 11-50-45 and 11-50-46.
- (B) One that is initially provided by the food establishment to the consumer, either empty or filled with food by the food establishment, for the purpose of being returned for reuse;

- (C) Returned to the food establishment by the consumer after use;
 - (D) Subject to the following steps before being refilled with food:
 - (i) Cleaned as specified under section 11-50-50,
 - (ii) Sanitized as specified under section 11-50-51, and
 - (iii) Visually inspected by a food employee to verify that the container, as returned, meets the requirements specified under sections 11-50-45 and 11-50-46.
- (3) A take-home food container returned to a food establishment may be refilled at a food establishment with beverage if:
- (A) The beverage is not a potentially hazardous food;
 - (B) The design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the food establishment;
 - (C) Facilities for rinsing before refilling returned container with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;
 - (D) The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and
 - (E) The container is refilled by:
 - (i) An employee of the food establishment,
or
 - (ii) The owner of the container if the beverage system includes a contamination-free transfer process as specified under section 11-50-46(p)(1), (2), and (4) that cannot be bypassed by the container owner.
- (4) Consumer-owned, personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free

process as specified under section 11-50-46(p) (1), (2), and (4).

(5) Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

(q) Food storage.

(1) Except as specified in paragraphs (2) and (3), food shall be protected from contamination by storing the food:

(A) In a clean, dry location;

(B) Where it is not exposed to splash, dust, or other contamination; and

(C) At least six inches above the floor;

(2) Food in packages and working containers may be stored less than six inches above the floor on case lot handling equipment as specified in section 11-50-46(ii);

(3) Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

(r) Food may not be stored:

(1) In locker rooms;

(2) In toilet rooms;

(3) In dressing rooms;

(4) In garbage rooms;

(5) In mechanical rooms;

(6) Under sewer lines that are not shielded to intercept potential drips;

(7) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;

(8) Under open stairwells; or

(9) Under other sources of contamination.

(s) Potentially hazardous food (time/temperature

control for safety food) dispensed through a vending machine shall be in the package in which it was placed at the food establishment or food processing plant at which it was prepared.

(t) During preparation, unpackaged food shall be protected from environmental sources of contamination.

(u) Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by

the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means.

- (v) Condiments, protection.
 - (1) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions;
 - (2) Condiments at a vending machine location shall be in individual packages or provided in dispensers that are filled at an approved location, such as the food establishment that provides food to the vending machine location, a food processing plant that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the vending machine location.
- (w) Consumer self-service operations.
 - (1) Raw, unpackaged animal food, such as beef, lamb, pork, poultry, and fish may not be offered for consumer self-service. This paragraph does not apply to:
 - (A) Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi, sashimi, poke, or raw shellfish;
 - (B) Ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue or yakiniku;
 - (C) Raw, shell-on shrimp, or crustacean; or
 - (D) Raw, whole, unprocessed fish that are naturally protected from contamination by a shell or skin;
 - (2) Consumer self-service operations shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination;
 - (3) Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures.
- (x) When food sample demonstrations and food promotions are authorized in the establishment, the person

in charge shall ensure that those activities comply with the applicable sanitation provisions of this chapter.

- (y) Returned food and re-service of food.
- (1) Except as specified in paragraph (2), after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer may not be offered as food for human consumption;
- (2) Except as specified in section 11-50-37(a)(7), a container of food that is not potentially hazardous (time/temperature control for safety food) may be re-served from one consumer to another if:
 - (A) The food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine; or
 - (B) The food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.
- (z) Food shall be protected from contamination that may result from a factor or source not specified in subsections (a) to (y). [Eff 2/24/2014; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-33 Destruction of organisms of public health concern.

- (a) Cooking raw animal foods.
- (1) Except as specified in paragraphs (2), (3) and (4), raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods, shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:
 - (A) One hundred forty-five degrees Fahrenheit or above for fifteen seconds for:
 - (i) Raw eggs that are broken and prepared in response to a consumer's order and for immediate service; and
 - (ii) Except as specified in subparagraphs (B) and (C) and paragraphs (2) and (3), fish and meat including game animals commercially raised for food as specified in section

11-50-31(g) (1) (A) and game animals under a voluntary inspection program as specified in section 11-50-31(g) (1) (B);

- (B) One hundred fifty-five degrees Fahrenheit for fifteen seconds or the temperature specified in Table 33-1 that corresponds to the holding time for ratites, mechanically tenderized, and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food as specified in section 11-50-31(g) (1) (A), and game animals in a voluntary inspection program as specified in section 11-50-31(g) (1) (B); and raw eggs that are not prepared as specified in subparagraph (A) (i):

Table 33-1

Temperature	Minimum
	Time
145°F	3 minutes
150°F	1 minute
158°F	<1 second (instantaneous)

; or

- (C) One hundred sixty-five degrees Fahrenheit or above for fifteen seconds for poultry, baluts, wild game animals as specified in section 11-50-31(g) (1) (C), stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites;
- (2) Whole meat roasts including beef, corned beef, lamb, pork, and cured pork roasts such as ham shall be cooked:
- (A) In an oven that is preheated to the temperature specified for the roast's weight in Table 33-2 and that is held at that temperature:

Table 33-2

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 10 lbs	10 lbs or More
Still Dry	350°F or more	250°F or more
Convection	325°F or more	250°F or more

High Humidity ¹	250°F or less	250°F or less
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¹Relative humidity greater than ninety per cent for at least one hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides one hundred per cent humidity.

- (B) ; and
As specified in Table 33-3, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature:

Table 33-3

Temperature	Time ¹ in Minutes	Temperature	Time ¹ in Seconds
130°F	112	147°F	134
131°F	89	149°F	85
133°F	56	151°F	54
135°F	36	153°F	34
136°F	28	155°F	22
138°F	18	157°F	14
140°F	12	158°F	0
142°F	8	-	-
144°F	5	-	-
145°F	4	-	-

¹Holding time may include post-oven heat rise.

- (3) A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:
- (A) The food establishment serves a population that is not a highly susceptible population;
 - (B) The steak is labeled to indicate that it meets the definition of "whole-muscle, intact beef" as specified in section 11-50-31(a)(5); and
 - (C) The steak is cooked on both the top and bottom to a surface temperature of one

- hundred forty-five degrees Fahrenheit or above and a cooked color change is achieved on all external surfaces;
- (4) A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare; or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in paragraph (3), may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:
- (A) As specified in section 11-50-37(a) (3) (A) and (B), the food establishment serves a population that is not a highly susceptible population;
 - (B) The food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat; and
 - (C) The consumer is informed as specified in section 11-50-35(e) that to ensure its safety, the food should be cooked as specified in paragraph (1) or (2); or
 - (D) The department grants a variance from paragraph (1) or (2) as specified in section 11-50-13(a) based on a HACCP plan that:
 - (i) Is submitted by the permit holder and approved as specified in section 11-50-13(b);
 - (ii) Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food; and
 - (iii) Verifies that equipment and procedures for food preparation and training of food employees at the food establishment meet the conditions of the variance.
- (b) Raw animal foods cooked in a microwave oven shall be:
- (1) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
 - (2) Covered to retain surface moisture;

- (3) Heated to a temperature of at least one hundred sixty-five degrees Fahrenheit in all parts of the food; and
 - (4) Allowed to stand covered for two minutes after cooking to obtain temperature equilibrium.
- (c) Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of one hundred thirty-five degrees Fahrenheit.
- (d) Raw animal foods that are cooked using a non-continuous cooking process shall be:
- (1) Subject to an initial heating process that is no longer than sixty minutes in duration;
 - (2) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked potentially hazardous food (time/temperature control for safety food) in section 11-50-34(d)(1);
 - (3) After cooling, held frozen or cold, as specified for potentially hazardous food (time/temperature control for safety food) in section 11-50-34(f)(1)(B);
 - (4) Prior to sale or service, cooked using a process that heats all parts of the food to a temperature [of at least one hundred sixty-five degrees Fahrenheit for fifteen seconds;] and for a time as specified under section 11-50-33(a)(1)-(3);
 - (5) Cooled according to the time and temperature parameters specified for cooked potentially hazardous food (time/temperature control for safety food) in section 11-50-34(d)(1) if not either hot held as specified in section 11-50-34(f)(1), served immediately, or held using time as a public health control as specified in section 11-50-34(i) after complete cooking; and
 - (6) Prepared and stored according to written procedures that:
 - (A) Have obtained prior approval from the department;
 - (B) Are maintained in the food establishment and are available to the [department] director upon request;
 - (C) Describe how the requirements specified in paragraphs (1) to (5) are to be monitored and documented by the permit holder and the corrective actions to be taken if the requirements are not met;

- (D) Describe how the foods, after initial heating, but prior to complete cooking, are to be marked or otherwise identified as foods that must be cooked as specified in paragraph (4) prior to being offered for sale or service; and
 - (E) Describe how the foods, after initial heating but prior to cooking as specified in paragraph (4), are to be separated from ready-to-eat foods as specified in section 11-50-32(c) (1).
- (e) Parasite destruction.
- (1) Except as specified in paragraph (2), before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish shall be:
 - (A) Frozen and stored at a temperature of minus four degrees Fahrenheit or below for a minimum of one hundred sixty-eight hours (seven days) in a freezer;
 - (B) Frozen at minus thirty-one degrees Fahrenheit or below until solid and stored at minus thirty-one degrees Fahrenheit or below for a minimum of fifteen hours; or
 - (C) Frozen at minus thirty-one degrees Fahrenheit or below until solid and stored at minus four degrees Fahrenheit or below for a minimum of twenty-four hours;
 - (2) Paragraph (1) does not apply to:
 - (A) Molluscan shellfish;
 - (B) [Tuna of the species *Thunnus alalunga* (Albacore tuna), *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus* (Blackfin tuna), *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), *Thunnus thynnus* (Bluefin tuna, Northern), *Katsuwonus Pelamis* (Skipjack tuna), *Makaira nigricans* (Pacific blue marlin), *Tetrapturus audax* (Striped marlin); or] A scalloped product consisting only of the shucked adductor muscle;
 - (C) Tuna of the species *Thunnus alalunga* (Albacore tuna), *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus* (Blackfin tuna), *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye

tuna), Thunnus thynnus (Bluefin tuna, Northern), Katsuwonus Pelamis (Skipjack tuna), Makaira nigricans (Pacific blue marlin), Tetrapturus audax (Striped marlin); or

- [(C)] (D) Aquacultured fish, such as salmon, that:
- (i) If raised in open water, are raised in net-pens; or
 - (ii) Are raised in land-based operations such as ponds or tanks; and
 - (iii) Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish;
- [(D)] (E) Fish eggs that have been removed from the skein and rinsed; or
- [(E)] (F) Non-anadromous open ocean fish commonly eaten raw such as tuna, marlin, and snapper, if the required consumer advisory clearly states that consuming raw or undercooked fish that have not been adequately frozen may increase the risk of infection or injury from parasitic worms.
- (f) Records, creation and retention.
- (1) Except as specified in subsection (e) (2) and paragraph (2), if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records of the food establishment for ninety calendar days beyond the time of service or sale of the fish;
- (2) If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified in subsection (e) may substitute for the records specified in paragraph (1).
- (3) If raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and fed as specified in subsection (e) (2) (C), a written agreement or statement from the supplier or aquaculturist stipulating that

the fish were raised and fed as specified in subsection (e) (2) (C) shall be obtained by the person in charge and retained in the records of the food establishment for ninety calendar days beyond the time of service or sale of the fish;

(g) Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature.

(h) Reheating for hot holding.

(1) Except as specified in paragraphs (2), (3), and (5), potentially hazardous food (time/temperature control for safety food) that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least one hundred sixty-five degrees Fahrenheit for fifteen seconds;

(2) Except as specified in paragraph (3), potentially hazardous food (time/temperature control for safety food) reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least one hundred sixty-five degrees Fahrenheit and the food is rotated or stirred, covered, and allowed to stand covered for two minutes after reheating;

(3) Ready-to-eat food [taken from a commercially processed, hermetically sealed container, or from an intact package from] that has been commercially processed and packaged in a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least one hundred thirty-five degrees Fahrenheit for hot holding;

(4) Reheating for hot holding as specified in paragraphs (1) to (3) shall be done rapidly and the time the food is between forty-one degrees Fahrenheit and the temperatures specified in paragraphs (1) to (3) may not exceed two hours;

(5) Remaining unsliced portions of meat roasts that are cooked as specified in subsection (a) (2) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified in subsection (a) (2).

(i) Juice packaged in a food establishment shall be:

- (1) Treated under a HACCP plan as specified in section 11-50-4[(j)(2)(B)](i)(2)(B) and (E) to attain a five-log reduction, which is equal to a 99.999 per cent reduction, of the most resistant microorganism of public health significance; or
- (2) Labeled, if not treated to yield a five-log reduction of the most resistant microorganism of public health significance:
 - (A) As specified in section 11-50-35(c); and
 - (B) As specified in 21 CFR 101.17(g), juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens with the following, "Warning: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems".
[Eff 2/24/2014; am and comp
(Auth: HRS §321-11) (Imp: HRS §321-11)]

§11-50-34 Limitation of growth of organisms of public health concern. (a) Stored frozen foods shall be maintained frozen.

- (b) Frozen potentially hazardous food (time/temperature control for safety food) that is slacked to moderate the temperature shall be held:
 - (1) Under refrigeration that maintains the food temperature at forty-one degrees Fahrenheit or less;
 - (2) At any temperature if the food remains frozen.
- (c) Potentially hazardous food (time/temperature control for safety food) shall be thawed:
 - (1) Under refrigeration that maintains the food temperature at forty-one degrees Fahrenheit or less; or
 - (2) Completely submerged under running water:
 - (A) At a water temperature of seventy degrees Fahrenheit or below;
 - (B) With sufficient water velocity to agitate and float off loose particles in an overflow; and
 - (C) For a period of time that does not allow thawed portions of ready-to-eat food to rise above forty-one degrees Fahrenheit; or

- (D) For a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified in section 11-50-33(a) (1) or (2) to be above forty-one degrees Fahrenheit, for more than four hours including:
 - (i) The time the food is exposed to the running water and the time needed for preparation for cooking; or
 - (ii) The time it takes under refrigeration to lower the food temperature to forty-one degrees Fahrenheit;
- (3) As part of a cooking process if the food that is frozen is:
 - (A) Cooked as specified in section 11-50-33(a) (1), (2) or (b); or
 - (B) Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process;
- (4) Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order; or
- (5) Using any procedure that ensures the surface temperature does not exceed forty-one degrees Fahrenheit during thawing[.]; or
- (6) Reduced oxygen packaged fish that bears a label that it is to be kept frozen until time of use should be removed from the reduced oxygen environment:
 - (A) Prior to its thawing under refrigeration as specified in paragraph (1) of this section;
or
 - (B) Prior to, or immediately upon completion of, its thawing using procedures specified in paragraph (2) of this section.
- (d) Cooling.
 - (1) Cooked potentially hazardous food (time/temperature control for safety food) shall be cooled:
 - (A) Within two hours from one hundred thirty-five degrees Fahrenheit to seventy degrees Fahrenheit; and

- (B) Within a total of six hours from one hundred thirty-five degrees Fahrenheit to forty-one degrees Fahrenheit or less;
- (2) Potentially hazardous food (time/temperature control for safety food) shall be cooled within four hours to forty-one degrees Fahrenheit or less if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna;
- (3) Except as specified in paragraph (4), a potentially hazardous food (time/temperature control for safety food) received in compliance with laws allowing a temperature above forty-one degrees Fahrenheit during shipment from the supplier as specified in section 11-50-31(h) (2), shall be cooled within four hours to forty-one degrees Fahrenheit or less.
- (4) Raw eggs shall be received as specified in section 11-50-31(h) (3) and immediately placed in refrigerated equipment that maintains an ambient air temperature of forty-five degrees Fahrenheit or less;
- (e) Cooling methods.
 - (1) Cooling shall be accomplished in accordance with the time and temperature criteria specified in subsection (d) by using one or more of the following methods based on the type of food being cooled:
 - (A) Placing the food in shallow pans;
 - (B) Separating the food into smaller or thinner portions;
 - (C) Using rapid cooling equipment;
 - (D) Stirring the food in a container placed in an ice water bath;
 - (E) Using containers (such as metal and stainless steel) that facilitate heat transfer;
 - (F) Adding ice as an ingredient; or
 - (G) Other effective methods;
 - (2) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:
 - (A) Arranged in the equipment to provide maximum heat transfer through the container walls; and

- (B) Loosely covered, or uncovered if protected from overhead contamination as specified in section 11-50-32(q)(1)(B), during the cooling period to facilitate heat transfer from the surface of the food.
- (f) Potentially hazardous food (time/temperature control for safety food), hot and cold holding.
 - (1) Except during preparation, cooking, or cooling, or when time is used as the public health control as specified in subsection (i), and except as specified in paragraphs (2) and (3), potentially hazardous food (time/temperature control for safety food) shall be maintained:
 - (A) At one hundred thirty-five degrees Fahrenheit or above, except that roasts cooked to a temperature and for a time specified in section 11-50-33(a)(2) or reheated as specified in section 11-50-33(h)(5) may be held at a temperature of one hundred thirty degrees Fahrenheit or above; or
 - (B) At forty-one degrees Fahrenheit or less;
 - (2) Eggs that have not been treated to destroy all viable Salmonellae shall be stored in refrigerated equipment that maintains an ambient air temperature of forty-five degrees Fahrenheit or less;
 - (3) Potentially hazardous food (time/temperature control for safety food) in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified in paragraph (1), while contained within specially designed equipment that complies with the design and construction requirements as specified in section 11-50-46(p)(5).
- (g) Ready-to-eat, potentially hazardous food (time/temperature control for safety food), date marking.
 - (1) Except when packaging food using a reduced oxygen packaging method as specified in subsection (1), and except as specified in paragraphs (4) and (5), refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) prepared and held in a food establishment for more than twenty-four hours shall be clearly marked to indicate the date or day by which the food shall be consumed on the

- premises, sold, or discarded when held at a temperature of forty-one degrees Fahrenheit or less for a maximum of seven days;
- (2) Except as specified in paragraphs (4) to (6), refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) prepared and packaged by a food processing plant shall be clearly marked, at the time the original container is opened in a food establishment and if the food is held for more than twenty-four hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in paragraph (1) and:
- (A) The day the original container is opened in the food establishment shall be counted as day one; and
- (B) The day or date marked by the food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety;
- (3) A refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) ingredient or a portion of a refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first prepared ingredient;
- (4) A date marking system that meets the criteria stated in paragraphs (1) and (2) may include:
- (A) Using a method approved by the department for refrigerated, ready-to-eat potentially hazardous food (time/temperature control for safety food) that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;
- (B) Marking the date or day of preparation, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises,

- sold, or discarded as specified in paragraph (1);
- (C) Marking the date or day the original container is opened in a food establishment, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified in paragraph (2); or
 - (D) Using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the director upon request;
- (5) Paragraphs (1) and (2) do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request;
- (6) Paragraphs (1) and (2) do not apply to shellstock.
- [(6)](7) Paragraph (2) does not apply to the following foods prepared and packaged by a food processing plant inspected by a regulatory authority:
- (A) Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR 110, entitled "Current good manufacturing practice in manufacturing, packing, or holding human food";
 - (B) Hard cheeses containing not more than 39 per cent moisture as defined in 21 CFR 133, entitled "Cheeses and related cheese products", such as cheddar, gruyere, parmesan and reggiano, and romano;
 - (C) Semi-soft cheeses containing more than thirty-nine per cent moisture, but not more than fifty per cent moisture, as defined in 21 CFR 133, entitled "Cheeses and related cheese products", such as blue, edam, gorgonzola, gouda, and Monterey jack;
 - (D) Cultured dairy products as defined in 21 CFR 131, entitled "Milk and cream", such as yogurt, sour cream, and buttermilk;
 - (E) Preserved fish products, such as pickled herring and dried or salted cod, and other

- acidified fish products defined in 21 CFR 114, entitled "Acidified foods";
- (F) Shelf stable, dry fermented sausages, such as pepperoni and Genoa salami that are not labeled "Keep Refrigerated" as specified in 9 CFR 317 entitled "Labeling, marking devices, and containers", and which retain the original casing on the product; and
 - (G) Shelf stable salt-cured products such as prosciutto and Parma (ham) that are not labeled "Keep Refrigerated" as specified in 9 CFR 317 entitled "Labeling, marking devices, and containers".
 - (h) Ready-to-eat, potentially hazardous food (time/temperature control for safety food), disposition.
 - (1) A food specified in subsection (g) (1) or (2) shall be discarded if it:
 - (A) Exceeds the temperature and time combination specified in subsection (g) (1), except time that the product is frozen;
 - (B) Is in a container or package that does not bear a date or day; or
 - (C) Is appropriately marked with a date or day that exceeds a temperature and time combination as specified in subsection (g) (1);
 - (2) Refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) prepared in a food establishment and dispensed through a vending machine with an automatic shutoff control shall be discarded if it exceeds a temperature and time combination as specified in subsection (g) (1);
 - (i) Time as a public health control.
 - (1) Except as specified in paragraph (4), if time without temperature control is used as the public health control for a working supply of potentially hazardous food (time/temperature control for safety food) before cooking, or for ready-to-eat potentially hazardous food (time/temperature control for safety food) that is displayed or held for sale or service:
 - (A) Written procedures shall be prepared in advance, maintained in the food establishment and made available to the

[department] director upon request that specify:

- (i) Methods of compliance with paragraph (2) (A) to (C) or (3) (A) to (E); and
 - (ii) Methods of compliance with subsection (d) for food that is prepared, cooked, and refrigerated before time is used as a public health control;
- (2) If time without temperature control is used as the public health control up to a maximum of four hours:
- (A) The food shall have an initial temperature of forty-one degrees Fahrenheit or less when removed from cold holding temperature control or one hundred [thirty-one] thirty-five degrees Fahrenheit or greater when removed from hot holding temperature control;
 - (B) The food shall be marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control;
 - (C) The food shall be cooked and served, served at any temperature if ready-to-eat, or discarded, within four hours from the point in time when the food is removed from temperature control; and
 - (D) The food in unmarked containers or packages, or marked to exceed a four-hour limit shall be discarded;
- (3) If time without temperature control is used as the public health control up to a maximum of six hours:
- (A) The food shall have an initial temperature of forty-one degrees Fahrenheit or less when removed from temperature control and the food temperature may not exceed seventy degrees Fahrenheit within a maximum time period of six hours;
 - (B) The food shall be monitored to ensure the warmest portion of the food does not exceed seventy degrees Fahrenheit during the six-hour period, unless an ambient air temperature is maintained that ensures the food does not exceed seventy degrees

- Fahrenheit during the six-hour holding period;
- (C) The food shall be marked or otherwise identified to indicate:
 - (i) The time when the food is removed from forty-one degrees Fahrenheit or less cold holding temperature control; and
 - (ii) The time that is six hours past the point in time when the food is removed from cold holding temperature control;
 - (D) The food shall be:
 - (i) Discarded if the temperature of the food exceeds seventy degrees Fahrenheit; or
 - (ii) Cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of six hours from the point in time when the food is removed from forty-one degrees Fahrenheit or less cold holding temperature control; and
 - (E) The food in unmarked containers or packages, or marked with a time that exceeds the six-hour limit shall be discarded;
- (4) A food establishment that serves a highly susceptible population may not use time as specified in paragraphs (1), (2) or (3) as the public health control for raw eggs.
- (j) A food establishment shall obtain a variance from the department as specified in section 11-50-13(a) and (b) before:
- (1) Smoking food as a method of food preservation rather than as a method of flavor enhancement;
 - (2) Curing food;
 - (3) Using food additives or adding components such as vinegar:
 - (A) As a method of food preservation rather than as a method of flavor enhancement; or
 - (B) To render a food so that it is not potentially hazardous (time/temperature control for safety food);
 - (4) Packaging a potentially hazardous food using a reduced oxygen packaging method except where the growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria*

monocytogenes are controlled as specified in subsection (1);

- (5) Operating a molluscan shellfish life-support system display tank used to store or display shellfish that are offered for human consumption;
- (6) Custom processing animals that are for personal use as food and not for sale or service in a food establishment;
- (7) Preparing food by another method that is determined by the department to require a variance; or
- (8) Sprouting seeds or beans.
- (k) A food processing plant may be exempt from this variance requirement.

(1) Reduced oxygen packaging without a variance, criteria.

- (1) Except for a food establishment that obtains a variance as specified in subsection (j), a food establishment that packages potentially hazardous food (time/temperature control for safety food) using a reduced oxygen packaging method shall control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*;

- (2) [A] Except as specified in paragraph (6), a food establishment that packages potentially hazardous food (time/temperature control for safety food) using a reduced oxygen packaging method shall have a HACCP plan that contains the information specified in section 11-50-4[(j)(2)(D)] (i)(2)(D) and that:

- (A) Identifies the food to be packaged;
- (B) Except as specified in paragraphs (3) to (5), requires that the packaged food shall be maintained at forty-one degrees Fahrenheit or less and meet at least one of the following criteria:
 - (i) Has an A_w of 0.91 or less;
 - (ii) Has a pH of 4.6 or less;
 - (iii) Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 424.21, entitled "Use of food ingredients and sources of radiation," and is received in an intact package;or

- (iv) Is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables;
- (C) Describes how the package shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:
 - (i) Maintain the food at forty-one degrees Fahrenheit or below; and
 - (ii) Discard the food if within [fourteen] thirty calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;
- (D) Limits the refrigerated shelf life to no more than [fourteen] thirty calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;
- (E) Includes operational procedures that:
 - (i) Prohibit contacting ready-to-eat food with bare hands as specified in section 11-50-32(a)(2);
 - (ii) Identify a designated work area and the method by which physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination. Access to the processing equipment is limited to trained personnel familiar with the potential hazards of the operation; and
 - (iii) Delineate cleaning and sanitization procedures for food-contact surfaces; and
- (F) Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:
 - (i) Concepts required for a safe operation;
 - (ii) Equipment and facilities; and

- (iii) Procedures specified in subparagraph (E) and section 11-50-4[(j)(2)(D);] (i)(2)(D);
- (G) Is provided to the department before implementation as specified in section 11-50-4(h)(8).
- (3) Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method;
- (4) Except as specified in [paragraph (3),] paragraphs (3) and (6), a food establishment that packages potentially hazardous food using a cook-chill or sous vide process shall:
 - (A) [Implement] Provide to the department prior to implementation, a HACCP plan that contains the information as specified in section 11-50-4[(j)(2)(D);] (i)(2)(D);
 - (B) Ensure the food is:
 - (i) Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer;
 - (ii) Cooked to heat all parts of the food to a temperature and for a time as specified in section 11-50-33(a);
 - (iii) Protected from contamination before and after cooking as specified in sections 11-50-32 and 11-50-33;
 - (iv) Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking and before reaching a temperature below one hundred thirty-five degrees Fahrenheit;
 - (v) Cooled to forty-one degrees Fahrenheit in the sealed package or bag as specified in subsection (d) and subsequently cooled to thirty-four degrees Fahrenheit within forty-eight hours of reaching forty-one degrees Fahrenheit and held at that temperature until consumed or

- discarded within thirty days after the date of packaging;
- (vi) Cooled to forty-one degrees Fahrenheit in the sealed package or bag as specified in subsection (d) and subsequently [cooled to thirty-four degrees Fahrenheit within forty-eight hours of reaching forty-one degrees Fahrenheit, removed from refrigeration equipment that maintains a thirty-four degrees Fahrenheit food temperature and then held at forty-one degrees Fahrenheit or less for no more than seventy-two hours, at which time the food must be consumed or discarded;
- (vii) Cooled to forty-one degrees Fahrenheit in the sealed package or bag as specified in subsection (d) and subsequently cooled to thirty-eight degrees Fahrenheit or less within twenty-four hours of reaching forty-one degrees Fahrenheit and held there for no more than seventy-two hours from packaging, at which time the food must be consumed or discarded; or] held at forty-one degrees Fahrenheit or less for no more than seven days at which time the food must be consumed or discarded;
- [(viii)] (vii) Cooled to forty-one degrees Fahrenheit in the sealed package or bag as specified in subsection (d) and subsequently held frozen with no shelf life restriction while frozen until consumed or used;
- [(ix)] (viii) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily;
- [(x)] (ix) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and

- temperatures are monitored during transportation; and
- [(xi)] (x) Labeled with the product name and the date packaged; and
- (C) Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP plan and:
- (i) Make such records available to the director upon request; and
- (ii) Hold such records for at least six months; and
- (D) Implement written operational procedures as specified in paragraph (2)(E) and a training program as specified in paragraph (2)(F);
- (5) [A] Except as specified under paragraph (6), a food establishment that packages cheese using a reduced oxygen packaging method shall:
- (A) Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meet the Standards of Identity as specified in 21 CFR 133.150, entitled "Hard cheeses", 21 CFR 133.169, entitled "Pasteurized process cheese" or 21 CFR 133.187, entitled "Semisoft cheeses";
- (B) Have a HACCP plan that contains the information specified in section 11-50-4(j)(2)(D) and as specified in paragraphs (1)(2)(A), (C)(i), (E), and (F);
- (C) Labels the package on the principal display panel with a "use by" date that does not exceed thirty calendar days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever occurs first; and
- (D) Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within thirty calendar days of its packaging.
- (6) A HACCP Plan is not required when a food establishment uses a reduced oxygen packaging method to package potentially hazardous food,

(time/temperature control for safety food) that is always:

- (A) Labeled with the production time and date,
- (B) Held at forty-one degrees Fahrenheit or less during refrigerated storage, and
- (C) Removed from its package in the food establishment within forty-eight hours after packaging. [Eff 2/24/2014; am and comp] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-50-35 Food identity, presentation, and on-premises labeling. [(a) Packaged food shall comply with standard of identity requirements in 21 CFR 131-169 and 9 CFR 319 entitled "Definitions and standards of identity or composition", and the general requirements in 21 CFR 130, entitled "Food standards: General" and 9 CFR 319 Subpart A entitled "General".

(b)] (a) Honestly presented.

- (1) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer;
- (2) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.

[(c)] (b) Food labels.

- (1) Food packaged in a food establishment, shall be labeled as specified in law, including 21 CFR 101, entitled "Food labeling", and 9 CFR 317 entitled "Labeling, marking devices, and containers".
- (2) The director may waive the packaged food labeling requirement for, but not limited to:
 - (A) Foods manufactured in food establishments such as restaurants, bakeries, and markets, and sold only in those food establishments;
 - (B) Foods of no nutritional significance such as coffee;
 - (C) Bulk food for further processing; and
 - (D) Raw fruits, vegetables, and fish;
- (3) Label information shall include:
 - (A) The common name of the food, or absent a common name, an adequately descriptive identity statement;

- (B) If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food;
 - (C) An accurate declaration of the quantity of contents;
 - (D) The name and place of business of the manufacturer, packer, or distributor; and
 - (E) The name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient;
 - [(F) Except as exempted in the Federal Food, Drug, and Cosmetic Act section 403(Q) (3) to (5), nutrition labeling as specified in 21 CFR 101, entitled "Food labeling" and 9 CFR 317 Subpart B entitled "Nutrition labeling";
 - (G) For any salmonid fish containing canthaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin;]
- (4) Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:
- (A) The manufacturer's or processor's label that was provided with the food; or
 - (B) A card, sign, or other method of notification that includes the information specified in paragraph(2) (A) and (B);
- (5) Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:
- (A) A health, nutrient content or other claim is not made;
 - (B) There are no state or local laws requiring labeling; and
 - (C) The food is manufactured or prepared on the premises of the food establishment or at

another food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.

[(d)] (c) Other forms of information.

(1) If required by law, consumer warnings shall be provided;

(2) Food establishment or manufacturers' dating information on foods may not be concealed or altered.

(3) Homemade food products shall bear a label with the following information:

(A) A statement that reads "Made in a home kitchen not inspected by the Department of Health";

(B) The common name of the food or, if no common name exists, an adequately descriptive identity statement;

(C) If made from two or more ingredients, a list of ingredients in descending order of predominance by weight;

(D) Name and contact information of the homemade food product producer;

(4) Hand-pounded poi shall bear a label that contains the following information:

(A) A statement that reads "This hand-pounded poi was prepared in a facility not inspected by the Department of Health";

(B) Name and contact information of the producer.

[(e)] (d) Consumption of animal foods that are raw, undercooked, or not otherwise processed to eliminate pathogens.

(1) Except as specified in sections 11-50-33(a)(3) and (4)(D) and 11-50-37(a)(3), if an animal food such as beef, eggs, fish, lamb, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, as specified in paragraphs (2) and (3) using brochures, deli case or menu advisories, label

statements, table tents, placards, or other effective written means;

- (2) Disclosure shall include:
 - (A) A description of the animal-derived foods, such as "oysters on the half shell (raw oysters)", "raw-egg Caesar salad", and "hamburgers (can be cooked to order)"; or
 - (B) Identification of the animal-derived foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients;
- (3) Reminder shall include asterisking the animal-derived foods requiring disclosure to a footnote that states:
 - (A) Regarding the safety of these items, written information is available upon request;
 - (B) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness; or
 - (C) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase the risk of foodborne illness especially in consumers with certain medical conditions. [Eff 2/24/2014; am and comp] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-50-36 Contaminated food. Discarding or reconditioning unsafe, adulterated, or contaminated food.

- (1) A food that is unsafe, adulterated, or not honestly presented as specified in section 11-50-30 shall be discarded or reconditioned according to an approved procedure;
- (2) Food that is not from an approved source as specified in section 11-50-31(a) to (g) shall be discarded;
- (3) Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified in section 11-50-21(b) shall be discarded;
- (4) Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or

oral discharges, or other means shall be discarded. [Eff 2/24/2014; comp
(Auth: HRS §321-11) (Imp: HRS §321-11)

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§11-50-37 Special requirements for highly susceptible populations. (a) Foods served to a highly susceptible population:

- (1) The following criteria apply to juice:
 - (A) For the purposes of this paragraph only, children who are age nine or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible populations;
 - (B) Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label as specified in 21 CFR 101.17(g), juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens, or a packaged juice or beverage containing juice, that bears a warning label as specified in section 11-50-33(i) (2) may not be served or offered for sale; and
 - (C) Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form shall be processed under a HACCP plan that contains the information specified in section 11-50-4(j) (2) (D) to (E) and as specified in 21 CFR Part 120, entitled "Hazard Analysis and Critical Control Point (HACCP) Systems", Subpart B entitled "Pathogen reduction", 120.24 entitled "Process controls";
- (2) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of:
 - (A) Foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages; and
 - (B) Except as specified in paragraph (6), recipes in which more than one egg is broken and the eggs are combined;
- (3) The following foods may not be served or offered for sale in a ready-to-eat form:

- (A) Raw animal foods such as raw fish, raw marinated fish, raw molluscan shellfish, and steak tartare;
 - (B) A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw eggs, and meringue; and
 - (C) Raw seed sprouts;
- (4) Food employees may not contact ready-to-eat food as specified in section 11-50-32(a)(2) and (4);
 - (5) Time only, as the public health control as specified in section 11-50-34(i)(4), may not be used for raw eggs;
 - (6) Paragraph (2)(B) does not apply if:
 - (A) The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified in section 11-50-33(a)(1)(A), and served immediately, such as an omelet, soufflé, or scrambled eggs;
 - (B) The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or
 - (C) The preparation of the food is conducted under a HACCP plan that:
 - (i) Identifies the food to be prepared;
 - (ii) Prohibits contacting ready-to-eat food with bare hands;
 - (iii) Includes specifications and practices that ensure Salmonella Enteritidis growth is controlled before and after cooking, and is destroyed by cooking the eggs according to the temperature and time specified in section 11-50-33(a)(1)(B);
 - (iv) Contains the information specified in section 11-50-4(j)(2)(D) including procedures that control cross contamination of ready-to-eat food with raw eggs, and delineate cleaning and sanitization procedures for food-contact surfaces; and
 - (v) Describes the training program that ensures that the food employee responsible for the preparation of the

food understands the procedures to be used;

- (7) Except as specified in paragraph (8), food may be re-served as specified in section 11-50-32(y) (2) (A) and (B);
- (8) Food may not be re-served under the following conditions:
 - (A) Any food served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation may not be re-served to others outside;
 - (B) Packages of food from any patients, clients, or other consumers should not be re-served to persons in protective environment isolation. [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-38 to 11-50-44 (Reserved).

SUBCHAPTER 4

EQUIPMENT, UTENSILS, AND LINENS

§11-50-45 Materials for construction and repair. (a) Materials that are used in the construction of utensils and food-contact surfaces of equipment may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be:

- (1) Safe;
 - (2) Durable, corrosion-resistant, and nonabsorbent;
 - (3) Sufficient in weight and thickness to withstand repeated warewashing;
 - (4) Finished to have a smooth, easily cleanable surface; and
 - (5) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.
- (b) Cast iron, use limitation.
- (1) Except as specified in paragraphs (2) and (3), cast iron may not be used for utensils or food-contact surfaces of equipment;

- (2) Cast iron may be used as a surface for cooking;
- (3) Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.
- (c) Lead, use limitation.
- (1) Ceramic, china, and crystal utensils, and decorative utensils such as hand painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the utensil categories in Table 45-1:

Table 45-1

Utensil Category	Ceramic Article Description	Maximum Lead mg/L
Beverage mugs, cups, pitchers	Coffee mugs	0.5
Large hollowware (excluding pitchers)	Bowls > 1.16 quart	1
Small hollowware (excluding cups and mugs)	Bowls < 1.16 quart	2.0
Flat tableware	Plates, saucers	3.0

- (2) Pewter alloys containing lead in excess of 0.05 per cent may not be used as a food-contact surface;
- (3) Solder and flux containing lead in excess of 0.2 per cent may not be used as a food-contact surface.
- (d) Copper, use limitation.
- (1) Except as specified in paragraph (2), copper and copper alloys such as brass may not be used in contact with a food that has a pH below six such as vinegar, fruit juice, or wine or for a fitting

- or tubing installed between a backflow prevention device and a carbonator;
- (2) Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below six in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.
 - (e) Galvanized metal may not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food.
 - (f) Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.
 - (g) Wood, use limitation.
 - (1) Except as specified in paragraphs (2), (3), and (4), wood and wood wicker may not be used as a food-contact surface;
 - (2) Hard maple or an equivalently hard, close-grained wood may be used for:
 - (A) Cutting boards, cutting blocks, bakers' tables, and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and
 - (B) Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of two hundred thirty degrees Fahrenheit or above;
 - (3) Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used;
 - (4) If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:
 - (A) Untreated wood containers; or
 - (B) Treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.3800, entitled "Preservatives for wood".
 - (h) Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching utensils and cleaning aids.

(i) Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, nonabsorbent, and smooth material.

(j) Materials that are used to make single-service and single-use articles:

(1) May not:

(A) Allow the migration of deleterious substances; or

(B) Impart colors, odors, or tastes to food; and

(2) Shall be:

(A) Safe; and

(B) Clean. [Eff 2/24/2014; comp
(Auth: HRS §321-11) (Imp: HRS §321-11)]

§11-50-46 Design and construction. (a) Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

(b) Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

(c) Food-contact surfaces.

(1) Multiuse food-contact surfaces shall be:

(A) Smooth;

(B) Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections;

(C) Free of sharp internal angles, corners, and crevices;

(D) Finished to have smooth welds and joints; and

(E) Except as specified in paragraph (2), accessible for cleaning and inspection by one of the following methods:

(i) Without being disassembled;

(ii) By disassembling without the use of tools; or

(iii) By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel

- such as screwdrivers, pliers, open-end wrenches, and Allen wrenches;
- (2) Paragraph (1)(E) does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.
 - (d) CIP equipment.
 - (1) CIP equipment shall meet the characteristics specified in subsection (c) and shall be designed and constructed so that:
 - (A) Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces; and
 - (B) The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; and
 - (2) CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.
 - (e) Except for hot oil cooking or filtering equipment, "V" type threads may not be used on food-contact surfaces.
 - (f) Hot oil filtering equipment shall meet the characteristics specified in subsection (c) or (d) and shall be readily accessible for filter replacement and cleaning of the filter.
 - (g) Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.
 - (h) Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.
 - (i) Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning by being:
 - (1) Removable by one of the methods specified in subsection (c)(1)(E) or capable of being rotated open; and
 - (2) Removable or capable of being rotated open without unlocking equipment doors.
 - (j) Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.
 - (k) Accuracy of temperature measuring devices, food.

- (1) Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to plus or minus one degree Celsius in the intended range of use;
 - (2) Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to plus or minus two degrees Fahrenheit in the intended range of use.
- (1) Temperature measuring devices, ambient air and water.
- (1) Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to plus or minus one and one-half degrees Celsius in the intended range of use.
 - (2) Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to plus or minus three degrees Fahrenheit in the intended range of use.
- (m) Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of one pound per square inch or smaller and shall be accurate to plus or minus two pounds per square inch) in the range indicated on the manufacturer's data plate.
- (n) Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.
- (o) Equipment openings, closures and deflectors.
 - (1) A cover or lid for equipment shall overlap the opening and be sloped to drain;
 - (2) An opening located within the top of a unit of equipment that is designed for use with a cover or lid shall be flanged upward at least two-tenths of an inch;
 - (3) Except as specified in paragraph (4), fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment shall be provided with a watertight joint at the point where the item enters the equipment.
 - (4) If a watertight joint is not provided:

- (A) The piping, temperature measuring devices, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips, and dust from openings into the food; and
 - (B) The opening shall be flanged as specified in paragraph (2).
- (p) In equipment that dispenses or vends liquid food or ice in unpackaged form:
- (1) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;
 - (2) The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;
 - (3) The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:
 - (A) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or
 - (B) Available for self-service during hours when it is not under the full-time supervision of a food employee; and
 - (4) The dispensing equipment actuating lever or mechanism and filling device of beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled;
 - (5) Dispensing equipment in which potentially hazardous food (time/temperature control for safety food) in a homogenous liquid form is maintained outside of the temperature control

requirements as specified in section 11-50-34(f) (1) shall:

- (A) Be specifically designed and equipped to maintain the commercial sterility of aseptically packaged food in a homogenous liquid form for a specified duration from the time of opening the packaging within the equipment; and
- (B) Conform to the requirements for this equipment as specified in NSF/ANSI 18-2006- Manual Food and Beverage Dispensing Equipment.

(g) The dispensing compartment of a vending machine including a machine that is designed to vend prepackaged snack food that is not potentially hazardous (time/temperature control for safety food) such as chips, party mixes, and pretzels shall be equipped with a self-closing door or cover if the machine is:

- (1) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or
- (2) Available for self-service during hours when it is not under the full-time supervision of a food employee.

(r) Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces.

(s) Except for cold plates that are constructed integrally with an ice storage bin, beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice.

(t) Liquid waste drain lines may not pass through an ice machine or ice storage bin.

(u) If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.

(v) Cutting or piercing parts of can openers on vending machines shall be protected from manual contact, dust, insects, rodents, and other contamination.

(w) Molluscan shellfish tanks.

- (1) Except as specified in paragraph (2), molluscan shellfish life support system display tanks may not be used to store or display shellfish that

- are offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only;
- (2) Molluscan shellfish life-support system display tanks that are used to store or display shellfish that are offered for human consumption shall be operated and maintained in accordance with a variance granted by the department as specified in section 11-50-13(a) and a HACCP plan that:
 - (A) Is submitted by the permit holder and approved as specified in section 11-50-13(b); and
 - (B) Ensures that:
 - (i) Water used with fish other than molluscan shellfish does not flow into the molluscan tank;
 - (ii) The safety and quality of the shellfish as they were received are not compromised by the use of the tank; and
 - (iii) The identity of the source of the shellstock is retained as specified in section 11-50-31(s).
 - (x) Vending machines, automatic shutoff.
 - (1) A machine vending potentially hazardous food (time/temperature control for safety food) shall have an automatic control that prevents the machine from vending food:
 - (A) If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified in subchapter 3; and
 - (B) If a condition specified in paragraph (1)(A) occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified in subchapter 3;
 - (2) When the automatic shutoff within a machine vending potentially hazardous food (time/temperature control for safety food) is activated:
 - (A) In a refrigerated vending machine, the ambient air temperature may not exceed forty-one degrees Fahrenheit for more than thirty minutes immediately after the

machine is filled, serviced, or restocked;
or

- (B) In a hot holding vending machine, the ambient air temperature may not be less than one hundred thirty-five degrees Fahrenheit for more than one hundred twenty minutes immediately after the machine is filled, serviced, or restocked.
- (y) Temperature measuring devices.
- (1) In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit;
- (2) Except as specified in paragraph (3), cold or hot holding equipment used for potentially hazardous food (time/temperature control for safety food) shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display;
- (3) Paragraph (2) does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars;
- (4) Temperature measuring devices shall be designed to be easily readable;
- (5) Food temperature measuring devices and water temperature measuring devices on warewashing machines shall have a numerical scale, printed record, or digital readout in increments no greater than two degrees Fahrenheit in the intended range of use.
- (z) A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operation specifications including the:
 - (1) Temperatures required for washing, rinsing, and sanitizing;

- (2) Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
- (3) Conveyor speed for conveyor machines or cycle time for stationary rack machines.
- (aa) Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.
- (bb) A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:
 - (1) In each wash and rinse tank; and
 - (2) As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.
- (cc) If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:
 - (1) Designed with an integral heating device that is capable of maintaining water at a temperature not less than one hundred seventy-one degrees Fahrenheit; and
 - (2) Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.
- (dd) A warewashing machine that is installed shall be equipped to:
 - (1) Automatically dispense detergents and sanitizers; and
 - (2) Incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles.
- (ee) Warewashing machines, flow pressure device.
 - (1) Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine; and
 - (2) If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a one-fourth inch Iron Pipe Size (IPS) valve;

- (3) Paragraphs (1) and (2) do not apply to a machine that uses only a pumped or recirculated sanitizing rinse.
- (ff) Sinks and drainboards of warewashing sinks and machines shall be self-draining.
- (gg) Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice shall be sloped to an outlet that allows complete draining.
- (hh) Vending machines, liquid waste products.
 - (1) Vending machines designed to store beverages that are packaged in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage;
 - (2) Vending machines that dispense liquid food in bulk shall be:
 - (A) Provided with an internally mounted waste receptacle for the collection of drip, spillage, overflow, or other internal wastes; and
 - (B) Equipped with an automatic shutoff device that will place the machine out of operation before the waste receptacle overflows;
 - (3) Shutoff devices specified in paragraph (2) (B) shall prevent water or liquid food from continuously running if there is a failure of a flow control device in the water or liquid food system or waste accumulation that could lead to overflow of the waste receptacle.
- (ii) Vending machine, doors and openings.
 - (1) Vending machine doors and access opening covers to food and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than one-sixteenth inch by:
 - (A) Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than one-sixteenth inch. Screening of sixteen mesh to one inch meets this requirement;
 - (B) Being effectively gasketed;

- (C) Having interface surfaces that are at least one-half inch wide; or
 - (D) Jambs or surfaces used to form an L-shaped entry path to the interface;
- (2) Vending machine service connection openings through an exterior wall of a machine shall be closed by sealants, clamps, or grommets so that the openings are no larger than 1.5 millimeters or one-sixteenth inch.
- (jj) Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program is deemed to comply with sections 11-50-45 and 11-50-46. [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-47 Numbers and capacities. (a) Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to provide food temperatures as specified in subchapter 3.

(b) Manual warewashing, sink compartment requirements.

- (1) Except as specified in paragraph (3), a sink with at least three compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils;
- (2) Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in paragraph (3) shall be used;
- (3) Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved by the director. Alternative manual warewashing equipment may include:
 - (A) High-pressure detergent sprayers;
 - (B) Low- or line-pressure spray detergent foamers;
 - (C) Other task-specific cleaning equipment;
 - (D) Brushes or other implements;
 - (E) One or two-compartment sinks if only a limited number of utensils need to be washed; or

(F) Receptacles that substitute for the compartments of a multi-compartment sink.

(c) Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.

(d) If required by law, ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

(e) Clothes washers and dryers.

(1) Except as specified in paragraph (2), if work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used;

(2) If on-premises laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified in section 11-50-53(b), a mechanical clothes washer and dryer need not be provided.

(f) A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar.

(g) Food temperature measuring devices.

(1) Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified in subchapter 3;

(2) A temperature measuring device with a suitable small diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish filets.

(h) In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures. A test kit or other device that accurately measures the concentration in parts per million of sanitizing solutions shall be provided.

(i) In hot water mechanical warewashing operations, an irreversible registering temperature indicator shall be provided and readily accessible for measuring the utensil surface temperature. [Eff 2/24/2014; am and comp

] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-48 Location and installation. (a) Equipment, clothes washers and dryers, and storage cabinets, contamination prevention.

- (1) Except as specified in paragraph (2), equipment, a cabinet used for the storage of food, or a cabinet that is used to store cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be located:
 - (A) In locker rooms;
 - (B) In toilet rooms;
 - (C) In garbage rooms;
 - (D) In mechanical rooms;
 - (E) Under sewer lines that are not shielded to intercept potential drips;
 - (F) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
 - (G) Under open stairwells; or
 - (H) Under other sources of contamination;
 - (2) A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room;
 - (3) If a mechanical clothes washer or dryer is provided, the washer or dryer shall be located so that it is protected from contamination and only where there is no exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.
- (b) Fixed equipment, spacing or sealing.
- (1) Equipment that is fixed because it is not easily movable shall be installed so that it is:
 - (A) Spaced to allow access for cleaning along the sides, behind, and above the equipment;
 - (B) Spaced from adjoining equipment, walls, and ceilings a distance of not more than one millimeter or one thirty-second inch; or
 - (C) Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage;
 - (2) Counter-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

- (A) Sealed; or
 - (B) Elevated on legs as specified in subsection (c) (4).
- (c) Fixed equipment, elevation or sealing.
- (1) Except as specified in paragraphs (2) and (3), floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a six inch clearance between the floor and the equipment;
 - (2) If no part of the floor under the floor-mounted equipment is more than six inches from the point of cleaning access, the clearance space may be only four inches;
 - (3) This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean;
 - (4) Except as specified in paragraph (5), counter-mounted equipment that is not easily movable shall be elevated on legs that provide at least a four inch clearance between the table and the equipment;
 - (5) The clearance space between the table and counter-mounted equipment may be:
 - (A) Three inches if the horizontal distance of the table top under the equipment is no more than twenty inches from the point of access for cleaning; or
 - (B) Two inches if the horizontal distance of the table top under the equipment is no more than three inches from the point of access for cleaning. [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-49 Maintenance and operation. (a) Good repair and proper adjustment.

- (1) Equipment shall be maintained in a state of repair and condition that meets the requirements specified in sections 11-50-45 and 11-50-46;
- (2) Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications;

(3) Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

(b) Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

(c) A warewashing machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards as specified in section 11-50-47(c) shall be cleaned:

(1) Before use;

(2) Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and

(3) If used, at least every twenty-four hours.

(d) Warewashing machines, manufacturers' operating instructions.

(1) A warewashing machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions;

(2) A warewashing machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

(e) Warewashing sinks, use limitation.

(1) A warewashing sink may not be used for handwashing as specified in section 11-50-22(d);

(2) If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified in subsection (c) before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized as specified in section 11-50-51 before and after using the sink to wash produce or thaw food.

(f) When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in section 11-50-47(b) (3), shall contain a wash solution of

soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.

(g) The wash, rinse, and sanitize solutions shall be maintained clean.

(h) The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than one hundred ten degrees Fahrenheit or the temperature specified on the cleaning agent manufacturer's label instructions.

(i) Mechanical warewashing equipment, wash solution temperature.

(1) The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:

- (A) For a stationary rack, single temperature machine, one hundred sixty-five degrees Fahrenheit;
- (B) For a stationary rack, dual temperature machine, one hundred fifty degrees Fahrenheit;
- (C) For a single tank, conveyor, dual temperature machine, one hundred sixty degrees Fahrenheit; or
- (D) For a multitank, conveyor, multitemperature machine, one hundred fifty degrees Fahrenheit;

(2) The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize may not be less than one hundred twenty degrees Fahrenheit.

(j) If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at one hundred seventy-one degrees Fahrenheit or above.

(k) Mechanical warewashing equipment, hot water sanitization temperatures.

(1) Except as specified in paragraph (2), in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold may not be more than one hundred ninety-four degrees Fahrenheit, or less than:

- (A) For a stationary rack, single temperature machine, one hundred sixty-five degrees Fahrenheit; or

- (B) For all other machines, one hundred eighty degrees Fahrenheit;
- (2) The maximum temperature specified in paragraph (1), does not apply to the high pressure and temperature systems with wand-type, hand-held, spraying devices used for the in-place cleaning and sanitizing of equipment such as meat saws.
 - (1) The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve, shall be within the range specified on the machine manufacturer's data plate and may not be less than five pounds per square inch or more than thirty pounds per square inch.
 - (m) A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at contact times specified in section 11-50-51(c)(3) shall meet the criteria specified in section 11-50-81(e), shall be used in accordance with the EPA registered label use instructions, and shall be used as follows:
 - (1) A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in Table 49-1;

Table 49-1

Concentration Range mg/L	Minimum Temperature	
	pH 10 or less °F	pH 8 or less °F
25 to 49	120	120
50 to 99	100	75
100	55	55

- (2) An iodine solution shall have a:
 - (A) Minimum temperature of sixty-eight degrees Fahrenheit;
 - (B) pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective; and
 - (C) Concentration between 12.5 milligram per liter and twenty-five milligram per liter;
- (3) A quaternary ammonium compound solution shall:
 - (A) Have a minimum temperature of seventy-five degrees Fahrenheit;
 - (B) Have a concentration as specified in section 11-50-81(e) and as indicated by the

manufacturer's use directions included in the labeling; and

- (C) Be used only in water with five hundred milligram per liter hardness or less or in water having a hardness no greater than specified by the EPA-registered label use instructions;
- (4) If another solution of a chemical specified in paragraphs (1) to (3) is used, the permit holder shall demonstrate to the director that the solution achieves sanitization and the use of the solution shall be approved; or
- (5) If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the EPA-registered label use instructions.
- (n) If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step shall be the same detergent-sanitizer that is used in the washing step.
 - (o) Concentration of the sanitizing solution shall be accurately determined by using a test kit or other device.
 - (p) Good repair and calibration.
 - (1) Utensils shall be maintained in a state of repair or condition that complies with the requirements specified in sections 11-50-45 and 11-50-46 or shall be discarded;
 - (2) Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy;
 - (3) Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use.
 - (q) A food establishment without facilities specified in sections 11-50-50 and 11-50-51 for cleaning and sanitizing kitchenware and tableware shall provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by consumers.
 - (r) Single-service and single-use articles, use limitation.

- (1) Single-service and single-use articles may not be reused, except that the director may approve the reuse of single-use articles that meet the materials, durability, strength, and cleanability specifications in sections 11-50-45(a) and 11-50-46(a) and (c) for multiuse utensils;
- (2) The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

(s) Mollusk and crustacea shells may not be used more than once as serving containers. [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-50 Cleaning of equipment and utensils. (a) Equipment, food-contact surfaces, nonfood-contact surfaces, and utensils-objective.

- (1) Equipment food-contact surfaces and utensils shall be clean to sight and touch;
- (2) The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations;
- (3) Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

(b) Equipment food-contact surfaces and utensils-frequency.

- (1) Equipment food-contact surfaces and utensils shall be cleaned:
 - (A) Except as specified in paragraph (2), before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry;
 - (B) Each time there is a change from working with raw foods to working with ready-to-eat foods;
 - (C) Between uses with raw fruits and vegetables and with potentially hazardous food (time/temperature control for safety food);
 - (D) Before using or storing a food temperature measuring device; and
 - (E) At any time during the operation when contamination may have occurred;

- (2) Paragraph (1)(A) does not apply if the food-contact surface or utensil is in contact with a succession of different raw animal foods each requiring a higher cooking temperature as specified in section 11-50-33(a) than the previous food, such as preparing raw fish followed by cutting raw poultry on the same cutting board;
- (3) Except as specified in paragraph (4), if used with potentially hazardous food (time/temperature control for safety food), equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four hours;
- (4) Surfaces of utensils and equipment contacting potentially hazardous food (time/temperature control for safety food) may be cleaned less frequently than every four hours if:
 - (A) In storage, containers of potentially hazardous food (time/temperature control for safety food) and their contents are maintained at temperatures specified in subchapter 3 and the containers are cleaned when they are empty;
 - (B) Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in Table 50-1 and:
 - (i) The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature; and

Table 50-1

Temperature	Cleaning Frequency
41°F or less	24 hours
>41°F to 45°F	20 hours
>45°F to 50°F	16 hours
>50°F to 55°F	10 hours

- (ii) The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment;
- (C) Containers in serving situations such as salad bars, delis, and cafeteria lines hold

- ready-to-eat potentially hazardous food (time/temperature control for safety food) that is maintained at the temperatures specified in subchapter 3, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every twenty-four hours;
- (D) Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified in subchapter 3;
 - (E) Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;
 - (F) The cleaning schedule is approved based on consideration of:
 - (i) Characteristics of the equipment and its use;
 - (ii) The type of food involved;
 - (iii) The amount of food residue accumulation; and
 - (iv) The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or
 - (G) In-use utensils are intermittently stored in a container of water in which the water is maintained at one hundred thirty-five degrees Fahrenheit or more and the utensils and container are cleaned at least every twenty-four hours or at a frequency necessary to preclude accumulation of soil residues;
- (5) Except when dry cleaning methods are used as specified in subsection (e), surfaces of utensils and equipment contacting food that is not potentially hazardous (time/temperature control for safety food) shall be cleaned:

- (A) At any time when contamination may have occurred;
 - (B) At least every twenty-four hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;
 - (C) Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and
 - (D) In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:
 - (i) At a frequency specified by the manufacturer; or
 - (ii) Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.
- (c) Cooking and baking equipment.
- (1) The food-contact surfaces of cooking and baking equipment shall be cleaned at least every twenty-four hours. This section does not apply to hot oil cooking and filtering equipment if it is cleaned as specified in subsection (b) (4) (F);
 - (2) The cavities and door seals of microwave ovens shall be cleaned at least every twenty-four hours by using the manufacturer's recommended cleaning procedure.
- (d) Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.
- (e) Dry cleaning.
- (1) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not potentially hazardous (time/temperature control for safety food);
 - (2) Cleaning equipment used in dry cleaning food-contact surfaces may not be used for any other purpose.
- (f) Precleaning.
- (1) Food debris on equipment and utensils shall be scrapped over a waste disposal unit or garbage

- receptacle or shall be removed in a warewashing machine with a prewash cycle;
- (2) If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.
- (g) Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:
- (1) Exposes the items to the unobstructed spray from all cycles; and
 - (2) Allows the items to drain.
- (h) Wet cleaning.
- (1) Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices;
 - (2) The washing procedures selected shall be based on the type and purpose of the equipment or utensil, and on the type of soil to be removed.
- (i) If washing in sink compartments or a warewashing machine is impractical such as when the equipment is fixed or the utensils are too large, washing shall be done by using alternative manual warewashing equipment as specified in section 11-50-47(b) (3) in accordance with the following procedures:
- (1) Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;
 - (2) Equipment components and utensils shall be scrapped or rough cleaned to remove food particle accumulation; and
 - (3) Equipment and utensils shall be washed as specified in subsection (h) (1).
- (j) Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-sanitizer solution by using one of the following procedures:
- (1) Use of a distinct, separate water rinse after washing and before sanitizing if using:
 - (A) A three-compartment sink;

- (B) Alternative manual warewashing equipment equivalent to a three-compartment sink as specified in section 11-50-47(b)(3); or
 - (C) A three-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;
- (2) Use of a detergent-sanitizer as specified in section 11-50-49(n) if using:
- (A) Alternative warewashing equipment as specified in section 11-50-47(b)(3) that is approved for use with a detergent sanitizer; or
 - (B) A warewashing system for CIP equipment;
- (3) Use of a nondistinct water rinse that is integrated in the hot water sanitization immersion step of a two-compartment sink operation;
- (4) If using a warewashing machine that does not recycle the sanitizing solution as specified in paragraph (5), or alternative manual warewashing equipment such as sprayers, use of a nondistinct water rinse that is:
- (A) Integrated in the application of the sanitizing solution; and
 - (B) Wasted immediately after each application; or
- (5) If using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the sanitizing solution.
- [(k) Returnables, cleaning for refilling.
- (1) Except as specified in paragraphs (2) and (3), returned empty containers intended for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant;
 - (2) A food-specific container for beverages may be refilled at a food establishment if:
 - (A) Only a beverage that is not a potentially hazardous food (time/temperature control for safety food) is used as specified in section 11-50-32(p)(1);
 - (B) The design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow

- effective cleaning at home or in the food establishment;
- (C) Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;
 - (D) The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and
 - (E) The container is refilled by:
 - (i) An employee of the food establishment; or
 - (ii) The owner of the container if the beverage system includes a contamination-free transfer process that cannot be bypassed by the container owner;
- (3) Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.] [Eff 2/24/2014; am and comp (Auth: HRS §321-11) (Imp: HRS §321-11)]

§11-50-51 Sanitization of equipment and utensils.

- (a) Equipment food-contact surfaces and utensils shall be sanitized.
 - (b) Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning.
 - (c) After being cleaned, equipment food-contact surfaces and utensils shall be sanitized in:
 - (1) Hot water manual operations by immersion for at least thirty seconds and as specified in section 11-50-49(j);
 - (2) Hot water mechanical operations by being cycled through equipment that is set up as specified in section 11-50-49(d), (k), and (l) and achieving a utensil surface temperature of one hundred sixty degrees Fahrenheit as measured by an irreversible registering temperature indicator; or
 - (3) Chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified in section 11-50-49(m). Contact times

shall be consistent with those on EPA-registered label use instructions by providing:

- (A) Except as specified in subparagraph (B), a contact time of at least ten seconds for a chlorine solution specified in section 11-50-49(m) (1);
- (B) A contact time of at least seven seconds for a chlorine solution of fifty mg/L that has a pH of ten or less and a temperature of at least one hundred degrees Fahrenheit or a pH of 8.0 or less and a temperature of at least seventy-five degrees Fahrenheit;
- (C) A contact time of at least thirty seconds for other chemical sanitizing solutions; or
- (D) A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in section 11-50-2. [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-52 Laundering. (a) Clean linens shall be free from food residues and other soiling matter.

(b) Specifications.

- (1) Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled;
- (2) Cloth gloves used as specified in section 11-50-32(n)(4) shall be laundered before being used with a different type of raw animal food such as beef, fish, lamb, pork or poultry;
- (3) Linens and napkins that are used as specified in section 11-50-32(1) and cloth napkins shall be laundered between each use;
- (4) Wet wiping cloths shall be laundered daily;
- (5) Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

(c) Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

(d) Mechanical washing.

- (1) Except as specified in paragraph (2), linens shall be mechanically washed;
- (2) In food establishments in which only wiping cloths are laundered as specified in section 11-50-47(e)(2), the wiping cloths may be laundered in a mechanical washer, sink designated only for laundering wiping cloths, or a warewashing or food preparation sink that is cleaned as specified in section 11-50-49(c).
- (e) Use of laundry facilities.
 - (1) Except as specified in paragraph (2), laundry facilities on the premises of a food establishment shall be used only for the washing and drying of items used in the operation of the establishment;
 - (2) Separate laundry facilities located on the premises for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering food establishment items. [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-53 Protection of clean items. (a) After cleaning and sanitizing, equipment and utensils:

- (1) Shall be air-dried or used after adequate draining as specified in the first paragraph of 40 CFR 180.940, entitled "Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface sanitizing solutions)", before contact with food; and
 - (2) May not be cloth dried except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry.
- (b) Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer as specified in section 11-50-47(e)(2) shall be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, and single-service and single-use articles and the wiping cloths. This section does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified in section 11-50-49(m).
- (c) Lubricants as specified in section 11-50-81(i) shall be applied to food-contact surfaces that require

lubrication in a manner that does not contaminate food-contact surfaces.

(d) Equipment shall be reassembled so that food-contact surfaces are not contaminated.

(e) Equipment, utensils, linens, and single-service and single-use articles.

(1) Except as specified in paragraph (4), cleaned equipment and utensils, laundered linens, and single-service and single-use articles shall be stored:

(A) In a clean, dry location;

(B) Where they are not exposed to splash, dust, or other contamination; and

(C) At least six inches above the floor;

(2) Clean equipment and utensils shall be stored as specified in paragraph (1) and shall be stored:

(A) In a self-draining position that allows air drying; and

(B) Covered or inverted;

(3) Single-service and single-use articles shall be stored as specified in paragraph (1) and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used;

(4) Items that are kept in closed packages may be stored less than six inches above the floor on dollies, pallets, racks, and skids that are designed as specified in section 11-50-46(ii).

(f) Prohibitions.

(1) Except as specified in paragraph (2), cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be stored:

(A) In locker rooms;

(B) In toilet rooms;

(C) In garbage rooms;

(D) In mechanical rooms;

(E) Under sewer lines that are not shielded to intercept potential drips;

(F) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;

(G) Under open stairwells; or

(H) Under other sources of contamination;

- (2) Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.
 - (g) Kitchenware and tableware.
 - (1) Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food- and lip-contact surfaces is prevented;
 - (2) Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided;
 - (3) Except as specified in paragraph (2), single-service articles that are intended for food- or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.
 - (h) Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.
 - (i) Preset tableware.
 - (1) Except as specified in paragraph (2), tableware that is preset shall be protected from contamination by being wrapped, covered, or inverted;
 - (2) Preset tableware may be exposed if:
 - (A) Unused settings are removed when a consumer is seated; or
 - (B) Settings not removed when a consumer is seated are cleaned and sanitized before further use.
 - (j) After being cleaned and sanitized, equipment and utensils shall not be rinsed before air drying or use unless:
 - (1) The rinse is applied directly from a potable water supply by a warewashing machine that is maintained and operated as specified in sections 11-50-46(n) to (jj) and 11-50-49(a) to (o); and
 - (2) The rinse is applied only after the equipment and utensils have been sanitized by the application of hot water or by the application of a chemical sanitizer solution whose EPA registered label use instructions call for rinsing off the sanitizer after it is applied in a commercial warewashing machine. [Eff 2/24/2014; comp]
- (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-54 to 11-50-59 (Reserved).

SUBCHAPTER 5

WATER, PLUMBING, AND WASTE

§11-50-60 Water. (a) Drinking water shall be obtained from an approved source that is:

- (1) A public water system; or
- (2) A nonpublic water system that is constructed, maintained, and operated according to law.

(b) A drinking water system shall be flushed and disinfected before being placed in service, after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system.

(c) Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 CFR 129, entitled "Processing and bottling of bottled drinking water".

(d) Standards. Except as specified in subsection

(e):

- (1) Water from a public water system shall meet 40 CFR 141, entitled "National primary drinking water regulations" and state drinking water quality standards; and
- (2) Water from a nonpublic water system shall meet state drinking water quality standards.

(e) Nondrinking water.

- (1) A nondrinking water supply shall be used only if its use is approved;
- (2) Nondrinking water shall be used only for nonculinary purposes such as air conditioning, nonfood equipment cooling, and fire protection.

(f) Except when used as specified in subsection (e), water from a nonpublic water system shall be sampled and tested as required by the department.

(g) The most recent sample report for the nonpublic water system shall be retained on file in the food establishment or the report shall be maintained as specified by state water quality regulations.

(h) Capacity.

- (1) The water source and system shall be of sufficient capacity to meet the peak water demands of the food establishment;
- (2) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment.
 - (i) Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that water supplied as specified in subsection (k) (1) and (2) to a temporary food establishment or in response to a temporary interruption of a water supply need not be under pressure.

(j) Water shall be received from the source through the use of:

- (1) An approved public water main; or
- (2) One or more of the following that shall be constructed, maintained, and operated according to law:
 - (A) Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances;
 - (B) Water transport vehicles or other approved water transport delivery system; or
 - (C) Water containers.

(k) Water meeting the requirements specified in subsections (a) to (i) shall be made available for a mobile facility, for a temporary food establishment without a permanent water supply, and for a food establishment with a temporary interruption of its water supply through:

- (1) A supply of containers of commercially bottled drinking water;
- (2) One or more closed portable water containers;
- (3) An enclosed vehicular water tank; or
- (4) An on-premises water storage tank.

[Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-61 Plumbing system. (a) Approved.

- (1) A plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to law;
 - (2) A water filter shall be made of safe materials.
- (b) Approved system and cleanable fixtures.
- (1) A plumbing system shall be designed, constructed, and installed according to law;

- (2) A plumbing fixture such as a handwashing sink, toilet, or urinal shall be easily cleanable.
- (c) Handwashing sink, installation.
 - (1) A handwashing sink if provided with hot water shall be equipped with a mixing valve or combination faucet;
 - (2) A steam mixing valve may not be used at a handwashing sink;
 - (3) A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least fifteen seconds without the need to reactivate the faucet;
 - (4) An automatic handwashing facility shall be installed in accordance with manufacturer's instructions;
 - (5) Faucets shall provide a sufficient flow of water to permit proper washing and rinsing of hands.
- (d) An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than one inch.
 - (e) A backflow or backsiphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (A.S.S.E.) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device.
 - (f) A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.
 - (g) Handwashing sinks.
 - (1) Except as specified in paragraph (2), at least one handwashing sink, a number of handwashing sinks necessary for their convenient use by employees in areas specified in subsection (1), and not fewer than the number of handwashing sinks required by law shall be provided;
 - (2) If approved and capable of removing the types of soils encountered in the food operations involved, automatic handwashing facilities may be substituted for handwashing sinks in a food establishment that has at least one handwashing sink.
 - (h) At least one toilet and not fewer than the toilets required by law shall be provided.

(i) Facilities for disposal of mop water and similar liquid waste shall be provided. At least one service sink or one curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste for newly constructed or extensively remodeled establishments; except that the director may waive this requirement if an alternative liquid waste disposal facility is readily available.

(j) A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law, by:

- (1) Providing an air gap as specified in subsection (d); or
- (2) Installing an approved backflow prevention device as specified in subsection (e).

(k) Backflow prevention device, carbonator.

- (1) If not provided with an air gap as specified in subsection (d), a dual check valve with an intermediate vent preceded by a screen of not less than one hundred mesh to one inch shall be installed upstream from a carbonating device and downstream from any copper in the water supply line;
- (2) A dual check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified in paragraph (1).

(l) A handwashing sink shall be located:

- (1) To allow convenient use by employees in food preparation, food dispensing, and warewashing areas; and
- (2) In, or immediately adjacent to, toilet rooms.

(m) A backflow prevention device shall be located so that it may be serviced and maintained.

(n) A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

(o) Using a handwashing sink.

- (1) A handwashing sink shall be maintained so that it is accessible at all times for employee use;

- (2) A handwashing sink may not be used for purposes other than handwashing;
- (3) An automatic handwashing facility shall be used in accordance with manufacturer's instructions.
- (p) Prohibiting a cross connection.
 - (1) A person may not create a cross connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality;
 - (2) The piping of a nondrinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water.
- (q) Water reservoir of fogging devices, cleaning.
 - (1) A reservoir that is used to supply water to a device such as a produce fogger shall be:
 - (A) Maintained in accordance with manufacturer's specifications; and
 - (B) Cleaned in accordance with manufacturer's specifications or according to the procedures specified in paragraph (2), whichever is more stringent;
 - (2) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:
 - (A) Draining and complete disassembly of the water and aerosol contact parts;
 - (B) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;
 - (C) Flushing the complete system with water to remove the detergent solution and particulate accumulation; and
 - (D) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least fifty mg/L hypochlorite solution.
- (r) A plumbing system shall be:
 - (1) Repaired according to law; and
 - (2) Maintained in good repair.
- (s) Water tanks
 - (1) Materials that are used in the construction of a water tank, and appurtenances shall be:
 - (A) Safe;
 - (B) Durable, corrosion-resistant, and nonabsorbent; and

- (C) Finished to have a smooth, easily cleanable surface.
- (2) A water tank shall be:
 - (A) Enclosed from the filling inlet to the discharge outlet; and
 - (B) Sloped to an outlet that allows complete drainage of the tank.
- (3) If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:
 - (A) Flanged upward at least 0.5 inch; and
 - (B) Equipped with a port cover assembly that is:
 - (i) Provided with a gasket and device for securing the cover in place; and
 - (ii) Flanged to overlap the opening and sloped to drain.
- (4) A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.
- (5) If provided, a water tank vent shall terminate in a downward direction and shall be covered with:
 - (A) Sixteen mesh to one inch screen or equivalent when the vent is in a protected area; or
 - (B) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.
- (6) Inlet and outlet, sloped to drain.
 - (A) A water tank and its inlet and outlet shall be sloped to drain; and
 - (B) A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil, or grease.
- (7) A hose used for conveying drinking water from a water tank shall be:
 - (A) Safe;
 - (B) Durable, corrosion-resistant, and nonabsorbent;
 - (C) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;
 - (D) Finished with a smooth interior surface; and
 - (E) Clearly and durably identified as to its use if not permanently attached.

- (8) A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system.
- (9) A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for a water inlet, outlet, and hose.
- (10) A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse.
- (11) A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.
- (12) If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified in subsection (i).
- (13) Tank, pump, and hoses, dedication.
- (A) Except as specified in paragraph (2), a water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose;
- (B) Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water. [Eff 2/24/2014; am and comp
] (Auth: HRS §321-11) (Imp:
HRS §321-11)

[§11-50-62 Mobile water tank and mobile food establishment water tank. (a) Materials that are used in the construction of a mobile water tank, mobile food establishment water tank, and appurtenances shall be:

- (1) Safe;
 - (2) Durable, corrosion-resistant, and nonabsorbent;
and
 - (3) Finished to have a smooth, easily cleanable surface.
- (b) A mobile water tank shall be:
- (1) Enclosed from the filling inlet to the discharge outlet; and

- (2) Sloped to an outlet that allows complete drainage of the tank.
- (c) If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:
 - (1) Flanged upward at least 0.5 inch; and
 - (2) Equipped with a port cover assembly that is:
 - (A) Provided with a gasket and a device for securing the cover in place; and
 - (B) Flanged to overlap the opening and sloped to drain.
- (d) A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.
- (e) If provided, a water tank vent shall terminate in a downward direction and shall be covered with:
 - (1) Sixteen mesh to one inch screen or equivalent when the vent is in a protected area; or
 - (2) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.
- (f) Inlet and outlet, sloped to drain.
 - (1) A water tank and its inlet and outlet shall be sloped to drain;
 - (2) A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil, or grease.
- (g) A hose used for conveying drinking water from a water tank shall be:
 - (1) Safe;
 - (2) Durable, corrosion-resistant, and nonabsorbent;
 - (3) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;
 - (4) Finished with a smooth interior surface; and
 - (5) Clearly and durably identified as to its use if not permanently attached.
- (h) A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system.
- (i) A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for a water inlet, outlet, and hose.

(j) A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse.

(k) A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

(1) If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified in subsection (i).

(m) Tank, pump, and hoses, dedication.

(1) Except as specified in paragraph (2), a water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose;

(2) Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.] [Eff 2/24/2014; R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-63 Sewage, other liquid waste, and rainwater.

(a) A sewage holding tank in a mobile food establishment shall be:

- (1) Sized fifteen per cent larger in capacity than the water supply tank; and
- (2) Provided with a tank bottom that is sloped down to an outlet with a shut-off valve to permit complete drainage of the tank, except for those tanks that are readily removable.

(b) Food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed as specified in section 11-50-61(b)(1).

(c) Backflow prevention.

- (1) Except as specified in paragraphs (2), (3) and (4), a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed;
- (2) Paragraph (1) does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building;
- (3) If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five feet of a trapped floor drain and the

machine outlet is connected to the inlet side of a properly vented floor drain trap;

(4) If allowed by law, a warewashing or culinary sink may have a direct connection.

(d) If used, a grease trap shall be located to be easily accessible for cleaning.

(e) Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.

(f) Sewage and other liquid wastes shall be removed from a mobile food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created.

(g) A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

(h) Sewage shall be disposed through an approved facility that is:

- (1) A public sewage treatment plant; or
- (2) An individual sewage disposal system that is sized, constructed, maintained, and operated according to law.

(i) Condensate drainage and other nonsewage liquids and rainwater shall be drained from point of discharge to disposal according to law. [Eff 2/24/2014; comp
] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-64 Refuse, recyclables, and returnables. (a) If located within the food establishment, a storage area for refuse, recyclables, and returnables shall meet the requirements specified in sections 11-50-70 and 11-50-71(a) to (h), (m), and (n).

(b) An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

(c) If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.

(d) Receptacles.

- (1) Except as specified in paragraph (2), receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials

- containing food residue shall be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent;
- (2) Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment, or within closed outside receptacles.
 - (e) Except for a receptacle for beverage bottle crown closures, a refuse receptacle may not be located within a vending machine.
 - (f) Outside receptacles.
 - (1) Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers;
 - (2) Receptacles and waste handling units for refuse and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.
 - (g) Storage areas, rooms, and receptacles, capacity and availability.
 - (1) An inside storage room and area and outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate;
 - (2) A receptacle shall be provided in each area of the food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed;
 - (3) If disposable towels are used at handwashing lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.
 - (h) A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.
 - (i) Cleaning implements and supplies.
 - (1) Except as specified in paragraph (2), suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables;

- (2) If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.
- (j) Storage areas, redeeming machines, receptacles and waste handling units, location.
 - (1) An area designated for refuse, recyclables, returnables, and, except as specified in paragraph (2), a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created;
 - (2) A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machines and a public health hazard or nuisance is not created;
 - (3) The location of receptacles and waste handling units for refuse, recyclables, and returnables may not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.
- (k) Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.
 - (1) Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.
 - (m) Outside storage prohibitions.
 - (1) Except as specified in paragraph (2), refuse receptacles not meeting the requirements specified in subsection (d)(1) such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue may not be stored outside;
 - (2) Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.
 - (n) Receptacles and waste handling units for refuse, recyclables, and returnables shall be kept covered:

- (1) Inside the food establishment if the receptacles and units:
 - (A) Contain food residue and are not in continuous use; or
 - (B) After they are filled; and
- (2) With tight-fitting lids or doors if kept outside the food establishment.
- (o) Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.
- (p) A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items, as specified in section 11-50-74(n), and clean.
- (q) Cleaning receptacles.
 - (1) Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water shall be disposed of as specified in section 11-50-63(e);
 - (2) Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.
- (r) Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.
- (s) Refuse, recyclables, and returnables shall be removed from the premises by way of:
 - (1) Portable receptacles that are constructed and maintained according to law; or
 - (2) A transport vehicle that is constructed, maintained, and operated according to law.
- (t) Solid waste not disposed of through the sewage system such as through grinders and pulpers shall be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste shall be disposed of in an individual refuse facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to law. [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-65 to 11-50-69 (Reserved).

SUBCHAPTER 6

PHYSICAL FACILITIES

§11-50-70 Materials for construction and repair.

Materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:

- (1) Smooth, durable, and easily cleanable for areas where food establishment operations are conducted;
- (2) Closely woven and easily cleanable carpet for carpeted areas; and
- (3) Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods. [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-71 Design, construction, and installation.

(a) Except as specified in subsection (d) and except for antislip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable.

(b) Floors, walls, and ceilings, utility lines.

- (1) Utility service lines and pipes may not be unnecessarily exposed;
- (2) Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings;
- (3) Exposed horizontal utility service lines and pipes may not be installed on the floor.

(c) Floor and wall junctures, coved, and enclosed or sealed.

- (1) In food establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved or closed to no larger than one thirty-second inch;

- (2) The floors in food establishments in which water flush cleaning methods are used shall be provided with drains and be graded to drain, and the floor and wall junctures shall be coved and sealed.
- (d) Floor carpeting, restrictions and installation.
 - (1) A floor covering such as carpeting or similar material may not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas where the floor is subject to moisture, flushing, or spray cleaning methods;
 - (2) If carpeting is installed as a floor covering in areas other than those specified in paragraph (1), it shall be:
 - (A) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and
 - (B) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.
- (e) Mats and duckboards shall be designed to be removable and easily cleanable.
- (f) Wall and ceiling coverings and coatings.
 - (1) Wall and ceiling covering materials shall be attached so that they are easily cleanable;
 - (2) Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.
- (g) Walls and ceilings, attachments.
 - (1) Except as specified in paragraph (2), attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable;
 - (2) In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.

[(h)] Except for temporary food establishments, studs, joists, and rafters may not be exposed in areas subject to moisture.

- (i) [(h)] Light bulbs, protective shielding.
- (1) Except as specified in paragraph (2), light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles;
 - (2) Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages, if:
 - (A) The integrity of the packages cannot be affected by broken glass falling onto them; and
 - (B) The packages are capable of being cleaned of debris from broken bulbs before the packages are opened;
 - (3) An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

[(j)] [(i)] Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils.

[(k)] [(j)] Insect control devices, design and installation.

- (1) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device;
- (2) Insect control devices shall be installed so that:
 - (A) The devices are not located over a food preparation area; and
 - (B) Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

[(1)] [(k)] Except where a toilet room is located outside a food establishment and does not open directly into the food establishment such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door.

[(m)] (1) Outer openings, protected.

- (1) Except as specified in paragraphs (2) to (5), outer openings of a food establishment shall be protected against the entry of insects and rodents by:
 - (A) Filling or closing holes and other gaps along floors, walls, and ceilings;
 - (B) Closed, tight-fitting windows; and
 - (C) Solid, self-closing, tight-fitting doors;
- (2) Paragraph (1) does not apply if a food establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents;
- (3) Exterior doors used as exits need not be self-closing if they are:
 - (A) Solid and tight-fitting;
 - (B) Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the food establishment; and
 - (C) Limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use;
- (4) Except as specified in paragraphs (2) and (5), if the windows or doors of a food establishment, or of a larger structure within which a food establishment is located, are kept open for ventilation or other purposes [or a temporary food establishment is not provided with windows and doors as specified in paragraph (1)], the openings shall be protected against the entry of insects, rodents and other pests by:
 - (A) Sixteen mesh to one inch screens;
 - (B) Properly designed and installed air curtains to control flying insects; or
 - (C) Other effective means;
- (5) Paragraph (4) does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition;
- (6) The requirements of this section may be waived or modified when alternative controls acceptable to

the director are utilized to ensure that all food and food-contact surfaces of equipment and utensils are effectively protected against contamination, and no other public health hazards will result from the conduct of the operation.

[(n)](m) Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

[(o)](n) Except for machines that vend canned beverages, if located outside, a machine used to vend food shall be provided with overhead protection.

[(p)](o) Except for areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, servicing areas shall be provided with overhead protection.

[(q)](p) Exterior walking and driving surfaces shall be graded to drain.

[(r)](q) Outdoor refuse areas shall be constructed in accordance with law and shall be curbed and graded to drain to collect and dispose of liquid waste that result from the refuse and from cleaning the area and waste receptacles.

[(s)](r) Establishment operations shall be separated from any living or sleeping quarters by complete partitioning and shall have no direct opening into any living or sleeping quarters, except through a solid, tight-fitting and self-closing door. Entrance into the establishment shall not be through any living or sleeping quarters. [Eff 2/24/2014; am and comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-72 Numbers and capacities. (a) Handwashing sinks shall be provided as specified in section 11-50-61(g).

(b) Each handwashing sink or group of two adjacent handwashing sinks shall be provided with a supply of hand cleaning liquid, powder, or bar soap.

(c) Each handwashing sink or group of adjacent handwashing sinks shall be provided with:

- (1) Individual, disposable towels;
- (2) A continuous towel system that supplies the user with a clean towel; or
- (3) A heated-air hand drying device; or

- (4) A hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures.
- (d) A sink used for food preparation or utensil washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the handwashing aids and devices required for a handwashing sink as specified in subsections (b) and (c), and section 11-50-64(g) (3).
- (e) A sign or poster that notifies food employees to wash their hands shall be provided at all handwashing sinks used by food employees and shall be clearly visible to food employees.
- (f) A handwashing sink or group of adjacent handwashing sinks that is provided with disposable towels shall be provided with a waste receptacle as specified in section 11-50-64(g) (3).
- (g) Toilets and urinals shall be provided as specified in section 11-50-61(h).
- (h) A supply of toilet tissue shall be available at each toilet.
- (i) The light intensity shall be:
- (1) At least one hundred eight lux (ten footcandles) at a distance of thirty inches above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning;
 - (2) At least two hundred fifteen lux (twenty footcandles):
 - (A) At a surface where food is provided for consumer self-service such as buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption;
 - (B) Inside equipment such as reach-in and under-counter refrigerators; and
 - (C) At a distance of thirty inches above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and
 - (3) At least five hundred forty lux (fifty footcandles) at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor.
- (j) Designation.

- (1) Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment;
 - (2) Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.
- (k) A service sink or curbed cleaning facility shall be provided as specified in section 11-50-61(i). [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-73 Location and placement. (a) Handwashing sinks shall be conveniently located as specified in section 11-50-61(1).

- (b) Toilet rooms shall be conveniently located and accessible to employees during all hours of operation
- (c) Designated areas.
 - (1) Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination;
 - (2) Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service and single-use articles cannot occur.
- (d) Products that are held by the permit holder for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

(e) Units, receptacles, and areas designated for storage of refuse and recyclable and returnable containers shall be located as specified in section 11-50-64(j). [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-74 Maintenance and operation. (a) Physical facilities shall be maintained in good repair.

- (b) Cleaning, frequency and restrictions.
 - (1) Physical facilities shall be cleaned as often as necessary to keep them clean;

- (2) Except for cleaning that is necessary due to a spill or other accident, cleaning shall be done during periods when the least amount of food is exposed such as after closing.
- (c) Cleaning floors, dustless methods.
 - (1) Except as specified in paragraph (2), only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds;
 - (2) Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:
 - (A) Without the use of dust-arresting compounds; and
 - (B) In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.
- (d) Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.
- (e) Food preparation sinks, handwashing sinks, and warewashing equipment may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.
- (f) After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.
- (g) Except as specified in subsection (c) (2), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.
- (h) Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean.
- (i) Except during cleaning and maintenance operations, toilet room doors as specified in section 11-50-71(1) shall be kept closed.
- (j) Using dressing rooms and lockers.
 - (1) Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment;

- (2) Lockers or other suitable facilities shall be used for the orderly storage of employee clothing and other possessions.
- (k) The premises shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled by:
 - (1) Routinely inspecting incoming shipments of food and supplies;
 - (2) Routinely inspecting the premises for evidence of pests;
 - (3) Using methods, if pests are found, such as trapping devices or other means of pest control as specified in section 11-50-81 (c), (k) and (l); and
 - (4) Eliminating harborage conditions.
- (l) Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.
- (m) Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:
 - (1) Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and
 - (2) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.
- (n) The premises shall be free of:
 - (1) Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and
 - (2) Litter.
- (o) Prohibiting animals.
 - (1) Except as specified in paragraphs (2) and (3), live animals may not be allowed on the premises of a food establishment;
 - (2) Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result:
 - (A) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

- (B) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;
 - (C) In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal;
 - (D) Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:
 - (i) Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;
 - (ii) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and
 - (iii) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and
 - (E) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals;
- (3) Live or dead fish bait may be stored if contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result. [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-75 to 11-50-79

(Reserved).

SUBCHAPTER 7

POISONOUS OR TOXIC MATERIALS

§11-50-80 Labeling and identification. (a)

Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

(b) Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material. [Eff 2/24/2014; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-81 Operational supplies and applications. (a)

Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

- (1) Separating the poisonous or toxic materials by spacing or partitioning; and
 - (2) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. This paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.
- (b) Presence and use restriction.
- (1) Only those poisonous or toxic materials that are required for the operation and maintenance of a food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a food establishment;
 - (2) Paragraph (1) does not apply to packaged poisonous or toxic materials that are for retail sale.
- (c) Poisonous or toxic materials shall be:
- (1) Used according to:
 - (A) This chapter and law;
 - (B) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that

state that use is allowed in a food establishment;

- (C) The conditions of certification, if certification is required, for use of the pest control materials; and
- (D) Additional conditions that may be established by the [department;] director; and

(2) Applied so that:

- (A) A hazard to employees or other persons is not constituted; and
- (B) Contamination including toxic residues due to drip, drain, fog, splash, or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted use pesticide, this is achieved by:
 - (i) Removing the items;
 - (ii) Covering the items with impermeable covers; or
 - (iii) Taking other appropriate preventive actions; and
 - (iv) Cleaning and sanitizing equipment and utensils after the application;

(3) A restricted use pesticide shall be applied only by a licensed pest control operator, or a person under the direct supervision of a licensed pest control operator.

(d) A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food.

[(e) Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements specified in 40 CFR 180.940, entitled "Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface sanitizing solutions)".

(f) Chemicals for washing, treatment, storage and processing fruits and vegetables, criteria.

- (1) Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified in 21 CFR 173.315 entitled "Chemicals used in washing or to assist in the peeling of fruits and vegetables";
- (2) Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and

vegetables in a food establishment shall meet the requirements specified in 21 CFR 173.368, entitled "Ozone".

(g) Chemicals used as boiler water additives shall meet the requirements specified in 21 CFR 173.310, entitled "Boiler water additives".

(h) Drying agents used in conjunction with sanitization shall:

(1) Contain only components that are listed as one of the following:

(A) Generally recognized as safe for use in food as specified in 21 CFR 182, entitled "Substances generally recognized as safe", or 21 CFR 184, entitled "Direct food substances affirmed as generally recognized as safe";

(B) Generally recognized as safe for the intended use as specified in 21 CFR 186, entitled "Indirect food substances affirmed as generally recognized as safe";

(C) Approved for use as a drying agent under a prior sanction specified in 21 CFR 181, entitled "Prior-sanctioned food ingredients";

(D) Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Parts 175-178; or

(E) Approved for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39, entitled "Threshold of regulation for substances used in food-contact articles"; and

(2) When sanitization is with chemicals, the approval required in paragraph (1)(C) or (E) or the regulation as an indirect food additive required in paragraph (1)(D), shall be specifically for use with chemical sanitizing solutions.

(i) Lubricants shall meet the requirements specified in 21 CFR 178.3570, entitled "Lubricants with incidental food contact", if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.

(j) Restricted use pesticides specified in subsection (c) (3) shall meet the requirements specified in 40 CFR 152 Subpart I, entitled "Classification of Pesticides".]

(k)] (e) Rodent bait shall be contained in a covered, tamper-resistant bait station.

[(1)] (f) Tracking powders, pest control and monitoring.

(1) Except as specified in paragraph (2), a tracking powder pesticide may not be used in a food establishment;

(2) If used, a nontoxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, linens, and single-service and single-use articles.

[(m)] (g) Medicines restriction and storage.

(1) Except for medicines that are stored or displayed for retail sale, only those medicines that are necessary for the health of employees shall be allowed in a food establishment;

(2) Medicines that are in a food establishment for the employees' use shall be labeled as specified in section 11-50-80(a) and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.

[(n)] (h) Medicines belonging to employees that require refrigeration and are stored in a food refrigerator shall be stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines.

[(o)] (i) First aid supplies that are in a food establishment for the employees' use shall be:

(1) Labeled as specified in section 11-50-80(a); and

(2) Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens, and single-service and single-use articles.

[(p)] (j) Except as specified in subsections (n) and (o), employees shall store their personal care items in facilities as specified in section 11-50-72(j) (2)). [Eff 2/24/2014; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-82 Stock and retail sale. Poisonous or toxic materials shall be stored and displayed for retail sale so

they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

- (1) Separating the poisonous or toxic materials by spacing or partitioning; and
- (2) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. [Eff 2/24/2014; comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-83 to 11-50-84 (Reserved).

[SUBCHAPTER 8

MOBILE FOOD ESTABLISHMENTS

§11-50-85 General requirements. (a) Mobile food establishments shall comply with the requirements of this chapter, except as otherwise provided in this subchapter.

(b) The department may impose additional requirements to protect against health hazards or nuisances related to the conduct of food establishments as mobile operations.

(c) The department may prohibit the sale of some or all potentially hazardous foods.

(d) When no health hazard will result, the department may waive or modify the requirements of this chapter for mobile food establishments.

(e) A mobile food establishment shall be of a design that allows relocation of the mobile food establishment to an approved establishment as needed. [Eff 2/24/2014;
R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-86 Approved food establishment requirements.

(a) Mobile food establishments shall operate out of an approved food establishment and shall return to the approved food establishment for cleaning and servicing.

(b) The approved food establishment shall provide a servicing area that is conveniently accessible for the mobile food establishment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(c) The approved food establishment shall be used for the following purposes:

- (1) Storage. Food, equipment, utensils, and supplies shall be stored in the approved food establishment unless stored on board mobile food establishments;
- (2) Food preparation. All food preparation not permitted on board mobile food establishments shall take place at the approved food establishment;
- (3) Cleaning. Multi-use equipment and utensils that are not permitted to be cleaned on board mobile food establishments shall be cleaned and sanitized at the approved food establishment at least once each day at the conclusion of the daily operations;
- (4) Water supply. The water tank(s) of all mobile food establishments shall be drained and filled daily with potable water at an approved servicing area at the approved food establishment;
- (5) Wastewater disposal. Wastewater holding tank(s) of all mobile food establishments shall be drained daily and cleaned at an approved servicing area;
- (6) Cooking and reheating. All cooking not permitted on mobile food establishments shall take place at the approved food establishment;
- (7) Cooling. Leftover food to be reheated for later service shall be rapidly cooled as specified in section 11-50-34(d).

(d) A mobile food establishment may use more than one approved food establishment. The names and addresses of all sites used as an approved food establishment for a mobile food establishment shall be provided to the department in writing for approval. The director may limit the number of mobile establishments operating out of the same food establishment.

(e) If the owner of the mobile food establishment is not also the owner of the approved food establishment, the following shall apply:

- (1) Written documentation detailing the operational agreement between the two parties shall be provided. The documentation required shall include, but not be limited to, the days, times, and specific types of operations to be conducted in the approved food establishment. The written

documentation must be submitted annually along with the renewal application and fees;

- (2) The approved food establishment shall be provided with a means by which used of the facility can be documented and verified by the director. Acceptable methods are:

- (A) The use of time cards stamped by a punch clock sealed by the director;
 - (B) A tampered-proof electronic log-in;
 - (C) Log-in sheets listing dates and times of an approved food establishment use shall be maintained on a form provided by the department. Each daily entry shall be initialed or signed by representatives of both the approved food establishment and the mobile food establishment; or
 - (D) An alternative record keeping method approved by the director if such method adequately documents the usage of the approved food establishment by the mobile food establishment. These records shall be retained at the approved food establishment for at least twelve months and shall be made available to the director upon request;
- (3) These records shall be retained at the approved food establishment for at least twelve months and shall be made available to the director upon request.
- (4) Separate clearly designated storage areas for food, supplies, and equipment shall be provided in the approved food establishment for use by the mobile food establishment.
- (f) A private home kitchen shall not be used as an approved food establishment. [Eff 2/24/2014; R] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-50-87 Food supplies, storage, display and service. (a) Food supplies. A list of all foods offered shall be submitted to the department for approval. Approval shall be based on a determination by the director that the mobile food establishment is provided with the minimum facilities necessary for a safe and sanitary operation.

(b) Food storage. Excess food not carried on the mobile food establishment shall be stored at the approved food establishment.

(c) Food display and service. Self-service of unpackaged potentially hazardous food by customers is prohibited except through self-dispensing units that do not require a separate dispensing utensil such as a scoop or tongs, if approved by the director. [Eff 2/24/2014; R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-88 Single-service restrictions. (a) Food shall be served to customers in, or on, single-service or single-use containers only.

(b) Only single-service utensils shall be provided to customers. [Eff 2/24/2014; R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-89 Water system. (a) Mobile food establishments where exposed or unpackaged foods are handled shall be equipped with an approved self-contained water system that provides sufficient water at the required temperatures to meet the needs of the operation and shall be constructed and operated as specified in section 11-50-62.

(b) The water supply and sink requirements shall be as follows:

- (1) Mobile food establishments required to have a water system shall be equipped with a handwashing sink as specified in sections 11-50-60(k) and 11-50-61(c) and (g). The water system shall be of sufficient capacity to furnish the amount of water needed for the hours of operation, but not less than five gallons;
- (2) Mobile food establishments that conduct food preparation or warewashing on the mobile unit shall be equipped as specified in sections 11-50-47(b) and 11-50-49(h). In such case the water system shall be of sufficient capacity to furnish the amount of water needed for the hours of operation. The minimum volume of water shall be approved by the director based on operational factors that may include, but not be limited to, the hours of operation, the number of workers involved, the type and amount of food prepared,

and extent of food-handling/warewashing conducted on board the mobile food establishment. Water use projections or estimations shall be provided by the applicant. [Eff 2/24/2014; R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-90 Wastewater system. All mobile food establishments equipped with a water system shall be provided with a wastewater holding tank sized at least fifteen per cent larger than the water supply and shall be constructed and operated as specified in section 11-50-63. [Eff 2/24/2014; R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-91 Other requirements. (a) For identification purposes, the permit number of the permit issued by the department shall be permanently and prominently displayed on two sides of the exterior of the mobile food establishment in characters not less than four inches high, of strokes not less than one-fourth inch wide and of a color that contrasts with the background.

(b) All mobile food establishments shall be capable of being moved from their vending site at any time. They shall be moved from the vending site to the approved food establishment for cleaning and servicing.

(c) No utility service lines shall be connected to a mobile food establishment.

(d) All equipment essential to the basic operation of the mobile food establishment shall be physically attached to or located aboard the mobile unit. This includes, but is not limited to, grills, ice chests, storage containers, and generators.] [Eff 2/24/2014; R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-92 to 11-50-94 (Reserved).

[SUBCHAPTER 9

TEMPORARY FOOD ESTABLISHMENTS

§11-50-95 General requirements. (a) A temporary food establishment shall comply with the requirements of this chapter, except as otherwise provided in this subchapter.

(b) The department may impose additional requirements to protect against health hazards or nuisances related to the conduct of temporary food establishments.

(c) The department may prohibit the sale of some or all potentially hazardous foods.

(d) When no health hazards will result, the department may waive or modify requirements of this chapter for temporary food establishments. [Eff 2/24/2014; R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-96 Special requirements. (a) All temporary food establishment operational sites shall be approved by the department. Temporary food establishment operational sites shall include the approved food establishment sites, event sites, vending or distribution sites and any other sites where food is prepared, packaged, stored, served, vended, or distributed.

(b) All temporary food establishment menus and schematic plans shall be approved by the department.

(1) The permit applicant may be required to submit to the department in writing, a complete menu and schematic plan of the proposed operation;

(2) This schematic shall clearly detail, step by step, the flow and handling of all foods on the menu from the initial receipt of ingredients, through the processing or preparation of the foods, to the final distribution of the food to the consumer. [Eff 2/24/2014; R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-97 Approved food establishment requirements. An approved food establishment shall be available and used for any food preparation that is not allowed at the event site and to clean and sanitize multi-use utensils and equipment before the event and at the end of each business day. [Eff 2/24/2014; R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-98 Single-service restrictions. (a) Food shall be served to customers in, or on, single-service or single-use containers only.

(b) Only single-service utensils shall be provided to customers. [Eff 2/24/2014; R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-99 Handwashing facilities. Temporary food establishments where exposed or unpackaged foods are handled shall be provided with at least one handwashing sink as specified in sections 11-50-60(k) and 11-50-61(c) and (g). If an alternative water supply is provided instead of water under pressure, it shall be of sufficient capacity to furnish the amount of water needed for the hours of operation, but not less than five gallons. [Eff 2/24/2014; R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-100 Wastewater disposal. Wastewater shall be disposed of in a manner that does not create a nuisance. [Eff 2/24/2014; R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-101 Other facilities and operations. (a) Temporary food establishments shall be located in a clean, controlled area in which the potential for contamination of food and food contact equipment is minimized.

(b) Garbage and refuse from temporary food establishments shall be stored in tightly covered leakproof containers until removed.

(c) Refuse containers shall be available on the grounds at convenient locations.

(d) All garbage and refuse shall be disposed of at a frequency and in a manner that does not create a nuisance.

[Eff 2/24/2014; R] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-102 to 11-50-104 (Reserved).]"

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 11-50, Hawaii Administrative Rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

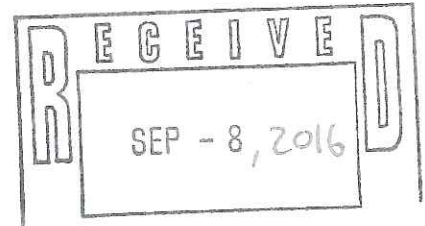
I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on August 2, 1982 and filed with the office of the Lieutenant Governor.

VIRGINIA PRESSLER
Director
Department of Health

APPROVED AS TO FORM:

Deputy Attorney General

Exhibit 5



Rules Amending Title 15
Hawaii Administrative Rules

(DATE TBD)

1. Chapter 210 of Title 15, Hawaii Administrative Rules, entitled "Rules, Regulations, Charges, and Fees for Parks" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

SUBTITLE 4

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 210

RULES, REGULATIONS, CHARGES, AND FEES
FOR [PUBLIC] PARKS

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SUBCHAPTER 1

GENERAL PROVISIONS

§15-210-1 Purpose. The purpose of this chapter is to govern the use and protection of all parks under the jurisdiction, management, and operation of the Hawaii community development authority, providing passive and active, cultural, educational and commercial activities for the well-being of all who visit the [area.] area including permitted park uses.

If any provision of these rules, regulations, charges, and fees for parks or the application of such is held to be invalid, the remaining portions of these rules or the application of said portions shall not be affected. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-2 Definitions. As used in this chapter, the following words and terms shall have the following meanings unless otherwise provided:

"Abandoned property" means any [and all property, including personal property, items, materials, equipment, fixtures, motor vehicles, or vessels that have been left unattended in the public parks for a continuous period of twenty-four hours or more without the written permission of the authority or the authority's authorized representative. Anything herein to the contrary notwithstanding, personal property carried into the park and left after park hours will be considered abandoned property;] personal property that has been left in, at, or on any Hawaii community development authority property that is closed to the public, and/or the owner of the property is not otherwise permitted to be on the premises. The property of a person violating these rules and who is required to leave any Hawaii community development authority property shall be deemed abandoned;

"Admission fees" means a fee, charge, or assessment levied on permittees for the privilege of observing an event within the [public] parks;

"Agent of the authority" means a person, persons or entity authorized by the Hawaii community development authority to act on Hawaii community development authority's behalf;

"Animals" means all animals wild and domestic;

"Authority" means the Hawaii community development authority board established by section 206E-3, [HRS;] Hawaii Revised Statutes;

["Authority's authorized representative" means any person authorized by the authority to act for the

authority including the executive director and agents of the authority;]

"Camping" means the [possession of a backpack, tents, blankets, tarpaulins, or other obvious camping paraphernalia any time after park closure within the public park;] use of camping items;

"Camping items" means structures of any kind (except for permitted tents), sleeping bags, mattresses, tarpaulins or tarpaulin like items, laid directly on the ground which cover more than a four-foot by four-foot area;

"Carts" means any wheeled unmotorized device used for moving or carrying personal property which is physically pushed or pulled;

"Commercial activity" means the use of or activity in the [public] park for which compensation is received by any person or entity for the sale of goods or services or both rendered to customers or participants in that use or activity. Display of merchandise, demanding or requesting gifts, money, or services shall be considered a commercial activity. Commercial activities include activities whose base of operations are outside the boundaries of the park, [or provide transportation to or from the parks;] and for which transportation to and from the park is provided;

"Compensation" includes, but is not limited to, monetary fees, barter, or services in-kind;

"Disposal" means the process listed herein for dealing with abandoned property;

"Executive director" means the executive director [of] appointed by the authority;

"HCDA" means the Hawaii community development authority, the executive director, the executive director's staff this includes current officers, directors, board members, employees, representatives and authorized agents, or such authority's successor in interest established by section 206E-3, Hawaii Revised Statutes;

"HCDA property" means real property owned and managed by the HCDA and not leased to another entity within the Kakaako community development district. Such real property includes, but is not limited to,

parks, park roadways, parking lots, beaches and beach rights-of-way. HCDA property also includes improvements made by the HCDA or the agent of the authority. HCDA property is not limited to real property;

"HRS" means the Hawaii Revised Statutes;

"Kakaako makai gateway park facility" means the landscaped, and other areas of the facility which is HCDA property as outlined in the makai area plan;

"Kakaako mauka gateway park facility" means the landscaped, and other areas of the facility which is HCDA property as outlined in the makai area plan;

"Kakaako waterfront park facility" means the stage, bleachers, stands, parking [lot,] lots, landscaped, and other areas of the facility which is HCDA property as outlined in the [park] makai area plan;

"Kewalo basin park facility" means the parking lots, landscaped, and other areas of the facility which is HCDA property as outlined in the makai area plan;

"Kolowalu makai park facility" is the park formally known as Queen park and means the landscaped, and other areas of the facility which is HCDA property as outlined in the mauka area plan. Queen park was traversed Queen Street prior to being known as Kolowalu makai and mauka parks;

"Kolowalu mauka park facility" is the park formally known as Queen park and means the landscaped, and other areas of the facility which is HCDA property as outlined in the mauka area plan. Queen park was traversed Queen Street prior to being known as Kolowalu makai and mauka parks;

"Law enforcement officer(s)" means any federal, state or county employee with law enforcement powers;

"Mother waldron playground" means the basketball and volleyball courts, play equipment, landscaped, and other areas of the facility which is HCDA property as outlined in the mauka area plan;

"Motor vehicle" means a motor vehicle of any type, including, but not limited to, automobiles, trucks, go-carts, motorcycles, motor scooters, mopeds,

[and dune buggies] dune buggies, golf carts, all-terrain vehicles (ATVs), segways, hoverboards, or any other vehicles which are mechanically propelled regardless of whether the vehicle is required by the State or any county to be licensed;

"Nude" means uncovered post-pubertal human genitals, pubic areas, or [the nipple or areola of post-pubertal human female breasts;] any portion of the female breast below the top of the areola;

"Park" means any park, park roadway, parking lot, playground, athletic field, beach, beach right-of-way, court, swimming area, or other area that serves as recreation area or facility under the control, maintenance, and management of the authority and designated as park in the Kakaako community development district mauka and makai area plans. The authority may from time to time exclude portions or areas that are designated as park from this definition for the purpose of maintenance, design, development or for the purpose of lease or permit to third parties;

"Parking lot" means the area designated for the parking of vehicles within the [public] park;

"Permissible animals" means common domestic household pets which includes animals such as domesticated cats, dogs, mice, rats, rabbits, guinea pigs, fish, and birds, but excludes animals which are considered livestock, including, but not limited to, chickens, horses, cattle, sheep, or pigs;

"Permitted tents" means a tent used to provide shade which is not fully enclosed. The addition of a side wall is allowed if it results in an enclosure of less than fifty per cent (i.e., pop up tents);

"Permittee" means the promoter, sponsor, exhibitor, league, or other person who obtains a permit for the purpose of conducting a special event at a [public] park;

"Personal property" means property of any kind or nature, including but not limited to clothing, personal care items such as personal hygiene products and medicines, household items, materials, containers, cardboard, camping items, furniture, equipment,

fixtures, bicycles or mopeds or motorcycles as defined in section 291C-1, HRS;

"Picnic" means an outing with food or refreshments provided by members of a group and eaten in the [open;] open and may include games, music or other activities for the enjoyment of members;

"Play apparatus" means equipment installed in the park by the HCDA or with HCDA's express written permission, specifically designed for recreation and play such as swings and slides or other equipment so designated by these rules or sign;

"Premises" means any park land under the control, maintenance, and management of the [authority] HCDA including, but not limited to, the Kewalo basin park, Kakaako mauka gateway park, Kakaako makai gateway park, [and the] Kakaako waterfront [park;] park, Kolowalu mauka park and Kolowalu makai park;

["Public park" means any park, park roadway, parking lot, playground, athletic field, beach, beach right-of-way, court, swimming area, or other unencumbered public land that serves as recreation area or facility under the control, maintenance, and management of the authority and designated as park in the Kakaako community development district mauka and makai area plans. The authority may from time to time exclude portions or areas that are designated as park from this definition for the purpose of maintenance, design, development or for the purpose of lease or permit to third parties; and]

"Soliciting" means engaging in unpermitted commercial activities;

"Storing" means to put aside or accumulate, to place or leave in a location;

"Structure" means any shelter built with construction or other materials which can include parts of a tent; and

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway or highway, [including mopeds, but excluding bicycles and other devices moved by human power.] but excluding bicycles. [Eff 6/11/05;

§15-210-2

am and comp 5/25/07, am and comp] (Auth:
HRS §206E-4) (Imp: HRS §§206E-2, 206E-4)

§15-210-3 Severability. These rules shall be liberally construed to protect and preserve the health, safety, and general welfare within the Kakaako community development district. Should any provision of the rules be held to be unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions. [Eff] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

[§15-210-3] §15-210-4 Enforcement. (a) Citations. [Police officers and any other officer authorized shall] Law enforcement officer(s) and any other person authorized by the HCDA shall have the power(s) to issue a citation for any violation of the provisions of this chapter:

- (1) [There shall be provided for use by authorized police officers, a form of citation for use in citing violators of this chapter for instances which do not mandate the physical arrest of the violators. The form and content of the citation shall be adopted or prescribed by the administrative judge of the district court and shall be printed on a form commensurate with the form of other citations used in modern methods of arrest, so designed to include all necessary information to make the same valid within the laws and rules of the State of Hawaii and the city and county of Honolulu;] Law enforcement officer(s) may use a form of citation that is authorized for use for violations of Hawaii Administrative Rules, ordinances, or HRS;
- (2) In every case when a citation is issued, a copy of the same shall be given to the

- violator, or in the case of a parking, standing, or stopping violation, a copy of the same shall be affixed to the vehicle, as provided in paragraph (5);
- (3) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original;
- (4) Whenever a motor vehicle is in violation of any provision, other than a parking, standing, or stopping provision, of this section, any [police officer and any other officer] law enforcement officer and any other person so authorized shall take the name, address, and driver's license number of the alleged violator and the license plate number of the vehicle or vehicle identification number of the motor vehicle involved, and shall issue to the alleged violator in writing a citation, notifying the alleged violator to answer to the [complaint to be entered against the person at a place and at a time provided in the citation;] citation in writing at the address provided and by the date listed; and
- (5) Whenever any motor vehicle is parked, standing, or stopped in violation of this section, the [police officer and any other officer] law enforcement officer and any other person so authorized finding the vehicle shall conspicuously affix to the vehicle a citation. The citation shall be addressed to the registered owner of the vehicle, but need not identify the registered owner by name, so long as the citation identifies the vehicle by its license plate number or vehicle identification number. The citation shall instruct the registered owner to answer to the [charge against the registered owner at a time and place specified in the citation.] citation in writing at the address provided and by the date listed. The registered

owner of a vehicle shall be responsible and accountable for the illegal parking, standing, or stopping of the vehicle when:

- (A) The registered owner committed the illegal parking, standing, or stopping of the vehicle; or
- (B) Another person committed the illegal parking, standing, or stopping of the vehicle, but the registered owner gave the person explicit or implicit permission to use the vehicle at the time of the violation.

In any proceeding for violation of a parking, standing, or stopping provision of this section, the license plate number or vehicle identification number of the parked, standing, or stopped vehicle shall constitute prima facie evidence that the registered owner of the vehicle was responsible and accountable for the illegal parking, standing, or stopping of the [vehicle; or] vehicle.

- [(6) If a person cited for violating any provision under this section does not appear in response to a citation, a penal summons shall be issued ordering the person's appearance in court.

(b) Police officers and any other officer so authorized may arrest in situations where:

- (1) The alleged violator refuses to provide the officer with the person's name and address and any proof thereof as may be reasonably available to the alleged violator;
- (2) When the alleged violator refuses to cease the person's illegal activity after being issued a citation; or
- (3) The alleged violator has previously been issued a citation for the same offense within a one-year period.] (b) Removed vehicles.

- (1) Complaint resolution may be initiated by persons claiming ownership or entitlement to

- vehicle towed under these rules by contacting the HCDA at (808) 594-0300; and
- (2) Any persons claiming ownership of the towed vehicle under these rules who wishes to pursue a contested case hearing shall file a request within fifteen calendar days of the vehicle being towed for which the contested case hearing is sought pursuant to section 15-219-45 et seq.

(c) Severability. If any section, subsection, sentence, clause, phrase, or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, the portion shall be deemed a separate, distinct, and independent provision and the holding shall not affect the validity of the remaining portions hereof.

(d) Penalty. [Except as otherwise provided in subsection (a) (1) through (a) (4), any person convicted of a violation of any section or provision of this section shall be punished by a fine of not more than \$500 or by imprisonment for not more than thirty days, or by both the fine and imprisonment; provided however, any person who violates or causes a vehicle to violate the provisions of the following sections shall be fined not less than \$25 but not more than \$500:

- (1) §15-210-13(a) (11);
- (2) §15-210-13(a) (14);
- (3) §15-210-13(b) (5); or
- (4) §15-210-13(f).]

Any person cited for a violation of any section or provision of this chapter shall be subject to a fine of \$50 for first time offense, \$100 for second or third time offenses, and \$500 for repeated offense beyond the third offense.

(e) Trespass. Any person(s) cited for repeated violation of any provisions of this chapter may be prohibited from use of the parks for a period of one year.

[(e)] (f) Injunction. The authority may maintain an action for an injunction to restrain any violation of this chapter and may take lawful action to prevent

§15-210-4

or remedy any violation. [Eff 6/11/05; am and comp
5/25/07, am and ren §15-210-3, am and
comp] (Auth: HRS §206E-4) (Imp: HRS
§206E-4)

[§§15-210-4] §§15-210-5 to 15-210-12 (Reserved)

SUBCHAPTER 2

USE OF [PUBLIC] PARKS

- §15-210-13 Park use. (a) Within the limits of any [public] park, it is unlawful for any person to:
- (1) Wilfully or intentionally destroy, damage, or injure any property;
 - (2) Climb onto any tree, except those designated by signage for climbing, or to climb onto any wall, fence, shelter, building, statue, monument, or other structure, excluding play [apparatus;] apparatus which is a part of the park;
 - (3) Swim, bathe, wade in, or pollute the water of any ornamental pool or fountain;
 - (4) Kindle, build, maintain, or use any fire, other than [in a grill or brazier;] in a HCDA designated barbeque pit;
 - (5) Annoy, molest, kill, wound, chase, shoot, launch or throw projectiles or missiles at any animal or bird;
 - (6) Distribute, post, or place any commercial handbill or circular, notice, or other advertising device or matter, except as permitted by the terms of any agreement relating to the use of park property;
 - (7) Use any surfboard or devices or materials with jagged or rough ends and edges, which are dangerous to surfers, swimmers, or bathers;
 - (8) [Construct] Construct, repair, or fabricate surfboards;

- (9) Permit any animal to enter and remain within the confines of any [public] park area except as otherwise provided in this chapter or authorized by permits issued by the authority or the [authority's authorized representative;] agent of the authority;
- (10) Feed any animal or bird [when signs are posted prohibiting the feeding unless authorized by a permit issued by the authority or the authority's authorized representative;] unless authorized by a permit issued by the authority or the agent of the authority;
- (11) Wash, polish, or repair cars or other vehicles;
- (12) Enter or remain in any [public] park during the posted hours that the park is [closed, provided that public notice of closure is made;] closed;
- (13) [Camp at any park not designated as a campground;] Camp at any parks or create a camp site;
- (14) Park any vehicle in the parking lot except while its passengers are within the [public] park;
- (15) Appear nude within the [public] park;
- (16) Defecate or urinate other than in public restrooms;
- (17) Dispose of any trash other than in designated rubbish bins;
- (18) [Launder clothes or wash any article of household use in barbecue areas, drinking fountains, irrigation systems, or restrooms;] Use any type of detergent or soap to launder clothes or wash any personal property within the park;
- (19) Hang or lay more than one article of clothing or [household use] personal property to dry anywhere in the park; [or]
- (20) Park vehicles outside of marked parking [stalls.] stalls;

- (21) Operate any vehicle within the park, excluding the parking lot, unless authorized by the authority or the agent of the authority;
- (22) Use skates, skateboards, hoverboards, segways, scooters, or other similar items;
- (23) Use inflatable bouncers or other similar items;
- (24) Insert stakes or spikes of any length into the grounds;
- (25) Smoking of cigarettes, cigars, etc. or utilizing e-cigs, e-cigarettes, vapor cigarettes or similar devices;
- (26) Personal use of fireworks of any type; or
- (27) Access water from any source within the park other than a park comfort station or park shower.

(b) Except as authorized by permits, and subject to the terms and conditions imposed by the authority, it is unlawful for any person, within the limits of any [public] park, to:

- (1) Cut or remove any wood, plant, grass, soil, rock, sand, or gravel;
- (2) Sell or offer for sale any services, merchandise, article, or thing, whatsoever;
- (3) Moor, tie up, store, repair, or condition any boat, canoe, raft, or other vessel;
- (4) Repair or [condition] recondition any surfboard;
- (5) Operate a motorized scooter, motorized vehicle, or other motorized recreational equipment that is not regulated and licensed by the city and county of Honolulu;
- (6) Enter the [public park with a shopping cart or park any shopping cart or vehicle on grassed areas;] park with a cart with items in the cart stacked, piled, or placed exceeding a height of three feet;
- (7) Amplify music or use battery-operated loudspeakers (bullhorns);
- (8) Ride or drive any horse or any other animal;

- (9) Access electricity from any source within the park;
- [(9)] (10) Kindle, build, or maintain any campfire, fire torch, or fire knife;
- [(10)] (11) Serve, sell, or consume alcoholic beverages;
- [(11)] (12) Engage in or conduct any activity which creates any sound, noise, or music exceeding 80 dBA sound pressure level taken at a point ten feet in front of the source for a cumulative time period of at least five minutes when measured with a calibrated American National Standard Institute (ANSI) Type I or Type II sound level meter with weighting set at "A" and response set at "slow" except any activity which is sponsored by the authority;
- [(12)] Use anchors, stakes, or any ground penetration for any purpose; or]
- [(13)] Placement of anchors, stakes, or any ground penetrating item for any purpose;
- [(14)] Bring wading pools, dunking tanks, inflatable pools, or portable hot [tubs.] tubs;
- [(15)] Burning or lighting of firecrackers or fireworks display in the parks;
- [(16)] Placement of any structures;
- [(17)] Holding any gathering with more than fifty people in attendance;
- [(18)] Digging holes; or
- [(19)] Access water from any backflow preventer or tamper with any backflow preventer and/or irrigation system.

(c) Within the limits of any [public] park, it is [unlawful] a violation of these rules for any person, wherever signs are posted prohibiting the activities, to:

- (1) Throw, cast, catch, kick, or strike any baseball, tennis ball, football, basketball, croquet ball, or other object;
- (2) Ride upon roller skates, roller blades, skate boards, scooters, wheelies, [or

bicycles; or] hoverboards, segways, or other wheeled devices;

(3) Engage in kite [flying.] flying;

(4) Engage in drone flying; or

(5) Ride bicycles anywhere except on designated paths or areas.

(d) Except in park areas specifically designated for the purposes, it is unlawful for any person to:

(1) Throw, cast, roll, or strike any bowling ball or golf ball;

(2) Engage in model [airplane] airplane, or drone flying;

(3) Engage in model boat sailing;

(4) Engage in model car, truck, or motorcycle driving;

(5) Discharge firearms for target practice only;

(6) Engage in archery for target practice and tournament only; [or]

(7) Launch model [rockets.] rockets; or

(8) Allow any domestic household pet to be off leash at any time.

(e) In addition to the requirements of subsection (b), the repair or [conditioning] reconditioning of any surfboard shall be performed only by a concessionaire of the authority who has a surfboard concession. The repair work shall be conducted only in an enclosed building or structure, approved by the authority, the Honolulu county department of planning and permitting, and the state department of health. The terms and conditions to be imposed by the authority shall include, together with the requirements necessary to safeguard the health and safety of the public, the securing of adequate insurance to protect the State from any liability resulting from the repair work.

(f) Within the limits of any [public] park, it is unlawful for any person, where signs are posted prohibiting or restricting the activities, to operate, park, or stand a motor vehicle in violation of the prohibitions or restrictions. The signs may impose any prohibition or restriction upon the operation, parking, or standing of motor vehicles which the

executive director shall determine will maximize the enjoyment and use of any park by park users. The restrictions may include the installation of parking meters or parking toll booths in [public] parks. [Eff 6/11/05; am and comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-14 Animals in [public] parks.

(a) [Persons may bring animals into public] Adult persons may bring permissible animals into parks as provided in this section or in accordance with any other rules adopted by the authority pursuant to chapter 91, HRS. [For purposes of this section, "common domestic household pets" includes animals such as domesticated cats, dogs, mice, rats, rabbits, guinea pigs, fish, and birds, but excludes animals which are considered livestock, including, but not limited to, horses, cattle, sheep, or pigs.]

(b) Permissible animals in the parks shall be constantly supervised by a legally responsible person.

(c) All permissible animals in the parks shall be leashed or crated and under the control of a legally responsible person.

(d) Permissible animals shall not be left unattended in the parks even if the permissible animal is leashed or crated.

(e) Animals which are not permissible animals are not allowed in the parks.

[(b)] (f) The executive director is authorized to designate areas in [public] parks for use by persons having custody and control of [common domestic household pets on a leash.] leash-free common domestic household pets. In designating parks or areas therein for [leashed] leash-free common domestic household pets, commonly known as "bark parks", the executive director shall consider the park's size, location, and frequency of use by members of the public, as well as the primary actual or designed use of each park or area included in the designation. The executive director shall post signs that notify the public of

the designation that describe or map the park or park areas so designated. Signs for areas for [leashed] leash-free common domestic household pets shall further display the applicable requirements in subsection (c).

[(c)] (g) Persons bringing [permitted] permissible animals into [public] parks shall be held responsible for the sanitary use of the park, the protection of shrubbery, trees, turf, and other property, and the safety, health, and welfare of all park users, as well as the following specific responsibilities associated with bringing common domestic household pets into a [public] park:

- (1) [The] Except in designated leash-free areas, the person having custody and control of the common domestic household pets [to] shall restrain the common domestic household pets at all times on a leash, cord, chain, or other similar means of physical restraint of not more than eight feet in length;
- (2) All common domestic household pets [in the park or park areas designated for leashed common domestic household pets to] shall display a valid license tag attached to the common domestic household pet's collar;
- (3) The person having custody and control of the common domestic household pets [to] shall be eighteen years of age or older; and
- (4) The person having custody and control of the common domestic household pets [to] shall carry equipment for the removal and disposal of the common domestic household pets' feces and [to] shall clean up and dispose of feces left by the common domestic household pets.
[Eff 6/11/05; comp 5/25/07, am and
comp] (Auth: HRS §206E-4)
(Imp: HRS §206E-4)

§15-210-15 Closing of areas. (a) The visiting hours for the parks shall be as noted on officially posted park hour signs. All persons shall observe and

abide by the officially posted signs designating closed areas and visiting hours.

(b) The authority or the [authority's authorized representative may establish a reasonable schedule] agent of the authority may establish other reasonable schedules of visiting hours for all or portions of the premises and close or restrict the public use of all or any portions thereof, when necessary for the maintenance or protection of the area or the safety and welfare of persons or [property, by the posting of appropriate signs indicating the extent and scope of closure.] property. Signs may be posted by the HCDA or the agent of the authority to provide notice of the change in park visiting hours or the closure of specified areas. All persons shall observe and abide by the [officially] HCDA approved posted signs designating closed areas and visiting hours.

[(b)] (c) Vehicles left unattended in closed areas may be impounded by the authority or the authority's authorized representative at any time.

[(c)] (d) All impounded vehicles shall be towed to a place of storage. Towing, storage, and other related costs shall be assessed pursuant to section 290-11, HRS. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §§206E-4, 290-11)

§15-210-16 Abandoned property. [Abandoned property is subject to removal at the owner's expense.] (a) Prohibition.

(1) Abandoned property is prohibited and may be removed by the HCDA; and

(2) Moving abandoned property to another location on HCDA property and "left in, at, or on any HCDA property" is within the meaning of the "abandoned property" definition.

(b) Disposal, removal, notice and storage procedures for abandoned property.

- (1) Immediate disposal. The HCDA may dispose of immediately, in any manner without notice, verbal or written, abandoned property:

 - (A) Of a perishable nature, including but not limited to items that require refrigeration;
 - (B) Posing a threat to the health, safety, or welfare of the public, including but not limited to property containing flammable or otherwise hazardous chemicals, or similarly dangerous items that, if stored, could cause fire, explosion, identifiable disease;
 - (C) Deemed to be inappropriate for storage for health and safety reasons by the HCDA, including but not limited to property that is wet, soiled, dirty, sharp, odorous, contaminated by mold or infested with insects, roaches, or bed bugs; or
 - (D) Where the apparent owner of the property requests or permits such disposal;
- (2) If the apparent owner is present at the time that the HCDA is removing the property, the owner will be provided a reasonable opportunity to remove the property from HCDA property; and
- (3) The HCDA shall photograph, video, and/or describe in writing any abandoned property immediately disposed of pursuant to this section and shall maintain a record of the approximate location, date and method of disposal of such abandoned property.

 - (c) Removal and storage. The HCDA may remove and store abandoned property that:

 - (1) Interferes with the orderly management of HCDA property;
 - (2) Remains in a park after park closure hours;
or
 - (3) Where the apparent owner of the property requests or permits such removal:

- (A) If the apparent owner is present at the time that the HCDA is removing the property, the owner will be provided an opportunity to remove the property from HCDA property;
- (B) The HCDA shall photograph, video and/or describe in writing any abandoned property removed pursuant to this section and shall maintain a record of the approximate location, date and method of disposal of such abandoned property; and
- (C) Any removed abandoned property shall be stored for at least forty-five calendar days prior to it being disposed.
- (d) Exclusion from enforcement area.

 - (1) Members of the public may be excluded from the area within which the abandoned property is being removed by the HCDA; the exclusion area may extend up to ten feet from any property to be removed; and
 - (2) A person claiming ownership of the abandoned property shall be permitted to enter the exclusion area for purposes of removing that property so that the property will not be removed by the HCDA; provided, however, that moving abandoned property from HCDA property to another location within the same HCDA property, or to another HCDA property shall not be considered removal from HCDA property, and that the removal is done within forty-five minutes after the initial notice of removal is given.
- (e) Notice. Notice after removal of abandoned property:

 - (1) If physically feasible, a written notice shall also be left in the area/location from where the abandoned property was removed, and be prominently and conspicuously posted for at least three consecutive calendar days following removal of the abandoned property. The notice may be collected by the HCDA

- after three days have elapsed. This does not require the HCDA to ensure that the notice is in place seventy-two consecutive hours but requires only inspection at the end of the three-day period;
- (2) Written notice shall also be posted on HCDA's internet website for three consecutive days;
- (3) The written notice shall apprise the owner of the abandoned property of the description and location of the removed property and of the intent of the HCDA to sell, donate, or otherwise dispose of the property if not claimed within forty-five calendar days after removal. The notice shall also include:
- (A) Date and time the abandoned property was taken;
- (B) Date and time the written notice was originally posted; and
- (C) Contact information for the owner of the abandoned property to use if the person desires to reclaim the abandoned property and the time and location at which the owner needs to reclaim the abandoned property; and
- (4) To the extent possible based on information known to the HCDA, an additional written notice shall also be mailed to the person whose property was removed, at that person's last known mailing address.
- (f) Claiming of abandoned property.
- (1) The owner or any other person entitled to the stored abandoned property may claim the property prior to its disposal upon submitting to the HCDA satisfactory proof of ownership or entitlement and payment of all unpaid rent, debts, and charges owing and all handling, storage, appraisal, advertising, and other expenses incurred by the HCDA in connection with the proposed disposal of the stored abandoned property;

- (2) Such amounts may be waived by the HCDA upon satisfactory showing of inability to pay; and
- (3) A dispute between the owner or other person entitled to the stored abandoned property who claimed the property, and another party shall not constitute a dispute to which the State of Hawaii or the HCDA is a party, and there is no right of action against the State of Hawaii or the HCDA. The State of Hawaii and may not be interpleaded in any judicial or administrative proceeding involving such a dispute.
- (g) Disposal.
- (1) If any stored abandoned property is not claimed in forty-five calendar days, the HCDA may dispose of the property by disposing it;
- (2) Alternatively, if any singular item of abandoned property is determined by the HCDA to have an estimated value of \$1,000 or more, the HCDA may, in lieu of disposing the abandoned property, seek to publicly auction the property. In that event, the HCDA shall give public notice of the public auction, including a brief description of the property, details of the time and place of the auction and giving notice to all persons interested in claiming the property that unless claims are made by persons who can provide satisfactory proof of ownership before a specified date, the property will be sold at public auction to the highest bidder. Such public notice shall be published at least once in a publication of statewide circulation or in a publication of local circulation where the property was seized; provided that the disposal shall not take place less than five calendar days after public notice has been given. Following proper notices, any item of impounded personal property having an

estimated value of \$1,000 or more shall be disposed of by public auction, through oral tenders, or by sealed bids. Where no bid is received, the abandoned property may be sold by negotiation, disposed of or sold as junk, kept by the HCDA or donated to any other government agency or charitable organization; and

- (3) All expenses of handling, storage, appraisal, advertising, and other sale expenses incurred by the HCDA shall be deducted from the proceeds of any sale of the abandoned property. Any amount remaining shall be held in trust for the owner of the property for thirty calendar days after sale, after which time the proceeds shall be transferred to the department of budget and finance pursuant to the Unclaimed Properties Act.

(h) Records. Records relating to property not immediately disposed of shall be kept as a public record for a period of not less than two years from the date of disposal of the property.

(i) Complaint resolution.

- (1) All complaints by persons claiming ownership or entitlement to abandoned property stored or disposed of under these rules may contact the HCDA at (808) 594-0300; and

- (2) Any person claiming the property stored or disposed of under these rules who wishes to pursue a contested case hearing shall file a request within fifteen calendar days of the action or decision for which the contested case hearing is sought pursuant to section 15-219-45 et seq. The HCDA shall continue to store the abandoned property at issue in the contested case hearing while the case is pending. The HCDA may dispose of the abandoned property if the contested case hearing decision allows for such disposal.

[Eff and comp 5/25/07, am and

comp] (Auth: HRS §206E-4)
(Imp: HRS §206E-4)

§§15-210-17 to 15-210-25 (Reserved)

SUBCHAPTER 3

COMMERCIAL ACTIVITIES

§15-210-26 Advertisements. No person shall display, post, or distribute notices or advertisements except with the prior written permission of the authority or the [authority's authorized representative.] agent of the authority. Permission may be granted only if the notice or advertisement relates to services, goods, or facilities available within or to be available within the premises and the notices and advertisements are found by the authority or the [authority's authorized representative to be desirable and necessary for the convenience and guidance of the public.] agent of the authority to be desirable and necessary for the convenience and guidance of the public and does not interfere with the normal use of the park. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-27 Business operations. No person shall engage in or solicit any business, except in accordance with the provisions of a permit, contract, license, lease, concession, or other written agreement with the authority or the [authority's authorized representative.] agent of the authority. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-28 Commercial filming, photography, and videotaping. (a) Before any motion picture is filmed

or any video recordings, television production, or sound track is made, which involves the use of professional casts, models, settings, or crews, by any person other than [bonafide newsreel or news television personnel,] bona fide professional journalist, a person shall obtain a written permit from the authority or the [authority's authorized representative] agent of the authority which shall be subject to terms, conditions, and fees set by the authority.

(b) Before any still photograph may be taken by a commercial photographer for commercial purposes, a person shall obtain a written permit from the authority or the [authority's authorized representative.] agent of the authority. The permit shall be subject to terms, conditions, and fees set by the authority. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-29 Permit for commercial activities.

(a) No person shall engage in commercial activities of any kind without a commercial use permit from the authority or the [authority's authorized representative.] agent of the authority. The permit shall be subject to terms, conditions, and fees set by the authority.

(b) Applicants, at a minimum, shall meet the following criteria to qualify for a commercial use permit:

- (1) Be a duly organized business in good standing in the State of Hawaii or an individual over the age of eighteen;
- (2) Hold a current Hawaii state general excise tax license;
- (3) Hold a current Hawaii state tax clearance certificate; and
- (4) Submit an application for a permit at least forty-five days prior to the requested permit commencement date.

(c) A commercial use permit application may be denied if the authority or the [authority's authorized representative] agent of the authority determines that:

- (1) The proposed activity would be detrimental to the integrity of the park;
- (2) The proposed activity would be detrimental to the safety of the users of the park;
- (3) The requested area is already subject to an issued permit(s) and issuing additional [permits] permit(s) in the area would compromise the access and availability of the park or the enjoyment or safety of the general public;
- (4) The proposed activity will have a significant negative impact on park users and facilities;
- (5) Legitimate and verified complaints have been received regarding overuse and impairment of the condition or public enjoyment of the park area requested;
- (6) The applicant, its principals, subsidiaries, or affiliates has a prior record of noncompliance with permit conditions or violations of this chapter or other rules administered by the authority or any county;
- (7) The proposed commercial use is not allowed on the premises pursuant to the Kakaako community development district mauka and makai area plan and rules; or
- [(8) The executive director determines that the activity or event is not in the best interest of the resource or the public; or
- (9)] (8) Any other basis for denial exists that is provided for under this chapter.

(d) The authority or the [authority's authorized representative] agent of the authority shall issue a denial of an application in writing setting forth the reason for the denial. The applicant may appeal the denial in writing to the executive director within fifteen calendar days from receipt of the denial. The executive director's decision shall be final. [Eff

§15-210-29

6/11/05; am and comp 5/25/07, am and
comp] (Auth: HRS §206E-4) (Imp: HRS
§206E-4)

§15-210-30 General commercial use permit provisions. All commercial use permits shall be subject to the following provisions:

- (1) Permits shall not be transferable or assignable, unless explicitly authorized in the approved permit;
- (2) Permits shall be site and use specific;
- (3) Persons or organizations to which permits are issued are bound by the permit conditions stipulated on or attached to the permit;
- (4) Permittee shall comply with all applicable laws, rules, and regulations of the federal, state, and county governments. Issuance of a permit is not a grant of any other approvals that may be required of the permittee for the permitted activity, nor does a permit exempt the permittee or the permitted activity from any applicable laws, rules, ordinances, and regulations of any federal, state, or county governments;
- (5) Permittee shall at all times have comprehensive general liability insurance in minimum amounts that may be set by the authority, listing the State of Hawaii as an additional insured;
- (6) Permittee shall have the permit at the site and produce it upon request;
- (7) Depending upon type and intensity of the commercial activity, a refundable security deposit may be required by the authority or the [authority's authorized representative.] agent of the authority. The security deposit shall be refunded if the area used by the permittee has been cleaned and restored to an acceptable condition upon expiration of the permit or if the permit is

anceled prior to use. The authority may retain all or part of the security deposit for cleaning and site restoration purposes. Retention of the security deposit shall not preclude the authority from pursuing other legal remedies to address cleaning and site restoration if required;

- (8) The use of the premises shall not be in support of any policy that discriminates against anyone based on race, religion, color, sex, national origin, marital status, sexual orientation, familial status, ancestry, physical handicap, disability, age, or HIV (human immunodeficiency [virus];] virus) status;
- (9) Permittee shall not transport onto the premises nor cause or permit the escape, disposal, or release of any hazardous materials except as permitted by law. "Hazardous materials" shall mean any pollutant, toxic substance, hazardous waste, hazardous substance, or oil as defined in or pursuant to the Resource Conservation Recovery Act, as amended, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Clean Water Act, or any other federal, state, or local environmental law, regulation, ordinance, rule or bylaw, whether existing as of the effective date of these rules, previously enforced, or subsequently enacted or amended;
- (10) Any other restrictions or conditions may be imposed by the authority to protect the integrity, condition, and safety of, or access for the general public to the premises; provided restrictions and conditions may include, but are not limited to, the size of the area available for the activity, location of the activity, the type of activity, seasonal and weather restrictions, intensity of the activity or

- the requirement to hire licensed security services deemed necessary by the authority or the [authority's authorized representative;] agent of the authority;
- (11) The issuance of a permit shall not constitute a vested property interest, but is a privilege granted for the use of the premises for a specified activity and time period;
 - (12) Failure to use the permit at the designated time and place, not due to an act of interference by the authority, shall not result in a refund or credit against paid fees;
 - (13) Permits are not automatically renewable. Granting of a permit does not entitle the permittee to re-issuance of the permit;
 - (14) Permittee shall be responsible for the cleanup and hauling away, and any costs associated therewith, of any trash resulting from the permittee's activity; and
 - (15) Permittee may charge a reasonable admission fee to any person desiring to enter the premises for the purpose of observing the permitted event. [Eff 6/11/05; comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-31 Commercial use permit fees.

(a) Applicants for a commercial use permit shall be charged an application fee of \$100 at the time of filing the application to defray the cost of processing, issuing, and administering commercial activity permits. A schedule of usage fees shall be set from time to time by the authority. The application fee shall be paid when the application is filed.

(b) All payments of fees and charges shall be in cash, check, cashier's check, certified check, postal money order, bank money order, or other methods approved by the authority. [Eff 6/11/05; comp

5/25/07, comp] (Auth: HRS §206E-4)
(Imp: HRS §206E-4)

§15-210-32 Commercial use permit cancellation, revocation, or termination. (a) The authority or the [authority's authorized representative] agent of the authority may cancel a permit on thirty calendar days' written notice.

(b) The authority or the [authority's authorized representative] agent of the authority may cancel, revoke, or terminate a permit without notice and hearing when:

- (1) An emergency is declared by the authority, the [authority's authorized representative,] agent of the authority, or other proper authority;
- (2) A permittee violates permit conditions or provisions of this chapter;
- (3) The permitted activity damages or threatens damage to the integrity or condition of the premises or the surrounding environment;
- (4) Non-use of the permit; or
- (5) The permitted activity poses a threat to the health, safety, or welfare of the general public or otherwise negatively impacts the general public's use and enjoyment of the premises or surrounding lands.

(c) Except for good cause shown, as determined by the executive director, no refund will be given of any amounts paid when a permit is canceled, revoked, terminated, or voluntarily surrendered. [Eff 6/11/05; am and comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-33 Indemnification and hold harmless. The permittee shall hold the authority and the State harmless with respect to, and indemnify the authority and the State against, all liability, loss, damage, cost, and expense, including attorneys' fees, arising out of or resulting from the acts or omissions of the

§15-210-33

permittee, or the permittee's employees, officers, agents, or subcontractors with respect to any commercial activity conducted or any improvement constructed or installed at the [public parks.] parks, unless this requirements is waived or modified by the authority based on a finding of good cause. [Eff 6/11/05; comp 5/25/07, am and comp 1 (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-210-34 to 15-210-45 (Reserved)

SUBCHAPTER 4

PERMITS AND FEES FOR USE OF PARKS

§15-210-46 Permits. (a) Required. Any person using the premises shall first obtain a permit from the authority for the following uses:

- (1) Picnic groups, consisting of fifty or more persons;
- (2) Sports activities conducted by a league, organization, association, group, or individual;
- (3) Recreational activities, including nonprofit fundraising activities, sponsored by community organizations, associations, groups, or individuals;
- (4) Meetings, gatherings, or other similar activity held by organizations, associations, or [groups;] groups consisting of fifty or more persons;
- (5) [Nonrecreational,] Non-recreational, public service activities, meetings, and gatherings held by organizations, communities, or [groups;] groups consisting of fifty or more persons;
- (6) The playing of musical instruments as solo or two or more instruments described as follows:

- (A) Musical instruments which are limited to two octaves or less, including, but not limited to, the following musical instruments:
 - [(i) Tuba;
 - [(ii)] (i) Tympani;
 - [(iii)] (ii) Maracas;
 - [(iv)] (iii) Uliuli;
 - [(v)] (iv) Castanets;
 - [(vi)] (v) Tambourine; or
 - [(vii)] (vi) Percussion instruments in which a human hand or drumsticks are used to create sounds;
 - (B) Musical instruments which when played do not exceed the sound pressure level established in section 15-210-13(b)(11); and
 - (C) Musical instruments which are used or played continuously without a regular hourly break of thirty minutes, or for more than six hours within a day;
- (7) Hang gliding; or
 - (8) Commercial activities designed for profit, which include but are not limited to the exchange or buying and selling of commodities or the providing of services relating to or connected with trade, traffic, or commerce in general. The proposed commercial activities under the permit shall be consistent with the use of the park under consideration, subject to reasonable limitations on the size of the groups, and the time and area within which the event is permitted.

(b) Issuance standards for permits. The authority or the [authority's authorized representative] agent of the authority shall uniformly treat each application, based upon the facts presented, free from improper or inappropriate considerations and from unfair discrimination and shall exercise no other discretion over the issuance

of a permit under this section, except as provided in this section. All permits issued by the authority shall:

- (1) Ensure maximum permissible use of the areas and facilities by appropriate distribution of users;
 - (2) Ensure proper, orderly, and equitable use of areas and facilities through scheduling and user controls;
 - (3) Ensure protection and preservation of areas and facilities by not overtaxing facilities; and
 - (4) Promote the health, safety, and welfare of the users of said areas and facilities.
- (c) General provisions.
- (1) Permits governing the use of public facilities and areas within the premises shall consist of the following types:
 - (A) Group use; or
 - (B) Special use; [or
 - (C) Temporary concession;]
 - (2) The authority or the [authority's authorized representative] agent of the authority may issue permits. Permits shall be obtained from the authority. The current address of the authority is: [677 Ala Moana Boulevard, Suite 1001,] 547 Queen Street, Honolulu, Hawaii 96813. Future change of address will be reflected on Hawaii community development authority's website (www.hcdaweb.org). The following conditions shall apply to all permits:
 - (A) Permits shall be issued on a first-come first-served basis;
 - (B) All responsible persons eighteen years of age or older shall be eligible to secure permits;
 - (C) Permits shall be requested no later than forty-five days before the requested permit date and, once issued, may be picked up between the hours of

- 8:00 a.m. and 4:00 p.m. on State of Hawaii regular working days;
- (D) Permits shall not be transferred;
 - (E) Persons or organizations to whom permits are issued are bound by the permit conditions stipulated on or attached to the permit and any applicable federal, state, and county laws, ordinances, rules, and regulations;
 - (F) The size of groups as well as the length of time any permit may be in effect may be limited by the authority or the [authority's authorized representative;] agent of the authority;
 - (G) Fees and charges as set by the authority shall be assessed for permits to defray the cost of park maintenance, special facilities, services, or supplies provided by the State, or to meet other conditions as the authority or the [authority's authorized representative] agent of the authority may prescribe to carry out the provisions of this chapter. Charges may be waived by the authority if, in its opinion, the waiver is in the public interest and benefits the State;
 - (H) Deposits. The authority or the [authority's authorized representative] agent of the authority may require a security deposit as a condition of issuing a permit. A deposit shall be collected from the applicant prior to issuance of the permit. This deposit is required to assure proper cleanup and restoration and shall be refunded by mail if the area used is cleaned and restored to the satisfaction of the authority or the [authority's authorized representative.] agent of

the authority. The amount of deposit shall be determined as follows:

<u>Activity/ Event Group Size</u>	<u>Deposit</u>
50 - 100	\$200
100 - 200	[400] <u>\$500</u>
More than 200	[500] <u>\$1,000</u>
<u>Events requiring special conditions or equipment</u>	<u>\$5,000+</u>

- (I) All payments of fees and charges shall be in cash, cashier's check, certified check, postal money order, or bank money order provided that personal or business checks may be used to pay for events that will occur thirty or more days after the date of the payment;
- (J) All permittees shall, upon request, show the permit to any law enforcement officer, the authority, or the [authority's authorized representative;] agent of the authority; and
- (K) Other procedures, terms, and conditions deemed by the authority or the [authority's authorized representative] agent of the authority necessary to carry out the provisions of this chapter, or any applicable federal, state, or county laws, ordinances, rules, or regulations;
- (3) Permits may be denied when:
 - (A) The premises or park facilities are closed or will be closed because of damages, or because of scheduled or [ongoing,] ongoing construction, repairs or maintenance activities, or because of other reasons;
 - (B) A state of emergency is declared by the authority, the [authority's authorized

- representative,] agent of the authority, or other proper authorities;
- (C) Natural or civil disturbances occur or threaten to occur, including, but not limited to, tsunamis, floods, earthquakes, storms, riots, demonstrations, and employee strikes;
 - (D) There are inadequate facilities to meet the needs of the applicant for the permit;
 - (E) The premises or facilities will be used by another permittee; or
 - (F) The applicant has a prior record of noncompliance with permit conditions or violations or violations of this chapter; and
- (4) Permits may be canceled or terminated at any time without advance notice when:
- (A) A state of emergency is declared by the authority, the [authority's authorized representative,] agent of the authority, or other proper authorities;
 - (B) Natural or civil disturbances occur or threaten to occur including, but not limited to, tsunamis, floods, earthquakes, storms, riots, demonstrations, and employee strikes;
 - (C) Permittee violates permit conditions or provisions of this chapter; or
 - (D) Fees, as required, are not paid.
- (d) Group use permits.
- (1) Any group larger than [twenty-five] fifty members shall be required to obtain a group use permit to remain within the premises;
 - (2) Group use permits may be denied to any person, group, organization, or association when space is inadequate to accommodate the group or as otherwise provided in subsection (c);
 - (3) Group use permits shall set forth the day and time the group shall be allowed to remain on the premises as follows:

- (A) Permits may be issued for [hours between 7:00 a.m. and 10:00 p.m. of the same day;] using the park between the hours of 5:00 a.m. and 10:00 p.m.;
 - (B) An earlier or later starting time may be granted by the authority or the [authority's authorized representative] agent of the authority to accommodate special functions; and
 - (C) Minors below the age of eighteen may be allowed to remain on the premises on their own if the adult who secures the permit for them will be responsible for them and also provided that their use is between the hours 7:00 a.m. to 7:00 p.m. of the same day. Minors staying beyond 7:00 p.m. in park areas that normally stay open past 7:00 p.m. shall be under the supervision of adults on a ten minors to one adult ratio. All minors from the same family, who are accompanied by at least one of their parents, shall be allowed to remain in the area past the 7:00 p.m. deadline, where permitted, without regard to the adult-minor ratio; and
- (4) The authority or the [authority's authorized representative] agent of the authority may require the permittee at the permittee's own cost, to provide licensed security services or protection in the interest of public safety and welfare and for the protection of property when [the number or persons under the permit is one hundred or more.] recommended by public safety and/or law enforcement officer.
- (e) Special use permits.
 - (1) Special uses shall be permitted only with a special use permit issued by the authority or the [authority's authorized representative.] agent of the authority. Special uses are all types of uses other

- than [temporary concession and] group use and are considered compatible with the functions and purposes of each individual area, facility, or unit of the premises;
- (2) Requests for permits for special uses shall each be considered on its own merits, including its effect on the park area, facilities, and the public's use and enjoyment;
 - (3) Special uses [include] include, but are not limited [to] to, such activities as assemblies, carnivals, celebrations, concerts, concessions, demonstrations, festivals, gatherings, meetings, pageants, parades, public expressions of views, rallies, regattas, shows, sport events, weddings, and other community or ethnic oriented events, or activities, or other spectator attractions that are open to the general public or to restricted groups;
 - (4) Requests for permits shall be submitted to the authority a minimum of forty-five days before the date of use being requested for all special use activities or events including those involving the charging of fees, the sale of goods or services, and sponsorship or co-sponsorship by commercial establishments;
 - (5) Requests for special use permits shall be submitted in writing and shall provide the name, address, and phone number of the applicant, the date, time, duration, nature, and place of the proposed event, an estimate of the number of persons expected to attend, and a statement of equipment and facilities to be used in connection therewith. If the event is for the purpose of raising funds, a statement on how the profits will be used is required;
 - (6) Permits may be denied when:
 - (A) A prior permit for the same time and place has been or will be granted;

- (B) The event presents a clear and present danger to the public health or safety;
 - (C) The event is of a nature or duration that cannot reasonably be accommodated in the particular park area applied for;
 - (D) The event will significantly interfere or conflict with the public's general use and enjoyment of the particular park area applied for; or
 - (E) Applications or requests for permits are not received by the authority within the times specified in paragraph (4);
- (7) The permit may contain conditions relating to protection and use of the park area for the purposes for which it is maintained, reasonable limitations on the time and area within which the event is permitted, and requirements for liability insurance coverage; [and]
- (8) The authority or the [authority's authorized representative] agent of the authority may require the permittee at the permittee's own cost, to provide licensed security services or protection in the interest of public safety and welfare and for the protection of property when [the number of persons under the permit is one hundred or more.] recommended by public safety and/or law enforcement officer; and
- [(f) Temporary concession permit.
- (1) Activities where donations or entry or registration fees are collected for the purpose of defraying expenses incurred by the permittee in conducting the event or activity or activities where the public is charged an admission fee or where a donation is accepted for the purpose of realizing a profit (fundraising activity) shall require a temporary concession permit;

- (2) The applicant must be a bonafide nonprofit organization as defined in Internal Revenue Code section 501(c)(3);
- (3) The authority may require a financial report if it deems necessary;
- (4) A temporary concession permit is allowed only if it is in conjunction with another activity or event which is authorized by a special use permit;
- (5) The temporary concession permit is issued to the nonprofit organization who is promoting, producing, staging, or conducting the event or activity;
- (6) Except for craft fairs and art marts, no person may profit from a temporary concession. All net profits earned from the temporary concession must be applied to the expenses of the nonprofit organization incurred in connection with events or activities directly related to the purpose for which it has been organized;
- (7) The nonprofit organization must procure a liability insurance certificate bearing their name with the authority as additional insured. Products liability shall be included if food or other items are sold;
- (8) If a commercial food caterer or lunchwagon is allowed to operate by prior arrangement with the nonprofit organization, liability insurance coverages, including products liability, shall be provided by both the nonprofit organization and commercial food caterer or lunchwagon; and]
- (9) Groups or applicants applying [for the temporary concession permit to sell food shall first obtain clearance] to sell food shall first obtain documentation demonstrating the proper approval from the department of health. The clearance certificate must be presented to the authority before the [temporary concession permit may be issued.] special use permit

may be issued. Liability insurance coverages, including products liability, shall be provided prior to the issuance of the special use permit. [Eff 6/11/05; am and comp 5/25/07, am and comp]
(Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-47 Fees for use of facilities. (a) The executive director is authorized to issue a permit and charge a fee for the use of the parks or recreational facilities within the parks to help cover operating and maintenance expenses when the parks or facilities are used for special events. [A schedule of fees shall be set from time to time by the authority. The effective date of any change in fees shall be thirty days after posting the approved fee schedule on the Hawaii community development authority website. For purposes of this section, "special] "Special events" means:

- (1) Athletic practices and events involving:
 - (A) Professional teams;
 - (B) Collegiate teams;
 - (C) National amateur teams;
 - (D) For-profit organizations; or
 - (E) Teams and organizations utilizing the facilities for tournament play;
- (2) International, national, or regional events;
- (3) Entertainment events;
- (4) Educational events;
- (5) Promotional events; or
- (6) Fundraising events.

(b) Permittee may charge a reasonable admission fee to any person desiring to attend the special event within the park or at a recreational facility within the park; provided however, that the permittee may not exclude members of the public from entering or remaining on portions of the park or facility that are not subject to the permit.

(c) The executive director may consider waiver of permit fees on a case-by-case basis.

(d) The executive director shall provide the authority with an annual report setting forth the permit fees established for special events at the parks or recreational facility within the park and the amount of fees collected for each park or facility. The report shall be submitted no later than sixty days following the end of the Hawaii community development authority's fiscal year. [Eff 6/11/05; am and comp 5/25/07, am and comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-48 Fees for attendant or custodian services. Organizations whose use of state recreational facilities requires an attendant or custodian, shall pay the cost of the attendant or custodian service fees to the authority. [Eff 6/11/05; comp 5/25/07, comp] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-210-49 Usage fee schedule.

<u>Activity</u>	<u>Daily</u>	<u>Monthly Permit</u>	<u>Annual Permit</u>
Commercial:			
Carnivals	\$1,000	N/A	N/A
Concerts	\$1,000 per 100 projected attendees	N/A	N/A
Demonstrations (non-political)	\$200	N/A	N/A
Festivals	\$500	N/A	N/A
Fitness training	[\$10] <u>\$100</u>	[\$100] \$1,000	[\$500] \$4,000
Food/beverage sales	[\$20] <u>\$100</u>	[\$500] \$1,000	\$4,000

§15-210-49

Ocean recreational activities (surfing, scuba diving, kayaking, etc.)	[\$10] <u>\$100</u>	[\$100] <u>\$1,000</u>	[\$500] <u>\$5,000</u>
Other	\$500	N/A	N/A
Pageants	\$500	N/A	N/A
T-shirt sales	\$100	\$500	\$2,000
Wedding ceremonies	[\$50] <u>\$100</u>	[\$200] <u>\$1,000</u>	[\$1,000] <u>\$5,000</u>
Commercial filming/videotaping	\$300	\$2,500	\$10,000
Commercial photography	[\$20] <u>\$100</u>	[\$100] <u>\$500</u>	[\$1,000] <u>\$3,000</u>
[Commercial videotaping	\$300	\$2,500	\$10,000]
Special Events:			
Athletic practices and events as specified in §15-210-47(a) (1) (A through E)	\$500	N/A	N/A
International, national, or regional events	\$500	N/A	N/A
Entertainment events	[\$500] <u>\$1,000</u>	N/A	N/A
Educational events	\$100	N/A	N/A
Promotional events	[\$200] <u>\$500</u>	N/A	N/A
[Fundraising events] Other	[\$100] <u>\$500</u>	N/A	N/A

[Eff and comp 5/25/07, am and comp]
 (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-210-50 to 15-210-58 (Reserved) "

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 15-210, 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.

AEDWARD LOS BANOS
Interim Executive Director
Hawaii Community Development
Authority

APPROVED AS TO FORM:

Deputy Attorney General

Exhibit 6

Rules Amending Title 15
Hawaii Administrative Rules

_____, 2016

1. Chapter 218 of Title 15, Hawaii Administrative Rules, entitled "Kakaako Reserved Housing Rules" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, [AND] &
TOURISM

SUBTITLE 4

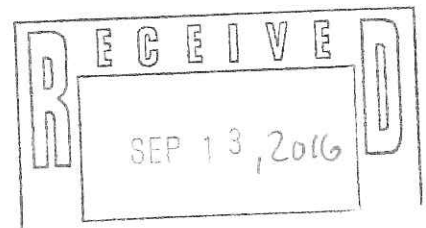
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 218

KAKAAKO RESERVED HOUSING RULES

Subchapter 1 General Provisions

§15-218-1	Purpose and intent
§15-218-2	Administration
§15-218-3	Severability
§15-218-4	Interpretation by the executive director
§15-218-5	Definitions
§§15-218-6 to 15-218-16	Reserved



Subchapter 2 Reserved Housing Requirements

§15-218-17	Requirement for reserved housing units
§15-218-18	Adjustments to height, density, and general development requirements for reserved housing units
<u>§15-218-19</u>	<u>Reserved housing unit type and corresponding factor</u>
<u>§15-218-20</u>	<u>Reserved housing unit type and permissible household size</u>
<u>§15-218-21</u>	<u>For-sale reserved housing schedule</u>
<u>§§15-218-19</u>	<u>§§15-218-22 to 15-218-28</u> Reserved

Subchapter 3 Sale and Rental of Reserved Housing Units

§15-218-29	Purpose
§15-218-30	Qualifications for reserved housing
§15-218-31	Sale [and rental] of reserved housing units
§15-218-32	Income
§15-218-33	Occupancy requirements
§15-218-34	[Affordability criteria] <u>Factors to be used for reserved housing unit sale price determination</u>
§15-218-35	[Term] <u>Terms of reserved housing [requirements] for sale</u>
§15-218-36	[First option to purchase] <u>Repealed</u>
§15-218-37	[Sale or transfer of reserved housing units] <u>Repealed</u>
§15-218-38	Foreclosure
§15-218-39	Transfers of title pursuant to a mortgage foreclosure
§15-218-40	Incorporation in deed
§15-218-41	Equity sharing requirements
§15-218-42	Deferral of <u>first option to purchase and equity sharing</u>
§15-218-43	<u>Terms of reserved housing for rent</u>

§15-218-44 Factors to be used for determining monthly rent for reserved housing unit for rent
§15-218-45 Rental of reserved housing unit by reserved housing owner
§15-218-46 Cash-in-lieu
§15-218-47 Effects of subsequent rule amendments
[§§15-218-44] §§15-218-48 to 15-218-54 Reserved

Subchapter 4 Workforce Housing Project(s)

§15-218-55 Workforce housing project(s)
§15-218-56 Factors to be used for workforce housing unit sale price determination
§15-218-57 Terms of workforce housing
§15-218-58 Terms of workforce housing for rent
§15-218-59 Factors to be used for determining monthly rent for workforce housing unit for rent
§15-218-60 Rental of workforce housing unit by workforce housing owner
§15-218-61 Deferral of first option to purchase workforce housing unit
§15-218-62 Incorporation in deed for workforce housing
[§§15-218-56 to 15-218-66] §§15-218-63 to 15-218-73
Reserved

Historical note: Chapter 15-218 is based substantially upon Chapter 15-22. [Eff 9/8/86, 1/28/88, 7/28/88, 12/10/88, 3/9/89, 7/8/89, 10/28/89, 1/29/90, 2/24/90, 7/26/90, 9/15/90, 10/3/94, 12/15/94, 8/14/95, 11/25/96, 1/25/97, 3/27/97, 6/13/97, 8/1/97, 9/19/97, 8/16/99, 1/13/00, 9/15/01, 6/13/05, 11/11/11,

§15-218-4 Interpretation by the executive director. (a) In administering this chapter, the executive director may, when deemed necessary, render written interpretations to clarify or elaborate upon the meaning of specific provisions of this chapter for intent, clarity and applicability to a particular situation.

(b) A written interpretation shall be signed by the executive director and include the following:

- (1) Identification of the section of this chapter in question;
- (2) A statement of the problem;
- (3) A statement of interpretation; and
- (4) A justification statement.

(c) A written interpretation issued by the executive director shall be the basis for administering and enforcing the pertinent section of this chapter. All written interpretations rendered pursuant to these rules shall be public record, and shall be effective on the date signed by the executive director. [Eff 11/11/11; comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-5 Definitions. As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

"Area median income" means [area median income (AMI) for Honolulu that is provided to Fannie Mae by the Federal Housing Finance Agency;] the area median income (AMI) determined by the United States, Department of Housing and Urban Development annually for the Honolulu metropolitan statistical area as adjusted for household size;

"Authority" or "HCDA" means the Hawaii community development authority established by section 206E-3, [HRS;] Hawaii Revised Statutes;

"Developer" means a private person or an entity who has legal rights to perform or cause to be performed any man-made change over, upon, under, or

SUBCHAPTER 1

GENERAL PROVISIONS

§15-218-1 Purpose and intent. Consistent with the intent of section 206E-33, Hawaii Revised Statutes, the purpose of these rules is to establish an increased supply of housing for [residents of] low- or moderate-income households within the Kakaako community development district. Such housing targeted to low- or moderate-income [housing,] households, henceforth termed "reserved housing" in the subsequent [subchapters] subchapters, shall be required as a condition of [new residential] multi-family residential development or redevelopment within the Kakaako community development district. [Eff 11/11/11; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-2 Administration. The authority, through its executive director, shall administer the provisions of this chapter. [Eff 11/11/11; comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-3 Severability. If a court of competent jurisdiction finds any provision or provisions of this chapter to be invalid or ineffective in whole or in part, the effect of that decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of these rules shall continue to be separately and fully effective. [Eff 11/11/11; comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

across improved or unimproved real property within the mauka area;

"Eligible borrower" means any person or family, irrespective of race, creed, national origin, or sex, who:

- (1) Has never before obtained a loan under this part; and
- (2) Meets other qualifications as established by rules adopted by the authority;

"Executive director" means the executive director of the authority;

"Fair market value" means the unencumbered fair market value of a property that has no State or County restrictions attached thereto, as determined by a real estate appraiser licensed or certified to practice in the State of Hawaii subject to requirements of section 466K-4, Hawaii Revised Statutes;

"Floor area ratio" or "FAR" means the ratio of floor area to land area expressed as a per cent or decimal which shall be determined by dividing the total floor area on a development lot by the lot area of that development lot;

"Gross revenue" means the gross receipt from sale of all residential units, associated parking, and other common area elements in a project for the purpose of calculating cash-in-lieu payment in lieu of providing for-sale reserved housing units. For rental reserved housing, the capitalized value of net operating rent shall be utilized as gross revenue for the purpose of calculating cash-in-lieu payment;

"Household" means:

- (1) Single person;
- (2) Two or more persons regularly living together related by blood, marriage, or by operation of law;
- (3) A live-in aide, who is essential to the care and well-being of a household member subject to proper documentation and credential as a qualified caregiver; or
- (4) No more than five unrelated persons who have lived together for at least one year, who have executed an affidavit, and who have

provided proof acceptable to the authority in its sole discretion. Affidavits from family members or neighbors are not acceptable;

"Household income" means the total annual income, before taxes and personal deductions, received by all members of the applicant's household, including, but not limited to, wages, salaries, overtime pay, commissions, fees, tips and bonuses, compensation for personal services, social security payments, retirement benefits, income derived from assets, cost of living allowance, net income from business or profession, unemployment benefits, welfare benefits, interest and dividend [payments;] payments. Household income shall exclude income of a co-mortgagor who is not a household member, income from employment of minor children including foster children, and income from employment of full-time students under the age of twenty-three years;

"HRS" means the Hawaii Revised Statutes;

"Land trust" means a recorded instrument as defined in chapter 558, HRS;

"Licensed life care facilities" means licensed assisted living facilities as defined in section 321-15.1, HRS;

"Low-income household" means a household whose household income does not exceed eighty per cent of the area median income;

"Moderate-income household" means a household whose household income in greater than eighty per cent but does not exceed one hundred twenty per cent of the area median income;

"Multi-family [dwelling] residential development" means residential building consisting of more than one residential unit;

"Net appreciation" means the resale fair market value of a reserved housing unit less the original contract price of the same and actual sales costs incurred, if any;

"Reserved housing" means housing designated for residents in the low-income or moderate-income ranges

who meet such eligibility requirements as the authority may adopt by rule; and

["Residential floor area" means the gross total residential floor area including the dwelling unit(s) and limited common areas such as lobby, hallways, storage, covered recreation area, and similar areas set aside for the residents; and]

"Workforce housing project" means new multi-family residential [project(s)] development where at least seventy-five per cent of the residential units are set aside for purchase [by families between one hundred to one hundred forty per cent of the AMI,] or for rent by households earning no more than one hundred twenty per cent of the AMI and which does not require financial assistance for design and construction from Federal, State, or County governmental [bodies, and which meets the size requirements set forth in subchapter 4 of this chapter.] bodies. [Eff 11/11/11; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§§15-218-6 to 15-218-16 (Reserved).

SUBCHAPTER 2

RESERVED HOUSING REQUIREMENTS

§15-218-17 Requirement for reserved housing units. (a) Every developer applying for a development permit for approval to construct multi-family [dwelling units on a lot greater than 20,000 gross square feet shall construct and reserve at least twenty per cent of the total residential floor area as reserved housing units. The percentage of residential floor area developed as reserved housing shall be fifteen per cent if the units are developed as rental units.] residential development of ten residential units or more shall provide at least

twenty per cent of the total number of residential units in the development as reserved housing units. Reserved housing units may be provided as for-sale units or rental units.

(b) [Such reserved] Reserved housing units shall be sold or rented to persons qualifying under the terms and conditions set forth under subchapter [3.] 3 of this chapter. The developer shall execute agreements with the HCDA as are appropriate to conform to this requirement, and such agreements shall be binding upon the developer and any successors in interest, and shall run with the land. The agreement shall provide that the developer must provide certification to the authority as to the compliance of the requirements herein to qualify for a certificate of occupancy for the project for which provisions of this chapter are applicable.

(c) Occupants of reserved housing units shall have access to and use privileges for the same amenities as all other occupants of the development. Reserved housing units shall be distributed in the building in such a manner that they do not form an isolated section of the project.

(d) If the authority so determines, it may allow the developer to meet the requirement of subsection (a) above through the following alternatives instead of providing reserved housing units within the development:

- (1) By providing such reserved housing units elsewhere within the mauka area; [or]
- (2) By providing such reserved housing units elsewhere within urban Honolulu. The authority may impose additional reserved housing requirements in approving transfer of reserved housing from mauka area to other locations within urban Honolulu. Such additional reserved housing requirements shall be determined on a case-by-case basis by the authority at the time of approval of the development [permit.] permit; or
- (3) By allowing a cash-in-lieu payment instead of providing reserved housing units.

(e) The [delivery] construction of reserved housing units shall [be required] commence prior to the issuance of the initial certificate of occupancy for the project for which [provision of this chapter are applicable and] reserved housing is required and shall be secured by the developer with a financial guaranty bond from a surety company authorized to do business in Hawaii, an acceptable construction set-aside letter, or other financial instruments acceptable to the authority prior to the approval of the building permit for the project by the authority. In addition, the developer shall provide the authority a copy of a duly executed construction contract with a general construction contractor licensed to conduct business in the State of Hawaii for the construction of the reserved housing units.

(f) The developer shall execute such agreements as are necessary to implement any alternative reserved housing requirement, and such agreements shall be binding upon the developer and any successors in interest, and shall run with the land.

(g) Licensed life care facilities shall be exempt from the reserved housing requirement. In a proposed development that includes licensed life care facilities as well as residential dwelling units, the reserved housing requirements shall apply only to the residential dwelling portion of the development.

(h) No construction shall commence for any [development within the mauka area on a lot greater than 20,000 square feet] multi-family residential development consisting of ten or more residential units, unless the development conforms to the provisions of this chapter and the authority has certified that the development complies with the requirements of this chapter.

(i) The authority may require guarantees, may enter into recorded agreements with developers and with purchasers and tenants of the reserved housing units, and may take other appropriate steps necessary to assure that [these] the reserved housing units are provided and that they are occupied by qualified persons for the [required duration.] regulated term.

(j) The authority may suspend these requirements for reserved housing for a limited duration, if, in its sole judgment, it determines that these requirements may unduly impede, preclude, or otherwise negatively impact the primary objective of the authority to promote redevelopment within the Kakaako community development district.

(k) When it has been assured to the satisfaction of the authority and it has determined that the proposed development meets the requirements and standards of this section, the authority shall certify the development permit application approved as to the reserved housing requirements of this chapter. [Eff 11/11/11; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-18 Adjustments to height, density, and general development requirements for reserved housing units. (a) Except as otherwise provided, any developer who applies for a development permit proposing a multi-family residential development [on a lot greater than 20,000 square feet who meets] of ten or more residential units that meets all applicable provisions of this chapter shall be entitled to adjustments in FAR and general development requirements as follows:

- (1) Residential floor area for reserved housing shall be excluded from calculations of floor area ratio; and
- (2) Residential floor area for reserved housing shall be exempt from the provisions of [Hawaii administrative rules, section 15-217-65; and
- (3) For reserved housing units, the off-street parking space requirement shall be one stall per unit.] section 15-217-65.

(b) The authority may also consider modifying the following requirements of the mauka area rules as an incentive to providing [additional] reserved housing by an applicant:

§15-218-18

- (1) Building height;
- (2) Street setbacks; [and]
- (3) Off-street parking; and
- [(3)] (4) Loading space. [Eff 11/11/11; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-19 Reserved housing unit type and corresponding factor. The reserved housing unit type and corresponding factor provided in the table below shall be utilized in determining the total number of reserved housing required to be provided for any development.

RESERVED HOUSING UNIT TYPE AND CORRESPONDING FACTOR TABLE

<u>Unit Type</u>	<u>0 BR 1 BA</u>	<u>1 BR 1 BA</u>	<u>2 BR 1 BA</u>	<u>2 BR 1.5 BA</u>	<u>2 BR 2 BA</u>	<u>3 BR 1.5 BA</u>	<u>3 BR 2 BA</u>	<u>3+ BR 2+ BA</u>
Factor	0.68	0.81	0.92	1.0	1.08	1.16	1.28	1.44

[Eff] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-20 Reserved housing unit type and permissible household size. The reserved housing unit type and corresponding household size provided in the table below shall be utilized for the purpose of maximizing the number of households benefiting from the reserved housing program.

RESERVED HOUSING UNIT TYPE AND
CORRESPONDING HOUSEHOLD SIZE

<u>Reserved Housing Unit Type</u>	<u>Corresponding Household Size</u>	
	<u>Minimum</u>	<u>Maximum</u>
Studio	1 person	2 persons
1 Bedroom	1 person	3 persons
2 Bedrooms	2 persons	5 persons
3 Bedrooms	3 persons	7 persons
4 Bedrooms	4 persons	9 persons

The corresponding household size may be modified by the authority if the reserved housing units are unsold, unrented, or involves a live-in aide.

[Eff] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-21 For-sale reserved housing schedule.
The following area median income and percentage of reserved housing provided shall be utilized in determining the mix of reserved housing provided in a project.

FOR-SALE RESERVED HOUSING SCHEDULE

<u>Area Median Income</u>	<u>Percentage of Reserved Housing Provided</u>
80 per cent or less	10
80 per cent - 110 per cent	60
110 per cent - 120 per cent	30

[Eff] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-22

[§§15-218-19] §§15-218-22 to 15-218-28
(Reserved).

SUBCHAPTER 3

SALE AND RENTAL OF RESERVED HOUSING UNITS

§15-218-29 Purpose. The rules set forth in this subchapter shall govern the sale, rental or transfer of reserved housing provisions of subchapter 2. [Eff 11/11/11; comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-30. Qualifications for reserved housing.

(a) The following shall be qualifications for purchasing or [leasing] renting of reserved housing units by a buyer or a tenant. The buyer or the tenant:

- (1) Shall be at least the age of majority;
- (2) Shall not have a majority interest in a principal residence or a beneficial interest in a land trust on a principal residence within or without the State for a period of three years immediately prior to the date of application for a reserved housing unit under this section;
- (3) Shall not have a spouse or dependent child who has a majority interest, in a principal residence or a beneficial interest in a land trust on a principal residence for a period of three years immediately prior to the date of application for a reserved housing unit under this section;
- (4) Has never before purchased a reserved housing unit under this chapter;

- [(4)] (5) Shall be the owner or lessee and occupant of the reserved housing unit; [and]
[(5)] (6) Shall not have a record or history of conduct or behavior, including past rent

payments, which may prove detrimental to other tenants or the authority. This criterion shall be applied within parameters set by federal laws on discrimination, including the Americans with Disabilities [Act.] Act; and

- (7) Has sufficient gross income to qualify for the loan to finance the purchase of the reserved housing unit, or in case of a rental reserved housing unit demonstrate an ability to pay rent as established by the HCDA and meet any additional criteria established by the HCDA for the respective rental housing development for which the applicant is applying.

(b) Subject to approval of the executive director, a current owner of a reserved housing unit may apply to purchase a larger reserved housing unit provided that:

- (1) The applicant's current household size determined by the number of individuals on title and their dependents, has increased and exceed the maximum household size established in section 15-218-20;
- (2) The applicant has resided in the current reserved housing unit for at least one year;
and
- (3) The applicant qualifies to purchase a reserved housing unit in accordance with section 15-218-30(a), except that the applicant's current ownership of a reserved housing unit shall not disqualify the applicant under section 15-218-30(a)(2), (3), and (4). [Eff 11/11/11; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-31 Sale [and rental] of reserved housing units. (a) The authority may advertise the sale [or rental] of reserved housing units and qualify and

select persons for reserved housing units. It may also permit the developer of such units, or the developer's designated representative, to be responsible for advertising, qualifying, and selecting persons subject to the provisions of this chapter.

(b) Applications for the purchase [or rental] of reserved housing units shall be accepted on a first-come, first-served or on a lottery basis. The applications shall be submitted in person by the applicant. Only completed applications shall be acceptable. Applicants shall not be required to submit a deposit amount exceeding \$500.

(c) Notice of the proposed sale [or rental] of reserved housing units shall be published in a newspaper of general circulation on two separate days. The notice shall include, but not be limited to, the following:

- (1) General description of the project in which the reserved housing units are located including its location, number of reserved housing units, size of the reserved housing units by number of bedrooms, and sales prices or rental rates;
- (2) Qualification requirements for purchase of reserved housing units including maximum income limits, restrictions on ownership of property, the authority's first option to purchase and shared equity requirements for reserved housing units for sale, and permissible household sizes;
- (3) A statement that buyers or renters shall be selected on a first-come, first-served or on a lottery basis, whichever is applicable;
- (4) Where and when applications may be obtained and the first date, including time and place, when applications will be accepted, and subsequent dates, times, and places for submission of applications;
- (5) Deadline for submission of applications; and
- (6) [In the case of a reserved housing unit for sale, the] The deposit amount and mode of acceptable payment.

The time period between publication of the notice and the first acceptance of applications shall not be less than fourteen business days. The period shall be computed from the first day of publication of the notice.

(d) Priority shall be given to applicants who have been displaced from housing within the Kakaako community development district as a result of [development] redevelopment in the mauka [area.] area within a five-year period.

(e) Applicants shall be allowed to select a reserved housing unit based on maximum income limits, qualifying income, preference, permissible household sizes, and availability of the reserved housing unit.

(f) In the event the developer, or the developer's designated representatives have accepted and processed applications and selected applicants for reserved housing units, a certification shall be submitted to the authority that the selection was made on a first-come, first-served or a lottery basis. Applicants shall be listed in the order in which the applications were accepted and the list shall be available for inspection by the authority. The final applications for those persons selected shall be made available to the authority and the authority shall review the applications to ensure that the applicants meet the eligibility requirements established under this chapter.

(g) Reserved housing applicants shall provide financial and family information with the reserved housing application.

(h) The authority may also require applicants to provide documentation to verify information submitted to the authority, including but not limited to:

- (1) Asset verification;
- (2) Verification of deposit;
- (3) Verification of employment; and
- (4) Credit bureau report. An applicant found to have [willfully] wilfully submitted false information, made misstatements, or withheld important information shall be disqualified from purchasing or renting a reserved

§15-218-31

housing unit under this chapter. The authority retains its right to recover any money wrongfully gained by the applicant or to any other recourse provided by law. [Eff 11/11/11; am and comp]
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-32 Income. (a) The household income of the applicant shall not exceed one hundred [forty] twenty per cent of the area median income (AMI) as determined by the United States Department of Housing and Urban Development.

(b) The adjusted household income shall be the income earned during the most current calendar year preceding the date of application to purchase or rent a reserved housing unit and shall be verified by submittal of most current state or federal tax returns.

(c) The assets of the applicant shall not exceed one hundred thirty-five per cent of the applicable income limit set forth in subsection (a) above. As used herein, assets include, all cash, securities and real and personal property at current fair market value, less any outstanding liabilities secured by such assets. Qualified retirements accounts and gifts of up to twenty per cent of the purchase price to assist in the down payment for purchase of a reserved housing unit shall not be counted towards assets.
[Eff 11/11/11; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-33 Occupancy requirements. (a) The following are occupancy requirements for reserved housing units:

- (1) Applicants for reserved housing shall certify that, if selected, all applicants will be occupants of the reserved unit; and

- (2) The purchaser or lessee shall physically occupy the reserved [unit; and
- (3) The city and county of Honolulu maximum occupancy limits for a residential dwelling unit shall apply.] unit.

(b) Violation of subsection (a) shall be sufficient reason for the authority, at its option, to purchase the unit as provided in section [15-218-36] 15-218-35 or evict the renter from the unit, as applicable.

(c) Any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the authority shall expressly contain the restrictions on use prescribed in this section.

[(d) The restriction prescribed in subsection (a) above shall not apply if the authority waives its option to purchase the reserved housing unit or subsequent to the expiration of the option to purchase period.] [Eff 11/11/11; am and comp]
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-34 [Affordability criteria.] Factors to be used for reserved housing unit sale price determination. (a) The following [criteria shall be used in determining price and income equivalencies of units for sale:] factors shall be used in determining the reserved housing unit sale price determination:

- (1) Down payment amount shall not exceed ten per cent of the purchase price;
- (2) [Monthly payments, which consist of] Maximum allowable monthly housing cost consisting of mortgage payment including principal and interest, real property taxes, mortgage insurance premium, and fees and costs required by the bylaws of a condominium property regime, shall not exceed thirty-three per cent of gross monthly [income or some other percentage approved by the United States Department of Housing and Urban Development; and] household income;

(3) Interest rate shall be derived by taking the average of [the interest rate on thirty year fixed rate mortgages posted for major Honolulu banks in the first week of each of the preceding six months.] thirty-year fixed rate mortgage rates for six consecutive months including the most current rate published by Freddie Mac; and

(4) Reserved housing unit type and corresponding factor as provided in section 15-218-19.

(b) [The following criteria shall be used in determining price and income equivalencies of units for rent: monthly rent and all utilities and other building operating costs (excluding telephone, cable television and internet service) shall not exceed thirty-three per cent of the renter's gross monthly income.] At the beginning of each year or soon thereafter, the executive director shall establish and publish a formula for calculating the applicable sale price of a reserved housing based on the factors enumerated in subsection (a) above. [Eff 11/11/11; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-35 [Term] Terms of reserved housing [requirements.] for sale. (a) [The regulated term for reserved housing units that are for sale shall be five years from the date of issuance of certificate of occupancy. Reserved housing rental units shall be regulated for fifteen years. The authority may suspend or modify regulated term and qualifying income requirements on a project by project basis, if, in its sole judgment, it determines that these requirements are negatively impacting the sale or rental of reserved housing units as the primary objective of the authority to promote redevelopment within the Kakaako community development district.

(b) During the regulated term, a reserved unit owner shall not purchase additional limited common elements or personal property.

(c) During the regulated term, the executive director shall approve any initial or subsequent mortgage placed on a reserved unit which does not exceed eighty per cent of the original purchase price of the unit.

(d) After the end of the regulated term, the owner may sell the unit or assign the property free from any transfer or price restrictions except for applicable equity sharing requirements set forth in section 15-218-41.] If the owner of a reserved housing unit wishes to sell the unit, the authority or an entity approved by the authority shall have the first option to purchase the unit.

(b) Sale or transfer of reserved housing units shall be as follows:

- (1) The owner shall notify the authority in writing of the intent to sell the reserved housing unit;
- (2) The authority shall notify the owner of its decision within sixty days of receipt of the owner's notification required in subsection (b) (1) above. The authority may:
 - (A) Waive its option to purchase the unit;
 - (B) Agree to purchase the unit; or
 - (C) Designate another buyer for the unit;
- (3) If the authority fails to notify the owner of a decision in the manner prescribed in subsection (b) (2), the authority shall have waived its first option to purchase the unit;
- (4) The authority may purchase the unit either outright, free and clear of all liens and encumbrances; or by transfer subject to an existing mortgage. If by outright purchase, the authority shall ensure that all existing mortgages, liens, and encumbrances are satisfactorily paid by the owner; and
- (5) In any purchase by transfer subject to an existing mortgage, the authority shall agree to assume and to pay the balance on any first mortgage created for the purpose of enabling the owner to obtain funds for the

purchase of the unit and any other mortgages which were created with the approval and consent of the authority. In these cases, the amount to be paid to the owner by the authority shall be the difference between the price as determined in section 15-218-35(c)(1) or (2) and the principal balance of all mortgages outstanding and assumed at the time of transfer of title to the authority.

(c) The purchase price shall be based on the lower of:

- (1) The reserved housing sales price calculated based on the applicable AMI at the time of resale of the unit; or
- (2) The original sales price of the reserved housing unit escalated by a corresponding consumer price index factor from the date of the initial purchase to the date of resale on the unit.

(d) A reserved housing unit owner shall not purchase additional limited common elements such as storage space or additional parking space as part of the reserved housing unit purchase.

(e) Any subsequent mortgage placed on the reserved housing unit by the owner of the reserved housing unit shall not exceed eighty per cent of the original purchase price of the reserved housing unit and shall require approval by the executive director.

[Eff 11/11/11; am and comp] (Auth:
HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4,
206E-5, 206E-7)

[§15-218-36 First option to purchase. If the owner of a reserved housing unit wishes to sell the unit during the regulated term, the authority or an entity approved by the authority shall have the first option to purchase the unit. The purchase price shall be based on the lower of:

- (1) The current fair market price of the reserved housing unit as determined by the

- authority less the authority's share of equity in the unit as determined by section 15-218-42; or
- (2) The reserved housing unit price calculated based on the AMI at the time of sale of the unit.] [Eff 11/11/11; R]
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-37 Sale or transfer of reserved housing units. Sale or transfer of reserved housing units during the regulated term shall be as follows:

- (1) The authority or an entity approved by the authority shall have the first option to purchase the unit in the manner indicated in section 15-218-36;
- (2) The owner shall notify the authority in writing of the intent to sell the reserved housing unit;
- (3) The authority shall notify the owner of its decision within sixty days of receipt of the owner's notification required in subsection (a)(2) above. The authority may:
- (A) Wave its option to purchase the unit,
(B) Agree to purchase the unit, or
(C) Designate another buyer for the unit;
- (4) If the authority fails to notify the owner of a decision in the manner prescribed in subsection (a)(3), the authority shall have waived its first option to purchase the unit;
- (5) The authority may purchase the unit either outright, free and clear of all liens and encumbrances; or by transfer subject to an existing mortgage. If by outright purchase, the authority shall ensure that all existing mortgages, liens, and encumbrances are satisfactorily paid by the owner; and
- (6) In any purchase by transfer subject to an existing mortgage, the authority shall agree to assume and to pay the balance on any

first mortgage created for the purpose of enabling the owner to obtain funds for the purchase of the unit and any other mortgages which were created with the approval and consent of the authority. In these cases, the amount to be paid to the owner by the authority shall be the difference between the price as determined in section 15-218-36 (1) or (2) and the principal balance of all mortgages outstanding and assumed at the time of transfer of title to the authority.]
[Eff 11/11/11; R] (Auth:
HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS
§§206E-4, 206E-5, 206E-7)

§15-218-38 Foreclosure. In the event of a foreclosure, any law to the contrary notwithstanding, a mortgagee under a mortgage covering a reserved housing unit and land or leasehold interest subject to the restrictions of [sections 15-218-35, 15-218-36, and 15-218-37,] section 15-218-35, shall, prior to commencing mortgage foreclosure proceedings, notify the authority [of (1) any default of the mortgagor under the mortgage within ninety days after the occurrence of the default; and (2) any intention of the mortgagee to foreclose the mortgage under chapter 667, HRS. The authority shall be a party to any foreclosure action, and shall be entitled to all proceeds remaining in excess of all customary and actual costs and expenses of transfer pursuant to default, including liens and encumbrances of record. The person in default shall be entitled to any amount remaining provided the amount shall not exceed the lower of the amounts computed in section 15-218-35.]
of:

- (1) Any default of the mortgagor under the mortgage within ninety days after the occurrence of the default; and
- (2) Any intention of the mortgagee to foreclose the mortgage under chapter 667, HRS.

The authority shall be a party to any foreclosure action, and shall be entitled to all proceeds remaining in excess of all customary and actual costs and expenses of transfer pursuant to default, including liens and encumbrances of record. The person in default shall be entitled to any amount remaining provided the amount shall not exceed the lower of the amounts computed in section 15-218-35.
[Eff 11/11/11; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-39 Transfers of title pursuant to a mortgage foreclosure. The conditions prescribed in [sections 15-218-35, 15-218-36, and 15-218-37(a) (1) through (6)] section 15-218-35 above shall be automatically extinguished and shall not attach to subsequent transfers of title pursuant to a mortgage foreclosure, foreclosure under power of sale, or a conveyance in lieu of foreclosure after a foreclosure action is commenced. [Eff 11/11/11; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-40 Incorporation in deed. The provisions of sections 15-218-35 [through 15-218-37, and section] and 15-218-41 shall be incorporated in any deed, lease, mortgage, agreement of sale, or other instrument of conveyance for reserved housing units. [Eff 11/11/11; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-41 Equity sharing requirements.
(a) [The authority's share of the equity in the reserved housing unit shall become due upon resale of the reserved housing unit.] If the authority waives its first option to purchase a reserved housing as provided for in section 15-218-35(a), the owner of the

reserved housing may sell the reserved housing unit at fair market price. The authority's share of the equity in the reserved housing unit shall become due upon sale of the reserved housing unit.

(b) The authority's share of the equity in the reserved housing unit shall be [the higher of:] a percentage of the resale fair market value of the unit. The percentage shall be determined as follows: original fair market value minus original reserved housing sales price divided by original fair market value. The percentage shall be rounded to the nearest one per cent.

- (1) An amount equal to the difference between the original fair market price of the unit as determined by the authority and its original sales contract price; or
- (2) An amount equivalent to the percentage of net appreciation calculated as the difference between the original fair market price of the unit as determined by the authority and its original contract price divided by the original fair market price of the unit.

(c) At its sole discretion, the authority may allow the project developer to buy out the shared appreciation provisions for all or a portion of the reserved housing units by making a cash payment to the authority of an amount equal to the amount for equity sharing calculated in subsection (b) above.]

(c) If the authority's percentage share of equity is less than one-half of one per cent, or if the resale fair market value of the reserved housing unit is less than the original reserved housing sales price, the provisions of section 15-218-41(b) shall not be applicable.

(d) The authority shall make allowance for cost of improvements made by the owner of the reserved housing in determining the authority's share of equity sharing. The owner of the reserved housing unit shall provide financial documents acceptable to the authority before the cost of improvements made by the owner can be deducted from the [sale] resale price.

(e) The authority shall determine the fair market value of the reserved housing unit at the time of original sale and also at the time of resale.

(f) The resale price and terms shall be approved by the authority. [Eff 11/11/11; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-42 Deferral of first option to purchase and equity sharing. The authority may [consider deferring the equity sharing in case an owner of a reserved housing unit wishes to transfer title to the unit by devise or through the laws of descent to a family member who would otherwise qualify for purchase of a reserved housing unit under this chapter.] defer its first option to purchase and equity sharing in the following instances:

- (1) Transfer by devise, descent, or operation of law upon the death of a joint tenant or tenant by entirety;
- (2) Transfer to a relative who meets eligibility requirements upon death of purchaser;
- (3) Transfer to spouse or children who meet eligibility requirements;
- (4) Transfer due to a property settlement whereby the spouse who meets eligibility requirements becomes owner;
- (5) Transfer into an inter vivos trust in which the purchasers remain the primary beneficiary and does not affect their rights of occupancy; and
- (6) Transfer into a community land trust or other non-profit organizations established to maintain or sustain long-term housing affordability. [Eff 11/11/11; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-43

§15-218-43 Terms of reserved housing for rent.
Reserved housing for rent shall be provided at AMI of
eighty per cent or below. Reserved housing for rent
shall be regulated for a period of thirty years from
the date of issuance certificate of occupancy for the
project: [Eff] (Auth: HRS §§206E-4,
206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-44 Factors to be used for determining
monthly rent for reserved housing unit for rent.
Monthly rent for reserved housing unit for rent shall
be based on no more than thirty per cent of the
applicable AMI. Monthly rent shall include all
utilities and other building operating cost but may
exclude telephone, cable television, and internet
service as well as parking. Allowance for tenant
furnished utilities and other services shall be based
on data published by the authority on an annual basis.
At the beginning of each year or soon thereafter, the
executive director shall establish and publish a
formula for calculating the applicable monthly rents
of a rental reserved housing based on the factors
enumerated above. [Eff] (Auth: HRS
§§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5,
206E-7)

§15-218-45 Rental of reserved housing unit by
reserved housing owner. The authority may on a
case-by-case basis consider request from a reserved
housing owner to rent the reserved housing unit. Such
rental of reserved housing units shall be regulated by
the provisions of sections 15-218-43 and 15-218-44.
[Eff] (Auth: HRS §§206E-4, 206E-5,
206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-46 Cash-in-lieu. The authority may, at
its sole discretion, permit a cash payment in lieu

§15-218-47

(d) This section shall apply to all reserved housing units developed, constructed and sold pursuant to this chapter. [Eff 11/11/11; ren §15-218-43 and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

[§§15-218-44] §§15-218-48 to 15-218-54 (Reserved).

SUBCHAPTER 4

WORKFORCE HOUSING PROJECT(S)

§15-218-55 Workforce housing project(s).
(a) New residential project(s) where at least seventy-five per cent of the residential units are set aside for purchase [by families earning between one hundred to one hundred forty] or for rent by households earning no more than one hundred twenty per cent of the AMI, and which does not require financial assistance for design and construction from Federal, State, or County governmental [bodies, and which meets the following unit size requirements] bodies shall qualify as a workforce housing project.

[Unit Type	Maximum Unit Size (Square Feet)
Studio with one bathroom	500
One bedroom with one bathroom	650
Two bedroom with one bathroom	800
Two bedroom with one and a half bathroom	900
Two bedroom with two bathroom	1,000
Three bedroom with one and a half bathroom	1,100
Three bedroom with two bathroom	1,200
Four bedroom with two bathroom	1,300

(b) Workforce housing project(s) shall be exempt from the requirements of sections 15-218-35, 15-218-36, and 15-218-41 of subchapter 3 of this chapter.

(c)] (b) Workforce housing projects shall not be used to satisfy the reserved housing requirement(s) for any residential project(s) that are required to provide reserved housing in accordance with subchapter 2.

[(d)] (c) Workforce housing project(s) shall receive a floor area bonus of one hundred per cent, provided that such bonus floor area shall be used towards the construction of workforce housing project(s) only.

[(e) In approving development permit for a qualified workforce housing project the authority may consider modification(s) to the provisions of Hawaii administrative rules, chapter 217, title 15, mauka area rules.

(f)] (d) Workforce housing projects shall be exempt from the provisions of [Hawaii administrative rules,] section 15-217-65.

(e) All provisions of this chapter shall be applicable to subchapter 4 unless specifically exempted.

(f) Workforce housing shall be exempt from the provisions of section 15-218-41 of this chapter. [Eff 11/11/11; am and comp] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-56 Factors to be used for workforce housing unit sale price determination. (a) The following factors shall be used in determining the workforce housing unit sale price determination:

- (1) Down payment amount shall not exceed ten per cent of the purchase price;
- (2) Maximum allowable monthly housing cost consisting of mortgage payment including principal and interest, real property taxes, mortgage insurance premium, and fees and

costs required by the bylaws of a condominium property regime, shall not exceed thirty-three per cent of gross monthly household income;

(3) Interest rate shall be derived by taking the average of thirty-year fixed rate mortgage rates for six consecutive months including the most current rate published by Freddie Mac; and

(4) Reserved housing unit type and corresponding factor as provided in section 15-218-19.

(b) At the beginning of each year or soon thereafter, the executive director shall establish and publish a formula for calculating the applicable sale price of a workforce housing based on the factors enumerated in subsection (a) above.

[Eff] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-57 Terms of workforce housing. (a) If the owner of a workforce housing unit wishes to sell the unit, the authority or an entity approved by the authority shall have the first option to purchase the unit.

(b) Sale or transfer of workforce housing units shall be as follows:

(1) The owner shall notify the authority in writing of the intent to sell the workforce housing unit;

(2) The authority shall notify the owner of its decision within sixty days of receipt of the owner's notification required in subsection (b) (1) above. The authority may:

(A) Waive its option to purchase the unit;

(B) Agree to purchase the unit; or

(C) Designate another buyer for the unit;

(3) If the authority fails to notify the owner of a decision in the manner prescribed in subsection (b) (2), the authority shall have waived its first option to purchase the unit;

(4) The authority may purchase the unit either outright, free and clear of all liens and encumbrances; or by transfer subject to an existing mortgage. If by outright purchase, the authority shall ensure that all existing mortgages, liens, and encumbrances are satisfactorily paid by the owner; and

(5) In any purchase by transfer subject to an existing mortgage, the authority shall agree to assume and to pay the balance on any first mortgage created for the purpose of enabling the owner to obtain funds for the purchase of the unit and any other mortgages which were created with the approval and consent of the authority. In these cases, the amount to be paid to the owner by the authority shall be the difference between the price as determined in section 15-218-56(c) (1) or (2) and the principal balance of all mortgages outstanding and assumed at the time of transfer of title to the authority.

(c) The purchase price shall be based on the lower of:

(1) The workforce housing sales price calculated based on the applicable AMI at the time of resale of the unit; or

(2) The original sales price of the workforce housing unit escalated by a corresponding consumer price index factor from the date of the initial purchase to the date of resale on the unit.

(d) Any subsequent mortgage placed on the workforce housing unit by the owner of the workforce housing unit shall not exceed eighty per cent of the original purchase price of the reserved housing unit and shall require approval by the executive director.

[Eff] (Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

§15-218-58

§15-218-58 Terms of workforce housing for rent.
Workforce housing for rent shall be provided at AMI of
one hundred twenty per cent or below. If a rental
workforce housing unit is sold or converted to a
for-sale workforce housing unit, the authority shall
have the first option to purchase such workforce
housing unit. The sale of such workforce housing unit
shall be regulated in accordance with the provisions
of section 15-218-56. [Eff] (Auth:
HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS §§206E-4,
206E-5, 206E-7)

§15-218-59 Factors to be used for determining
monthly rent for workforce housing unit for rent.
Monthly rent for workforce housing unit for rent shall
be based on no more than thirty per cent of the
applicable AMI. Monthly rent shall include all
utilities and other building operating cost but may
exclude telephone, cable television, and internet
service as well as parking. Allowance for tenant
furnished utilities and other services shall be based
on data published by the authority on an annual basis.
At the beginning of each year or soon thereafter, the
executive director shall establish and publish a
formula for calculating the applicable monthly rents
of a rental workforce housing unit based on the
factors enumerated above. [Eff]
(Auth: HRS §§206E-4, 206E-5, 206E-7) (Imp: HRS
§§206E-4, 206E-5, 206E-7)

§15-218-60 Rental of workforce housing unit by
workforce housing owner. The authority may on a
case-by-case basis consider request from a workforce
housing owner to rent the workforce housing unit.
Such rental of workforce housing units shall be
regulated in accordance with the provisions of
sections 15-218-57 and 15-218-58.
[Eff] (Auth: HRS §§206E-4, 206E-5,
206E-7) (Imp: HRS §§206E-4, 206E-5, 206E-7)

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

4. The amendment to and compilation of chapter 15-218, 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.

AEDWARD LOS BANOS
Interim Executive Director
Hawaii Community Development
Authority

APPROVED AS TO FORM:

Deputy Attorney General

Exhibit 7



Rules Amending Title 4
Hawaii Administrative Rules

[]

1. Chapter 71 of Title 4, Hawaii Administrative Rules, entitled "Plant and Non-Domestic Animal Quarantine Non-Domestic Animal Import Rules" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES
TITLE 4 DEPARTMENT OF AGRICULTURE
SUBTITLE 6 DIVISION OF PLANT INDUSTRY
CHAPTER 71
PLANT AND NON-DOMESTIC ANIMAL QUARANTINE
NON-DOMESTIC ANIMAL IMPORT RULES

Subchapter 1 General Provisions

- §4-71-1 Objective
- §4-71-2 Definitions
- §4-71-3 Permits
- §4-71-3.1 User permit fees
- §4-71-4 Submission of permit application to the board
- §4-71-4.1 Maximum time period for permit approvals, disapprovals, extensions, or automatic approvals
- §4-71-4.2 Public input and notification for listing
- §4-71-4.3 Violations

Subchapter 2 Non-Domestic Animal Introductions

- §4-71-5 Notice of quarantine

§4-71-1

- §4-71-6 Prohibited introductions
- §4-71-6.1 Ad hoc panel for identification of prohibited hybrid animal
- §4-71-6.5 Permitted introductions
- §4-71-7 Bond for certain animals
- §4-71-8 Bonding procedure
- §4-71-9 Conditions for bonding
- §4-71-10 Failure to comply with bond conditions

Historical note: Chapter 71 is based substantially upon Regulation 2 entitled "Concerning the Introduction of Feral and Other Non-Domestic Animals into Hawaii," of the Division of Entomology and Marketing, Department of Agriculture and Conservation [Eff. 12/12/41; am and ren. Regulation 2 8/30/47; am 9/16/60; R 7/13/81]; and Regulation 3 entitled "Concerning the Introduction of Bacteria, Fungi and Viruses into Hawaii," of the Division of Entomology, Board of Commissioners of Agriculture and Forestry [Eff. 12/12/41; am and ren. Regulation 3 8/30/47; R 7/13/81]

SUBCHAPTER 1

GENERAL PROVISIONS

§4-71-1 Objective. The objective of this chapter is to implement the requirements of chapter 150A, Hawaii Revised Statutes, by restricting or prohibiting the importation of specific non-domestic animals that are detrimental to the agricultural, horticultural, and aquacultural industries, natural resources and environment of Hawaii, and on the basis of associated risks to animal or public health and safety. [Eff. 7/13/81; am and comp 9/19/91; comp 2/21/92; am and comp 9/13/93; comp 1/30/95; am and comp 8/16/99; am and comp 11/30/01; comp 4/06/07; am and comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§150A-6, 150A-7)

§4-71-2 Definitions. As used in the chapter: "Advisory subcommittee" means one of the advisory

subcommittees on entomology, invertebrate and aquatic biota, land vertebrates, algae, bacteria, fungi, protozoa, viruses, or plants appointed by the chairman pursuant to section 150A-10, HRS;

"Board" means the board of agriculture of the department of agriculture;

"Branch" means the plant quarantine branch;

"Chairperson" means the chairperson of the board of agriculture;

"Chief" means the chief or manager of the plant quarantine branch;

"Dangerous wild animal" means a non-domestic animal that has been determined by board to be capable of causing significant risk to animal and public health and safety in the absence of adequate containment measures and safeguards. The board has determined the following animals to be dangerous wild animals: lion (Panthera leo), tiger (Panthera tigris), cheetah (Acinonyx jubatus), jaguar (Panthera onca), cougar (Felis concolor), leopard (Panthera pardus), clouded leopard (Panthera nebulosa), caracal (Felis caracal (=Lynx caracal)), ocelot (Felis pardalis), margay (Felis wiedii), serval (Felis serval), bear (Ursidae - all species in family), wolf (Canis lupus) and (Canis rufus), hyena (Crocuta crocuta), aardwolf (Proteles cristatus), elephant (Elephantidae - all species in family), rhinoceros (Rhinocerotidae - all species in family), hippopotamus (Hippopotamidae - all species in family), non-human primate (Primates - all species in Order), crocodile (Crocodylus - all species in genus), alligator (Alligator mississippiensis), caiman (Caiman crocodiuls), and gharial or gavial (Gavialis gangeticus).

"Department" means the department of agriculture;

"Non-domestic animal" means any animal, including mammals, birds, reptiles, amphibians, fishes and invertebrates, other than domestic dog (Canis familiaris), domestic cat (Felis catus), domestic horse (Equus caballus), domestic ass, burro, or donkey (Equus asinus), domestic cattle (Bos taurus and Bos indicus) including the beefalo (3/8 bison and 5/8 domestic cattle), domestic sheep (Ovis aries), domestic goat (Capra hircus), domestic swine (Sus

scrofa domestica), domestic pot-bellied pig (Sus salvanis), domestic alpaca (Lama pacos), domestic llama (Lama glama), domesticated races of European rabbit (Oryctolagus cuniculus), domesticated races of chicken (Gallus gallus), domesticated races of turkeys (Meleagris gallopavo), domesticated races of pigeons (Columba domestica and Columba livia), domesticated races of muscovy ducks (Cairina moschata), domesticated races of greylag geese (Anser anser) and swan geese (Anser cygnoides), and domestic hybrids (crosses between two domestic animals). As used in this chapter, the term or word, "animal," shall mean "non-domestic animal"; ["]

"Permittee" means any person or agency that has applied for and been granted a permit for the introduction or possession of an animal under this chapter;

"Primate sanctuary" means a facility that provides permanent care, rehabilitation, and protection for donated, abandoned, or displaced primates, does not trade or sell primates for financial gain, and that maintains a 501(c)(3) not-for-profit federal tax-exempt status and any permits or licenses required by federal, state, or municipal laws; and

"Private use" means use for non-commercial purposes, such as non-profit research, and does not include individual possession of an animal as a pet.

[Eff. 7/13/81; am and comp 9/19/91; am and comp 2/21/92; am and comp 9/13/93; comp 1/30/95; am and comp 8/16/99; am and comp 11/30/01; am and comp 4/06/07; am and comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§150A-6, 150A-6.2, 150A-7)

§4-71-3 Permits. (a) All importation of animals shall be by permit. A permit application shall be submitted to the chief with an appropriate bond, if required in this chapter, and the following information:

- (1) Name and address of shipper and importer, including mailing and street address;
- (2) Approximate number and kind (common and

scientific name) of animal;

- (3) Sex, if determinable;
- (4) Object of importation;
- (5) Mode of transportation; and
- (6) Approximate date of arrival.

(b) The chief, without submitting the permit application to the board, may approve or disapprove the issuance of a permit based on a past board decision relating to the same species of animal and the respective conditions for importation previously established by the board for that animal species, provided that, if approved, the current import request is, in all essential respects, the same as the previously approved request and that the importer is able to comply with the previously established conditions.

(c) A permit application for an animal which was previously disapproved may be resubmitted for board action pursuant to section 4-71-4 upon determination by the chief that conditions for importation are significantly different from the previously disapproved request.

(d) A permit application for an animal allowed for import under these rules but not previously permitted entry by the board shall be submitted for board action pursuant to section 4-71-4.

(e) The chairperson, without submitting the permit application to the advisory committee on plants and animals and the board, may approve a short term permit for animals on the conditionally approved or restricted lists, or a short-term special permit for unlisted animals, not to exceed ninety days, for [performing animals] performance or exhibition in a circus, carnival, commercial filming for television or movies, or other performance, or exhibition [when it has been determined] provided that [the]:

- (1) The animals shall be adequately safeguarded under the control of professional trainers or handlers[, provided that the animals];
- (2) The animals are not dangerous wild animals or animals on the list of prohibited animals, [and further provided that an] except that dangerous wild animals may be

imported for commercial filming for television or movies subject to permit conditions adequate to address any associated risks;

- (3) Appropriate permit conditions are established by the board; and
- (4) [an] An appropriate bond, if applicable, is secured with the department as required by sections 4-71-7 and 4-71-8.

(f) The permittee shall comply with all permit conditions established by the board. Violation of permit conditions may result in citation as provided in section 150A-12, HRS, or in cancellation of the permit, or both. Any violation of law or rule that calls into question the permittee's fitness to hold a permit, especially the likelihood of the permittee maintaining proper security and safeguarding for animals under the permittee's other permits, may result in cancellation of the permittee's other permits as well. [Eff. 7/13/81; comp 9/19/91; am and comp 2/21/92; am and comp 9/13/93; comp 1/30/95; am and comp 8/16/99; am and comp 11/30/01; am and comp 4/06/07; am and comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§150A-6.2, 150A-6.4, 150A-7)

§4-71-3.1 User permit fees. (a) A fee for the processing application and issuance of a permit is required as follows:

- (1) Five dollars per permit for a single shipment within one year from date of issuance;
- (2) Fifty dollars per permit for unlimited shipments within one year from date of issuance; and
- (3) Fees shall be paid in full at the time of request and are non-refundable except for an appropriate bond as required in this chapter.

(b) In addition to the requirements of subsection (a) herein, a fee for a site inspection as required in this chapter and by permit conditions

shall be twenty-five dollars per inspection plus mileage reimbursement.

(c) For inspections requiring the services of personnel beyond official working hours, an additional fee shall be assessed which shall include applicable charges for overtime wages, fixed charges for personnel services, and meals if required.

(d) Fees may be waived by the chief for research by not-for-profit organizations, universities, or government agencies, or for exhibition in municipal zoos or government-affiliated aquariums. [Eff and comp 8/16/99; am and comp 11/30/01; am and comp 4/06/07; comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §150A-7.5)

§4-71-4 Submission of permit application to the board. (a) The applicant shall provide the chief with the following additional information:

- (1) A statement of reasons for importation;
- (2) The person responsible for the animal;
- (3) A description of safeguarded facilities;
- (4) The method of disposition;
- (5) An abstract of the animal; and
- (6) Any other pertinent documented information as required by the branch on the proposed introduction.

(b) The applicant shall provide an adequate number of copies of the application and attachments as requested by the chief.

(c) The chief shall compile the information submitted by the applicant and send it to the members of the appropriate advisory subcommittee(s) for review.

(d) The comments and recommendations of the advisory subcommittee(s) shall be compiled and sent to the advisory committee on plants and animals for review.

(e) The comments and recommendations of the advisory subcommittee(s), the advisory committee on plants and animals, including the committee's votes, and of the chief shall be compiled and submitted to the board at its regular scheduled meeting.

(f) The board shall take action to approve or disapprove the permit application. The board may impose permit conditions including but not limited to, health requirements, safeguarding the animal from escape, unauthorized release, or theft, as well as any applicable requirements of municipal, state, or federal law. [Eff. 7/13/81; comp 9/19/91; comp 2/21/92; am and comp 9/13/93; comp 1/30/95; am and comp 8/16/99; am and comp 11/30/01; comp 4/06/07; comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§150A-6.2, 150A-6.4, 150A-7)

§4-71-4.1 Maximum time period for permit approvals, disapprovals, extensions, or automatic approvals. (a) Pursuant to the requirements of chapter 91, HRS, the department shall establish the following maximum time periods for the processing of permit requests after acceptance of a completed permit application and payment of applicable fees pursuant to sections 4-71-3 and 4-71-3.1:

- (1) For same species of animals with respective conditions for importation previously established by the board, the chief may approve or disapprove the issuance of a permit within 90 days;
- (2) For certain [performing] animals in a circus, carnival, or commercial filming for television or movies, or other performance or exhibition, and with an appropriate bond secured with the department for each animal, the chairperson, without submitting the permit application to the board, may approve or disapprove a short term permit or short-term special permit within 120 days;
- (3) For a permitted animal enumerated in section 4-71-6.5 that requires board action pursuant to section 4-71-4 to amend or establish permit conditions, the chief may approve or disapprove the issuance of a permit within 180 days; and
- (4) For an animal not previously permitted entry, excluding those animals enumerated in section 4-71-6, an application request must

be submitted for board action pursuant to section 4-71-4 and subject to public input and notification for listing under section 4-71-4.2 or as provided by section 150A-6.2, HRS, the chief may approve or disapprove the issuance of a permit within one year.

(b) Notwithstanding the requirements of subsection (a) herein, the maximum period of time shall be extended indefinitely in the event of a national disaster, state emergency, or union strike, which prevents the department from fulfilling application or review requirements in a timely manner.

(c) Except as provided for in subsection (b), an application request for the issuance of a permit shall be given automatic approval if action is not taken by the department within the established maximum period of time as specified in subsection (a). After the expiration of the maximum time period is brought to the attention of the department; the department shall have a reasonable amount of time to issue the permit. This section shall apply only to application requests for business or development-related permits required by law to be obtained prior to the formation, operation, or expansion of a commercial or industrial enterprise. [Eff and comp 8/16/99; am and comp 11/30/01; am and comp 4/06/07; am and comp] (Auth: HRS §§91-13.5,141-2, 150A-9) (Imp: HRS §§91-13.5, 150A-6.2)

§4-71-4.2 Public input and notification for listing. (a) By order, the board may adopt additions to or deletions from the lists of animals without regard to the notice and public hearing requirements of chapter 91, HRS, provided that thirty days or more prior to the effective date of the order, the department shall issue a press release and mail notices to the Office of Environmental Quality Control for publication and to all persons who have made a timely written request of the department for advance notice of the order or the department's rulemaking proceedings. The press release and the notice shall include:

- (1) A statement summarizing the substance of the proposed order which may include examples of the kinds of animals being added to or deleted from the lists required under section 150A-6.2, HRS;
- (2) A statement that a copy of the proposed order and the proposed exact changes will be mailed to any interested person who requests a copy upon payment in advance of costs for photocopying, preparing, and mailing the copy;
- (3) A statement as to where to obtain a copy of the proposed order and the proposed exact changes for inspection, or for pick-up after payment in full of costs for photocopying and preparing; and
- (4) A statement that the department is soliciting comments regarding the proposed order during the next thirty days, where comments may be forwarded to, and where the proposed order will be discussed.

(b) The department shall consider all oral and written comments and may incorporate the same in its review of the proposed order by the advisory committee on plants and animals in a noticed, public meeting.

(c) Upon approval by the board at a noticed, public meeting, the order to adopt additions to or deletions from the lists of animals shall take effect ten days after the department gives public notice of the order in a daily or weekly publication of statewide circulation or in separate daily or weekly publications whose combined circulation is statewide. [Eff and comp 8/16/99; am and comp 11/30/01; comp 4/06/07; comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §150A-6.6)

§4-71-4.3 Violations. Any person who violates any provision or requirement of this chapter or of any notice given pursuant thereto, shall be subject to the penalties provided for under section 150A-14, HRS. [Eff and comp 8/16/99; comp 11/30/01; comp 4/06/07; comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§150A-6.4, 150A-14)

SUBCHAPTER 2

NON-DOMESTIC ANIMAL INTRODUCTIONS

§4-71-5 Notice of quarantine. The board finds that there exists serious danger to the agricultural, horticultural, and aquacultural industries, natural resources, and environment of Hawaii, risk to animal or public health and safety, by the uncontrolled introduction of feral and other non-domestic animals. [Eff. 7/13/81; comp 9/19/91; comp 2/21/92; comp 9/13/93; comp 1/30/95; am and comp 8/16/99; comp 11/30/01; comp 4/06/07; am and comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§150A-6, 150A-6.2, 150A-7)

§4-71-6 Prohibited introductions. (a) The introduction into Hawaii of live animals or live non-domestic animals as defined in this chapter at any stage of development is prohibited except for those animals on the lists incorporated in §4-71-6.5, by permit, and except as provided by section 150A-6.2, HRS.

(b) The list of animals designated as prohibited entry pursuant to section 150A-6.2, HRS, dated November 28, 2006, and located at the end of this chapter is made a part of this section. No person shall introduce into Hawaii any animal from the list of prohibited animals. [Eff. 7/13/81; am and comp 9/19/91; am and comp 2/21/92; am and comp 9/13/93; am and comp 1/30/95; am and comp 8/16/99; am and comp 11/30/01; am and comp 4/06/07; comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§150A-6.2, 150A-7)

§4-71-6.1 Ad hoc panel for identification of Ad hoc panel for identification of prohibited hybrid animal. (a) The chairperson shall establish an ad

hoc panel of no fewer than three members with applicable expertise in vertebrate biology to determine if an animal is a prohibited hybrid animal when the branch suspects that the lineage of the animal is not as stated by the owner or on other official documents.

(b) The ad hoc panel shall review all pertinent information including, but not limited to, expert consultations, health and pedigree certificates, owner's statements, branch findings, or viewings of the animal, to determine lineage of a suspect prohibited hybrid animal.

(c) After its review and determination the ad hoc panel shall report its findings to the branch, and appropriate action shall be taken by the branch on the disposition of the suspect hybrid prohibited animal.

(d) In any contested case arising out of the identification of a suspected hybrid animal, the method of identification selected by the ad hoc panel shall not be overturned absent evidence of actual bias on the part of one or more of the ad hoc panel members or unless the method of identification lacks a scientific basis. [Eff and comp 8/16/99; comp 11/30/01; comp 4/06/07; comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§150A-6, 150A-6.2)

§4-71-6.5 Permitted introductions. (a) The introduction into Hawaii of live animals or live non-domestic animals as defined in this chapter is only allowed:

- (1) For those animals on the list designated as conditionally approved and dated November 28, 2006, or on the list designated as restricted entry, dated [November 28, 2006] _____, pursuant to section 150A-6.2, HRS, both of which lists are located at the end of this chapter and made a part of this section;
- (2) By permit approved by the board, chairperson, or chief, as appropriate, pursuant to sections 4-71-3 and 4-71-4; and
- (3) After securing appropriate bond for certain

animals pursuant to sections 4-71-7, 4-71-8, and 4-71-9.

(b) Pursuant to the requirements of subsection (a) herein, the introduction of animals on the lists of conditionally approved or restricted animals, including dangerous wild animals, is allowed as follows:

- (1) Animals on the list of conditionally approved animals, for individual possession, businesses, government agencies, or institutions;
- (2) Animals on Part A of the list of restricted animals, for research, medical or scientific purposes as determined by the board, by universities, [or] government agencies, or other institutions approved by the board, for exhibition in [municipal] government zoos or government-affiliated aquariums, [for other institutions for medical or scientific purposes as determined by the board], or for other purposes as specified in this chapter; and
- (3) Animals on Part B of the list of restricted animals, for the purposes described in subsection (b) (2) herein or for government use, or private and commercial use, including research, zoological parks, or aquaculture production, except that animals in the order Primates shall not be allowed for import or possession for private or commercial use other than for purposes described in subsection (b) (2) or for primate sanctuaries, as determined by the board.

(c) The introduction of unlisted animals for the purpose of remediating medical emergencies or agricultural or ecological disasters, or conducting scientific research that is not detrimental to agriculture, the environment, or humans is allowed for import and possession by a special permit on a case-by-case basis, if the importer can meet permit requirements or other guidelines as determined by the board pursuant to section 150A-6.2, HRS.

(d) The introduction of unlisted animals for the purpose of filming, performance, or exhibition is allowed by short-term special permit on a case-by-case basis not to exceed 90 days for importation and possession if the importer can meet permit and bonding requirements as determined by the board pursuant to section 150A-6.2, HRS.

(e) The permittee shall obtain [prior] site approval prior to the issuance of a permit for animals on the list of restricted animals and for unlisted animals [under special permit] as determined by the board.

(f) Restricted list animals and unlisted animals [under special permit as determined by the board] require a permit for both import and possession in the event of a subsequent transfer, if allowed. Where a permit for a restricted list animal or an unlisted animal allows transfer or sale, the proposed transferee shall first obtain a permit for possession of the animal by application to the chief, site inspection approval, and [satisfaction of] shall satisfy any bond or other requirements applicable.

(g) The board may establish permit conditions including but not limited to, time, place, location, use, special precautions, health requirements, and safeguarding the animal from escape, unauthorized release, or theft, as well as any applicable requirements of municipal, state, or federal laws. The permittee shall comply with the requirements of this chapter, chapter 150A, HRS, and specific permit conditions established by the board. [Eff. and comp 2/21/92; am and comp 9/13/93; am and comp 1/30/95; am and comp 8/16/99; am and comp 11/30/01; am and comp 4/06/07; am and comp] (Auth: §§141-2, 150A-9) (Imp: HRS §150A-6.2)

§4-71-7 Bond for certain animals. The applicant shall secure an appropriate bond, as specified in this chapter, for the following:

- (1) Monkeys, apes, baboons, chimpanzees, gibbons, lemurs, pottos, wallabies, and any

- other animal that the board or chairperson may require to be bonded as a condition for importation or possession;
- (2) Any offspring of bonded animals; and
 - (3) Certain [performing] animals in a circus, carnival, commercial filming for television or movie productions, or other performance or exhibition under short-term or short-term special permit that have been permitted entry by the chairperson without advisory committee review and board action pursuant to section 4-71-3(e), or certain unlisted animals that have been permitted entry by the board under special permit pursuant to section 150A-6.2, HRS. [Eff. 7/13/81; am and comp 9/19/91; comp 2/21/92; am and comp 9/13/93; comp 1/30/95; am and comp 8/16/99; am and comp 11/30/01; am and comp 4/06/07; am and comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§150A-6.2, 150A-7)

§4-71-8 Bonding procedure. (a) When required in this chapter, the bonding of animals shall be by cashier's check, or cash secured with the department.

(b) An appropriate individual bond shall be secured with the department for the sum of three thousand dollars for each animal except as provided for in subsection (c).

(c) An appropriate individual bond shall be secured with the department for the sum of two thousand dollars for each animal for owners holding valid United States Department of Agriculture licenses under the Animal Welfare Act.

(d) A cashier's check or cash secured with the department as a bond, shall be returned to the owner without interest, upon verification of the death or exportation of the animal, or the transfer or sale of the animal to a new owner who has secured the necessary bond and permit in advance of the transfer.

(e) Government organizations, such as municipal zoos, and animal sanctuaries determined by the United

States Internal Revenue Service to be not-for-profit entities are exempt from the bonding requirements of this section. [Eff. 7/13/81; am and comp 9/19/91; comp 2/21/92; am and comp 9/13/93; comp 1/30/95; am and comp 8/16/99; am and comp 11/30/01; am and comp 4/06/07; comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§150A-6.2, 150A-7)

§4-71-9 Conditions for bonding. An owner, dealer, or organization shall import and maintain bonded animals under the following conditions:

- (1) The owner, dealer, or organization shall submit information to the chief with respect to the number, sex, if determinable, and species of animal;
- (2) The animal shall be kept in captivity and as required by permit conditions at all times;
- (3) The chief shall be notified immediately upon the escape of any bonded animal;
- (4) The chief shall be notified immediately upon the death of the bonded animal and the carcass shall be presented immediately to the state veterinarian or his designate for examination and verification;
- (5) Out-of-state movement of a bonded animal shall be verified by an inspector in advance of the movement and after prior arrangements for verification have been made with the chief;
- (6) An animal may be sold or given away in Hawaii only to persons who have secured an appropriate bond with and acquired a permit from the department prior to the sale or transfer;
- (7) A bond or cashier's check in the appropriate amount required under section 4-71-8 shall be kept in full force and effect;
- (8) The owner, dealer, or organization shall report to the chief the birth of and secure an appropriate bond and permit for any offspring within thirty calendar days of the birth;

- (9) The owner, dealer, or organization shall report to the chief any change of mailing address and related contact information within seven business days of the change; and
- (10) The owner, dealer, or organization possessing a valid United States Department of Agriculture license under the Animal Welfare Act shall report to the chief any suspension, revocation, or expiration of the required federal license within seven business days of the license status change. [Eff. 7/13/81; am and comp 9/19/91; comp 2/21/92; comp 9/13/93; comp 1/30/95; am and comp 8/16/99; am and comp 4/06/07; comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§150A-6.2, 150A-7)

§4-71-10 Failure to comply with bond conditions.

- (a) The department may seize the bonded animal, and foreclose on the bond or retain such sums secured by cash or cashier's check upon failure of the owner to comply with the bonding conditions in section 4-71-9.
- (b) Should the bonded animal escape, the owner shall take necessary action to recapture the animal. If the owner fails to recapture the animal within one week after escape or when the animal becomes a nuisance or poses a serious threat to the community, the department may employ its resources to recapture the animal after due notice to the owner. The owner shall be held responsible for the cost incurred by the department.
- (c) Any bonded animal that is captured after escape or seized pursuant to section 4-71-10 may be sold at a private sale, shipped out state, donated to a government agency, or destroyed no sooner than fifteen days after cancellation of the bond." [Eff 7/13/81; am and comp 9/19/91; comp 2/21/92; am and comp 9/13/93; comp 1/30/95; am and comp 8/16/99; am and comp 4/06/07; comp] (Auth: HRS §§141-2, 150A-9) (Imp: HRS §§150A-6.2, 150A-7)

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 4-71, 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 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.

SCOTT E. ENRIGHT
Chairperson, Board of
Agriculture

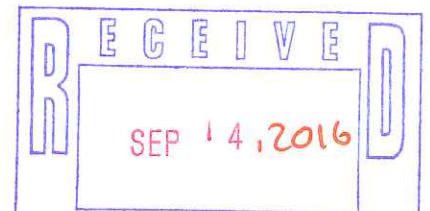
APPROVED AS TO FORM:

Deputy Attorney General

LIST OF PROHIBITED ANIMALS

November 28, 2006

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
INVERTEBRATES	
PHYLUM Annelida CLASS Polychaeta ORDER Phyllodocida FAMILY Glyceridae <u>Glycera americana</u>	bloodworm
PHYLUM Arthropoda CLASS Crustacea ORDER Decapoda FAMILY Coenobitidae <u>Coenobita clypeatus</u>	crab, land hermit
FAMILY Potamidae Potamidae (all species in family)	crabs, freshwater
CLASS Insecta ORDER Hymenoptera FAMILY Apidae <u>Apis mellifera</u>	bee, honey (alive or dead)
ORDER Lepidoptera FAMILY Tortricidae <u>Cydia deshaisiana</u>	moth, Mexican jumping bean
PHYLUM Cnidaria CLASS Cubozoa ORDER Cubomedusae FAMILY Chirodropidae Chirodropidae (all species in family)	jellyfishes



PROHIBITED ANIMAL LIST

S4-71-6

SCIENTIFIC NAME

COMMON NAME

PHYLUM Mollusca
 CLASS Bivalvia
 ORDER Veneroida
 FAMILY Corbiculidae
Corbicula fluminea

clam, freshwater (shijimi)

CLASS Cephalopoda
 ORDER Octopoda
 FAMILY Octopobidae
Octopus maculosus
Octopus maya

octopus, Australian
 octopus

AMPHIBIANS

PHYLUM Chordata
 CLASS Amphibia
 ORDER Caudata
 FAMILY Amphiumidae
Amphiuma (all species in genus)

salamanders

FAMILY Proteidae
Necturus (all species in genus)

salamanders

FAMILY Sirenidae
Pseudobranchius striatus
Siren intermedia
Siren lacertina

salamander, dwarf
 siren, lesser
 siren, greater

ORDER Salientia (Anura)
 FAMILY Dendrobatidae
Phyllobates (all species in
 genus)

frogs

FAMILY Hylidae
Hyla septentrionalis

treefrog, Cuban

FAMILY Pipidae
 Pipidae (all in family, except the following species for research
 and exhibition by government agencies: Pipa pipa (toad, surinam)
 and Xenopus laevis (frog, African clawed)

PROHIBITED ANIMAL LIST

S4-71-6

SCIENTIFIC NAME

COMMON NAME

REPTILES

CLASS Reptilia ORDER Squamata Serpentes (all species in suborder, except for two male nonvenomous snakes for exhibition in a government zoo, and for four sterile male brown tree snakes, <u>Boiga irregularis</u> , for research or training of snake detector dogs by the department)	snakes
FAMILY Helodermatidae <u>Heloderma</u> sp.	gila monster

FISHES

CLASS Chonodrichthyes ORDER Carcharhiniformes FAMILY Carcharhinidae <u>Carcharhinus nicaraguensis</u>	shark, Nicaraguan freshwater
ORDER Myliobatiformes FAMILY Dasyatidae Dasyatidae (all species in family)	stingrays, freshwater
ORDER Orectolobiformes FAMILY Orectolobidae <u>Orectolobus maculatus</u> <u>Orectolobus ornatus</u>	shark, spotted carpet; (shark, wobbegong) shark, banded carpet
ORDER Petromyzoniformes FAMILY Petromyzonidae Petromyzonidae (all species in family)	lampreys

PROHIBITED ANIMAL LIST

S4-71-6

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
CLASS Osteichthyes ORDER Amiiformes FAMILY Amiidae Amiidae (all species in family)	bowfins; dogfishes; mudfishes
ORDER Anguilliformes Anguilliformes (all species in order)	eels
ORDER Atheriniformes FAMILY Atherinidae <u>Atherinomorus stipes</u>	silversides, hardhead
FAMILY Belonidae Belonidae (all species in family)	needlefishes
FAMILY Hemirhamphidae Hemirhamphidae (all species in family, except <u>Dermogenys pusillus</u> and <u>Nomorhamphus celebensis</u>)	halfbeaks
FAMILY Poeciliidae <u>Belonesox belizanus</u>	top minnow, pike
ORDER Cypriniformes FAMILY Characidae <u>Acestrorhynchus</u> (all species in genus)	cachorros
<u>Catoprion</u> (all species in genus)	piranha
<u>Hydrolycus</u> (all species in genus)	characins
<u>Pygocentrus</u> (all species in genus)	piranha
Serrasalminae (all species in subfamily except the species in the following genera: <u>Colossoma</u> , pacu; <u>Metynnis</u> , silver dollar; <u>Myleus</u> , silver dollar; <u>Myloplus</u> , myloplus; and <u>Mylossoma</u> , pacu)	piranha
<u>Serrasalmo</u> (all species in genus)	piranha
<u>Serrasalmus</u> (all species in genus)	piranha

PROHIBITED ANIMAL LIST

S4-71-6

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Gymnotidae <u>Electrophorus electricus</u>	eel, electric
ORDER Myctophiformes FAMILY Synodontidae <u>Synodus</u> (all species in genus)	lizard fishes
ORDER Osteoglossiformes FAMILY Osteoglossidae <u>Arapaima gigas</u>	pirarucu
ORDER Perciformes FAMILY Channidae Channidae; (Ophiocephaloidae) (all species in family, except <u>Ophiocephalus striatus</u>)	snake heads
FAMILY Cichlidae <u>Batrachops</u> (all species in genus) <u>Crenicichla</u> (all species in genus)	cichlid, pike cichlid, pike
FAMILY Eleotrididae <u>Dormitator maculatus</u> <u>Eleotris</u> (all species in genus) <u>Mogurnda mogurnda</u>	sleeper, spotted sleepers gudgeon, purple striped
FAMILY Sciaenidae <u>Pogonias cromis</u> <u>Sciaenops ocellatus</u>	drum, black drum, red
FAMILY Sparidae <u>Pagrus major</u>	bream, red sea
ORDER Polypteriformes FAMILY Polypteridae Polypteridae (all species in family)	fishes, bichir
ORDER Scorpaeniformes FAMILY Scorpaenidae <u>Amblyapistus taenianotus</u> <u>Dendrochirus zebra</u> <u>Inimicus didactylum</u> <u>Paracentropogon longispinis</u> <u>Pterois</u> (all species in genus) <u>Scorpaena</u> (all species in genus)	rouge fish lion fish, zebra sea goblin, popeyed scorpion fish, wispy lion fishes scorpion fishes

PROHIBITED ANIMAL LIST

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Scorpaenodes</u> (all species in genus)	scorpion fishes
<u>Synanceia horrida</u>	stone fish
<u>Synanceia verrucosa</u>	stone fish
<u>Taenianotus triacanthus</u>	leaf fish, sailfin
ORDER Semionotiformes	
FAMILY Lepisosteidae	
Lepisosteidae (all species in family)	garpikes
ORDER Siluriformes	
FAMILY Ariidae	
Ariidae (all species in family)	catfishes, ariid
FAMILY Bagridae	
<u>Bagrichthys hypselopterus</u>	catfish, black lancer
<u>Clarotes</u> (all species in genus)	catfishes, clarotes
FAMILY Clariidae	
Clariidae (all species in family, except <u>Clarias fuscus</u>)	catfishes
FAMILY Doradidae	
Doradidae (all species in family)	catfishes, doradid
FAMILY Malapteruridae	
<u>Malapterurus electricus</u>	catfish, electric
FAMILY Pimelodidae	
<u>Phractocephalus hemiliopterus</u>	catfish, redtailed
<u>Pseudopimelodus transmontanus</u>	catfish, Peruvian mottled
<u>Pseudoplatystoma fasciatum</u>	catfish, tiger shovelnose
FAMILY Plotosidae	
Plotosidae (all species in family)	eels, catfish
FAMILY Siluridae	
<u>Wallago attu</u>	catfish, helicopter
FAMILY Trichomycteridae	
<u>Vandellia cirrhosa</u>	candiru

PROHIBITED ANIMAL LIST

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SCIENTIFIC NAME

COMMON NAME

ORDER Synbranchiformes	
FAMILY Synbranchidae	
<u>Synbranchus afer</u>	moray, freshwater
<u>Synbranchus marmoratus</u>	moray, freshwater

BIRDS

(Taxonomy after Sibley and Monroe 1990)

CLASS Aves	
ORDER Apodiformes	
FAMILY Trochilidae	
Trochilidae (all species in family, except sexually dimorphic males for exhibition in government zoos only)	hummingbirds
ORDER Columbiformes	
FAMILY Columbidae	
<u>Alectroenas</u> (all species in genus)	pigeons, fruit
<u>Cryptophaps</u> (all species in genus)	pigeons, fruit
<u>Drepanopila</u> (all species in genus)	doves, fruit
<u>Gymnophaps</u> (all species in genus)	pigeons, fruit
<u>Hemiphaga</u> (all species in genus)	pigeons, fruit
<u>Lopholaimus</u> (all species in genus)	pigeons, fruit
<u>Phapitreron</u> (all species in genus)	doves, fruit brown
<u>Sphenurus</u> (all species in genus)	pigeons, fruit
<u>Treron</u> (all species in genus)	pigeons, green fruit
ORDER Galliformes	
FAMILY Cracidae	
<u>Crax alector</u>	curassow, crested
<u>Crax rubra</u>	curassow, greater (Mexican)
FAMILY Tetraonidae	
<u>Bonasa umbellus umbellus</u>	grouse, ruffed

PROHIBITED ANIMAL LIST

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
ORDER Passeriformes	
FAMILY Coerebidae	
Coerebidae (all species in family)	honeycreepers
FAMILY Corvidae	
<u>Corvus brachyrhynchos</u>	crow, common
<u>Corvus cornix</u>	crow, hooded
<u>Corvus corone</u>	crow, carrion
<u>Corvus frugilegus</u>	crow, rook
<u>Pica</u> (all species in genus)	magpies
FAMILY Dicaeidae	
<u>Dicaeum</u> (all species in genus)	flowerpeckers
FAMILY Emberizidae	
<u>Emberiza citrinella</u>	bunting, yellow (yellow hammer)
FAMILY Estrildidae	
<u>Aegintha temporalis</u>	finch, Sydney waxbill (redbrowed)
<u>Chloropsis hardwickii</u>	chloropsis, Hardwick's (orangebellied)
<u>Estrilda subflava subflava</u> (Females only)	finch, goldbreasted (orangebreasted)
<u>Lagonosticta rara</u>	finch (waxbill), blackbellied fire
<u>Lonchura castaneothorax</u>	finch, chestnut breasted
<u>Lonchura striata</u>	mannikin, striated; (munia, white back)
<u>Mandingoa nitidula</u>	finch, greenbacked twinspace
<u>Padda oryzivora</u>	sparrow, Java (white and gray)
<u>Poephila cincta cincta</u>	finch, parson blackthroated
<u>Poephila personata</u>	finch, masked
<u>Spermophaga haematina</u>	finch, bluebill
<u>Steganopleura guttata</u>	finch, diamond; (sparrow, diamond)
FAMILY Fringillidae	
<u>Cardinalis phoeniceus</u>	cardinal, vermilion
<u>Carduelis chloris</u>	greenfinch European
<u>Fringilla coelebs</u>	chaffinch
<u>Pyrenestes sanguineus</u>	finch, seedcracker (crimson)
<u>Pyrrhula pyrrhula (=europosa)</u>	bullfinch, common
<u>Sporophila torqueola</u>	finch, whitecollared seedeater
<u>Zonaeginthus bellus</u>	finch, firetail

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Ibididae <u>Hesperiphona</u> (all species in genus)	sugarbirds
FAMILY Icteridae <u>Turdus merula</u> <u>Turdus viscivorus</u>	black bird, European thrush, mistle
FAMILY Meliphagidae Meliphagidae (all species in family)	honeyeaters
FAMILY Nectariniidae Nectariniidae (all species in family)	sunbirds
FAMILY Oriolidae <u>Gymnomystax melanicterus</u>	oriole, northern South American
FAMILY Ploceidae <u>Foudia madagascariensis</u> <u>Passer domesticus</u> <u>Ploceus philippinus</u>	weaver, Madagascar fody sparrow, house weaver baya
FAMILY Pycnonotidae <u>Pycnonotus</u> (all species in genus)	bulbuls
<u>Hysipetes</u> (all species in genus)	bulbuls
FAMILY Sturnidae <u>Acridotheres</u> (all species in genus) <u>Gracupica nigricollis</u> <u>Sturnus</u> (all species in genus, except the following one species for exhibition in government zoos only: <u>Sturnus nigricollis</u> (starling, black collared)	mynas myna, blacknecked (blackheaded) starlings
FAMILY Thraupidae Thraupidae (all species in family, except males only of the following three species for exhibition in government zoos only: <u>Piranga olivacea</u> (tanager, scarlet); <u>Ramphocelus dimidiatus</u> (tanager,	tanagers

SCIENTIFIC NAMECOMMON NAME

crimson-backed); Thraupis
episcopus (tanager, blue-grey))

FAMILY Zosteropidae
Zosterops erythropleura

white eye, chestnutflanked

ORDER Piciformes

FAMILY Rhamphastidae

Rhamphastidae (all in family, except the following nine species for exhibition in government zoos only: Pteroglossus beauharnaesii (aracari, curlcrested); Rhamphastos ambiguus swainsonii (toucan, bicolor); Ramphastos toco cuvieri (toucan, Cuvier's); Ramphastos discolorus (toucan, redbreasted); Ramphastos sulfuratus sulfuratus (toucan, sulfurbreasted); Ramphastos toco toco (toucan, toco); Ramphastos vitellinus ariel (toucan, ariel); Ramphastos vitellinus vitellinus (toucan, sulphur and white breasted); and Selenider maculirostris (toucanet, spot-billed)

ORDER Psittaciformes

FAMILY Loriidae

Loriidae (all in family, except the following nine species for exhibition in government zoos only: Chalcopsitta sintillata (lory, streaked); Eos bornea (lory, red); Eos squamata (lory, velvetnecked); Chamosyna papou golinthina (lory, Stella's); Lorius lory (lory, blackcapped); Trichoglossus haematodus (lory, rainbow); Trichoglossus johnstoniae (lorikeet, Johnstone's); Trichoglossus ribiginosus (lory, Ponape); and Vini peruviana (lory, Tahitian))

FAMILY Psittacidae

Aratinga nana astec

parrot, Aztec dwarf;
(conure, Aztec)

Bolbopsittacus lunulatus

parakeet, guaiabero

Brotogeris chrysopterus

parakeet, goldenwinged

Brotogeris pyrrhopterus

parakeet, greycheeked

Brotogeris sanctithomae

parrot, bee bee; (Tui)

Brotogeris versicolorus

parakeet, canarywinged

Forpus (all species in
genus)

parrolets; (dwarf, parrot)

Loriculus (all in genus, except the following two species for exhibition in government zoos only: Loriculus galgulus (parrot, bluecrowned); and Loriculus philippensis (parrot, Philippine hanging))

Micropsitta (all species in genus)

parrots, pygmy; (dwarf,
parrot)

Myiopsitta monachus

parakeet, monk (quaker)

Opsittacus (all species in
genus)

parrots, fig

PROHIBITED ANIMAL LIST

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SCIENTIFIC NAME

COMMON NAME

Pionites leucogaster
Pionites melanocephala

caique, whitebellied
caique, blackheaded

MAMMALS

PHYLUM Chordata
(crosses with prohibited
species)

animals, hybrid; (all
hybrid-crosses where one
or both parents are
prohibited)

Canis familiaris crossed
with wolf, coyote, dingo,
jackal, fox, dhole, African
wild dog, racoon dog, bush dog,
etc.

dog, hybrid; (all hybrid-
crosses where one or both
parents are prohibited or
restricted)

Felis catus crossed with
lynx, ocelot, margay,
puma, jaguarandi, bobcat,
leopard cat, wild cat, etc.

cat, hybrid; (all hybrid-
crosses where one or both
parents are prohibited or
restricted)

CLASS Mammalia
ORDER Chiroptera
Chiroptera (all species
in order)

bats

FAMILY Pteropodidae
Pteropus (all species in
genus)

foxes, flying

ORDER Lagomorpha
FAMILY Leporidae
Lepus (all species in
genus)

hares, wild

ORDER Rodentia
FAMILY Cricetidae
Cricetidae (all in family, except the following five species for
research by government agencies only: Cricetulus griseus (mouse,
Chinese); Gerbillus gerbillus (gerbil); Mesocricetus auratus
(hamster); Meriones unguiculatus (gerbil); and Sigmondon hispidus
(rat, cotton))

PROHIBITED ANIMAL LIST

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SCIENTIFIC NAME

COMMON NAME

FAMILY Erethizontidae

Chaetomys subspinosus
Coendou (all species in genus)

porcupine, thin-spined
 porcupines,
 prehensile-tailed
 porcupine

Echinoprocta rufescens

FAMILY Hystricidae

Atherurus (all species in
 genus)

porcupines, brush-tailed

Hystrix (all in genus, except following species for exhibition in
 government zoos only: Hystrix cristata (porcupine, African
 crested))

Thecurus (all species in genus)

porcupines

Trichys (all species in genus)

porcupines, long-tailed

FAMILY Sciuridae

Sciuridae (all in family, except the following two species for
 exhibition in government zoos only: Callosciurus prevosti
 (squirrel, prevost's) and Sciurus variegatoides (squirrel,
 variegated) and except all species in the genus Marmota for
 research in government universities only)

LIST OF RESTRICTED ANIMALS

[]

PART A: FOR RESEARCH AND EXHIBITION

SCIENTIFIC NAME

COMMON NAME

INVERTEBRATES

PHYLUM Annelida

CLASS Hirudinea

ORDER Gnathobdellida

FAMILY Hirudinidae

Hirudo medicinalis

leech, medicinal

ORDER Rhynchobdellae

FAMILY Glossiphoniidae

Helobdella triserialis

leech, small snail

CLASS Oligochaeta

ORDER Haplotaxida

FAMILY Euchytraeidae

Enchytraeidae (all species in family)

worm, white

FAMILY Eudrilidae

Helodrilus foetidus

earthworm

FAMILY Lumbricidae

Lumbricus terrestris

earthworm

Allophora (all species in genus)

earthworm

CLASS Polychaeta

ORDER Phyllodocida

FAMILY Nereidae

Nereis japonica

lugworm

PHYLUM Arthropoda

CLASS Arachnida



RESTRICTED ANIMAL LIST (Part A)

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SCIENTIFIC NAMECOMMON NAME

ORDER Acari

FAMILY Phytoseiidae

Iphiseius degenerans

predator, spider mite

Mesoseiulus longipes

predator, spider mite

Mesoseiulus macropilis

predator, spider mite

Neoseiulus californicus

predator, spider mite

Neoseiulus longispinosus

predator, spider mite

Typhlodromus occidentalis

mite, western predatory

FAMILY Tetranychidae

Tetranychus lintearius

biocontrol agent, gorse

CLASS Crustacea

ORDER Amphipoda

FAMILY Hyalidae

Parhyale hawaiensis

amphipod, marine

ORDER Anomura

FAMILY Porcellanidae

Petrolisthes cabrolloi

crab, porcelain

Petrolisthes cinctipes

crab, porcelain

Petrolisthes elongatus

crab, porcelain

Petrolisthes eriomerus

crab, porcelain

Petrolisthes gracilis

crab, porcelain

Petrolisthes granulatus

crab, porcelain

Petrolisthes japonicus

crab, porcelain

Petrolisthes laevigatus

crab, porcelain

Petrolisthes manimaculis

crab, porcelain

Petrolisthes tuberculatus

crab, porcelain

Petrolisthes violaceus

crab, porcelain

ORDER Cladocera

FAMILY Daphnidae

Ceriodaphnia dubia

flea, water

ORDER Mysidacea

FAMILY Mysidae

Mysidopsis bahia

shrimp, mysid

CLASS Insecta

RESTRICTED ANIMAL LIST (Part A)

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
ORDER Coleoptera	
FAMILY Apionidae	
<u>Apion scutellare</u>	biocontrol agent, gorse
FAMILY Buprestidae	
<u>Lius poseidon</u>	biocontrol agent, clidemia
FAMILY Chrysomelidae	
<u>Chlamisus gibbosa</u>	biocontrol agent, blackberry
FAMILY Coccinellidae	
<u>Delphastus pusillus</u>	predator, spiraling whitefly
<u>Hippodamia convergens</u>	beetle, convergent lady
<u>Nephaspis oculatus</u>	predator, spiraling whitefly
<u>Nephaspis bicolor</u>	predator, spiraling whitefly
<u>Stethorus nigripes</u>	predator, spider mites
<u>Stethorus picipes</u>	predator, spider mites
FAMILY Curculionidae	
<u>Acythopeus</u> sp. 1	biocontrol agent, ivy gourd
<u>Acythopeus</u> sp. 2	biocontrol agent, ivy gourd
<u>Acythopeus</u> sp. 3	biocontrol agent, ivy gourd
<u>Auletobius convexifrons</u>	biocontrol agent, firetree
<u>Gymnaetron tetrum</u>	biocontrol agent, common mullein
FAMILY Scarabaeidae	
<u>Euoniticellus intermedius</u>	predator, hornfly
<u>Onitis vanderkelleni</u>	predator, horn fly
ORDER Diptera	
FAMILY Chamaemyiidae	
<u>Leucopis</u> (all species in subgenus)	predator
FAMILY Drosophilidae	
<u>Drosophila</u> (all species in genus)	flies, pomace
<u>Zaprionothrica</u> sp.	biocontrol agent, banana poka

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Lonchaeidae <u>Dasiops curubae</u>	biocontrol agent, banana poka
FAMILY Muscidae <u>Musca domestica</u>	house fly
FAMILY Tephritidae <u>Ceratitus capitata</u> <u>Urophora stylata</u>	fly, Mediterranean fruit biocontrol agent, bull thistle
ORDER Heteroptera FAMILY Anthocoridae <u>Orius tristicolor</u>	bug, minute pirate
ORDER Homoptera FAMILY Eriococcidae <u>Tectococcus ovatus</u>	biocontrol agent, strawberry guava
ORDER Hymenoptera FAMILY Aphelinidae <u>Aphelinus</u> (all species in genus) <u>Cales noacki</u> <u>Encarsia formosa</u> <u>Encarsia guadeloupae</u> <u>Encarsia ?haitiensis</u> <u>Encarsia lutea</u> <u>Encarsia mineoi</u> <u>Encarsia pergandiella</u> <u>Mesidia</u> (all species in genus) <u>Mesidiopsis</u> (all species in genus) <u>Protaphelinus</u> (all species in genus)	parasite, aphid parasite, woolly whitefly parasite, greenhouse whitefly parasite, spiraling whitefly parasite, spiraling whitefly parasite, sweetpotato whitefly parasite, sweetpotato whitefly parasite, greenhouse whitefly parasite, aphid parasite, aphid parasite, aphid
FAMILY Aphidiidae Aphidiidae (all species in family)	parasite, aphid

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Bethylidae	
<u>Cephalonomia stefanoderis</u> (lab-reared strains)	parasite, tropical nut borer
<u>Prorops nasuta</u> (lab-reared strains)	parasite, tropical nut borer
FAMILY Braconidae	
<u>Apanteles gelechiidivorus</u>	parasite, tomato pinworm
<u>Apanteles scutellaris</u>	parasite, tomato pinworm
<u>Diachasmimorpha tryoni</u>	wasp, parasitic
<u>Fopius ceratitivorus</u>	biocontrol agent, Mediterranean fruit fly
<u>Heterospilus coffeicola</u> (lab-reared strains)	parasite, tropical nut borer
<u>Opius dissitus</u>	parasite, leafminer
<u>Opius dimidiatus</u>	parasite, leafminer
<u>Orgilus elasmopalpi</u>	parasite, lesser cornstalk borer
<u>Parahormius pallidipes</u>	parasite, tomato pinworm
<u>Pseudapanteles dignus</u>	parasite, tomato pinworm
<u>Psytallia insignipennis</u>	parasite, Medfly
FAMILY Cynipidae	
<u>Ganaspidium utilis</u>	parasite, leafminer
FAMILY Encyrtidae	
<u>Copidosoma truncatellum</u>	parasite, green garden loopers
<u>Psyllaephagus yaseeni</u>	parasite, leucaena psyllid
<u>Zeteticontus utilis</u>	parasite, souring beetles
FAMILY Eulophidae	
<u>Chrysocharis oscinidis</u>	parasite, leafminer
<u>Chrysonotomyia punctiventris</u>	parasite, leafminer
<u>Diaulinopsis callichroma</u>	parasite, leafminer
<u>Diglyphus begini</u>	parasite, leafminer
<u>Horismenus e-lineatus</u>	parasite, lesser cornstalk borer
<u>Pediobius acantha</u>	parasite, leafminer
<u>Phymasticus coffea</u> (lab-reared strains)	parasite, tropical nut borer
<u>Sympiesis stigmatipennis</u>	parasite, tomato pinworm
<u>Tetrastichus brontispae</u>	parasite, blue coconut leaf beetle

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Ichneumonidae	
<u>Diadegma aemiclausum</u>	parasite, diamondback moth
<u>Diadegma collaris</u>	parasite, diamondback moth
FAMILY Platygasteridae	
<u>Amitas ?spiniferus</u>	parasite, woolly whitefly
FAMILY Pteromalidae	
<u>Halticoptera patellana</u>	parasite, leafminer
FAMILY Tenthredinidae	
<u>Priophorus morio</u>	biocontrol agent, blackberry
ORDER Isoptera	
FAMILY Rhinotermitidae	
<u>Coptotermes formosanus</u>	termite, Formosan subterranean
ORDER Lepidoptera	
FAMILY Carposinidae	
<u>Carposinia bullata</u>	biocontrol agent, Koster's curse
FAMILY Coleophoridae	
<u>Coleophora klimeschiella</u>	biocontrol agent, Russian thistle
<u>Coleophora parthenica</u>	biocontrol agent, Russian thistle
FAMILY Crambidae	
<u>Pyrausta perelegans</u>	biocontrol agent, banana poka
FAMILY Dioptidae	
<u>Josia ligata</u>	biocontrol agent, banana poka
<u>Josia fluonia</u>	biocontrol agent, banana poka
FAMILY Gracillariidae	
<u>Caloptilia schinella</u>	biocontrol agent, firetree
<u>Phyllonorycter myricae</u>	biocontrol agent, firetree
FAMILY Momphidae	

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Mompha trithalama</u>	biocontrol agent, Koster's curse
FAMILY Noctuidae <u>Antiblemma acclinalis</u>	biocontrol agent, Koster's curse
<u>Cucullia verbasci</u>	biocontrol agent, common mullein
FAMILY Notodontidae <u>Cyanotricha necyria</u>	biocontrol agent, banana Poka
FAMILY Oecophoridae <u>Agonopterix ulicetella</u>	biocontrol agent, gorse
FAMILY Pyralidae <u>Ephestia kuehniella</u> <u>Galleria mellonella</u> <u>Pempelia genistella</u>	moth, Mediterranean flour moth, greater wax biocontrol agent, gorse
FAMILY Scythrididae <u>Scythris gallicella</u>	biocontrol agent, gorse
FAMILY Sesiidae <u>Melittia oedipus</u> <u>Pennisetia marginata</u>	biocontrol agent, ivy gourd biocontrol agent, blackberry
FAMILY Tortricidae <u>Cryptophlebia ombrodelta</u>	moth, litchi fruit
[ORDER Orthoptera FAMILY Gryllidae <u>Acheta domesticus</u>	cricket, house]
ORDER Thysanoptera FAMILY Thripidae <u>Scolothrips sexmaculatus</u> <u>Sericothrips staphylinus</u>	thrips, sixspotted biocontrol agent, gorse
CLASS Crustacea ORDER Decapoda	

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Alpheidae <u>Athanas</u> (all species in genus)	shrimp, anemone
FAMILY Cambaridae <u>Cambarus</u> (all species in genus)	crayfish
FAMILY Coenobitidae <u>Birgus latro</u> <u>Coenobita brevimanus</u> <u>Coenobita perlatus</u>	crab, coconut crab, hermit crab, hermit
FAMILY Gecarcinidae <u>Cardisoma carnifex</u> <u>Cardisoma guanhumi</u> <u>Gecarcoides lalandii</u>	crab, land crab, great land crab, land
FAMILY Hippolytidae <u>Thor amoinessis</u> <u>Thor paschalis</u>	shrimp, anemone shrimp, anemone
FAMILY Majidae <u>Mithrax spinosissimus</u>	crab, herbivorous; spider, spiny
FAMILY Ocypodidae <u>Uca</u> (all species in genus)	crab, fiddler
FAMILY Palaemonidae <u>Periclimenes brevicarpalis</u> <u>Periclimenes longirostris</u> <u>Periclimenes ornatus</u> <u>Periclimenes paraornatus</u> <u>Periclimenes tunipes</u>	shrimp, anemone shrimp, anemone shrimp, anemone shrimp, anemone shrimp, anemone
CLASS Merostomata ORDER Xiphosura FAMILY Limulidae <u>Limulus polyphemus</u>	crab, horseshoe
PHYLUM Chordata CLASS Ascidiacea ORDER Aplousobranchia	

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Didemnidae <u>Lissoclinum patellum</u>	tunicates (sea squirts)
PHYLUM Cnidaria CLASS Anthozoa ORDER Actinaria FAMILY Actiniidae Actiniidae (all species in family)	anemone, sea .
FAMILY Edwardsiidae <u>Nematostella vectensis</u>	anemone, starlet sea
FAMILY Stichodactylidae Stichodactylidae (all species in family)	anemone, sea
FAMILY Thalassianthidae Thalassianthidae (all species in family)	anemone, sea
ORDER Alcyonacea FAMILY Acanthogorgiidae Acanthogorgiidae (all species in family)	gorgonian
FAMILY Alcyoniidae Alcyoniidae (all species in family, except <u>Sarcophyton ehrenbergi</u> , <u>S. glaucum</u> , <u>S. trocheliophorum</u>)	coral, leather
FAMILY Asterozoniidae Asterozoniidae (all species in family)	coral, leather
FAMILY Briareidae Briareidae (all species in family)	gorgonian
FAMILY Clavulariidae Clavulariidae (all species in family)	polyp, star
FAMILY Cornulariidae Cornulariidae (all species	polyp, star

RESTRICTED ANIMAL LIST (Part A)

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
in family)	
FAMILY Ellisellidae Ellisellidae (all species in family)	gorgonian
FAMILY Gorgoniidae Gorgoniidae (all species in family)	gorgonian
FAMILY Isidadae Isidadae (all species in family)	gorgonian
FAMILY Melithaeidae Melithaeidae (all species in family)	gorgonian
FAMILY Nephtheidae Nephtheidae (all species in family)	coral, tree
FAMILY Nidaliidae Nidaliidae (all species in family)	coral, tree
FAMILY Paralcyniidae Paralcyniidae (all species in family)	coral, Christmas tree
FAMILY Subergordiidae Subergordiidae (all species in family)	gorgonian
FAMILY Tubiporidae Tubiporidae (all species in family)	coral, red pipe organ
FAMILY Xeniidae Xeniidae (all species in family)	coral, pulse
ORDER Antipatharia Antipatharia (all species in order)	coral, black and whip
ORDER Ceriantharia Ceriantharia (all species in order)	anemone, tube
ORDER Corallimorpharia FAMILY Discosomatidae Discosomatidae (all species in family)	anemone, mushroom

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Ricordeidae Ricordeidae (all species in family)	anemone, mushroom
ORDER Helioporacea FAMILY Helioporidae <u>Heliopora coerulea</u>	coral, blue
ORDER Pennatulacea Pennatulacea (all species in order)	sea pen
ORDER Scleractinia FAMILY Acroporidae Acroporidae (all species in family, except <u>Acropora aspersa</u> , <u>A. austera</u> , <u>A. elseyi</u> , <u>A. formosa</u> , <u>A. microphthalma</u> , <u>A. nana</u>)	coral, staghorn
FAMILY Agariciidae Agariciidae (all species in family)	coral
FAMILY Astrocoeniidae Astrocoeniidae (all species in family)	coral
FAMILY Caryophylliidae Caryophylliidae (all species in family)	coral
FAMILY Dendrophylliidae Dendrophylliidae (all species in family)	coral
FAMILY Faviidae Faviidae (all species in family)	coral
FAMILY Fungiidae Fungiidae (all species in family)	coral, mushroom
FAMILY Merulinidae Merulinidae (all species in family)	coral
FAMILY Mussidae Mussidae (all species in family)	coral

RESTRICTED ANIMAL LIST (Part A)

S4-71-6.5

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Oculinidae Oculinidae (all species in family)	coral
FAMILY Pectiniidae Pectiniidae (all species in family)	coral
FAMILY Pocilloporidae Pocilloporidae (all species in family)	coral
FAMILY Poritidae Poritidae (all species in family)	coral
FAMILY Siderastreidae Siderastreidae (all species in family)	coral
FAMILY Trachyphylliidae Trachyphylliidae (all species in family)	coral
ORDER Zoantharia	
FAMILY Epizoanthidae Epizoanthidae (all species in family)	polyp, button
FAMILY Parazoanthidae Parazoanthidae (all species in family)	polyp, button
FAMILY Zoanthidae Zoanthidae (all species in family)	polyp, button
CLASS Hydrozoa	
ORDER Hydroidea	
FAMILY Stylasteridae Stylasteridae (all species in family)	coral, lace
CLASS Scyphozoa	
ORDER Rhizostomeae	

RESTRICTED ANIMAL LIST (Part A)

S4-71-6.5

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
Rhizostomeae (all species in order)	jellyfish
ORDER Semaestomeae Semaestomeae (all species in order)	jellyfish
PHYLUM Echinodermata CLASS Crinoidea Crinoidea (all species in class)	crinoid
CLASS Echinoidea Echinoidea (all species in class)	echinoderm
PHYLUM Echiuroida CLASS Echiura ORDER Xenopneusta FAMILY Urechidae <u>Urechis caupo</u>	worm, innkeeper
PHYLUM Mollusca CLASS Bivalvia ORDER Arcoida FAMILY Arcidae <u>Anadara maculosa</u>	clam, Fiji
ORDER Veneroida FAMILY Veneridae <u>Gafarium tumidum</u>	clam, Fiji
CLASS Cephalopoda ORDER Nautilida FAMILY Nautilidae <u>Nautilus belauensis</u>	nautilus

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Nautilus pompilius</u>	nautilus
ORDER Octopoda	
FAMILY Octopodidae	
<u>Octopus</u> sp. 19 [Norman 2000]	octopus, mimic
<u>Octopus</u> sp. 20 [Norman 2000]	octopus, "Wunderpus"
ORDER Sepioidea	
FAMILY Idiosepiidae	
<u>Idiosepius paradoxus</u>	squid, northern pygmy
<u>Idiosepius pygmaeus</u>	squid, two-tone pygmy
FAMILY Sepiadariidae	
<u>Sepioloidea lineolata</u>	squid, striped pyjama
FAMILY Sepiidae	
<u>Sepia</u> (all species in genus)	cuttlefish
ORDER Teuthoidea	
FAMILY Loliginidae	
<u>Sepioteuthis lessoniana</u>	squid, baby
CLASS Gastropoda	
ORDER Anaspidea	
FAMILY Aplysiidae	
<u>Aplysia californica</u>	sea hare, California
ORDER Mesogastropoda	
FAMILY Ampullariidae	
<u>Pila ampullacea</u>	snail, apple
<u>Pila angelica</u>	snail, apple
<u>Pila conica</u>	snail, apple
<u>Pila luzonica</u>	snail, apple
<u>Pila polita</u>	snail, apple
<u>Pila scutata</u>	snail, apple
<u>Pomacea</u> (all species in genus)	snail, apple
FAMILY Cypraeidae	
Cypraeidae (all species in family)	cowry

RESTRICTED ANIMAL LIST (Part A)

S4-71-6.5

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Strombidae	
<u>Lambis lambis</u>	conch
<u>Strombus luhuanus</u>	conch
FAMILY Vermetidae	
<u>Dendropoma gregaria</u>	vermetid
<u>Dendropoma meroclista</u>	vermetid
<u>Dendropoma platypus</u>	vermetid
<u>Dendropoma psarocephala</u>	vermetid
<u>Petalococonchus keenae</u>	vermetid
<u>Serpulorbis variabilis</u>	vermetid
ORDER Neogastropoda	
FAMILY Conidae	
<u>Conus marmoreus</u>	snail, marine
FAMILY Muricidae	
<u>Drupa morum</u>	snail, marine
<u>Drupa ricina</u>	snail, marine
ORDER Pulmonata	
FAMILY Vaginulidae	
<u>Vaginulus plebeius</u>	slug, land
PHYLUM Nemata (=Nematoda)	
CLASS Adenophorea	
ORDER Mermithida	
FAMILY Mermithidae	
<u>Romanomermis culicivorax</u>	nematode, mosquito
ORDER Trichocephalida	
FAMILY Trichinellidae	
<u>Trichinella spiralis</u>	nematode
FAMILY Trichuridae	
<u>Capillaria</u> (all species in genus)	nematode
CLASS Secernentea	
ORDER Ascaridida	

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Anisakidae <u>Anisakis</u> (all species in genus)	nematode
FAMILY Ascarididae <u>Ascaris lumbricoides</u>	nematode
FAMILY Dioctophymatidae <u>Dioctophyma renale</u>	nematode
FAMILY Toxocaridae <u>Toxocara</u> (all species in genus)	nematode
ORDER Camallanida FAMILY Dracunculidae <u>Dracunculus medinensis</u>	nematode
ORDER Rhabditida FAMILY Cephalobidae <u>Chiloplacus</u> (all species in genus) <u>Panagrellus</u> (all species in genus) <u>Turbatrix aceti</u> <u>Turbatrix silusae</u>	nematode, free living nematode, saprophytic eel, vinegar microworm
FAMILY Heterorhabditidae <u>Heterorhabditis bacteriophora</u> <u>Heterorhabditis megides</u>	nematode, entomogenous nematode, entomogenous
FAMILY Steinernematidae <u>Neoplectana</u> (all species in genus) <u>Steinernema</u> (all species in genus except <u>S. carpocapsae</u>)	nematode, entomogenous nematode, entomogenous
ORDER Strongylida FAMILY Ancylostomatidae <u>Ancylostoma</u> (all species in genus)	nematode
FAMILY Metastrongylidae <u>Angiostrongylus costaricensis</u>	nematode, rat
FAMILY Strongyloididae <u>Strongyloides</u> (all species in genus)	nematode
FAMILY Uncinariidae <u>Necator americanus</u>	nematode

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
ORDER Tylenchida	
FAMILY Allantonematidae	
<u>Heterotylenchus autumnalis</u>	nematode, entomogenous
FAMILY Criconematidae	
<u>Meloidogyne incognita</u>	nematode, root-knot
PHYLUM Platyhelminthes	
CLASS Catenulida	
ORDER Turbellaria	
FAMILY Stenostomidae	
<u>Stenostomum</u> (all species in genus)	flatworm
CLASS Cestoda	
ORDER Cyclophyllidea	
FAMILY Dilepididae	
<u>Dipylidium caninum</u>	cestode
FAMILY Taeniidae	
<u>Taenia</u> (all species in genus)	cestode
<u>Echinococcus</u> (all species in genus)	cestode
ORDER Pseudophyllidea	
FAMILY Diphyllbothriidae	
<u>Diphyllbothrium latum</u>	cestode
CLASS Trematoda	
ORDER Echinostomida	
FAMILY Fasciolidae	
<u>Fasciola hepatica</u>	trematode
<u>Fasciolopsis buski</u>	trematode
FAMILY Gastrodiscidae	
<u>Gastrodiscoides hominis</u>	trematode
ORDER Opisthorchiida	

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Heterophyidae <u>Heterophyes heterophyes</u>	trematode
FAMILY Opisthorchiidae <u>Opisthorchis viverrini</u>	trematode
ORDER Plagiorchiida FAMILY Paragonimidae <u>Paragonimus</u> (all species in genus)	trematode
ORDER Strigeidida FAMILY Schistosomatidae <u>Schistosoma</u> (all species in genus)	trematode

AMPHIBIANS

PHYLUM Chordata CLASS Amphibia ORDER Caudata FAMILY Ambystomidae <u>Ambystoma jeffersonianum</u> <u>Ambystoma texanum</u>	salamander, mole salamander, mole
FAMILY Cryptobranchidae <u>Andrias japonicus</u> <u>Andrias (Megalobatrachus)</u> <u>japonicus davidianus</u> <u>Cryptobranchus alleganiensis</u>	salamander, Japanese giant salamander, Chinese giant salamander, hellbender
FAMILY Plethodontidae <u>Eurycea longicauda</u>	salamander, long-tailed
FAMILY Salamandridae <u>Echinotriton andersoni</u> <u>Notophthalmus viridescens</u>	newt, spiny newt, red-spotted
ORDER Salientia FAMILY Bufonidae <u>Bufo</u> (all species in genus)	toad

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Discoglossidae	
<u>Bombina maxima</u>	toad, giant fire-bellied
<u>Bombina orientalis</u>	toad, fire-bellied
FAMILY Hylidae	
<u>Agalychnis annae</u>	treefrog, yellow-eyed
<u>Agalychnis callidryas</u>	treefrog, red-eyed
<u>Pachymedusa dacnicolor</u>	treefrog, Mexican giant
<u>Smilisca baudini smilisca</u>	treefrog, mottled (Mexican)
FAMILY Leptodactylidae	
<u>Ceratophrys calcarata</u>	frog, Columbian horned
<u>Ceratophrys ornata</u>	frog, ornate horned
<u>Leptodactylus pentadactylus</u>	bullfrog, South American
FAMILY Microhylidae	
<u>Dyscophus</u> (all species in genus)	frog, tomato
<u>Kaloula mediolineata</u>	toad, Siamese-painted
<u>Kaloula pulchra</u>	toad, Malayan narrow-mouthed
FAMILY Pelobatidae	
<u>Megophrys montana nasuta</u>	frog, Siamese-horned
<u>Megophrys monticola nasuta</u>	frog, Asian-horned
FAMILY Pipidae	
<u>Pipa pipa</u>	toad, Surinam
<u>Xenopus laevis</u>	frog, African clawed
FAMILY Ranidae	
<u>Pyxicephalus adspersus</u>	bullfrog, (African grove crown)
FAMILY Rhacophoridae	
<u>Kassina maculata</u>	frog, spotted running
<u>Mantella</u> (all species in genus)	frog, golden
<u>Rhacophorus (Polypedates)</u>	frog, bamboo climbing
<u>leucomystax</u>	(gold) (white-bearded flying)

REPTILES

PHYLUM Chordata
 CLASS Reptilia
 ORDER Crocodylia
 FAMILY Crocodylidae

SCIENTIFIC NAMECOMMON NAME

<u>Alligator mississippiensis</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)	alligator, American
<u>Caiman crocodilus</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)	caiman, spectacled
<u>Crocodylus</u> (all species in genus) (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)	crocodile
<u>Gavialis gangeticus</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)	gavial, garial
ORDER Squamata Two non-venomous male snakes in the suborder Serpentes for exhibition in a government zoo	snakes, non-venomous

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Agamidae	
<u>Acanthosaura armata</u>	lizard, mountain horned
<u>Agama agama</u>	lizard, common agama
<u>Agama atricollis</u>	lizard, South African agama
<u>Agama stellio</u>	hardum
<u>Calotes calotes</u>	lizard, sawback agamidae
<u>Ceratophora stoderti</u>	lizard, horned agama
<u>Ctenophor (Amphibolurus) cristatus</u>	lizard, crested dragon
<u>Ctenophor (Amphibolurus) scutulatus</u>	lizard, lozenge marked dragon
<u>Draco (all species in genus)</u>	lizard, flying dragon
<u>Gonocephalus borniensis</u>	lizard, horn-headed tree dragon
<u>Hydrosaurus (all species in genus)</u>	lizard, sailfin
<u>Leiolepis belliana</u>	lizard, smooth-scaled agama, butterfly
<u>Leiolepis rubritaeniata</u>	lizard, giant ground
<u>Moloch horridus</u>	lizard, thorny devil
<u>Physignathus cocincinus</u>	lizard, Malayan water dragon
<u>Physignathus lesueuri</u>	lizard, brown water dragon
<u>Pogona (Amphibolurus) barbatus</u>	lizard, Australian bearded dragon
<u>Pogona (Amphibolurus) nullarbor</u>	lizard, Nullarbor bearded dragon
<u>Pogona (Amphibolurus) vitticeps</u>	dragon, inland bearded
FAMILY Anguidae	
<u>Gerrhonotus (Elguria) multicarinata</u>	lizard, southern alligator
<u>Ophisaurus ventralis</u>	lizard, eastern glass
FAMILY Chamaeleonidae	
<u>Chamaeleo chamaeleon</u>	chameleon, common
<u>Furcifer oustaleti</u> (<u>Chamaeleo oustaleti</u>)	chameleon, Oustalet's
FAMILY Colubridae	
<u>Boiga irregularis</u> (four sterile male snakes for research or training of snake detector dogs)	snake, brown tree
FAMILY Cordylidae	

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Cordylus cataphractus</u>	lizard, armadillo
<u>Cordylus giganteus</u>	lizard, sun gazer
<u>Cordylus warreni</u>	lizard, Warrens girdled
<u>Gerrhosaurus flavigularis</u>	lizard, yellow-throated plated
<u>Gerrhosaurus major</u>	lizard, tawny plated
<u>Gerrhosaurus nigrolineatus</u>	lizard, black-lined plated
FAMILY Gekkonidae	
<u>Chondrodactylus angulifer</u>	gecko, sand
<u>Coleonyx elegans</u>	gecko, elegant banded
<u>Coleonyx variegatus</u>	gecko, western banded
<u>Cyrtodactylus pulchellus</u>	gecko, Malayan banded (naked-toe)
<u>Cyrtodactylus louisadensis</u>	gecko, naked-finger
<u>Diplodactylus spinigerus</u>	gecko, West Australian spiny-tailed (zig-zag)
<u>Eublepharis macularius</u>	gecko, leopard
<u>Gehyra mutilata (Peropus)</u>	gecko, stump-toed
<u>Gekko gekko</u>	gecko, tokay
<u>Gekko stentor</u>	gecko, giant
<u>Gymnodactylus penguensis</u>	gecko, leopard's (bent-toe)
<u>zebraic</u>	
<u>Hemidactylus frenatus</u>	gecko, house
<u>Hemidactylus garnoti</u>	gecko, Indo-Pacific
<u>Hemiphyllodactylus typus</u>	gecko, tree
<u>Hemitheconyx caudicinctus</u>	gecko, African fat-tailed
<u>Homopholus walbergi</u>	gecko, Wallberg's velvety
<u>Nephrurus (all species in genus)</u>	gecko, knob-tailed
<u>Oedura lesueuri</u>	gecko, Lesueur's velvet
<u>Oedura marmorata</u>	gecko, velvet
<u>Oedura robusta</u>	gecko, robust velvet
<u>Pachydactylus bibroni</u>	gecko, Bibron's
<u>Phelsuma abbotti</u>	gecko, Aldabra day
<u>Phelsuma cepediana</u>	gecko, blue-tailed day
<u>Phelsuma guimbeaui</u>	gecko, orange-spotted day
<u>Phelsuma laticauda</u>	gecko, gold dust day
<u>Phelsuma madagascariensis</u>	gecko, Madagascar day
<u>Phelsuma ornata</u>	gecko, Reunion Island day (ornate day)
<u>Phyllurus cornutus</u>	gecko, northern leaf-tailed
<u>Phyllurus platurus</u>	gecko, southern leaf-tailed
<u>Ptychozoon kuhli</u>	gecko, flying
<u>Ptychozoon lionotum</u>	gecko, flying
<u>Rhacodactylus leachianus</u>	gecko, New Caledonia giant

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Thecadactylus rapicauda</u>	gecko, turnip-tailed
<u>Underwoodsaurus mili</u>	gecko, turnip-tailed
<u>Uroplatus</u> (all species in genus)	gecko, flat-tailed
FAMILY Iguanidae	
<u>Anolis equestris</u>	lizard, knight anole
<u>Basiliscus basiliscus</u>	lizard, brown basilisk
<u>Basiliscus plumifrons</u>	lizard, green basilisk (double crested)
<u>Basiliscus vittatus</u>	lizard, banded basilisk
<u>Brachylophus fasciatus</u>	iguana, Tongan (Fiji banded)
<u>Callisaurus draconoides</u>	lizard, zebra-tailed
<u>Corytophanes cristatus</u>	iguana, helmeted
<u>Crotaphytus collaris</u>	lizard, collared
<u>Ctenosaura similis</u>	iguana, spiny-tailed
<u>Cyclura macleani</u>	iguana, Cuban (rhinoceros)
<u>Dipsosaurus dorsalis</u>	iguana, desert
<u>Enyaliosaurus quinquecarinatus</u>	iguana, club tail
<u>Gambelia wislizeni</u>	lizard, long-nosed leopard
<u>Holbrookia maculata</u>	lizard, lesser earless
<u>Iguana</u> (all species in genus)	iguana
<u>Phrynosoma</u> (all species in genus)	lizard, horned (horned toad)
<u>Sauromalus obesus</u>	lizard, chuckwalla
<u>Sauromalus varius</u>	lizard, chuckwalla
<u>Sceloporus clarki</u>	lizard, Clark's spiny
<u>Sceloporus jarrovi</u>	lizard, Yarrow's spiny
<u>Sceloporus magister</u>	lizard, desert spiny
<u>Sceloporus occidentalis</u>	lizard, western fence
<u>Sceloporus orcutti</u>	lizard, granite spiny
<u>Urosaurus ornatus</u>	lizard, tree
<u>Uta stansburiana</u>	lizard, side-blotched
FAMILY Lacertidae	
<u>Lacerta lepida</u>	lizard, jeweled lacerta
<u>Lacerta sicula</u>	lizard, European wall
<u>Lacerta viridis</u>	lizard, green
<u>Takydromus sexlineatus</u>	lizard, long-tailed (oriental six-lined runner)
FAMILY Pygopodidae	
<u>Delma impar</u>	lizard, smooth-scaled scaleyfoot
<u>Lialis burtonis</u>	lizard, Burton's snake
<u>Pygopus lepidopodus</u>	lizard, common scaley-foot

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Scincidae	
<u>Acontias percivali</u>	lizard, East African legless
<u>Corucia zebrata</u>	skink, green tree
<u>Cryptoblepharus boutoni</u>	skink, snake-eyed
<u>Cyclodomorphus (Tiliqua) branchialis</u>	skink, West Australian short-limbed
<u>Dasia smaragdina</u>	skink, spotted green tree
<u>Egernia cunninghami</u>	skink, Cunningham's
<u>Egernia stokesii</u>	skink, gidgee
<u>Emoia cyanura</u>	skink, blue-tailed slender
<u>Eumeces obsoletus</u>	skink, Great Plains
<u>Leiolopisma metallicum</u>	skink, metallic
<u>Lipinia noctua</u>	skink, moth
<u>Mabuya capensis</u>	skink, South African
<u>Mabuya capensis</u>	skink, South African blue-tailed
<u>Mabuya macularia</u>	skink, orange-throated
<u>Omolepida (Tiliqua) branchialis</u>	skink, Australian short-limbed
<u>Tiliqua nigrolutea</u>	skink, blotched- blue-tongued
<u>Tiliqua occipitalis</u>	skink, West Australian blue-tongued
<u>Tiliqua scincoides</u>	skink, blue-tongued
<u>Trachysaurus rugosus (Tiliqua rugosus)</u>	skink, shingle back
FAMILY Teiidae	
<u>Ameiva ameiva</u>	lizard, jungle runners
<u>Callopiastes maculatus</u>	lizard, monitor tegu
<u>Cnemidophorus tessellatus</u>	lizard, checkered whiptail
<u>Cnemidophorus tigris</u>	lizard, western whiptail
<u>Tubinambis nigropunctatus</u>	lizard, golden tegu
<u>Tupinambis rufescens</u>	lizard, tegu red
<u>Tupinambis teguixin</u>	lizard, tegu black
FAMILY Varanidae	
<u>Varanus acanthurus</u>	monitor, spiny-tailed
<u>Varanus bengalensis</u>	monitor, Bengal
<u>Varanus dumerili</u>	monitor, Dumeril's
<u>Varanus exanthematicus</u>	monitor, savannah
<u>Varanus giganteus</u>	monitor, Perentee
<u>Varanus gouldi</u>	monitor, Gould's
<u>Varanus indicus</u>	monitor, Pacific
<u>Varanus komodoensis</u>	monitor, komodo

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Varanus niloticus</u>	monitor, Nile
<u>Varanus salvadori</u>	monitor, crocodile
<u>Varanus salvator</u>	monitor, water
<u>Varanus storri</u>	monitor, pygmy (Storr's dwarf)
<u>Varanus varius</u>	monitor, variegated
ORDER Testudines	
FAMILY Chelidae	
<u>Chelus fimbriatus</u>	turtle, mata mata
<u>Emydura albertisi</u>	turtle, New Guinea snake neck
<u>Podocnemis unifilis</u>	turtle, yellow-spotted Amazon
FAMILY Chelydridae	
<u>Chelydra serpentina</u>	turtle, snapping
<u>Macroclemys temmincki</u>	turtle, alligator snapping
FAMILY Emydidae	
<u>Heosemys grandis</u>	turtle, Asian temple
FAMILY Pelomedusidae	
<u>Pelomedusa subrufa olivacera</u>	turtle, helmeted
<u>Pelusios</u> (all species in genus)	terrapins, African hinged

FISHES

PHYLUM Chordata	
CLASS Chonodrichthyes	
ORDER Carcharhiniformes	
FAMILY Carcharhinidae	
<u>Carcharhinus amblyrhynchos</u>	shark, gray reef
<u>Carcharhinus galapagensis</u>	shark, Galapagos
<u>Carcharhinus longimanus</u>	shark, oceanic whitetip
<u>Carcharhinus limbatus</u>	shark, blacktip
CLASS Osteichthyes	
ORDER Acipenseriformes	
FAMILY Acipenseridae	
<u>Acipenser baeri</u>	sturgeon, Siberian

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Acipenser brevirostrum</u>	sturgeon, shortnose
<u>Acipenser fulvescens</u>	sturgeon, lake
<u>Acipenser guldenstadti</u>	sturgeon, Russian
<u>Acipenser guldenstadti</u> x <u>Huso huso</u>	sturgeon, Oceber
<u>Acipenser medirostris</u>	sturgeon, green
<u>Acipenser oxyrhynchus</u>	sturgeon, Atlantic
<u>Acipenser ruthenus</u>	sturgeon, Siberian; sterlet
<u>Acipenser ruthenus</u> x <u>Huso huso</u>	sturgeon, Bester
<u>Acipenser stellatus</u>	sturgeon, Servuga (starry)
<u>Huso huso</u>	sturgeon, Beluga
<u>Scaphirhynchus albus</u>	sturgeon, pallid
<u>Scaphirhynchus platorhynchus</u>	sturgeon, shovelnose
FAMILY Polyodontidae	
<u>Polyodon spathula</u>	paddlefish
ORDER Atheriniformes	
FAMILY Atherinidae	
<u>Menidia beryllina</u>	silverside
ORDER Cypriniformes	
FAMILY Cyprinidae	
<u>Notemigonus crysoleucas</u>	minnow, golden shiner
<u>Pimephales promelas</u>	minnow, fathead
FAMILY Erythrinidae	
<u>Hoplias malabaricus</u>	tiger fish
[ORDER Perciformes	
FAMILY Cichlidae	
<u>Oreochromis niloticus</u>	tilapia, Nile]
FAMILY Mugilidae	
<u>Mugil cephalus</u>	mullet, striped
FAMILY Nototheniidae	
<u>Dissostichus mawsoni</u>	cod, Antarctic
<u>Notothenia</u> (all species in genus)	cod, Antarctic
FAMILY Siganidae	
<u>Lo magnificus</u>	foxface, white (rabbitfish)

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Lo uspi</u>	foxface, bicolor (rabbitfish)
<u>Lo vulpinus</u>	lo, foxface (rabbitfish)
<u>Siganus corallinus</u>	rabbitfish, spotted
<u>Siganus lineatus</u>	goldenspot
<u>Siganus puellus</u>	rabbitfish, blueline
<u>Siganus vermiculatus</u>	rabbitfish, vermiculated
<u>Siganus vermiculatus</u>	rabbitfish, spinefoot
<u>Siganus virgatus</u>	rabbitfish, barhead
ORDER Siluriformes	
FAMILY Clariidae	
<u>Clarias fuscus</u>	catfish, Chinese
ORDER Synbranchiformes	
FAMILY Synbranchidae	
<u>Monopterus albe</u>	eel, rice paddy

BIRDS

(Taxonomy after Sibley and Monroe 1990)

PHYLUM Chordata	
CLASS Aves	
ORDER Anseriformes	
FAMILY Anatidae	
<u>Anas platyrhynchos</u>	duck, mallard
FAMILY Anhimidae	
<u>Chauna chavaria</u>	screamer, black-necked
ORDER Apterygiformes	
FAMILY Apterygidae	
<u>Apteryx australis</u>	kiwi, common zoi (brown)
ORDER Caprimulgiformes	
FAMILY Podargidae	
<u>Batrachostomus javensis</u>	frogmouth, Javan
<u>Podargus strigoides</u>	frogmouth, tawny

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
ORDER Casuariiformes	
FAMILY Casuariidae	
<u>Casuarius</u> (all species in genus)	cassowarie
FAMILY Dromaiidae	
<u>Dromaius novaehollandiae</u>	emu, common
ORDER Charadriiformes	
FAMILY Burhinidae	
<u>Burhinus bistriatus</u>	thick-knee, double-striped
<u>Burhinus capensis</u>	cape thick-knee
FAMILY Charadriidae	
<u>Pluvialis dominica</u>	plover, lesser golden
<u>Vanellus armatus</u>	plover, blacksmith
<u>Vanellus spinosus</u>	plover, African spur-wing (spur-winged lapwing)
FAMILY Glareolidae	
<u>Glareola pratincola</u>	pratincoles, collared
FAMILY Haematopidae	
<u>Haematopus ostralegus</u>	oyster catcher, European
FAMILY Jacanidae	
<u>Actophilornis africana</u>	jacana, African
FAMILY Laridae	
<u>Anous stolidus</u>	tern, brown noddy
<u>Gygis alba</u>	tern, fairy
<u>Larosterna inca</u>	tern, Inca
<u>Larus atricilla</u>	gull, laughing
<u>Larus californicus</u>	gull, California
<u>Larus heermanni</u>	gull, Heermans
<u>Procelsterna cerulea</u>	noddy, blue-grey
<u>Sterna fuscata</u>	tern, sooty
<u>Sterna sumatrana</u>	tern, black-naped
<u>Thalasseus maximus</u>	tern, royal
FAMILY Recurvirostridae	
<u>Himantopus himantopus</u>	stilt, black-winged
<u>Himantopus mexicanus</u>	stilt, black-necked
FAMILY Scolopacidae	
<u>Limnodromus griseus</u>	dowitcher, short-billed

SCIENTIFIC NAMECOMMON NAME

ORDER Ciconiiformes

FAMILY Ardeidae

<u>Ardea herodias</u>	heron, great blue
<u>Ardeola (Bubulcus) ibis</u>	egrets, cattle
<u>Egretta alba</u>	egret, great
<u>Egretta garzetta</u>	egret, little
<u>Egretta intermedia</u>	egret, plumed
<u>Egretta thula</u>	egret, snowy
<u>Hydranassa caerulea</u>	heron, little blue
<u>Hydranassa tricolor</u>	heron, tricolored
<u>Tigrisoma lineatum</u>	heron, rufescent tiger

FAMILY Ciconiidae

<u>Anastomus lamelligerus</u>	stork, open-billed
<u>Ephippiorhynchus asiaticus</u>	stork, black-neck
<u>Ephippiorhynchus senegalensis</u>	stork, saddle-bill
<u>Jabiru mycteria</u>	jabiru
<u>Leptoptilos crumeniferus</u>	stork, Marabou

FAMILY Scopidae

<u>Scopus umbetta</u>	hammerkop (hammerhead)
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FAMILY Threskiornithidae

<u>Carphibis spinicollis</u>	ibis, straw-necked
<u>Eudocimus albus</u>	ibis, American white
<u>Plegadis falcinellus</u>	ibis, glossy

ORDER Coliiformes

FAMILY Coliidae

<u>Colius striatus</u>	mousebird, speckled
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ORDER Columbiformes

FAMILY Columbidae

<u>Caloenas nicobarica</u>	pigeon, Nicobar
<u>Didunculus strigirostris</u>	pigeon, tooth-billed
<u>Ducula aenea</u>	pigeon, green imperial
<u>Ducula bicolor</u>	pigeon, pied (imperial)
<u>Ducula myristicivora</u>	pigeon, New Guinea imperial
<u>Geopelia humeralis</u>	dove, bar-shouldered
<u>Goura cristata</u>	pigeon, common crowned
<u>Leucosarcia melanoleuca</u>	pigeon, wonga
<u>Macropygia phasianella</u>	dove, slender-bill cuckoo

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Macropygia unchall</u>	dove, bar-tailed cuckoo
<u>Otidiphaps nobilis</u>	pigeon, pheasant (magnificent ground)
<u>Ptilinopus jambu</u>	pigeon, jambu fruit
<u>Ptilinopus melanospila</u>	pigeon, black naped fruit
<u>Ptilinopus perousii</u>	dove, many colored fruit
<u>Ptilinopus roseicapilla</u>	dove, Mariana fruit
<u>Ptilinopus victor</u>	dove, orange
<u>Streptopelia risoria</u>	dove, ringed turtle
<u>Streptopelia senegalensis</u>	dove, laughing
<u>Turtur chalcospilos</u>	dove, wood emerald-spotted
<u>Uropelia campestris</u>	dove, long-tailed ground
FAMILY Pteroclididae	
<u>Pterocles indicus</u>	sandgrouse, painted
<u>Syrrhaptes paradoxus</u>	sandgrouse, pallas
ORDER Coraciiformes	
FAMILY Alcedinidae	
<u>Alcedo cristata</u>	kingfisher, malchite
<u>Ceyx erithacus</u>	kingfisher, Indian forest
<u>Ceyx rufidorsus</u>	kingfisher, red-backed
<u>Dacelo gigas</u>	kookabura, laughing
<u>Halcyon chloris</u>	kingfisher, white-collared
<u>Halcyon cinnamomina</u>	kingfisher, Micronesian
<u>Halcyon leucocephala</u>	kingfisher, grey-headed
<u>Halcyon pileata</u>	kingfisher, black-capped
<u>Halcyon recurvirostris</u>	kingfisher, flat-billed
<u>Tanysiptera galatea</u>	kingfisher, common paradise
FAMILY Bucerotidae	
<u>Aceros leucocephalus</u>	hornbill, wrinkled
<u>Aceros nipalensis</u>	hornbill, rufous-necked
<u>Aceros plicatus</u>	hornbill, Papuan (Blyths)
<u>Aceros undulatus</u>	hornbill, wreathed
<u>Anthracoceros coronatus</u>	hornbill, pied
<u>Anthracoceros malabaricus</u>	hornbill, northern pied
<u>Buceros bicornis</u>	hornbill, great
<u>Buceros hydrocorax</u>	hornbill, rufous
<u>Buceros rhinoceros silvestris</u>	hornbill, rhinoceros
<u>Bucorvus abyssinicus</u>	hornbill, Abyssinian ground
<u>Bucorvus leadbeateri</u>	hornbill, African ground
<u>Penelopides exarhatus</u>	hornbill, Celebean
<u>Tockus erythrorhynchus</u>	hornbill, red-billed

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Coraciidae	
<u>Coracias benghalensis</u>	roller, Indian
<u>Coracias caudata</u>	roller, lilac-breasted
FAMILY Meropidae	
<u>Merops nubicus</u>	bee-eater, carmine
<u>Merops philippinus</u>	bee-eater, brown-breasted
FAMILY Momotidae	
<u>Momotus momota</u>	motmot, blue-crowned
FAMILY Phoeniculidae	
<u>Phoenicilus purpureus</u>	hoopoe, green wood
FAMILY Upupidae	
<u>Upupa epops</u>	hoopoe, common
ORDER Cuculiformes	
FAMILY Cuculidae	
<u>Carpococcyx renauldi</u>	cuckoo, red-billed ground
<u>Centropus sinensis</u>	coucal, greater
<u>Rhopodytes tristis</u>	malkoha, greater green-billed
FAMILY Musophagidae	
<u>Corythaixoides leucogaster</u>	go-away bird, white-bellied
<u>Tauraco erythrolophus</u>	turaco, red-crested
<u>Tauraco leucolophus</u>	turaco, white-crested
<u>Tauraco livingstonii</u>	turaco, Livingstone's
ORDER Falconiformes	
FAMILY Accipitridae	
<u>Aegypius monachus</u>	vulture, cinereous
<u>Aquila</u> (all species in genus)	eagle
<u>Buteo jamaicensis</u>	hawk, red-tailed
<u>Buteo solitarius</u>	hawk, Hawaiian
<u>Gyps africanus</u>	vulture, white-backed
<u>Gyps bengalensis</u>	vulture, white-backed
<u>Haliaeetus</u> (all species in genus)	eagle
<u>Haliastur indus</u>	kite, Brahminy
<u>Harpia harpyja</u>	eagle, harpy
<u>Harpyopsis novaegineae</u>	eagle, New Guinea harpy
<u>Heterospizias meridionalis</u>	hawk, savana

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Necrosyrtes monachus</u>	vulture, hooded
<u>Neophron percnopterus</u>	vulture, Egyptian
<u>Parabuteo unicinctus harrisi</u>	hawk, Harris's (bay-winged)
<u>Pithecopaga jefferyi</u>	eagle, monkey-eating
<u>Trigonoceps occipitalis</u>	vulture, white-headed
FAMILY Cathartidae	
<u>Cathartes aura</u>	vulture, turkey
<u>Coragyps atratus</u>	vulture, black
<u>Sarcorhamphus papa</u>	vulture, king
FAMILY Falconidae	
<u>Falco</u> (all species in genus)	falcon
<u>Herpetotheres</u> (all species in genus)	falcon
<u>Polihierax semitorquatus</u>	falcon, African pigmy
<u>Polyborus</u> (all species in genus)	caracara
FAMILY Sagittariidae	
<u>Sagittarius serpentarius</u>	secretary bird
ORDER Galliformes	
FAMILY Cracidae	
<u>Crax mitu</u>	curassow, razor-billed
<u>Penelope pileata</u>	guan, white crested
<u>Penelope purpurascens</u>	guan, crested
FAMILY Megapodiidae	
<u>Aepyodius arfakianus</u>	turkey, wattled brush
<u>Alectura lathami</u>	turkey, brush
<u>Megapodius freycinet</u>	scrubfowl, common
<u>Megapodius laperouse</u>	fowl, Micronesia scrub
<u>Megapodius pritchardii</u>	megapode, Niuafou'ou
FAMILY Phasianidae	
<u>Caloperdix ocellata</u>	partridge, ferruginous wood
<u>Guttera edouardi</u>	fowl, crested Guinea
<u>Meleagris ocellata</u>	turkey, ocellated
ORDER Gruiformes	
FAMILY Eurypygidae	
<u>Eurypyga helias</u>	bittern, sun

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Gruidae	
<u>Grus japonensis</u>	crane, Manchurian
<u>Grus vipio</u>	crane, white-naped
FAMILY Psophiidae	
<u>Psophia crepitans</u>	trumpeter, common
<u>Psophia leucoptera</u>	trumpeter, white-winged
<u>Psophia viridis</u>	trumpeter, green-winged
FAMILY Rallidae	
<u>Aramides cajanea</u>	rail, grey-necked wood
<u>Limnocorax flavirostra</u>	crake, black
<u>Porphyrio poliocephalus</u>	moorhen
<u>Porphyrio pulverulentus</u>	pukeko
<u>Rallus owstoni</u>	rail, Guam
<u>Rallus philippensis</u>	rail, banded
ORDER Passeriformes	
FAMILY Alaudidae	
<u>Alauda arvensis</u>	skylark
<u>Eremopterix keycioareua</u>	lark, Fishers sparrow
FAMILY Artamidae	
<u>Artamus leucorhynchus</u>	swallow, white-breasted wood
FAMILY Bombycillidae	
<u>Ptilogonys cinereus</u>	flycatcher, gray silky
FAMILY Campephagidae	
<u>Coracina pectoralis</u>	shrike, white-breasted cuckoo
<u>Coracina tenuirostris</u>	bird, cicada
<u>Prionops plumata</u>	shrike, straight-crested helmet
FAMILY Corvidae	
<u>Cissa chinensis</u>	magpie, green
<u>Corvus albus</u>	crow, pied
<u>Corvus corax</u>	raven
<u>Corvus kubaryi</u>	crow, Mariana
<u>Cyanocitta cristata</u>	jay, blue
<u>Cyanocitta stelleri</u>	jay, Stellers
<u>Cyanocorax chrysops</u>	jay, pileated (plush crested)
<u>Platylophus galericulatus</u>	jay, crested

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Urocissa erythrorhyncha</u>	magpie, blue (red billed)
FAMILY Cotingidae	
<u>Cephalopterus penduliger</u>	umbrella bird, long-wattled
<u>Rupicola peruviana</u>	cock-of-the-rock, Andean
<u>Procnis nudicollis</u>	bellbird, naked throated
FAMILY Dicruridae	
<u>Dicrurus remifer</u>	drongo, lesser racket-tailed
FAMILY Emberizidae	
<u>Paroaria gularis pheucticus</u>	cardinal, black-throated (red-capped)
<u>Passerina cyanoides</u>	grosbeak, blue-back
<u>Pheucticus ludovicianus</u>	grosbeak, rose-breasted
<u>Pheucticus melanocephalus</u>	grosbeak, black-headed
FAMILY Estrildidae	
<u>Estrilda rhodopyga</u>	waxbill, crimson-rumped
<u>Lonchura maja</u>	nun, white-headed; white-headed munia
<u>Ortygospiza atricollis</u>	finch, quail
FAMILY Eurylaimidae	
<u>Calyptomena viridis</u>	broadbill, green
FAMILY Icteridae	
<u>Icterus chrysocephalus</u>	oriole, moriche
<u>Icterus icterus</u>	troupial
<u>Psarocolius decumanus</u>	oropendola, crested
FAMILY Irenidae	
<u>Chloropsis aurifrons</u>	leafbird, golden-fronted
FAMILY Mimidae	
<u>Dumetella carolinensis</u>	catbird, common
<u>Mimus gilvus</u>	mockingbird, tropical
FAMILY Motacillidae	
<u>Motacilla flava</u>	wagtail, yellow
FAMILY Muscicapidae	
<u>Acrocephalus luscini</u>	warbler, nightingale reed
<u>Acrocephalus syrinx</u>	warbler, Caroline Islands reed

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Cettia subulata</u>	warbler, bush
<u>Cyornis tickelliae</u>	flycatcher, Tickell's blue
<u>Erithacus calliope</u>	rubythroat, Siberian
<u>Erithacus komadori</u>	robin, Temminck's
<u>Erithacus obscurus</u>	robin, black-throated
<u>Eumyias thalassina</u>	flycatcher, verditer
<u>Ficedula narcissina</u>	flycatcher, narcissus
<u>Garrulax leucolophus</u>	thrush, white-crested
	laughing
<u>Garrulax milnei</u>	thrush, red-tailed
	laughing
<u>Garrulax monileger</u>	thrush, lesser necklaced
	laughing
<u>Metabolus regensis</u>	monarch, Truk
<u>Monarcha godeffroyi</u>	monarch, Yap
<u>Monarcha takatsuakasae</u>	monarch, Tinian
<u>Myadestes obscurus</u>	solitaire, brown-backed
<u>Myadestes townsendi</u>	solitaire, Townsend's
<u>Myiagra azureocapilla</u>	flycatcher, blue-crested
<u>Myiagra erythroptus</u>	broadbill, Palau
<u>Myiophoneus caeruleus</u>	thrush, blue whistling
<u>Niltava sundara</u>	niltava, rufous-bellied
<u>Pachycephala pectoralis</u>	whistler, golden
<u>Phoenicurus aureoreus</u>	redstart, Daurian
<u>Rhipidura lepida</u>	fantail, Palau
<u>Rhipidura rufifrons</u>	fantail, rufous
<u>Turdus migratorius</u>	robin, American
FAMILY Oriolidae	
<u>Oriolus chinensis</u>	oriole, black-naped
FAMILY Paradisaeidae	
<u>Astrapia mayeri</u>	astrapia, ribbon-tailed
<u>Astrapia stephaniae</u>	bird-of-paradise, Princess Stephanie's
<u>Cicinnurus regius</u>	bird-of-paradise, king
<u>Diphyllodes magnificus</u>	bird-of-paradise, magnificent
<u>Diphyllodes respublica</u>	bird-of-paradise, Wilson's
<u>Lophorina superba</u>	bird-of-paradise, superb
<u>Paradisaea apoda</u>	bird-of-paradise, greater
<u>Paradisaea guilielmi</u>	bird-of-paradise, white plumed
<u>Paradisaea minor</u>	bird-of-paradise, lesser
<u>Paradisaea rubra</u>	bird-of-paradise, red
<u>Paradisaea rudolphi</u>	bird-of-paradise, blue
<u>Paradisaea raggiana</u>	bird-of-paradise, Count

SCIENTIFIC NAMECOMMON NAMEParotia carolaeRaggi's
bird-of-paradise, Queen
Carol'sParotia lawesii

parotia, Lawe's

Ptiloris magnificus

rifle bird, magnificent

Seleucidis melanoleucabird-of-paradise,
twelve-wired

FAMILY Pipridae

Chiroxiphia caudata

manakin, swallow-tailed

FAMILY Pittidae

Pitta moluccensis

pitta, blue-winged

Pitta sordida

pitta, hooded

Pitta steerii

pitta, steers

FAMILY Ploceidae

Bubalornis albirostris

weaver, buffalo

Dinemellia dinemelliweaver, white-headed
buffaloPlocepasser mahaliweaver, white-browed
sparrow

FAMILY Ptilonorhynchidae

Amblyornis macgregoriae

bowerbird, Macgregor's

Chlamydera cerviniventris

bowerbird, fawn-breasted

Ptilonorhynchus violaceus

bowerbird, satin

FAMILY Sturnidae

Buphagus africanus

oxpecker, yellow-billed

Cinnyricinclus leucogaster

starling, violet-backed

Cosmopsarus regius

starling, golden-breasted

Lamprotornis purpureus

starling, purple glossy

Lamprotornis purpuropterusstarling, Ruppell's
long-tailedLeucopsar rothschildi

mynah, Bali

Spreo superbus

starling, superb

Sturnus nigricollis

starling, black collared

FAMILY Thraupidae

Piranga olivacea (males only)

tanager, scarlet

Ramphocelus dimidiatus (males only)

tanager, crimson-backed

Thraupis episcopus (males only)

tanager, blue-grey

FAMILY Tinamidae

Eudromia formosa

tinamou, crested

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Zosteropidae <u>Zosterops palpebrosa</u>	white-eye, oriental
ORDER Pelecaniformes FAMILY Pelecanidae <u>Pelecanus</u> (all species in genus)	pelican
FAMILY Phalacrocoracidae <u>Phalacrocorax carbo</u>	cormorant, common
ORDER Piciformes FAMILY Capitonidae <u>Lybius</u> (all species in genus) <u>Megalaima armillaris</u> <u>Megalamima asiatica</u> <u>Semnornis ramphastinus</u> <u>Trachyphonus erythrocephalus</u>	barbets barbett, Armott's (blue crowned) barbet, blue-throated barbet, toucan barbet, red and yellow
FAMILY Indicatoridae <u>Indicator indicator</u>	honeyguide, black-throated
FAMILY Picidae <u>Chrysocalaptes lucidus</u> <u>Picoides canicapillus</u>	woodpecker, greater goldenbacked woodpecker, gray-capped
FAMILY Rhamphastidae <u>Pteroglossus beauharnaesii</u> <u>Ramphastos ambiguus swainsonii</u> <u>Ramphastos discolorus</u> <u>Ramphastos sulfuratus</u> <u>sulfuratus</u> <u>Ramphastos toco cuvieri</u> <u>Ramphastos toco toco</u> <u>Ramphastos vitellinus ariel</u> <u>Ramphastos vitellinus</u> <u>vitellinus</u> <u>Selenidera maculirostris</u>	aracari, curl-crested toucan, bicolored-billed toucan, red-breasted toucan, sulfur breasted, north kneel-bill toucan, Cuvier's toucan, north toco toucan, ariel channel-bill toucan, sulphur and white, north channel-bill toucanet, spot-billed
ORDER Procellariiformes FAMILY Procellariidae <u>Puffinus pacificus</u>	shearwater, wedge-tailed

SCIENTIFIC NAMECOMMON NAME

ORDER Psittaciformes

FAMILY Loriidae

Chalcopsitta sintillata
Charmosyna papou goliathina
Trichoglossus haematodus
Trichoglossus johnstoniae
Trichoglossus rubiginosus
Vini peruviana

lory, yellow streaked
 lory, central Stella's
 lory, rainbow
 lorikeet, Johnstone's
 lory, Ponape
 lory, Tahitian

FAMILY Psittacidae

Brotogeris jugularis
Eunymphicus cornutus
Lathamus discolor
Loriculus galgulus
Loriculus philippensis
Nandayus nenday
Nestor notabilis
Prospoeia tabuensis
Psittaculirostris (all species in
 genus)
Psittrichas fulgidus

parakeet, orange-chinned
 parakeet, horned
 parrot, swift
 lory, blue-crowned
 parrot, Philippine hanging
 conure, nanday
 kea
 parrot, red shining
 parrot, fig
 parrot, Pesquets

ORDER Rheiformes

FAMILY Rheidae

Rhea americana

rhea, common (greater)

ORDER Strigiformes

FAMILY Strigidae

Asio flammeus
Bubo virginianus
Glaucidium brodiei
Scotopelia peli
Speotyto cunicularia
Strix varia

owl, short-eared
 owl, great horned
 owlet, pygmy
 owl, Pell's fishing
 owl, burrowing
 owl, barred

FAMILY Tytonidae

Tyto alba

owl, common barn

ORDER Trogoniformes

FAMILY Trogonidae

Pharomachrus auriceps
Pharomachrus mocinno
Harpactes erythrocephalus

quetzal, golden-headed
 quetzal, resplendent
 trogon, red-headed

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Trogon viridis</u>	trogon, white-tailed
ORDER Apodiformes FAMILY Trochilidae Trochilidae (sexually dimorphic males only)	hummingbirds
ORDER Psittaciformes FAMILY Loriidae <u>Eos bornea</u> (males only) <u>Eos squamata</u> (males only) <u>Lorius lory</u> (males only)	lory, red lory, violet-necked lory, black-capped

MAMMALS

PHYLUM Chordata CLASS Mammalia ORDER Artiodactyla FAMILY Bovidae Bovidae (all species in family)	wild cattle, buffalo, antelopes, etc.
FAMILY Camelidae <u>Camelus bactrianus</u> <u>Camelus dromedarius</u>	camel, Bactrian camel
FAMILY Cervidae <u>Cervus nippon</u> <u>Dama dama</u> (=Cervus dama) <u>Muntiacus muntjak</u> <u>Muntiacus reevesi</u> <u>Odocoileus hemionus</u>	deer, sika deer, white European fallow deer, Indian muntjac muntjac, Reeve's deer, black-tailed
FAMILY Girrafidae <u>Okapia johnstoni</u>	okapi
FAMILY Hippopotamidae <u>Choeropsis liberiensis</u> <u>(Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term</u>	hippo, pygmy

SCIENTIFIC NAMECOMMON NAME

performance for commercial
filming, for exhibition in
government zoos, or for other
purposes permitted under section
4-71-6.5)

Hippopotamus amphibius

hippopotamus

(Prohibited for short-term
performance or exhibition in
circuses, carnivals, or state
fairs. Allowed for short-term
performance for commercial
filming, for exhibition in
government zoos, or for other
purposes permitted under section
4-71-6.5)

FAMILY Suidae

Babyrousa babyrousa

barbirusa

Phacochoerus aethiopicus

hog, wart

Sus barbatus

pig, bearded

FAMILY Tayassuidae

Tayassu tajacu

peccary, collared

ORDER Carnivora

FAMILY Canidae

Lycaon pictus

dog, African hunting

Otocyon megalotis

fox, bat-eared

Vulpes (all species in genus)

fox

FAMILY Felidae

Acinonyx jubatus

cheetah

(Prohibited for short-term
performance or exhibition in
circuses, carnivals, or state
fairs. Allowed for short-term
performance for commercial
filming, for exhibition in
government zoos, or for other
purposes permitted under section
4-71-6.5)

Felis caracal (=Lynx caracal)

caracal

(Prohibited for short-term
performance or exhibition in
circuses, carnivals, or state
fairs. Allowed for short-term

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)</u>	
<u>Felis pardalis</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)	ocelot
<u>Felis serval</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)	serval
<u>Felis wiedii</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)	margay
<u>Panthera leo</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)	lion

SCIENTIFIC NAMECOMMON NAME

<u>Panthera nebulosa (=Neofelis nebulosa)</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)	clouded leopard
<u>Panthera onca</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)	jaguar
<u>Panthera pardus</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)	leopard
<u>Panthera tigris</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)	tiger
<u>Profelis concolor (=Felis concolor)</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial	puma, (cougar), (mountain lion)

RESTRICTED ANIMAL LIST (Part A)

§4-71-6.5

SCIENTIFIC NAMECOMMON NAME

filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)

FAMILY Hyaenidae

Crocuta crocuta

hyena, spotted

(Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)

Proteles cristatus

aardwolf

(Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)

FAMILY Mustelidae

Aonyx cinerea

otter, Asian small-clawed

Lutra canadensis

otter, land river

Mephitis (all species in genus)

skunk

Mustela lutreola

mink

Mustela putorius furo

ferret

Mustela vison

mink

Pteronura brasiliensis

otter, giant

FAMILY Procyonidae

Ailurus fulgens

panda, red

Nasua (all species in genus)

coati

Potos flavus

kinkajou

Procyon lotor

raccoon

FAMILY Ursidae

Helarctos malayanus

sunbear, Malayan

(Prohibited for short-term performance or exhibition in circuses, carnivals, or state

RESTRICTED ANIMAL LIST (Part A)

S4-71-6.5

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<p>fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)</p> <p><u>Melursus ursinus</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)</p>	bear, sloth
<p><u>Selenarcos thibetanus</u> (=Ursus thibetanus) (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)</p>	bear, Asiatic black
<p><u>Tremarctos ornatus</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)</p>	bear, spectacled
<p><u>Ursus</u> (all species in genus) (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)</p>	bear

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Viverridae	
<u>Arctictis binturong</u>	binturong
<u>Suricata suricatta</u>	meerkat, slender-tailed
<u>Herpestes auropunctatus</u>	mongoose, small Indian
ORDER Diprotodontia (=Marsupialia)	
FAMILY Didelphidae	
<u>Didelphis marsupialis</u>	opossum
FAMILY Macropodidae	
<u>Aepyrymnus</u> (all species in genus)	rat-kangaroo, Rufous
<u>Bettongia</u> (all species in genus)	rat-kangaroo
<u>Caloprymnus</u> (all species in genus)	rat-kangaroo, desert
<u>Dendrolagus</u> (all species in genus)	tree-kangaroo
<u>Dorcopsis</u> (all species in genus)	wallaby, New Guinea forest
<u>Dorcopsulus</u> (all species in genus)	wallaby, New Guinea mountain
<u>Hypsiprymnodon</u> (all species in genus)	rat-kangaroo, musk
<u>Lagorchestes</u> (all species in genus)	wallaby, hare
<u>Lagostrophus</u> (all species in genus)	wallaby, banded hare
<u>Macropus</u> (all species in genus)	wallaby (kangaroo)
<u>Megaleia</u> (all species in genus)	kangaroo, red
<u>Onychogalea</u> (all species in genus)	wallaby, nail-tailed
<u>Peradorcas</u> (all species in genus)	rock-wallaby, little
<u>Petrogale</u> (all species in genus)	rock-wallaby
<u>Potorous</u> (all species in genus)	potoroo
<u>Setonix</u> (all species in genus)	quokka
<u>Thylogale</u> (all species in genus)	pademelon
<u>Wallabia</u> (all species in genus)	wallaby, swamp
FAMILY Phascolarctidae	
<u>Phascolarctos cinereus</u>	bear, koala
ORDER Edentata	
FAMILY Bradipodidae	
<u>Bradypus</u> (all species in genus)	sloth, three toed
<u>Choloepus</u> (all species in genus)	sloth, two toed
FAMILY Dasypodidae	
<u>Dasypus</u> (all species in genus)	armadillo
FAMILY Myrmecophagidae	
<u>Myrmecophaga tridactyla</u>	anteater, giant

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
ORDER Hyracoidea FAMILY Procaviidae <u>Procavia capensis</u>	hyrax, rock
ORDER Insectivora FAMILY Erinaceidae <u>Hemiechinus auritis</u>	hedge hog, long-eared
FAMILY Soricidae <u>Crocidura</u> (all species in genus)	shrew, musk
ORDER Perissodactyla FAMILY Equidae <u>Equus africanus</u> (=Equus asinus)	ass, African wild
FAMILY Rhinocerotidae <u>Ceratotherium simum</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)	rhinoceros, southern white
<u>Diceros bicornis</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)	rhinoceros, black
<u>Rhinoceros unicornis</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in	rhinoceros, great Indian

SCIENTIFIC NAMECOMMON NAME

government zoos, or for other purposes permitted under section 4-71-6.5)

FAMILY Tapiridae

Tapirus indicus
Tapirus terrestris

tapir, Malayan
tapir

ORDER Proboscidea

FAMILY Elephantidae

Elaphas maximus

elephant, Asian

(Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)

Loxodonta africana

elephant, African

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ORDER Rodentia

FAMILY Caviidae

Dolichotis patagonum

cavy, Patagonian

FAMILY Cricetidae

Cricetulus griseus

mouse, Chinese

Gerbillus gerbillus

gerbil

Meriones unguiculatus

gerbil

Mesocricetus auratus

hamster

Sigmondon hispidus

rat, cotton

FAMILY Dasyproctidae

Agouti paca

agouti

Dasyprocta agouti (=D. leporina)

agouti

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Erethizontidae <u>Erethizon dorsatum</u>	porcupine, North American
FAMILY Heteromyidae <u>Perognathus longimembris</u>	mice, pocket
FAMILY Hystricidae <u>Hystrix cristata</u>	porcupine, African crested
FAMILY Myocastoridae <u>Myocastor coypu</u>	nutria
FAMILY Sciuridae <u>Callosciurus prevosti</u> <u>Marmota</u> (all species in genus) <u>Sciurus variegatoide</u>	squirrel, prevost's marmots squirrel, variegated
ORDER Scandentia FAMILY Tupaiidae <u>Tupaia glis</u>	shrew, tree
ORDER Tubulidentata FAMILY Orycteropodidae <u>Orycteropus afer</u>	aardvark

PART B: FOR PRIVATE AND COMMERCIAL USE

SCIENTIFIC NAMECOMMON NAME

INVERTEBRATES

PHYLUM Annelida
 CLASS Oligochaeta
 ORDER Haplotaxida
 FAMILY Lumbricidae
Lumbricus rubellus earthworm, red

PHYLUM Arthropoda
 CLASS Crustacea
 ORDER Amphipoda
 FAMILY Gammaridae
Gammarus (all species in genus) crustacean, freshwater;
 scud

FAMILY Hyalellidae
Hyalella azteca shrimps, imps (amphipod)

ORDER Cladocera
 FAMILY Sididae
Diaphanosoma (all species in genus) flea, water

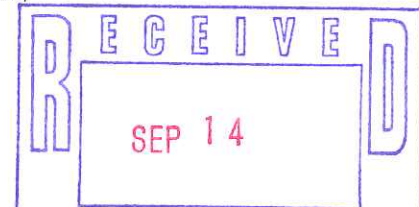
ORDER Cyclopoida
 FAMILY Cyclopidae
Cyclops (all species in genus) copepod, freshwater

ORDER Decapoda
 FAMILY Alpheidae
Alpheus brevicristatus shrimp, Japan (pistol)

FAMILY Palinuridae
Panulirus gracilis lobster, green spiny
Panulirus (all species in genus
 except Panulirus argus,
P. longipes femoristriga,
P. pencillatus) lobster, spiny

FAMILY Pandalidae
Pandalus platyceros shrimp, giant (prawn)

FAMILY Penaeidae
Penaeus indicus shrimp, penaeid



<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Penaeus californiensis</u>	shrimp, penaeid
<u>Penaeus japonicus</u>	shrimp, wheel (ginger)
<u>Penaeus monodon</u>	shrimp, jumbo tiger
<u>Penaeus orientalis</u> (<u>chinensis</u>)	shrimp, penaeid
<u>Penaeus plebjius</u>	shrimp, penaeid
<u>Penaeus schmitti</u>	shrimp, penaeid
<u>Penaeus semisulcatus</u>	shrimp, penaeid
<u>Penaeus setiferus</u>	shrimp, white
<u>Penaeus stylirostris</u>	shrimp, penaeid
<u>Penaeus vannamei</u>	shrimp, penaeid
ORDER Isopoda	
FAMILY Asellidae	
<u>Asellus</u> (all species in genus)	crustacean, freshwater
ORDER Podocopina	
FAMILY Cyprididae	
<u>Cypris</u> (all species in genus)	ostracod, freshwater
CLASS Insecta	
ORDER Diptera	
FAMILY Calliphoridae	
<u>Lucilia sericata</u>	blow fly, green bottle
ORDER Hymenoptera	
FAMILY Braconidae	
<u>Cotesia plutellae</u>	parasite, diamondback moth
ORDER Lepidoptera	
FAMILY Nymphalidae	
<u>Dryadula phaetusa</u>	butterfly
<u>Eueides isabella</u>	butterfly
<u>Heliconius charitonius</u>	butterfly
<u>Heliconius erato</u>	butterfly
<u>Heliconius hecale</u>	butterfly
<u>Heliconius melpomene</u>	butterfly
<u>Heliconius sara</u>	butterfly
<u>Morpho menelaus</u>	butterfly
<u>Morpho peleides</u>	butterfly
FAMILY Papilionidae	
<u>Ornithoptera priamus</u>	butterfly
<u>Pachliopta aristolochiae</u>	butterfly

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Pachliopta kotzebuea</u>	butterfly
<u>Papilio thoas</u>	butterfly
<u>Papilio ulysses</u>	butterfly
<u>Parides iphidamas</u>	butterfly
<u>Parides photinus</u>	butterfly
<u>Trogonoptera brookiana</u>	butterfly
<u>Troides helena</u>	butterfly
<u>Troides rhadamanthus</u>	butterfly
ORDER Orthoptera	
FAMILY Gryllidae	
<u>Acheta domesticus</u>	<u>cricket, house</u>
PHYLUM Cnidaria	
CLASS Anthozoa	
ORDER Alcyonacea	
FAMILY Alcyoniidae	
<u>Sarcophyton ehrenbergi</u>	coral, leather
<u>Sarcophyton glaucum</u>	coral, leather
<u>Sarcophyton trocheliophorum</u>	coral, leather
ORDER Scleractinia	
FAMILY Acroporidae	
<u>Acropora aspersa</u>	coral, stony
<u>Acropora austera</u>	coral, stony
<u>Acropora elseyi</u>	coral, stony
<u>Acropora formosa</u>	coral, stony
<u>Acropora microphthalma</u>	coral, stony
<u>Acropora nana</u>	coral, stony
PHYLUM Mollusca	
CLASS Bivalvia	
ORDER Pelecypoda	
FAMILY Margaritiferidae	
<u>Margaritifera margaritifera</u>	mussel, freshwater
ORDER Pterioida	
FAMILY Pteridae	
<u>Pinctada fucata</u>	oyster, akoya
<u>Pinctada margaritifera</u>	oyster, black lipped pearl

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Pinctada maxima</u>	oyster, silver lipped pearl
ORDER Unionoida	
FAMILY Unionidae	
<u>Anodonta</u> (all species in genus)	mussel, freshwater
<u>Proptera alata</u>	mussel, freshwater
<u>Unio</u> (all species in genus)	mussel, freshwater
ORDER Veneroida	
FAMILY Tridacnidae	
<u>Hippopus hippopus</u>	clam, giant
<u>Tridacna crocea</u>	clam, giant
<u>Tridacna derasa</u>	clam, giant
<u>Tridacna gigas</u>	clam, giant
<u>Tridacna hippopus</u>	clam, giant
<u>Tridacna maxima</u>	clam, giant
<u>Tridacna squamosa</u>	clam, giant
FAMILY Veneridae	
<u>Anodontia stearnsiana</u>	clam, mangrove
<u>Mercenaria mercenaria</u> x <u>M. campechiensis</u>	clam, hybrid
CLASS Gastropoda	
ORDER Archaeogastropoda	
FAMILY Trochidae	
<u>Trochus niloticus</u>	topshell
PHYLUM Nemata (=Nematoda)	
CLASS Adenophorea	
ORDER Trichocephalida	
FAMILY Trichuridae	
<u>Trichuris trichiura</u>	nematode
CLASS Secernentea	
ORDER Ascaridida	
FAMILY Oxvuridae	
<u>Enterobius vermicularis</u>	nematode

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
ORDER Strongylida	
FAMILY Trichostrongylidae	
<u>Trichostrongylus</u> (all species in genus)	nematode
ORDER Tylenchida	
FAMILY Heteroderidae	
<u>Rotylenchus</u> (all species in genus)	nematode

AMPHIBIANS

PHYLUM Chordata	
CLASS Amphibia	
ORDER Caudata	
FAMILY Salamandridae	
<u>Triturus boscai</u>	newt
<u>Triturus italicus</u>	newt, Italian
<u>Tylostrotion verrococus</u>	newt, emperor
ORDER Salientia	
FAMILY Dendrobatidae	
<u>Dendrobates</u> (all species in genus)	frog, poison arrow (poison dart)
FAMILY Hylidae	
<u>Hyla vasta</u>	treefrog, Haitian giant
FAMILY Ranidae	
<u>Rana erythraea</u>	frog, red-eared
<u>Rana jerboa</u>	frog
<u>Rana limnocharis</u>	frog, rice
<u>Rana pustulosa</u>	frog

REPTILES

PHYLUM Chordata	
CLASS Reptilia	
ORDER Squamata	
FAMILY Chamaeleonidae	
<u>Chamaeleo jacksoni</u>	chameleon, Jackson's

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Iguanidae	
<u>Amblyrhynchus cristatus</u>	iguana, Galapagos-marine
<u>Anolis carolinensis</u>	chameleon, American
<u>Conolophus subcristatus</u>	iguana, Galapagos-land
FAMILY Scincidae	
<u>Emoia physicae</u>	skink, ground
<u>Lobulia elegans</u>	skink, ground
<u>Lobulia morokana</u>	skink, ground
<u>Lobulia stanleyana</u>	skink, ground
ORDER Testudines	
FAMILY Chelidae	
<u>Chelodina longicollis</u>	turtle, Australian side-neck
FAMILY Cheloniidae	
<u>Chelonia mydas agassizii</u>	turtle, green sea
<u>Lepidochelys olivacea</u>	turtle, loggerhead (Ridley)
FAMILY Emydidae	
<u>Batagur baska</u>	turtle, Batagur
<u>Callagur borneoensis</u>	turtle, giant river
<u>Chinemys kwangtungensis</u>	turtle, Kwangtung pond
<u>Chinemys reevesi</u>	turtle, Reeves
<u>Chrysemys (Pseudemys) alabamensis</u>	turtle, Alabama red-bellied
<u>Chrysemys (Pseudemys) rubriventris</u>	turtle, Plymouth red-bellied
<u>Cuora amboinensis</u>	turtle, Malayan box
<u>Cuora flavomarginata</u>	turtle, yellow-margined box
<u>Cuora galbinifrons</u>	turtle, white-fronted box
<u>Cuora trifasciata</u>	turtle, three-keeled box
<u>Cyclemys dentata</u>	turtle, Asian leaf
<u>Geoclemys hamiltoni</u>	turtle, black pond
<u>Geoemyda spengleri</u>	turtle, black-bellied notched
<u>Graptemys oculifera</u>	turtle, ringed map
<u>Hardella thurji</u>	turtle, Brahminy river
<u>Heosemys (all species in genus except H. grandis)</u>	turtle, cogwheel
<u>Hieremys annandalei</u>	turtle, temple
<u>Kachuga (all species in genus)</u>	turtle, roof
<u>Malaclemys terrapin</u>	turtle, diamond back terrapin
<u>Mauremys (Annamemys) annamensis</u>	turtle, Eurasian pond
<u>Melanochelys tricarinata</u>	turtle, three-keeled Indian terrapin

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Melanochelys trijuga</u>	turtle, black-bellied terrapin
<u>Morenia ocellata</u>	turtle, ocellated peacock
<u>Morenia petersi</u>	turtle, Peter's peacock
<u>Notochelys platynota</u>	turtle, flat-back
<u>Ocadia sinensis</u>	turtle, Chinese striped
<u>Orlitia borneensis</u>	turtle, Bornean river
<u>Pyxidea mouhoti</u>	turtle, Indian thorn
<u>Rhinoclemmys (Callopsis)</u> (all species in genus)	turtle, painted forest
<u>Sacalia bealei</u>	turtle, six-eyed pond
<u>Siebenrockiella crassicollis</u>	turtle, fat-headed
<u>Terrapene coahuila</u>	turtle, aquatic box
<u>Trachemys</u> (all species in genus)	turtle, slider
FAMILY Kinosternidae	
<u>Kinosternon</u> (all species in genus)	turtle, mud
<u>Staurotypus salvini</u>	turtle, giant musk
<u>Staurotypus triporcatus</u>	turtle, giant musk
<u>Sternotherus carinatus</u>	turtle, keel-backed musk
<u>Sternotherus minor depressus</u>	turtle, flattened musk
<u>Sternotherus minor minor</u>	turtle, loggerhead musk
<u>Sternotherus minor peltifer</u>	turtle, musk
<u>Sternotherus odoratus</u>	turtle, stinkpot (common musk)
FAMILY Testudinidae	
<u>Astrochelys radiata</u>	tortoise, radiated
<u>Astrochelys yniphora</u>	tortoise, angulated
<u>Chelonoidis elephantopus</u>	tortoise, Galapagos
<u>Gopherus (Xerobates) agassizi</u>	tortoise, desert
<u>Gopherus flavomarginatus</u>	tortoise, Bolson
<u>Gopherus polyphemus</u>	tortoise, gopher
<u>Indotestudo</u> (all species in genus)	tortoise
<u>Kinixys belliana</u>	tortoise, Bell's hinged
<u>Kinixys erosa</u>	tortoise, Schweigger's hinge-back
<u>Kinixys homeana</u>	tortoise, Homer's hinged
<u>Malacochersus tornieri</u>	tortoise, pancake
<u>Manouria</u> (all species in genus)	tortoise
<u>Psammobates geometricus</u>	tortoise, cape geometric
<u>Pyxis arachnoides</u>	tortoise, spider
FAMILY Trionychidae	
<u>Chitra indica</u>	turtle, narrow-headed soft-shell
<u>Cyclanorbis elegans</u>	turtle, Nubian soft-shell

SCIENTIFIC NAMECOMMON NAME

<u>Cyclanorbis senegalensis</u>	turtle, Senegal soft-shell
<u>Cycloderma aubryi</u>	turtle, Aubry's soft-shell
<u>Cycloderma frenatum</u>	turtle, bridled soft-shell
<u>Lissemys punctata</u>	turtle, Indian flap-shelled
<u>Pelochelys bibroni</u>	turtle, giant soft-shell
<u>Trionyx</u> (all species in genus)	turtle, soft-shell

FISHES

PHYLUM Chordata

CLASS Chondrichthyes

ORDER Carcharhiniformes

FAMILY Carcharhinidae

Carcharhinus melanopterus

shark, black-tip reef

Cephaloscyllium ventriosum

shark, swell

FAMILY Hemigaleidae

Triaenodon obesus

shark, white-tip reef

FAMILY Triakidae

Rhinnotriakis henlei

shark, smoothound

Triakis semifasciatum

shark, leopard

ORDER Heterodontiformes

FAMILY Heterodontidae

Heterodontus zebra

shark, highfin

ORDER Orectolobiformes

FAMILY Brachaeluridae

Brachaelurus waddi

shark, blind

FAMILY Ginglymostomatidae

Ginglymostoma cirratum

shark, nurse

FAMILY Hemiscyllidae

Chiloscyllium colax

shark, banded

Hemiscyllium ocellatum

shark, epaulette

FAMILY Stegostomatidae

Stegostoma fasciatum

shark, zebra

CLASS Osteichthyes

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Limia</u> (all species in genus)	molly
<u>Neoheterandria</u> (all species in genus)	killifish
<u>Phallichthys</u> (all species in genus)	widow
<u>Phalloceros</u> (all species in genus)	livebearer
<u>Phalloptychus</u> (all species in genus)	livebearer
<u>Phallotorynus</u> (all species in genus)	livebearer
<u>Poecilia</u> (all species in genus)	molly
<u>Poeciliopsis</u> (all species in genus except <u>Poeciliopsis occidentalis</u>)	livebearer
<u>Priapella</u> (all species in genus)	livebearer
<u>Priapichthys</u> (all species in genus)	diamond-scale
<u>Pseudopoecilia</u> (all species in genus)	diamond-scale
<u>Quintana</u> (all species in genus)	livebearer
<u>Scolichthys</u> (all species in genus)	mosquitofish
<u>Tomeurus</u> (all species in genus)	prongfin
<u>Xenodexia</u> (all species in genus)	livebearer
<u>Xenophallus</u> (all species in genus)	mosquitofish
<u>Xiphophorus</u> (all species in genus)	platy
ORDER Cypriniformes	
FAMILY Cyprinidae	
<u>Aristichthys nobilis</u>	carp, bighead
<u>Ctenopharyngodon idellus</u>	carp, grass (white amur)
<u>Hypophthalmichthys molitrix</u>	carp, silver
<u>Mylopharyngodon piceus</u>	carp, black
ORDER Gonorynchiformes	
FAMILY Chanidae	
<u>Chanos chanos</u>	milkfish
ORDER Perciformes	
FAMILY Centrarchidae	
<u>Micropterus salmoides</u>	bass, Florida largemouth
<u>floridanus</u>	
FAMILY Centropomidae	
<u>Lates calcarifer</u>	bass, Asian sea
FAMILY Channidae	

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Ophiocephalus</u> (Channa) <u>striatus</u>	pongee (snakehead)
FAMILY Cichlidae	
<u>Oreochromis</u> <u>aureus</u>	tilapia, blue
<u>Oreochromis</u> <u>mossambicus</u>	tilapia, Mozambique
<u>Oreochromis</u> <u>niloticus</u>	tilapia, Nile
<u>Oreochromis</u> <u>spilurus</u>	tilapia
<u>Paretroplus</u> <u>polyactis</u>	cichlid, Damba
<u>Paretroplus</u> sp. "lamena"	cichlid, Damba
FAMILY Percichthyidae	
<u>Morone</u> <u>saxatalis</u> x <u>Morone</u> <u>chrysops</u>	bass, hybrid striped
FAMILY Potophaenidae	
<u>Coryphae</u> <u>hippurus</u>	mahimahi
ORDER Pleuronectiformes	
FAMILY Bothidae	
<u>Paralichthys</u> <u>olivaceus</u>	flounder, Japanese (hirame)
FAMILY Pleuronectidae	
<u>Hippoglossus</u> <u>hippoglossus</u>	halibut, Atlantic
<u>Hippoglossus</u> <u>stenolepis</u>	halibut, Pacific
ORDER Salmoniformes	
FAMILY Salmonidae	
<u>Oncorhynchus</u> <u>kisutch</u>	salmon, coho
<u>Oncorhynchus</u> <u>mykiss</u>	trout, rainbow
<u>Oncorhynchus</u> <u>tshawytscha</u>	salmon, Chinook
<u>Salmo</u> <u>gairdnerii</u>	trout, rainbow
<u>Salmo</u> <u>salar</u>	salmon, atlantic
ORDER Scorpaeniformes	
FAMILY Anoplopomatidae	
<u>Anoplopoma</u> <u>fimbria</u>	sablefish

BIRDS

(Taxonomy after Sibley and Monroe 1990)

PHYLLUM Chordata

CLASS Aves

ORDER Anseriformes

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Anatidae	
<u>Aix galericulata</u>	duck, mandarin
<u>Aix sponsa</u>	duck, wood
<u>Alopochen aegyptiacus</u>	goose, Egyptian
<u>Anas acuta</u>	duck, north pintail
<u>Anas bahamensis</u>	duck, Bahama pintail (white-cheeked)
<u>Anas capensis</u>	duck (teal), cape
<u>Anas clypeata</u>	duck, northern shoveler
<u>Anas crecca</u>	duck (teal), green wing
<u>Anas cyanoptera</u>	duck (teal), cinnamon
<u>Anas discors</u>	duck (teal), blue wing
<u>Anas flavirostris</u>	duck (teal), Chilean
<u>Anas penelope</u>	duck, European wigeon (Eurasian)
<u>Anas platyrhynchos laysanensis</u>	duck (teal), Laysan
<u>Anas platyrhynchos wyvilliana</u>	duck (teal), Hawaiian
<u>Anas sibilatrix</u>	wigeon (duck), Chiloe
<u>Anas undulata</u>	duck, African yellowbill
<u>Anser caerulescens</u>	goose, lesser snow
<u>Anser canagicus</u>	goose, emperor
<u>Anser indicus</u>	goose, bar-headed
<u>Aythya americana</u>	duck, red head
<u>Aythya fuligula</u>	duck, tufted
<u>Aythya valisineria</u>	duck, canvasback
<u>Biziura lobata</u>	duck, musk
<u>Branta (Nesochen) sandvicensis</u>	goose, nene
<u>Branta bernicla</u>	goose, brant
<u>Branta canadensis</u>	goose, Canadian
<u>Branta canadensis minima</u>	goose, cackling (Canada)
<u>Branta ruficollis</u>	goose, red-breasted
<u>Calonetta leucophrys</u>	teal, ringed
<u>Cereopsis novaehollandiae</u>	goose, Cape Barren
<u>Chloephaga melanoptera</u>	goose, Andean
<u>Chloephaga picta leucoptera</u>	goose, Andean (greater Magellan)
<u>Chloephaga poliocephala</u>	goose, ashy-headed
<u>Cyanochen cyanopterus</u>	goose, Abyssinian blue wing
<u>Cygnus (all species in genus)</u>	swan
<u>Dendrocygna arborea</u>	duck, black-billed whistling
<u>Dendrocygna arcuata</u>	duck, wandering whistling
<u>Dendrocygna autumnalis</u>	duck, red-billed whistling
<u>Dendrocygna bicolor</u>	duck, fulvous tree (fulvous whistling)
<u>Dendrocygna eytoni</u>	duck, Eyton tree (plumed whistling)
<u>Dendrocygna viduata</u>	duck, white-faced tree (whistling)

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Heteronetta atricapilla</u>	duck, black-headed
<u>Merganetta armata</u>	duck, torrent
<u>Mergus cucullatus</u>	duck, hooded merganser
<u>Mergus merganser</u>	duck, goosander (merganser)
<u>Mergus octosetaceus</u>	duck, Brazilian merganser
<u>Neochen jubatus</u>	goose, Orinoco
<u>Netta erythrophthalma</u>	pochard
<u>Netta peposaca</u>	rosy-bill
<u>Netta rufina</u>	pochard, red-crested
<u>Oxyura jamaicensis</u>	duck, North American ruddy
<u>Sarkidiornis melanotos</u>	duck, comb
<u>Somateria mollissima</u>	duck, common eider
<u>Somateria mollissima dresseri</u>	duck, American eider
<u>Tadorna</u> (all species in genus)	shelduck
ORDER Charadriiformes	
FAMILY Scolopacidae	
<u>Numenius tahitiensis</u>	curlew, bristle-thighed
ORDER Ciconiiformes	
FAMILY Ardeidae	
<u>Nycticorax nycticorax</u>	heron, black-crowned night
FAMILY Ciconiidae	
<u>Ciconia ciconia</u>	stork, white
<u>Mycteria ibis</u>	stork, yellow-billed
FAMILY Phoenicopteridae	
<u>Phoeniconaias minor</u>	flamingo, African lesser
<u>Phoenicopterus chilensis</u>	flamingo, Chilean
<u>Phoenicopterus ruber</u>	flamingo, rosy (scarlet), American
FAMILY Threskiornithidae	
<u>Ajaia ajaja</u>	spoonbill, roseate
<u>Eudocimus ruber</u>	ibis, scarlet
<u>Hagedashia hagedash</u>	ibis, hadada
<u>Platalea alba</u>	spoonbill, African
<u>Threskionis aethiopicus</u>	ibis, sacred
ORDER Cuculiformes	
FAMILY Musophagidae	
<u>Tauraco hartlaubi</u>	turaco, blue-crested

SCIENTIFIC NAMECOMMON NAME

ORDER Gruiformes

FAMILY Gruidae

Anthropoides paradisea

crane, Stanley (paradise)

Anthropoides virgo

crane, Demoiselle

Balearica pavoninacrane, crown of Africa
(crowned)Grus antigone

crane, sarus

Grus canadensis

crane, sandhill

FAMILY Rallidae

Fulica americana alai

coot, Hawaiian

Gallinula chloropus

gallinule, Hawaiian

sandvicensis

ORDER Pelecaniformes

FAMILY Fregatidae

Fregata minor

frigate bird, great

Fregata minor palmerstoni

frigate bird

FAMILY Phaethontidae

Phaethon lepturus

tropicbird, white-tailed

Phaethon rubricauda

tropicbird, red-tailed

FAMILY Sulidae

Sula dactylatra

booby, blue-faced (masked)

Sula leucogaster

booby, brown

Sula nebouxii

booby, blue-footed

Sula sula

booby, red-footed

ORDER Procellariiformes

FAMILY Diomedeidae

Diomedea immutabilis

albatross, Laysan

Diomedea nigripes

albatross, black-footed

ORDER Psittaciformes

FAMILY Psittacidae

Coracopsis nigra

parrot, black

Coracopsis vasa

parrot, vasa

Psittacula krameriparakeet, rose-ringed
(ringnecked)Rhynchopsitta pachyrhyncha

parrot, thick-billed

ORDER Sphenisciformes

FAMILY Spheniscidae

Spheniscidae (all species in family) penguins

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
ORDER Struthioniformes FAMILY Struthionidae <u>Struthio camelus</u>	ostrich
MAMMALS	
PHYLUM Chordata CLASS Mammalia ORDER Artiodactyla FAMILY Bovidae <u>Aepyceros melampus</u> <u>Ammotragus lervia</u> <u>Antilope cervicapra</u> <u>Bison bison</u> <u>Capra falconeri</u> <u>Capra ibex</u> <u>Gazella dama</u> <u>Hippotragus niger</u> <u>Oryx beisa beisa</u> (=O. <u>gazella beisa</u>) <u>Ovis musimon</u> <u>Tragelaphus imberbis</u> <u>Tragelaphus oryx</u> (=Taurotragus <u>oryx</u>) <u>Tragelaphus scriptus</u> <u>Tragelaphus strepsiceros</u>	impala sheep, barbary (aoudad) antelope, blackbuck bison markhor ibex gazelle, dama antelope, sable oryx, beisa sheep, mouflon kudu, lesser eland, common bushbuck kudu, greater
FAMILY Cervidae <u>Axis axis</u> (=Cervis <u>axis</u>) <u>Cervus elaphus</u> <u>Rangifer tarandus</u>	deer, axis elk reindeer
FAMILY Giraffidae <u>Giraffa</u> sp.	giraffe
ORDER Carnivora FAMILY Mustelidae <u>Lutra persipicillata</u>	otter, Malayan smooth
FAMILY Otariidae <u>Zalophus californianus</u>	sea lion
FAMILY Phocidae <u>Monachus schauinslandii</u>	seal, Hawaiian monk
ORDER Diprotodontia (=Marsupialia)	

SCIENTIFIC NAMECOMMON NAME

FAMILY Macropodidae

Macropus eugenii

wallaby, dama

Macropus robustus

wallaro, Woodward's

Macropus rufogriseus

wallaby, Bennett's

Macropus rufus

kangaroo, red

ORDER Odontoceti (=Cetacea)

FAMILY Delphinidae

Globicephala macrorhynchus scammoni

whale, Pacific pilot

Pseudorca crassidens

whale, false killer

Tursiops truncatus

porpoise, bottlenosed

ORDER Perissodactyla

FAMILY Equidae

Equus burchelli

zebra, plains

Equus burchelli bohmi

zebra, Grant

ORDER Pinnipedia

FAMILY Phocidae

Phoca vitulana

seal, harbor

ORDER Primates

FAMILY Callithricidae

Callithricidae (all species in family)

monkey, marmosets, tamarins

(Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)

FAMILY Cebidae

Cebidae (all species in family)

monkey, new world

(Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other

SCIENTIFIC NAMECOMMON NAME

purposes permitted under section 4-71-6.5)

FAMILY Cercopithecidae
Cercopithecidae (all species in family)

monkey, old world;
baboon; colobus; langur,
Macaque

(Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)

FAMILY Hylobatidae
Hylobates (all species in genus)

gibbons

(Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)

FAMILY Lemuridae
Lemuridae (all species in family)

lemur, bush baby (Galago)

(Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)

FAMILY Lorisidae
Nycticebus coucang

loris, slow

(Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<p><u>government zoos, or for other purposes permitted under section 4-71-6.5)</u></p> <p><u>Perodicticus potto</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)</p>	potto
<p>FAMILY Pongidae</p> <p><u>Gorilla gorilla</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)</p>	gorilla
<p><u>Pan troglodytes</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)</p>	chimpanzee
<p><u>Pan paniscus</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state fairs. Allowed for short-term performance for commercial filming, for exhibition in government zoos, or for other purposes permitted under section 4-71-6.5)</p>	chimpanzees
<p><u>Pongo pygmaeus</u> (Prohibited for short-term performance or exhibition in circuses, carnivals, or state</p>	orangutan

RESTRICTED ANIMAL LIST (Part B)

§4-71-6.5

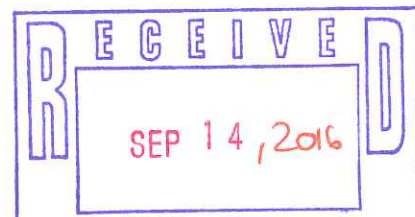
SCIENTIFIC NAME

COMMON NAME

fairs. Allowed for short-term
performance for commercial
filming, for exhibition in
government zoos, or for other
purposes permitted under section
4-71-6.5)

LIST OF CONDITIONALLY APPROVED
ANIMALS

November 28, 2006

SCIENTIFIC NAMECOMMON NAME

INVERTEBRATES

PHYLUM Annelida

CLASS Oligochaeta

ORDER Plesiopora

FAMILY Tubificidae

Tubifex (all species in genus)

worm, tubifex

PHYLUM Arthropoda

CLASS Crustacea

ORDER Anostraca

FAMILY Artemiidae

Artemia (all species in genus)

shrimp, brine

ORDER Cladocera

FAMILY Daphnidae

Daphnia (all species in genus)

flea, water

ORDER Decapoda

FAMILY Atelecyclidae

Erimacrus isenbeckii

crab, horsehair

FAMILY Cancridae

Cancer antennarius

crab, California rock

Cancer anthonyi

crab, yellowstone

Cancer borealis

crab, Jonah

Cancer magister

crab, dungeness

Cancer productus

crab, rock (red)

FAMILY Geryonidae

Geryon affinis

crab, golden

FAMILY Lithodidae

Paralithodes camtschatica

crab, Alaskan king

FAMILY Majidae

Chionocetes bairdi

crab, snow

Chionocetes opilio

crab, snow

CONDITIONAL ANIMAL LIST

S4-71-6.5

SCIENTIFIC NAME

COMMON NAME

Chionocetes tanneri

crab, snow

FAMILY Nephropidae

Homarus (all species in genus)

lobster, true

FAMILY Palaemonidae

Macrobrachium lar

shrimp, freshwater

Macrobrachium rosenbergi

prawn, giant long-legged

FAMILY Palinuridae

Jasus (all species in genus)

crayfish, saltwater;
lobster

Panulirus argus

lobster, Atlantic spiny

Panulirus longipes femoristriga

crayfish, saltwater

Panulirus pencillatus

lobster, spiny

FAMILY Portunidae

Callinectes sapidus

crab, blue

Scylla serrata

crab, Samoan; serrate,
swimming

FAMILY Raninidae

Ranina ranina

crab, spanner; red frog,
Hawaiian

CLASS Insecta

ORDER Coleoptera

FAMILY Tenebrionidae

Tenebrio molitor

mealworm, yellow

ORDER Diptera

FAMILY Drosophilidae

Drosophila melanogaster

fly, pomace

PHYLUM Cnidaria

CLASS Hydrozoa

ORDER Hydroida

FAMILY Hydridae

Hydra (all species in genus)

hydra

CONDITIONAL ANIMAL LIST

S4-71-6.5

SCIENTIFIC NAME

COMMON NAME

PHYLUM Echinodermata	
CLASS Echinoidea	
ORDER Echinoidea	
FAMILY Strongylocentrotidae	
<u>Strongylocentrotus drobachiensis</u>	sea urchin
<u>Strongylocentrotus franciscanus</u>	sea urchin
<u>Strongylocentrotus purpuratus</u>	sea urchin
CLASS Holothuroidea	
ORDER Dactylochirotida	
FAMILY Stichopodidae	
<u>Stichopus californicus</u>	sea cucumber
<u>Stichopus japonicus</u>	sea cucumber, Japanese
PHYLUM Mollusca	
CLASS Bivalvia	
ORDER Myoida	
FAMILY Hiatellidae	
<u>Panope generosa</u>	clam, king (geoduck)
FAMILY Myidae	
<u>Mya arenaria</u>	clam, soft shell
ORDER Mytiloidea	
FAMILY Mytilidae	
<u>Mytilus edulis</u>	mussel, sea
<u>Mytilus edulis galloprovincialis</u>	mussel, Mediterranean
<u>Perna canaliculus (viridis)</u>	mussel, green lipped
ORDER Ostreoida	
FAMILY Ostreidae	
<u>Crassostrea (all species in genus)</u>	oyster
<u>Ostrea (all species in genus)</u>	oyster
FAMILY Pectinidae	
<u>Argopecten irradians</u>	scallops, bay
<u>Chlamys hastata</u>	scallop, spiny
<u>Chlamys rubida</u>	scallop, pink
<u>Pecten caurinus</u>	scallop, weathervane

CONDITIONAL ANIMAL LIST

S4-71-6.5

SCIENTIFIC NAME

COMMON NAME

ORDER Veneroida	
FAMILY Cultellidae	
<u>Siliqua patula</u>	clam, razor
FAMILY Mactridae	
<u>Mactromeris polynyma</u>	clam, Stimpson's surf
<u>Spisula solidissima</u>	clam, east coast surf
<u>Tresus capax</u>	clam, horse
<u>Tresus nuttalli</u>	clam, horse
FAMILY Mesodesmatidae	
<u>Paphies australis</u>	clams, New Zealand pipi
<u>Paphies donacina</u>	clam, tuatua
<u>Paphies subtriangulata</u>	clams, tuatua
FAMILY Veneridae	
<u>Chione stutchburyi</u>	cockle, New Zealand
<u>Mercenaria mercenaria</u>	clam, littleneck
<u>Tapes semidecussata</u>	clam
<u>Venerupis japonicus</u>	clam
<u>Venus mercenaria</u>	clam, quahog
CLASS Gastropoda	
ORDER Archaeogastropoda	
FAMILY Haliotidae	
<u>Haliotis</u> (all species in genus)	abalone
ORDER Basommatophora	
FAMILY Lymnaeidae	
<u>Radix auricularia</u>	snail, European freshwater
FAMILY Physidae	
<u>Physa</u> (all species in genus)	snail, freshwater
FAMILY Planorbidae	
<u>Helisoma</u> (all species in genus)	snail, ramshorn
<u>Planorbis</u> (all species in genus)	snail, ramshorn
ORDER Mesogastropoda	
FAMILY Littorinidae	
<u>Littorina palliata</u>	periwinkle; snail, sea

CONDITIONAL ANIMAL LIST

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SCIENTIFIC NAME

COMMON NAME

FAMILY Strombidae
Strombus gigas

conch, queen

FAMILY Viviparidae
Cipangopaludina chinensis

snail, Chinese freshwater

PHYLUM Nemata (=Nematoda)

CLASS Secernentea

ORDER Rhabditida

FAMILY Rhabditidae

Caenorhabditis elegans

nematode

FAMILY Steinernematidae

Steinernema carpocapsae

nematode, entomogenous

PHYLUM Platyhelminthes

CLASS Trematoda

ORDER Plagiorchiida

FAMILY Dicrocoeliidae

Dicrococoelium dentriticum

trematode

CLASS Turbellaria

ORDER Tricladida

FAMILY Planariidae

Planaria

planaria

PHYLUM Rotifera

CLASS Monogononta

ORDER Ploima

Family Brachionidae

Brachionus (all species in genus)

rotifer

SCIENTIFIC NAMECOMMON NAME

AMPHIBIANS

PHYLUM Chordata

CLASS Amphibia

ORDER Caudata

FAMILY Ambystomidae

<u>Ambystoma annulatum</u>	salamander, ringed
<u>Ambystoma maculatum</u>	salamander, spotted
<u>Ambystoma mexicanum</u>	axolotl
<u>Ambystoma opacum</u>	salamander, marbled
<u>Ambystoma talpoideum</u>	salamander, mole
<u>Ambystoma tigrinum</u>	salamander, tiger

FAMILY Plethodontidae

<u>Plethodon cinereus</u>	salamander, red-backed
<u>Plethodon dorsalis</u>	salamander, zigzag
<u>Plethodon dunni</u>	salamander, Dunn's
<u>Plethodon elongatus</u>	salamander, Del Norte
<u>Plethodon glutinosus</u>	salamander, slimy
<u>Plethodon jordani</u>	salamander, Jordan's
<u>Plethodon vehiculum</u>	salamander, western red-backed
<u>Pseudotriton montanus</u>	salamander, mud
<u>Pseudotriton ruber</u>	salamander, red

FAMILY Salamandridae

<u>Cynops pyrrhogaster</u>	newt, Japanese fire-bellied
<u>Salamandra atra</u>	salamander, Alpine
<u>Salamandra salamandra</u>	salamander, fire
<u>Taricha granulosa</u>	newt, rough-skinned
<u>Taricha rivularis</u>	newt, red-bellied
<u>Taricha torosa</u>	newt, California
<u>Triturus alpestris</u>	newt, Alpine
<u>Triturus cristatus</u>	newt, northern crested
<u>Triturus helveticus</u>	newt, palmate
<u>Triturus marmoratus</u>	newt, marbled
<u>Triturus montandoni</u>	newt, Carpathian
<u>Triturus vittatus</u>	newt, banded
<u>Triturus vulgaris</u>	newt, smooth

ORDER Salientia

FAMILY Hylidae

<u>Hyla andersoni</u>	treefrog, pine barrens
<u>Hyla arenicolor</u>	treefrog, canyon
<u>Hyla avivoca</u>	treefrog, bird-voiced
<u>Hyla cadaverina</u>	treefrog, California

SCIENTIFIC NAMECOMMON NAME

<u>Hyla chrysoscelis</u>	treefrog, Cope's gray
<u>Hyla cinerea</u>	treefrog, green
<u>Hyla crucifer</u>	treefrog, spring peeper
<u>Hyla eximia</u>	treefrog, mountain
<u>Hyla femoralis</u>	treefrog, pine woods
<u>Hyla gratiosa</u>	treefrog, barking
<u>Hyla regilla</u>	treefrog, Pacific
<u>Hyla squirella</u>	treefrog, squirrel
<u>Hyla versicolor</u>	treefrog, gray

FAMILY Ranidae

<u>Rana aurora</u>	frog
<u>Rana boylei</u>	frog
<u>Rana catesbeiana</u>	frog, American bullfrog
<u>Rana clamitans</u>	frog, American green
<u>Rana esculenta</u>	frog, edible
<u>Rana nigromaculatus</u>	frog
<u>Rana pipiens</u>	frog, leopard
<u>Rana ridibunda</u>	frog, marsh
<u>Rana rugosa</u>	frog, wrinkled
<u>Rana septentrionalis</u>	frog, mink
<u>Rana sylvatica</u>	frog, wood
<u>Rana temporaria</u>	frog, Eurasian common

REPTILES

PHYLUM Chordata

CLASS Reptilia

ORDER Testudines

FAMILY Emydidae

<u>Chinemys megalocephala</u>	turtle, big headed pond
<u>Chrysemys</u> (<u>Pseudemys</u>) (all species in genus except <u>C. alabamensis</u> and <u>C. rubriventris</u>)	turtle, painted; sliders
<u>Clemmys</u> (all species in genus)	turtle, pond
<u>Cuora yunnanensis</u>	turtle, Asian box
<u>Deirochelys reticularia</u>	turtle, chicken
<u>Emydoidea blandingi</u>	turtle, Blanding's
<u>Emys orbicularis</u>	turtle, European pond
<u>Graptemys</u> (all species in genus except <u>G. oculifera</u>)	turtle, map
<u>Mauremys</u> (<u>Clemmys</u>) <u>caspiica</u>	turtle, Caspian pond
<u>Mauremys</u> (<u>Clemmys</u>) <u>japonica</u>	turtle, Japanese pond
<u>Mauremys</u> (<u>Clemmys</u>) <u>leprosa</u>	turtle, Iberian pond

SCIENTIFIC NAMECOMMON NAME

Mauremys (Clemmys) mutica
Terrapene (all species in genus
 except T. coahuila)

turtle, Taipei pond
 turtle, box

FAMILY Testudinidae

Asterochelys (all species in
 genus except A. radiata and
A. yniphora)

tortoise

Chelonoidis (all species in
 genus except C. elephantopus)

tortoise, Galapagos

Chersina angulata

tortoise, bow-sprit

Geochelone (all species in genus)

tortoise

Gopherus (Xerobates) (all
 species in genus except

tortoise, gopher

G. agassizi, G. flavomarginatus,
 and G. polyphemus)

Homopus areolatus

tortoise, parrot-beaked

Homopus boulengeri

tortoise, donner-weer

Homopus femoralis

tortoise, karroo

Homopus signatus

tortoise, speckled

Megalochelys (all species in
 genus)

tortoise

Psammobates oculifer

tortoise, serrated
 geometric

Psammobates tentorius

tortoise, knobby geometric

Pyxis (Acinixys) planicauda

tortoise, flat-back spider

Testudo (all species in genus)

tortoise, European

FISHES

PHYLUM Chordata

CLASS Osteichthyes

ORDER Atheriniformes

FAMILY Anablepidae

Anableps anableps

four-eyes

Jenynsia lineata

livebearer, one-sided

FAMILY Atherinidae

Allanetta harringtonensis

silversides, reef

Atherinosoma wallacei

hardyhead, western

Bedotia geayi

rainbow, Madagascar

Craterocephalus cuneiceps

hardyhead, Murchison River

Craterocephalus dalhousiensis

hardyhead, Dalhousie

Craterocephalus lacustris

hardyhead, Lake Kutubu

CONDITIONAL ANIMAL LIST

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SCIENTIFIC NAME

COMMON NAME

Craterocephalus majoriae
Craterocephalus randi
Craterocephalus
stercusmuscarum
Quirichthys stramineus
Telmatherina ladigesi

hardyhead, Marjorie's
 hardyhead, Kubuna River
 hardyhead, fly-specked

 strawman (blackmast)
 silversides, celesbes

FAMILY Cyprinodontidae

Addamas formosus
Adinia xenica
Aphanius cypris
Aphanius dispar
Aphanius fasciatus
Aphanius iberus
Aphanius mento
Aphanius sophiae
Aphyosemion abacinum
Aphyosemion ahli
Aphyosemion amieti
Aphyosemion amoenum
Aphyosemion arnoldi
Aphyosemion australe
Aphyosemion batesil
Aphyosemion bertholdi
Aphyosemion bivittatum
Aphyosemion bochtleri
Aphyosemion bualanum
Aphyosemion calliurum
Aphyosemion cameronense
Aphyosemion celliae
Aphyosemion chaytori
Aphyosemion christyi
Aphyosemion cinnamomeum
Aphyosemion coeruleum
Aphyosemion cognatum
Aphyosemion cyanostictum
Aphyosemion elegans
Aphyosemion exiguum
Aphyosemion filamentosum
Aphyosemion fulgens
Aphyosemion gardneri

Aphyosemion georgiae
Aphyosemion geryi
Aphyosemion guineense
Aphyosemion gulare
Aphyosemion herzogi

panchax, starhead
 killifish, diamond
 minnow
 minnow, log-fin Arabian
 minnow, banded
 minnow, Spanish
 minnow, Persian
 killifish
 killie
 killie, Ahl's lyretail
 killie
 killie
 killie, Arnold's lyretail
 lyretail
 lyretail
 killie
 killie, Berthold's
 lyretail
 lyretail
 killie
 killie, African swamp
 lyretail
 lyretail
 killie
 killie, Chaytor's
 killie, Christy's lyretail
 killie, cinnamon
 gularis, blue; lyretail
 killie, red spotted
 killifish, blue-spotted
 killie
 killie
 lyretail, Togo
 killie
 lyretail; steel-blue
 aphyosemion
 killie
 killie, Gery's
 killie, Guinean
 lyretail
 killie

SCIENTIFIC NAMECOMMON NAME

<u>Aphyosemion joergenscheeli</u>	killie
<u>Aphyosemion labarrei</u>	killie, Labarre's
<u>Aphyosemion liberiense</u>	killie, Liberian
<u>Aphyosemion marmoratum</u>	killifish, marbled
<u>Aphyosemion melanopteron</u>	killie
<u>Aphyosemion mirabile-traudeae</u>	killie, azure
<u>Aphyosemion ndianum</u>	killie, red-tail
<u>Aphyosemion occidentalis</u>	killie, golden pheasant
<u>Aphyosemion oeseri</u>	killie
<u>Aphyosemion petersi</u>	killie, yellow-eyed
<u>Aphyosemion seymouri</u>	killie, Seymour's
<u>Aphyosemion sjoestedti</u>	lyretail; blue gularis
<u>Aphyosemion splendopleuris</u>	lyretail
<u>Aphyosemion splendum</u>	killie
<u>Aphyosemion striatum</u>	killie, five-lined
<u>Aphyosemion walkeri</u>	killie, Walker's
<u>Aplocheilichthys flavipinnis</u>	lampeye, yellow-finned
<u>Aplocheilichthys katangae</u>	lampeye, katanga
<u>Aplocheilichthys loemensis</u>	lampeye, loeme
<u>Aplocheilichthys macrophthalmus</u>	lampeye, bigeye
<u>Aplocheilichthys meylburgi</u>	lampeye
<u>Aplocheilichthys myersi</u>	lampeye, Myer's
<u>Aplocheilichthys pumilus</u>	lampeye, Tanganyika
<u>Aplocheilichthys schoelleri</u>	lampeye, Egyptian
<u>Aplocheilichthys spilauchen</u>	lampeye, banded
<u>Aplocheilus blocki</u>	panchax, dwarf (green)
<u>Aplocheilus dayi</u>	panchax, Day's (Singhalese)
<u>Aplocheilus javanicus</u>	panchax
<u>Aplocheilus latipes</u>	panchax
<u>Aplocheilus lineatus</u>	panchax, lineatus (striped)
<u>Aplocheilus panchax</u>	panchax, blue
<u>Austrofundulus dolichopterus</u>	killie, sicklefin (saberfin)
<u>Austrofundulus myersi</u>	killie, Myer's
<u>Austrofundulus transilis</u>	killifish, Venezuelan
<u>Chriopeodes pengelleyi</u>	pupfish, Jamaican
<u>Chriopeops goodei</u>	killifish, bluefin
<u>Cubanichthys cubensis</u>	minnow, Cuban
<u>Cynolebias boitonei</u>	lyretail, Brazilian
<u>Cynolebias adloffii</u>	pearl fish, banded
<u>Cynolebias alexandri</u>	pearl fish, entre rios
<u>Cynolebias antenori</u>	pearl fish, red-finned
<u>Cynolebias bellottii</u>	pearl fish, Argentine
<u>Cynolebias brucei</u>	gaucho, Turner's
<u>Cynolebias constanciae</u>	pearlfish, featherfin

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SCIENTIFIC NAMECOMMON NAME

<u>Cynolebias dolichopterus</u>	killie, sicklefin
<u>Cynolebias ladigesi</u>	gaucho, ladiges
<u>Cynolebias melanotaenia</u>	gaucho, fighting
<u>Cynolebias minimus</u>	gaucho, Myer's
<u>Cynolebias nigripinnis</u>	pearl fish, black-finned
<u>Cynolebias viarius</u>	pearl fish, blue
<u>Cynolebias whitei</u>	pearl fish, White's
<u>Cynolebias wolterstorffi</u>	pearl fish, Wolterstorff's
<u>Cyprinodon macularis</u>	pupfish, desert
<u>Cyprinodon nevadensis</u>	pupfish, amargosa
<u>Epiplatys annulatus</u>	killie, clown
<u>Epiplatys barmoiensis</u>	panchax
<u>Epiplatys bifasciatus</u>	panchax
<u>Epiplatys chaperi chaperi</u>	panchax, Chaper's
<u>Epiplatys chaperi sheljuzhko</u>	panchax, Sheljuzhko's
<u>Epiplatys chevalieri</u>	panchax, Chevalier's
<u>Epiplatys dageti</u>	panchax, red-chinned
<u>Epiplatys dageti monroviae</u>	killie, Arnold's
<u>Epiplatys fasciatus</u>	epiplatys, banded
<u>Epiplatys fasciolatus</u>	panchax, striped
<u>Epiplatys grahami</u>	panchax, Graham's
<u>Epiplatys huberi</u>	killifish, Huber's
<u>Epiplatys lamottei</u>	panchax
<u>Epiplatys longiventralis</u>	panchax, banded
<u>Epiplatys macrostigma</u>	panchax, spotted
<u>Epiplatys multifasciatus</u>	panchax
<u>Epiplatys nigricans</u>	epiplatys, black-edged
<u>Epiplatys sexfasciatus</u>	panchax, six-banded
<u>Epiplatys singa</u>	panchax
<u>Epiplatys spilargyreus</u>	panchax
<u>Fundulus chrysotus</u>	minnow, golden ear (top)
<u>Fundulus cingulatus</u>	minnow, banded top
<u>Fundulus heteroclitus</u>	killie, zebra; mummichog
<u>Fundulus notatus</u>	killifish, blackstripe
<u>Fundulus notti</u>	minnow, star-head (masked)
<u>Garmanella pulchra</u>	pupfish, Yucatan
<u>Hylopanchax stictopleuron</u>	livebearer
<u>Hypsopanchax catenatus</u>	livebearer
<u>Hypsopanchax platysternus</u>	livebearer
<u>Jordanella floridae</u>	flagfish, American
<u>Lamprichthys tanganicus</u>	killie, Tanganyika pearl
<u>Leptolucania ommata</u>	killifish, swamp pygmy
<u>Lucania goodei</u>	killifish, bluefin
<u>Nothobranchius</u> (all species in genus)	killifish
<u>Oryzias celebensis</u>	medaka, celebes
<u>Oryzias javanicus</u>	rice fish, Javanese

SCIENTIFIC NAMECOMMON NAME

<u>Oryzias latipes</u>	medaka
<u>homalonotus</u>	panchax, green
<u>Pachypanchax playfairi</u>	panchax, Playfair's
<u>Plataplochilus loemensis</u>	livebearer
<u>Plataplochilus miltotaenia</u>	livebearer
<u>Plataplochilus ngaensis</u>	livebearer
<u>Procatopus aberrans</u>	lampeye, green
<u>Procatopus nototaenia</u>	killie, blue lady
<u>Pseudoxiphophorus bimaculatus</u>	swordtail, false
<u>Pterolebias longipinnis</u>	longfin, common
<u>Pterolebias peruensis</u>	longfin, Peruvian
<u>Pterolebias wischmann</u>	pterolebias, Wischmann's
<u>Pterolebias zonatus</u>	killie, lace-fin (banded longfin)
<u>Rivulus agilae</u>	rivulus, agila
<u>Rivulus amphoreus</u>	rivulus, guianas
<u>Rivulus atratus</u>	rivulus, butterfly
<u>Rivulus beniensis</u>	rivulus, reticulated
<u>Rivulus compressus</u>	rivulus, blue
<u>Rivulus cylindraceus</u>	rivulus, Cuban
<u>Rivulus harti</u>	rivulus, Hart's (giant)
<u>Rivulus holmiae</u>	rivulus, golden trail
<u>Rivulus isthmensis</u>	rivulus
<u>Rivulus limoncochae</u>	rivulus, Rio Napo
<u>Rivulus magdalenae</u>	rivulus, magdalena (bar-tailed)
<u>Rivulus milesi</u>	rivulus, yellowtail
<u>Rivulus ocellatus</u>	rivulus
<u>Rivulus ornatus</u>	rivulus, red-flecked
<u>Rivulus peruanus</u>	rivulus, perimparoo
<u>Rivulus punctatus</u>	rivulus, spotted
<u>Rivulus roloffii</u>	rivulus, Roloff's
<u>Rivulus santensis</u>	rivulus, Santos
<u>Rivulus strigatus</u>	rivulus
<u>Rivulus urophthalmus</u>	rivulus, golden
<u>Rivulus xanthonotus</u>	rivulus
<u>Rivulus xiphidius</u>	rivulus, band-tailed
<u>Roloffia bertholdi</u>	panchax
<u>Roloffia chaytori</u>	killie, Chaytor's
<u>Roloffia geryi</u>	panchax
<u>Roloffia liberiensis</u>	panchax, blue lyretail
<u>Roloffia monroviae</u>	panchax
<u>Roloffia occidentalis</u>	pheasant, golden
<u>Roloffia petersi</u>	panchax, Peter's
<u>Roloffia roloffii</u>	panchax
<u>Roloffia toddi</u>	panchax
<u>Trigonectes balzanii</u>	rivulichthys

CONDITIONAL ANIMAL LIST

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SCIENTIFIC NAME

COMMON NAME

Trigonectes strigabundus

panchax, Brazilian false

FAMILY Goodeidae

Chapalichthys paradalis

goodeid polka-dot

Characodon lateralis

goodeid, rainbow

Goodea atripinnis

goodea, black-fin

Neotoca bilineata

neotoca, two-lined

Skiffia bilineata

goodeid

Xenotoca eiseni

goodeid, red-tailed

Zoogoneticus quitzeoensis

goodeid, picotee

FAMILY Hemirhamphidae

Dermogenys pusillus

halfbeak, Malayan

Nomorhamphus celebensis

halfbeak, celebes

FAMILY Melanotaeniidae

Melanotaeniidae (all species
in family)

rainbowfish

FAMILY Poeciliidae

Alfaro cultratus

livebearer, knife

Brachyrhaphis episcopi

bishop

Brachyrhaphis terrabensis

livebearer, upland

Gambusia affinis

mosquito fish

Gambusia affinis holbrooki

gambusia, Holbrook's

Gambusia puncticulata

gambusia, blue

Girardinus metallicus

girardinus, the

Glaridichthys talcatus

yellow belly

Heterandria bimaculatus

swordtail, false

Heterandria formosa

mosquito fish (killifish,
least)

Lebistes reticulata

guppy

Limia tricolor

limia

Limia caudofasciata

limia, blue

Limia negrofasciatus

limia, ornate

Limia vittata

limia, banded

Micropoecilia branneri

livebearer, Branner's

Mollienisia caucana

molly, cauca

Mollienisia formosa

molly

Mollienisia latipinna

molly, sailfin

Mollienisia latipunctata

molly Mollienisia

sphenops

molly, sphenops

Mollienisia velifera

molly, Yucatan (sailfish)

Phallichthys amates

merry widow

Phallichthys isthmensis

tooth-carp

Phalloceros caudomaculatus

caudo

Platypoecilus maculatus

moonfish, platy

SCIENTIFIC NAMECOMMON NAME

<u>Platypoecilus variatus</u>	variatus
<u>Poecilia caucana</u>	molly, cauca
<u>Poecilia caudofasciata</u>	poecilia, blue
<u>Poecilia heterandria</u>	limia, dwarf
<u>Poecilia latipinna</u>	molly, sailfin
<u>Poecilia melanogaster</u>	limia, blue (black-bellied)
<u>Poecilia mexicana</u>	molly, Mexican shortfin
<u>Poecilia nigrofasciata</u>	limia, humpbacked
<u>Poecilia ornata</u>	limia, ornate
<u>Poecilia parae</u>	livebearer, two-spot
<u>Poecilia petensis</u>	molly, spiketail
<u>Poecilia reticulata</u>	guppy
<u>Poecilia sphenops</u>	molly, sphenops
<u>Poecilia velifera</u>	molly, Yucatan sailfish
<u>Poecilia vittata</u>	limia, banded
<u>Poecilia vivipara</u>	livebearer, one-spot
<u>Poeciliopsis gracilis</u>	livebearer, porthole
<u>Poecilistes pleurospilus</u>	livebearer, porthole
<u>Priapella intermedia</u>	livebearer, blue-eyed
<u>Quintana atrizona</u>	livebearer, black-bared
<u>Xiphophorus clemenciae</u>	swordtail, yellow
<u>Xiphophorus couchianus</u>	platy, Monterey
<u>Xiphophorus evelynae</u>	platy, puebla
<u>Xiphophorus helleri</u>	swordtail
<u>Xiphophorus maculatus</u>	platy, moonfish
<u>Xiphophorus montezumae</u>	swordtail, Mexican
<u>Xiphophorus pygmaeus</u>	swordtail, pygmy
<u>Xiphophorus variatus</u>	platy, sunset (variatus)
<u>Xiphophorus xiphidium</u>	platy, spiked-tailed
FAMILY Pseudomugilidae	
Pseudomugilidae (all species in family)	rainbowfish
ORDER Beryciformes	
FAMILY Anomalopidae	
Anomalopidae (all species in family)	lanterneye fish
FAMILY Holocentridae	
Holocentridae (all species in family)	squirrelfish
FAMILY Monocentrididae	
Monocentrididae (all species in family)	pinecone fish

SCIENTIFIC NAMECOMMON NAME

ORDER Clupeiformes

FAMILY Clupeidae

Harengula clueola

pilchard, flase

Harengula humeralis

sardine, reदार

FAMILY Engraulididae

Anchoa lyolepsis

anchovy, dusky

ORDER Cypriniformes

FAMILY Alestidae

Lepidarchus adonis

adonis

FAMILY Anostomidae

Anostomus anostomus

headstander, striped

Anostomus faciatus

anostomus

Anostomus garmani

anostomus, gray-lined

Anostomus gracilis

anostomus, four-spot

Anostomus plicatus

anostomus, black

Anostomus proximus

anostomid banded

Anostomus taeniatus

headstander, lisa

Anostomus ternetzi

anostomus

Anostomus trimaculatus

headstander, three-spot

Leporinus agassizi

leporinus, half-striped

Leporinus arcus

leporinus, lipstick

Leporinus fasciatus

leporinus, banded

Leporinus frederici

leporinus, Frederick's

Leporinus jamesi

leporinus, James's

Leporinus maculatus

leporinus, spotted

Leporinus melanopleura

leporinus, spot-tailed

Leporinus multifasciatus

leporinus, multi-banded

Leporinus nigrotaeniata

leporinus

Leporinus octofasciatus

leporinus, eight-banded

Leporinus pearsoni

leporinus, Pearson's

Leporinus pellegrini

leporinus, pellegrini

Leporinus striatus

leporinus, striped

Prochilodus insignis

prochilodus

Prochilodus nigricans

small-mouth, spotted

Prochilodus ortonianus

prochilodus, gray

Prochilodus taeniurus

prochilodus, silver

Prochilodus theraponura

flag tail

FAMILY Catostomidae

Erimyzon sucetta

chubsucker, lake

Myxocyprinus asiaticus

suckers, Asian

SCIENTIFIC NAMECOMMON NAME

FAMILY Characidae

<u>Acuticurimata macrops</u>	characin, hooked-nosed
<u>Alestes chaperi</u>	characin, Chaper's
<u>Alestes longipinnis</u>	tetra, long-finned African
<u>Alestes nurse</u>	tetra, nurse
<u>Alestes taeniurus</u>	characin (tetra, African)
<u>Alestopetersius caudalus</u>	characin, yellow-tailed African
<u>Anoptichthys jordani</u>	cavefish, blind
<u>Aphyocharax alburnus</u>	aphyocharax, golden-crowned
<u>Aphyocharax anisitsi</u>	tetra, bloodfin
<u>Aphyocharax axelrodi</u>	pristella, red
<u>Aphyocharax dentatus</u>	bloodfin, false
<u>Aphyocharax erythrurus</u>	tetra, flame-tail
<u>Aphyocharax gracilis</u>	tetra
<u>Aphyocharax megalamphodus</u>	tetra, calypso
<u>Aphyocharax nattereri</u>	tetra
<u>Aphyocharax paraguayensis</u>	tetra, Rio Paraguay
<u>Aphyocharax pusillus</u>	tetra
<u>Aphyocharax rathbuni</u>	bloodfin, Rathburn's
<u>Aphyocharax rubripinnis</u>	bloodfin
<u>Arnoldichthys spilopterus</u>	characin, Arnold's (red-eye)
<u>Asiphonichthys condei</u>	tetra, glass
<u>Asiphonichthys unifasciatus</u>	tetra, transparent
<u>Astyanax bimaculatus</u>	astyanax, two-spotted
<u>Astyanax daguae</u>	astyanax, plain-tailed
<u>Astyanax fasciatus</u>	astyanax, banded (tetra)
<u>Astyanax fasciatus mexicanus</u>	tetra, blind cave
<u>Astyanax gymnogonys</u>	astyanax, one-spot
<u>Astyanax kennedyi</u>	astyanax, Kennedy's
<u>Astyanax mexicanus</u>	astynax
<u>Astyanax mutator</u>	astynax; punkay
<u>Astyanax poetzschkei</u>	astynax
<u>Astyanax ruberrimus</u>	astynax
<u>Astyanax zonatus</u>	astyanax, false Kennedy
<u>Axelrodia lindeae</u>	tetra, lindy
<u>Axelrodia riesei</u>	tetra, ruby
<u>Bario steindachneri</u>	bario, blotch-tailed
<u>Bathethiops fowleri</u>	moonfish, African <u>Boehlkea</u>
<u>fredcochui</u>	tetra, Cochu's blue
<u>Brycinus chaperi</u>	characin, Chaper's (green)
<u>Brycinus longipinnis</u>	tetra, long-fin African
<u>Brycinus nurse</u>	tetra, nurse
<u>Brycinus taeniurus</u>	tetra, narrow-lined African

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SCIENTIFIC NAMECOMMON NAME

<u>Bryconamericus loisae</u>	piaco peixe <u>Bryconops</u>
<u>caudomaculatus</u>	tetra, red cross
<u>Bryconops melanurus</u>	anchovy, jumping
<u>Chalceus macrolepidotus</u>	chalceus, pink-tailed
<u>Chalcinus elongatus</u>	hatchetfish, elongated
<u>Characidium fasciatum</u>	characidium, banded
<u>Characidium rachovi</u>	characidium
<u>Charax gibbosus</u>	headstander, glass
<u>Cheirodon arnoldi</u>	tetra
<u>Cheirodon axelrodi</u>	tetra, cardinal
<u>Cheirodon innesi</u>	tetra, neon
<u>Cheirodon insignis</u>	tetra, insignificant
<u>Cheirodon kriegi</u>	tetra, three-spot
<u>Cheirodon leuciscus</u>	tetra
<u>Cheirodon meinkeni</u>	tetra
<u>Cheirodon piaba</u>	tetra
<u>Chilodus punctatus</u>	headstander, spotted
<u>Coelurichthys microlepis</u>	tetra, croaking
<u>Coelurichthys tenuis</u>	tetra, tenius
<u>Colossoma bidens</u>	pacu, red-bellied
<u>Colossoma brachypomum</u>	pacu, black
<u>Colossoma oculus</u>	pacu, red-finned
<u>Copeina arnoldi</u>	tetra, splashing
<u>Copeina callolepis</u>	copeina, spotted
<u>Copeina guttata</u>	copeina, red-spotted
<u>Copella arnoldi</u>	characin, jumping (splash)
<u>Copella eigenmanni</u>	copella, Eigenmann's
<u>Copella metae</u>	pyrrhulina, black-banded
<u>Copella nattereri</u>	copella, spotted
<u>Copella vilmae</u>	copella, rainbow
<u>Corynopoma riisei</u>	characin, swordtailed
<u>Creagrutus beni</u>	tetra, benny
<u>Creagrutus cochui</u>	tetra, cochui
<u>Creatochanes caudomaculatus</u>	tetra, tail-spot
<u>Crenuchus spilurus</u>	tetra, sailfin
<u>Ctenobrycon spilurus</u>	tetra, silver
<u>Distichodus affinis</u>	distichodus, silver
<u>Distichodus altus</u>	moonfish
<u>Distichodus antonni</u>	moonfish
<u>Distichodus fasciolatus</u>	distichodus, shark-tailed
<u>Distichodus lusosso</u>	distichodus, long-nosed
<u>Distichodus noboli</u>	distichodus, nobol
<u>Distichodus notospilus</u>	distichodus red-finned
<u>Distichodus rostratus</u>	moonfish
<u>Distichodus sexfasciatus</u>	distichodus, six-barred
<u>Exodon paradoxus</u>	tetra, bucktooth
<u>Gephyrocharax atracaudatus</u>	silvertail

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Gephyrocharax caucanus</u>	tetra, arrowhead
<u>Glandulocauda inequalis</u>	tetra, croaking
<u>Gymnocorymbus ternetzi</u>	tetra, black
<u>Gymnocorymbus thayeri</u>	tetra, straight-fin black
<u>Hasemanian marginata</u>	tetra
<u>Hasemanian nana</u>	tetra, silver-tipped
<u>Hemigrammopetersius caudalis</u>	tetra, yellow-tailed Congo
<u>Hemigrammopetersius intermedius</u>	tetra, short-finned Congo
<u>Hemigrammopetersius rhodesiensis</u>	tetra, Rhodesian
<u>Hemigrammus armstrongi</u>	tetra, gold
<u>Hemigrammus barrigone</u>	tetra, Henn's meta pink
<u>Hemigrammus bellottii</u>	tetra, dash-dot
<u>Hemigrammus boesemani</u>	tetra, Boeseman's
<u>Hemigrammus caudovittatus</u>	tetra, Buenos Aires
<u>Hemigrammus coeruleus</u>	tetra, coerulean
<u>Hemigrammus erythrozonus</u>	tetra, glowlight
<u>Hemigrammus gracilis</u>	tetra, glowlight
<u>Hemigrammus hyanuaryi</u>	tetra, January
<u>Hemigrammus levis</u>	tetra, golden neon
<u>Hemigrammus marginatus</u>	tetra, bassam
<u>Hemigrammus mattei</u>	tetra, slender head and tail light <u>Hemigrammus</u>
<u>nanus</u>	tetra, silver tip
<u>Hemigrammus ocellifer</u>	tetra, head and tail light
<u>Hemigrammus proneki</u>	tetra, Pronek's
<u>Hemigrammus pulcher</u>	tetra, garnet
<u>Hemigrammus rhodostomus</u>	tetra, rummy nose
<u>Hemigrammus rodwayi</u>	tetra, gold
<u>Hemigrammus schmardae</u>	tetra, Schmard
<u>Hemigrammus stictus</u>	tetra
<u>Hemigrammus ulreyi</u>	tetra, ulreyi
<u>Hemigrammus unilineatus</u>	tetra, featherfin
<u>Hemigrammus vorderwinkleri</u>	tetra, Vorderwinkler's
<u>Holobrycon pesu</u>	tetra, mourning
<u>Hyphessobrycon agulha</u>	tetra, red-tail flag
<u>Hyphessobrycon bellotti</u>	tetra, dash-dot
<u>Hyphessobrycon bentosi</u>	tetra, rosy
<u>Hyphessobrycon bifasciatus</u>	tetra, yellow
<u>Hyphessobrycon callistus</u>	tetra, callistus
<u>Hyphessobrycon copelandi</u>	tetra, callistus
<u>Hyphessobrycon eos</u>	tetra, dawn
<u>Hyphessobrycon erythrostigma</u>	tetra, bleeding heart (Perez)
<u>Hyphessobrycon flammeus</u>	tetra, flame (red) (rio)
<u>Hyphessobrycon georgettae</u>	tetra, Georgette's
<u>Hyphessobrycon griemi</u>	tetra, Griem's
<u>Hyphessobrycon haraldschultzi</u>	tetra, Harald Schultz's

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Hyphessobrycon herbertaxelrodi</u>	tetra, black neon
<u>Hyphessobrycon heterorhabdus</u>	tetra, flag; false ulrey
<u>Hyphessobrycon innesi</u>	tetra, neon
<u>Hyphessobrycon loretoensis</u>	tetra, loreto
<u>Hyphessobrycon luetkeni</u>	tetra, Lutken's
<u>Hyphessobrycon metae</u>	tetra, purple
<u>Hyphessobrycon minimus</u>	tetra, false gold
<u>Hyphessobrycon minor</u>	tetra
<u>Hyphessobrycon ornatus</u>	tetra, ornate
<u>Hyphessobrycon peruvianus</u>	tetra, loreto
<u>Hyphessobrycon pulchripinnis</u>	tetra, lemon
<u>Hyphessobrycon roberti</u>	tetra
<u>Hyphessobrycon rosaceus</u>	tetra, rosy
<u>Hyphessobrycon rubrostigma</u>	tetra, bleeding heart
<u>Hyphessobrycon saizi</u>	tetra, Saiz's
<u>Hyphessobrycon scholzei</u>	tetra, black-lined
<u>Hyphessobrycon serpae</u>	tetra, Harald Schultz's
<u>hyphessobrycon haraldsschultzi</u>	
<u>Hyphessobrycon serpae serpae</u>	tetra, serpae
<u>Hyphessobrycon simulans</u>	neon, Schwartz's
<u>Hyphessobrycon socolofi</u>	lesser bleeding heart
<u>Hyphessobrycon stegemanni</u>	tetra, savannah
<u>Hyphessobrycon takasei</u>	tetra, coffee bean
<u>Hyphessobrycon vilmae</u>	tetra, vilma's
<u>Iguanodectes spilurus</u>	tetra, slender
<u>Iguanodectes tennuis</u>	tetra, slender
<u>Inpaichthys kerri</u>	blue emperor
<u>Ladigesia roloffii</u>	tetra, jelly bean
<u>Megalamphodus "Rubra"</u>	megalamphodus, reed
<u>Megalamphodus axelrodi</u>	pristella, red
<u>Megalamphodus axelrodi</u>	tetra, calypso
<u>Megalamphodus megalopterus</u>	tetra, black phantom
<u>Megalamphodus sweglesi</u>	tetra, Swegle's
<u>Metynnis anisurus</u>	silver dollar
<u>Metynnis argenteus</u>	metynnis, silver
<u>Metynnis calichromis</u>	silver dollar
<u>Metynnis dungerni</u>	silver dollar
<u>Metynnis heinrothi</u>	silver dollar
<u>Metynnis hypsauchen</u>	metynnis, plain
<u>Metynnis luna</u>	metynnis, moon
<u>Metynnis maculatus</u>	metynnis, spotted
<u>Metynnis schreitmulleri</u>	silver dollar
<u>Micralestes acutidens</u>	tetra, sharp-toothed
<u>Micralestes interruptus</u>	tetra, Congo
<u>Microbrycon fredcochui</u>	tetra, Cochu's blue
<u>Mimagoniates inequalis</u>	tetra, croaking
<u>Mimagoniates microlepis</u>	tetra, blue

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Moenkhausia agnesea</u>	tetra, Agnes
<u>Moenkhausia colletti</u>	tetra
<u>Moenkhausia dichrourea</u>	moenkhausia, spot-tailed
<u>Moenkhausia goergiae</u>	tetra
<u>Moenkhausia gracilima</u>	moenkhausia, graceful
<u>Moenkhausia intermedia</u>	tetra
<u>Moenkhausia lepidura</u>	tetra
<u>Moenkhausia oligolepis</u>	tetra, glass
<u>Moenkhausia pittieri</u>	tetra, diamond
<u>Moenkhausia robertsi</u>	tetra
<u>Moenkhausia sanctaefilomenae</u>	moenkhausia, yellow banded
<u>Moenkhausia takasae</u>	tetra
<u>Myleus micans</u>	dollar, golden
<u>Myleus pacu</u>	myleus, brown
<u>Myleus rubripinnis</u>	myleus, redhook
<u>Myleus schomburgki</u>	myleus, black-barred
<u>Myleus ternetzi</u>	myleus
<u>Myloplus asterias</u>	myloplus, starry
<u>Myloplus schultzei</u>	myloplus, Schultz's
<u>Mylossoma aganthogaster</u>	mylossoma
<u>Mylossoma argenteum</u>	mylossoma, silver
<u>Mylossoma aureum</u>	silver dollar
<u>Mylossoma diriventre</u>	characin, hard-bellied
<u>Nannaethiops tritaeniatus</u>	tetra, three-lined African
<u>Nannaethiops unitaeniatus</u>	tetra, African
<u>Nematobrycon amphioxus</u>	tetra, rainbow
<u>Nematobrycon gery</u>	tetra
<u>Nematobrycon lacortei</u>	tetra, rainbow
<u>Nematobrycon palmeri</u>	tetra, emperor
<u>Paracheirodon innesi</u>	tetra, neon
<u>Paracheirodon simulans</u>	tetra, false neon
<u>Paradon affinis</u>	tetra, Paraguay darter
<u>Paradon caliensis</u>	tetra, barred darter
<u>Paradon piracicabae</u>	tetra, Brazilian darter
<u>Paradon pongoense</u>	pongo pongo
<u>Pedalibrycon felipponei</u>	characin, Uruguay
<u>Petersius caudalis</u>	characin, yellow Congo
<u>Petitella georgiae</u>	nose, false rummy
<u>Phenacogaster bectinatus</u>	pectinatus
<u>Phenacogaster pectinatus</u>	tetra, glass
<u>Phenacogrammus aurantiacus</u>	tetra, gold Congo
<u>Phenacogrammus caudomaculatus</u>	tetra, African moon
<u>Phenacogrammus deheynei</u>	tetra, Deheynei's Congo
<u>Phenacogrammus interruptus</u>	tetra, Congo
<u>Phoxinopsis typicus</u>	tetra
<u>Piabucas dentatus</u>	tetra, golden-striped slender

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Poptella orbicularis</u>	tetra, disk
<u>Prionobrama filigera</u>	bloodfin, glass
<u>Prionobrama paraguayensis</u>	bloodfin, southern
<u>Pristella maxillaris</u>	pristella
<u>Pristella riddlei</u>	pristella (goldfinch, water)
<u>Pseudochalceus kyburzi</u>	tetra, kyburz
<u>Pseudocorynopoma doriae</u>	tetra, dragonfin
<u>Pseudocorynopoma riisei</u>	characin, swordtail
<u>Pyrrhulina beni</u>	pyrrhulina
<u>Pyrrhulina brevis</u>	pyrrhulina, short-lined
<u>Pyrrhulina filamentosa</u>	pyrrhulina
<u>Pyrrhulina laeta</u>	pyrrhulina
<u>Pyrrhulina natteri</u>	pyrrhulina, Natter's
<u>Pyrrhulina nigrofasciata</u>	pyrrhulina, black-banded
<u>Pyrrhulina rachoviana</u>	pyrrhulina, Rachow's
<u>Pyrrhulina spilota</u>	pyrrhulina, blotched
<u>Pyrrhulina vittata</u>	pyrrhulina, banded
<u>Rachoviscus crassiceps</u>	tetra, golden
<u>Roeboides guatemalensis</u>	headstander, Guatemalan
<u>Stethaprion erythropros</u>	silver dollar, bumpy-back
<u>Stethaprion innesi</u>	characin
<u>Stewardia riisei</u>	characin, swordtail
<u>Stichonodon insignis</u>	tefe gymnocorymbus
<u>Tetragonopterus argenteus</u>	tetra, silver
<u>Tetragonopterus chalceus</u>	tetra, false silver
<u>Thayeria boehlkei</u>	penguin, Bohlke's
<u>Thayeria ifati</u>	penguin
<u>Thayeria obliqua</u>	penguin, short-striped
<u>Thayeria sanctae-marieae</u>	tetra, penguin
<u>Triporthesus angulatus</u>	hatchetfish, narrow
<u>Tytttocharax madeirae</u>	tetra, bristle mouthed
FAMILY Citharinidae	
<u>Neolebias ansorgei</u>	neolebias, Ansorge's
<u>Neolebias landgrafi</u>	neolebias, blue-banded
<u>Neolebias trewavasae</u>	neolebias, Trewavas's
<u>Neolebias trilineatus</u>	neolebias, three-lines
<u>Neolebias unifasciatus</u>	tetra, one-lined African
FAMILY Cobitididae	
<u>Acanthopthalmus cuneovirgatus</u>	loach
<u>Acanthopthalmus javanicus</u>	loach, Javanese
<u>Acanthopthalmus kuhli</u>	loach, codie; eel, leopard
<u>Acanthopthalmus myersi</u>	loach, slimy
<u>Acanthopthalmus robiginosus</u>	loach

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<u>Acanthopthalmus semicinctus</u>	loach, half-banded
<u>Acanthopthalmus shelfordi</u>	loach, Shelford's
<u>Acanthopsis choirorhynchus</u>	loach, longnose
<u>Botia beauforti</u>	loach, Beaufort's
<u>Botia berdmorei</u>	loach, Berdmore's
<u>Botia dario</u>	loach, dario
<u>Botia horae</u>	loach, Hora's
<u>Botia hymenophysa</u>	loach, banded
<u>Botia lecontei</u>	loach, Leconte's
<u>Botia lohachata</u>	loach, Pakistani
<u>Botia lucas-bahi</u>	loach, barred
<u>Botia macracantha</u>	loach, clown
<u>Botia modesta</u>	loach, orange-fin
<u>Botia morletii</u>	loach
<u>Botia sidthimunki</u>	loach, dwarf
<u>Botia striata</u>	loach, cross-banded (zebra)
<u>Cobitis taenia</u>	weatherfish, spined loach
<u>Lepidocephalus guntea</u>	loach, barbeled
<u>Lepidocephalus thermalis</u>	loach, lesser
<u>Misgurnus anguillicaudatus</u>	weatherfish
<u>Neomacheilus botia</u>	plecostomus, Hong Kong
<u>Neomacheilus fasciatus</u>	loach, barred
<u>Neomacheilus notostigma</u>	loach, fighting
<u>Neomacheilus kuiperi</u>	loach, fighting
FAMILY Curimatidae	
<u>Curimata lineopunctata</u>	curimata, spotted
<u>Curimata microcephala</u>	curimata
<u>Curimata spilura</u>	curimata, diamond-spot
<u>Semaprochilodus squamilentus</u>	prochilodus, sailfinned
<u>Semaprochilodus taeniurus</u>	prochilodus, silver
<u>Semaprochilodus theraponura</u>	prochilodus, flag-tailed
FAMILY Cyprinidae	
<u>Abramis brama</u>	bream
<u>Alburnoides bipunctatus</u>	tailor
<u>Aphyocypris pooni</u>	fish, venus
<u>Balantiocheilos melanopterus</u>	shark, bala
<u>Barbichthys laevis</u>	barb, sucker
<u>Barbodes binotatus</u>	barb, spotted
<u>Barbodes callipterus</u>	barb, clipper
<u>Barbodes camptacanthus</u>	barb, African red-finned

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Barbodes daruphani</u>	barb, pale
<u>Barbodes dorsimaculatus</u>	barb, black-line
<u>Barbodes dunckeri</u>	barb, big-spot (Duncker's)
<u>Barbodes eutaenia</u>	barb, African red-fin
<u>Barbodes everetti</u>	barb, clown
<u>Barbodes fasciatus</u>	barb, striped
<u>Barbodes fasciolatus</u>	barb, African banded
<u>Barbodes hexazona</u>	barb, belted (six-banded)
<u>Barbodes holotaenia</u>	barb, spot-scale
<u>Barbodes kerstenii</u>	barb, Kersten's <u>Barbodes</u>
<u>lateristriga</u>	barb, t-barb (spanner)
<u>Barbodes pentazona</u>	barb, banded (five-banded)
<u>Barbodes pinnauratus</u>	barb, gold-finned
<u>Barbodes schwanenfeldi</u>	barb, tinfoil
<u>Barbodes unitaeniatus</u>	barb, Indian strip
<u>Barbodes usambarae</u>	barb, peppered
<u>Barbodes viviparus</u>	barb, viviparous
<u>Barbus arulius</u>	barb, longfin
<u>Barbus bariloides</u>	minnow, orange-fin
<u>Barbus binotatus</u>	barb, spotted
<u>Barbus chola</u>	barb, swamp
<u>Barbus conchonius</u>	barb, rose
<u>Barbus cummingi</u>	barb, Cumming's
<u>Barbus dunckeri</u>	barb, Duncker's
<u>Barbus everetti</u>	barb, clown
<u>Barbus fasciatus</u>	barb, stripped
<u>Barbus filamentosus</u>	barb, filament
<u>Barbus gelius</u>	barb, golden dwarf
<u>Barbus holotaenia</u>	barb, African spot-scale
<u>Barbus hulstaerti</u>	barb, butterfly
<u>Barbus hulsteri</u>	barb
<u>Barbus jae</u>	barb
<u>Barbus lateristriga</u>	barb, spanner spanner
<u>Barbus lineatus</u>	barb, striped
<u>Barbus multilineatus</u>	barb, African red-finned
<u>Barbus nigrofaciatus</u>	barb, black-ruby
<u>Barbus oligolepsis</u>	barb, checker
<u>Barbus partipentazona</u>	barb
<u>Barbus pentazona</u>	barb, five-banded (tiger)
<u>Barbus phutunio</u>	barb, dwarf
<u>Barbus schuberti</u>	barb, golden (Schubert's)
<u>Barbus semifasciolatus</u>	barb, half-striped
<u>Barbus stigma</u>	barb
<u>Barbus stoliczkanus</u>	barb, Stoliczka's
<u>Barbus terio</u>	barb, one-spot
<u>Barbus tetrazona</u>	barb, tiger
<u>Barbus ticto</u>	barb, ticto
<u>Barbus titteya</u>	barb, cherry

CONDITIONAL ANIMAL LIST

S4-71-6.5

SCIENTIFIC NAMECOMMON NAME

<u>Barbus vittatus</u>	barb, banded
<u>Barilius christyi</u>	minnow, copper-nose
<u>Brachydanio albolineatus</u>	danio, pearl
<u>Brachydanio frankei</u>	danio, leopard
<u>Brachydanio kerri</u>	danio, Kerr's
<u>Brachydanio nigrofasciatus</u>	danio, spotted
<u>Brachydanio rerio</u>	danio, zebra striped
<u>Calcobarbus geertsi</u>	geertsi, blind African
<u>Capoeta arulius</u>	barb, longfin
<u>Capoeta binotatus</u>	barb, false two-spot
<u>Capoeta chola</u>	barb, swamp
<u>Capoeta hulstaerti</u>	barb, butterfly
<u>Capoeta melanampyx</u>	barb, ember
<u>Capoeta oligolepis</u>	barb, checker
<u>Capoeta partipentazona</u>	barb, banded
<u>Capoeta puckelli</u>	barb, two-spot African
<u>Capoeta semifasciolatus</u>	barb, half-striped
<u>Capoeta tetrazona</u>	barb, Sumatra tiger
<u>Capoeta titteya</u>	barb, cherry
<u>Carassius auratus</u>	barb, goldfish
<u>Carassius auratus gibelio</u>	carp, gibel (koi)
<u>Carassius carassius</u>	carp, crucian (koi)
<u>Chela laubuca</u>	barb, Indian glass
<u>Crossocheilus oblongus</u>	flying fox, short-nosed
<u>Cyclocheilichthys apogon</u>	barb, skin-head
<u>Cyprinus carpio</u>	carp; koi
<u>Danio aequipinnatus</u>	danio, giant
<u>Danio devario</u>	danio, bengal
<u>Danio malabaricus</u>	danio, giant
<u>Eirmotus octozona</u>	barb, false
<u>Epalzeorhynchus kalopterus</u>	flying fox
<u>Epalzeorhynchus siamensis</u>	flying fox, Siamese
<u>Esomus danricus</u>	barb, flying
<u>Esomus malayensis</u>	barb, Malayan flying
<u>Garra taeniata</u>	stone-lapping fish, Siamese
<u>Gyrinocheilus aymonieri</u>	algae eater, Chinese
<u>Hampala macrolepidota</u>	barb, silver and red
<u>Hemigrammocyppris lini</u>	minnow, garnet
<u>Horadandia atukorali</u>	minnow, midget green cardlet
<u>Labeo bicolor</u>	shark, red-tailed
<u>Labeo chrysphekadeon</u>	shark, black
<u>Labeo cylindricus</u>	shark, cylindricus
<u>Labeo erythrurus</u>	shark, rainbow
<u>Labeo forskalii</u>	shark, plain
<u>Labeo frenatus</u>	shark, rainbow

CONDITIONAL ANIMAL LIST

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SCIENTIFIC NAMECOMMON NAME

<u>Labeo munensis</u>	shark
<u>Labeo rubropunctatus</u>	shark, red-spotted
<u>Labeo variegatus</u>	shark, harlequin (variegated)
<u>Labiobarbus burmanicus</u>	shark, long-finned
<u>Labiobarbus festiva</u>	apollo shark, festive
<u>Labiobarbus festivus</u>	barb, signal
<u>Laubuca laubuca</u>	hatchetfish, Indian
<u>Laubuca dadiburjori</u>	dadio; orange chela
<u>Leuciscus idus</u>	ide
<u>Luciosoma bleekeri</u>	apollo shark, Bleeker's
<u>Luciosoma setigerum</u>	apollo shark, long-finned
<u>Luciosoma spilopleura</u>	apollo shark
<u>Morulius chrysophekadion</u>	shark, black
<u>Notropis atherinoides</u>	shiner, emerald
<u>Notropis cornutus</u>	shiner, common
<u>Notropis hypselopterus</u>	shiner, sailfin
<u>Notropis lutrensis</u>	minnow, red horse; shiner, red
<u>Notropis welaka</u>	shiner, bluenose
<u>Osteochilus hasselti</u>	barb, hard-lipped
<u>Osteochilus vittatus</u>	osteochilus, black-banded
<u>Oxygaster anomalura</u>	barb, knife
<u>Oxygaster oxygastroides</u>	barb, knife (glass)
<u>Paracrossocheilus vittatus</u>	flying fox, dusky
<u>Puntioplites proctotozysron</u>	barb, yellow-cheeked
<u>Puntius amphibiis</u>	barb, big-scale
<u>Puntius conchoniis</u>	barb, rosy
<u>Puntius dorsalis</u>	barb, wedge
<u>Puntius filamentosus</u>	barb, black-spot
<u>Puntius gelius</u>	barb, dwarf
<u>Puntius lineatus</u>	barb, striped
<u>Puntius narayani</u>	barb, Shri Lankan two-spot
<u>Puntius nigrofasciatus</u>	barb, black ruby
<u>Puntius pleurotaenia</u>	barb, triple-stripe
<u>Puntius sachsi</u>	barb, golden
<u>Puntius schuberti</u>	barb, golden
<u>Puntius somphongsi</u>	barb, Somphong's
<u>Puntius stigma</u>	barb, two-spot
<u>Puntius stoliczkai</u>	barb, Stoliczka's
<u>Puntius ticto</u>	barb, tic-tac-toe
<u>Puntius vittatus</u>	barb, banded
<u>Puntius woehlerti</u>	barb, sickle
<u>Rasbora agilis</u>	rasbora, black-striped
<u>Rasbora argyrotaenia</u>	rasbora, silver
<u>Rasbora bankanensis</u>	rasbora, banka
<u>Rasbora borapetensis</u>	rasbora, red-tailed

SCIENTIFIC NAMECOMMON NAME

<u>Rasbora caudimaculata</u>	rasbora, greater scissortail
<u>Rasbora cephalotaenia</u>	rasbora, portfole
<u>Rasbora daniconius</u>	rasbora, golden-stripe
<u>Rasbora dorsiocellata</u>	rasbora, hi-spot
<u>Rasbora dusonensis</u>	rasbora, yellowtail
<u>Rasbora einthoveni</u>	rasbora, brilliant
<u>Rasbora elegans</u>	rasbora, elegant; rasbora,
<u>Rasbora hengeli</u>	two-spot
<u>Rasbora heteromorpha</u>	rasbora, harlequin
<u>Rasbora kalochroma</u>	rasbora, big-spot
<u>Rasbora lateristrata elegans</u>	rasbora
<u>Rasbora lateristrata</u>	rasbora, lateristrata
<u>Rasbora leptosoma</u>	rasbora, copper-striped
<u>Rasbora maculata</u>	rasbora, spotted (dwarf)
<u>Rasbora meinkeni</u>	rasbora, Meinken's
<u>Rasbora myersi</u>	rasbora, Myer's
<u>Rasbora pauciperforata</u>	rasbora, red-line
<u>Rasbora sarawakensis</u>	rasbora, sarawak
<u>Rasbora somphongsi</u>	rasbora, Somphong's
<u>Rasbora steineri</u>	rasbora, Chinese
<u>Rasbora sumatrana</u>	rasbora, Sumatran
<u>Rasbora taeniata</u>	rasbora, black-stripped
<u>Rasbora tornieri</u>	rasbora, yellow-tailed
<u>Rasbora trilineata</u>	rasbora, scissortail (three-line)
<u>Rasbora urophthalma</u>	rasbora, ocellated dwarf
<u>Rasbora vaterifloris</u>	barb, Singhalese fire
<u>Rasborichthys altior</u>	rasbora, green false
<u>Rhodeus sericeus</u>	bitterling
<u>Rohtee alfrediana</u>	minnow, copper
<u>Tanichthys albonubes</u>	minnow, white cloud mountain
<u>Triportheus angulatus</u>	hatchetfish, narrow
<u>Triportheus elongatus</u>	hatchetfish, elongated

FAMILY Gasteropelecidae

<u>Carnegiella marthae</u>	hatchetfish, black-winged
<u>Carnegiella myersi</u>	hatchetfish, Myer's
<u>Carnegiella strigata fasciata</u>	hatchetfish, marbled
<u>Carnegiella strigata strigata</u>	hatchetfish, marbled
<u>Gasteropelecus levis</u>	hatchetfish
<u>Gasteropelecus maculatus</u>	hatchetfish, spotted
<u>Gasteropelecus sternicla</u>	hatchetfish, silver
<u>Thoracocharax securis</u>	hatchetfish, long fin
<u>Thoracocharax stellatus</u>	hatchetfish, silver

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SCIENTIFIC NAMECOMMON NAME

FAMILY Gymnotidae

<u>Apteronotus albifrons</u>	black ghost
<u>Apteronotus leptorhynchus</u>	ghost, long-nosed black (brown)
<u>Distocyclus conirostris</u>	knifefish, yellow
<u>Eigenmannia virescens</u>	knifefish, green
<u>Gymnorhamphichthys hypostomus</u>	knifefish, long-nosed
<u>Gymnorhamphichthys rondoni</u>	knifefish, mousetail
<u>Gymnotus anguillaris</u>	knifefish, stripped
<u>Gymnotus carapo</u>	knifefish, banded
<u>Hypopomus artedi</u>	knifefish, spotted
<u>Rhabdolichops troscheli</u>	knifefish short-headed
<u>Rhamphichthys rostratus</u>	knifefish, trumpet
<u>Steatogenys elegans</u>	knifefish, mottled
<u>Sternarchorhamphus muelleri</u>	knifefish, Mueller's
<u>Sternarchus albifrons</u>	black ghost
<u>Sternarchus hasemani</u>	knifefish, short-nose
<u>Sternopygus macrurus</u>	knifefish, variable ghost
<u>Uramara rondoni</u>	knifefish, mousetail

FAMILY Hemiodidae

<u>Hemiodopsis goeldii</u>	hemiodus, Goeldi's
<u>Hemiodopsis gracilis</u>	hemiodus, slender
<u>Hemiodopsis paraguayae</u>	hemiodus, one-spot
<u>Hemiodopsis quadrimaculatus</u>	hemiodus, bared
<u>Hemiodopsis semitaeniatus</u>	hemiodus black and white tailed
<u>Hemiodopsis sterna</u>	hemiodus, Stern's
<u>Hemiodus gracilis</u>	hemiodus, red tail
<u>Hemiodus quadrimaculatus</u>	hemiodus, banded
<u>vorderwinkler</u>	
<u>Hemiodus semitaeniatus</u>	hemiodus

FAMILY Homalopteridae

<u>Homaloptera orthogoniata</u>	loach, saddlespot
<u>Pseudogastromyzon myersi</u>	plecostomus, Hong Kong

FAMILY Lebiasinidae

<u>Nannobrycon eques</u>	pencilfish
<u>Nannobrycon unifasciatus</u>	penguin
<u>Nannostomus anomalus</u>	pencilfish
<u>Nannostomus aripirangensis</u>	pencilfish, aripiranga
<u>Nannostomus beckfordi</u>	pencilfish, Beckford's
<u>Nannostomus bifasciatus</u>	pencilfish, two-striped
<u>Nannostomus eques</u>	pencilfish, brown-tailed
<u>Nannostomus espeii</u>	pencilfish, barred
<u>Nannostomus harrisoni</u>	pencilfish, Harrison's

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Nannostomus marginatus</u>	pencilfish, dwarf
<u>Nannostomus trifasciatus</u>	pencilfish, three-lined
<u>Nannostomus unifasciatus</u>	pencilfish, one-lined
<u>Poecilobrycon auratus</u>	pencilfish
<u>Poecilobrycon digrammus</u>	pencilfish, two-striped
<u>Poecilobrycon eques</u>	pencilfish, tube-mouthed
<u>Poecilobrycon harrison</u>	pencilfish, Harrison's
<u>Poecilobrycon unifasciatus</u>	pencilfish, one-lined
FAMILY Lepidogalaxiidae	
<u>Lepidogalaxias salamandroides</u>	mud minnow, salamander
ORDER Dactylopteriformes	
FAMILY Dactylopteridae	
Dactylopteridae (all species in family)	gurnard, flying
ORDER Elopiformes	
FAMILY Albulidae	
Albulidae (all species in family)	bonefish
FAMILY Elopidae	
Elopidae (all species in family)	ladyfish
ORDER Gadiformes	
FAMILY Bythitidae	
Bythitidae (all species in family)	brotulid
FAMILY Carapodidae	
Carapodidae (all species in family)	pearl fish
ORDER Gasterosteiformes	
FAMILY Aulostomidae	
Aulostomidae (all species in family)	trumpetfish
FAMILY Centriscidae	
Centriscidae (all species in family)	shrimpfish

CONDITIONAL ANIMAL LIST

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY <u>Fistulariidae</u> Fistulariidae (all species in family)	cornetfish
FAMILY <u>Gasterosteidae</u> <u>Apeltes quadracus</u> <u>Culaea inconstans</u> <u>Gasterosteus aculeatus</u>	stickleback, four-spined stickleback, five-spined (brook) stickleback, three-spined
FAMILY <u>Indostomidae</u> <u>Indostomus paradoxus</u>	paradox fish
FAMILY <u>Syngnathidae</u> Syngnathidae (all species in family)	pipefish
ORDER <u>Gobiesociformes</u> FAMILY <u>Callionymidae</u> Callionymidae (all species in family)	dragonet
FAMILY <u>Gobiesocidae</u> Gobiesocidae (all species in family)	clingfish
ORDER <u>Lophiiformes</u> FAMILY <u>Antennariidae</u> Antennariidae (all species in family)	anglerfish
FAMILY <u>Ogcocephalidae</u> Ogcocephalidae (all species in family)	batfish
ORDER <u>Mormyriiformes</u> FAMILY <u>Gymnarchidae</u> <u>Gymnarchus niloticus</u>	aba aba; Nile fish
FAMILY <u>Mormyridae</u> <u>Brienomyrus brachistius</u> <u>Campylomormyrus cassaicus</u> <u>Campylomormyrus rhychophorus</u> <u>Campylomormyrus tamandua</u>	whale, white-faced whale, donkey-faced down-polker mormyrid, worm-jawed

CONDITIONAL ANIMAL LIST

S4-71-6.5

SCIENTIFIC NAMECOMMON NAME

<u>Cyprinoides dicorhynchus</u>	mormyrid
<u>Genyomrus donnyi</u>	mormyrid
<u>Gnathonemus abadii</u>	elephantnose
<u>Gnathonemus cyprinoides</u>	elephantnose
<u>Gnathonemus deboensis</u>	elephantnose
<u>Gnathonemus elephas</u>	black elephant
<u>Gnathonemus leopoldianus</u>	elephantnose
<u>Gnathonemus macrolepidotus</u>	mormyrid, scaly
<u>Gnathonemus moori</u>	elephant fish, roundnosed
<u>Gnathonemus niger</u>	elephantnose
<u>Gnathonemus numenius</u>	elephantnose
<u>Gnathonemus petersi</u>	elephantnose, Peter's
<u>Gnathonemus senegalensis</u>	elephantnose
<u>Gnathonemus shilthuisiae</u>	elephantnose
<u>Gnathonemus stanleyanus</u>	elephantnose
<u>Gnathonemus tamandua</u>	mormyrid, the worm-jawed
<u>Gnathonemus victoriae</u>	elephant fish
<u>Hippopotamyus discorhynchus</u>	mormyrid, scaly
<u>Hyperopius bebe</u>	mormyrid
<u>Isichtys henri</u>	mormyrid
<u>Marcucenius ansorgii</u>	elephantnose
<u>Marcucenius brachistius</u>	elephantnose
<u>Marcucenius castelnaui</u>	elephantnose
<u>Marcucenius harringtoni</u>	elephantnose
<u>Marcucenius ihuysi</u>	elephantnose
<u>Marcucenius isidori</u>	elephantnose
<u>Marcucenius longianalis</u>	elephantnose
<u>Marcucenius macrolepidotus</u>	elephantnose
<u>Marcucenius petricolas</u>	elephantnose
<u>Marcucenius plagiostoma</u>	elephantnose
<u>Marcucenius psittacus</u>	elephantnose
<u>Mormyrops caballus</u>	mormyrid
<u>Mormyrops engystoma</u>	mormyrid, torpedo
<u>Mormyrops nigricans</u>	mormyrid
<u>Mormyrops oudoti</u>	mormyrid
<u>Mormyrus cashive</u>	mormyrid
<u>Mormyrus ellenbergei</u>	mormyrid
<u>Mormyrus hasselquisti</u>	mormyrid
<u>Mormyrus kannume</u>	mormyrid
<u>Mormyrus lacerda</u>	mormyrid
<u>Mormyrus longirostris</u>	whale, short-nose; dolphin fish
<u>Mormyrus macrodon</u>	mormyrid
<u>Mormyrus niloticus</u>	elephantnose
<u>Mormyrus oris</u>	mormyrid
<u>Mormyrus rume</u>	mormyrid
<u>Mormyrus thomasai</u>	elephantnose

CONDITIONAL ANIMAL LIST

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SCIENTIFIC NAME

COMMON NAME

Petrocephalus bane
Petrocephalus bovei
Petrocephalus catostoma
Petrocephalus sauvagei
Petrocephalus simus
Pollimyrus angolensis
Pollimyrus cattelnaui
Pollimyrus nigripinis
Stomatochinus corneti

whale
 whale, gray
 whale, African
 whale
 whale, dorsal band
 whale, bottle-nose
 whale, baby; whale, silver
 whale, dusky
 mormyrid

ORDER Osteoglossiformes

FAMILY Notopteridae

Notopterus afer
Notopterus chitala
Notopterus notopterus

featherfin, African flag
 featherback, clown
 featherback, Malayan
 (Sumatra)
 featherfin, African flag
 featherback, African

Papyrocranus afer
Xenomystus nigri

FAMILY Osteoglossidae

Clupisudis niloticus
Osteoglossum bicirrhosum
Osteoglossum ferreirai
Scleropages jardini
Scleropages leichardti

heterotis
 arowana
 arowana, black
 saratoga, gulf (northern)
 saratoga; baramundi,
 spotted

FAMILY Pantodontidae

Pantodon buchholzi

butterflyfish

ORDER Perciformes

FAMILY Acanthuridae

Acanthuridae (all species in
 family)

surgeonfish

FAMILY Anabantidae

Anabas testudineus
Ctenopoma acutirostre
Ctenopoma ansorgei
Ctenopoma congicum
Ctenopoma fasciolatum
Ctenopoma kingsleyi
Ctenopoma nanum
Ctenopoma ocellatum
Ctenopoma oxyrhynchus

perch, climbing
 perch, spotted climbing
 ctenopoma, ornate
 ctenopoma, Congo
 ctenopoma, banded
 ctenopoma, Kingsley's
 perch, dwarf climbing
 bushfish, chocolate
 ctenopoma, mottled

CONDITIONAL ANIMAL LIST

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SCIENTIFIC NAME

COMMON NAME

FAMILY Anarhichadidae
Anarhichas lupus

wolffish, atlantic

FAMILY Apocrypteidae
Parapocryptes serperaster

mudskipper, slim

FAMILY Apogonidae
Apogonidae (all species in family)

cardinalfish

FAMILY Belontiidae

Belontia hasselti

combtail, Java

Belontia signata

combtail

Betta bellica

betta, slender

Betta brederi

betta, Breder's Betta

coccina

fighting fish, red

Betta fisciata

fighting fish, stripe

Betta imbellis

betta, peaceful (crescent)

Betta macrostoma

brunei beauty

Betta pugnax

betta, mouth brooding

Betta smaragdina

betta, peaceful

Betta splendens

fighting fish, Siamese

Colisa chuna

gourami, honey

Colisa fasciata

gourami, giant

Colisa labiosa

gourami, thick-lipped

Colisa lalia

gourami, dwarf

Macropodus chinensis

paradise fish, round-tail

Macropodus concolor

paradise fish, black

Macropodus cupanus cupanus

paradise fish, spike-tail

Macropodus cupanus dayi

paradise fish, Day's

Macropodus opercularis

paradise fish

Malpulutta kretseri

malpulatta

Parosphromenus dreissneri

gourami, licorice

Parosphromenus filimentosus

gourami, spike tailed

licorice

Pseudosphromenus cupans

paradise fish, spike-tailed

Sphaerichthys osphromenoides

gourami, chocolate

Trichogaster leerii

gourami, pearl

Trichogaster microlepis

gourami, moonbeam

Trichogaster pectoralis

gourami, snakeskin

Trichogaster trichopterus

gourami, three-spot (blue)

Trichopsis pumilus

gourami, pygmy

Trichopsis schalleri

gourami, three-stripe

croaking

Trichopsis vittatus

gourami, croaking

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Blenniidae	
Blenniidae (all species in family)	blenny
FAMILY Caesionidae	
<u>Caesio pulcherrimus</u>	caesio fish
FAMILY Carangidae	
Carangidae (all species in family)	jack
FAMILY Centrarchidae	
<u>Centrarchus macropterus</u>	flier; bass, peacock-eyed
<u>Elassoma evergladei</u>	sunfish, everglades pygmy
<u>Elassoma zonatum</u>	sunfish, banded dwarf
<u>Enneacanthus chaetodon</u>	sunfish, black-banded
<u>Enneacanthus gloriosus</u>	sunfish, bluespotted
<u>Enneacanthus obesus</u>	sunfish, banded
<u>Lepomis gibbosus</u>	sunfish, pumpkinseed
<u>Lepomis gulosus</u>	warmouth
<u>Lepomis humilis</u>	sunfish, orangespotted
<u>Lepomis macrochirus</u>	bluegill
<u>Lepomis megalotis</u>	sunfish, longeared
<u>Mesogonistius chaetodon</u>	sunfish, blackbanded
FAMILY Centropomidae	
<u>Ambassis agrammus</u>	perchlet, sailfin
<u>Ambassis agrammus agassiz</u>	glassfish, olive
<u>Ambassis ambassis</u>	perch, African glass
<u>Ambassis buruensis</u>	glassfish, buru
<u>Ambassis commersoni</u>	glassfish, Commerson's
<u>Ambassis elongatus</u>	glassfish, yellowfin
<u>Ambassis lala</u>	glassfish
<u>Ambassis macleayi</u>	glassfish, reticulated
<u>Ambassis marianus</u>	glassfish, Mary River
<u>Ambassis miops</u>	glassfish, flag-tailed
<u>Ambassis reticulata</u>	perchlet, reticulated
<u>Ambassis interruptus</u>	glassfish, long-spined
<u>Centropomus undecimalis</u>	snook
<u>Chanda ambassis</u>	perch, African glass
<u>Chanda baculis</u>	glassfish, Burmese
<u>Chanda buruensis</u>	glassfish, Siamese
<u>Chanda lala</u>	glassfish, Indian
<u>Chanda ranga</u>	glassfish, glass perch
<u>Chanda wolfei</u>	glassfish

CONDITIONAL ANIMAL LIST

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Cepolidae	
<u>Acanthocephala indica</u>	bandfish, Philippine
<u>Acanthocephala limbata</u>	bandfish, spotfin
<u>Cepola australis</u>	bandfish, Australian
FAMILY Chaenopsidae	
Chaenopsidae (all species in family)	pikeblenny
FAMILY Chaetodontidae	
Chaetodontidae (all species in family)	butterflyfish
FAMILY Cheilodactylidae	
Cheilodactylidae (all species in family)	morwong
FAMILY Cichlidae	
<u>Acarichthys heckelii</u>	cichlid, elusive
<u>Acarichthys thayeri</u>	cichlid
<u>Acaronia nassa</u>	cichlid, big-eyed
<u>Acaronia trimaculata</u>	cichlid
<u>Aequidens awani</u>	cichlid, golden
<u>Aequidens bimaculatum</u>	cichlid
<u>Aequidens coeruleopunctatus</u>	cichlid, blue-point flag
<u>Aequidens duopunctata</u>	cichlid
<u>Aequidens freniferus</u>	cichlid
<u>Aequidens geayi</u>	cichlid
<u>Aequidens guianensis</u>	cichlid
<u>Aequidens hercules</u>	cichlid, hercules
<u>Aequidens itanyi</u>	cichlid, dolphin
<u>Aequidens latifrons</u>	acara, blue
<u>Aequidens mariae</u>	cichlid, Maria's
<u>Aequidens maroni</u>	cichlid, keyhole
<u>Aequidens metae</u>	cichlid
<u>Aequidens parahuayensis</u>	cichlid
<u>Aequidens portalegrensis</u>	acara, port (black)
<u>Aequidens pulcher</u>	acara, blue
<u>Aequidens rivulatus</u>	green terror
<u>Aequidens sapayensis</u>	cichlid
<u>Aequidens subocularis</u>	cichlid
<u>Aequidens sypilus</u>	cichlid
<u>Aequidens tetramerus</u>	cichlid, blue flag
<u>Aequidens vittata</u>	cichlid
<u>Aequidens zamorensis</u>	cichlid
<u>Apistogramma</u> (all species in genus)	cichlid, dwarf
<u>Astatoreochromis straeleni</u>	cichlid, yellow-bellied

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<u>Astatotilapia bloyeti</u>	mouthbrooder, Bloyet's
<u>Astronotus ocellatus</u>	cichlid, peacock oscar (velvet)
<u>Aulonocara jacobfreibergi</u>	cichlid, African
<u>Aulonocara nyassae</u>	cichlid, African peacock
<u>Benthochromis tricoti</u>	featherfin, giant
<u>Bioteocus opercularis</u>	cichlid, green dwarf
<u>Biotodoma cupido</u>	cichlid, cupid
<u>Callochromis macrops melanostigma</u>	cichlid
<u>Callochromis pleurospilus</u>	cichlid, pastel
<u>Chaetobranchus bitaeniatus</u>	cichlid, two-striped
<u>Chaetobranchus flavescens</u>	cichlid, red-eye
<u>Chalinochromis brichardi</u>	cichlid, lyretail (Brichard's)
<u>Chromidotilapia guentheri</u>	mouthbrooder, Gunther's
<u>Cichla ocellaris</u>	cichlid, eye-spot; tuconary
<u>Cichla temensis</u>	cichlid, spot-line peacock
<u>Cichlasoma adpersum</u>	cichlid
<u>Cichlasoma alfari</u>	cichlid, pastel
<u>Cichlasoma arnoldi</u>	cichlid
<u>Cichlasoma atromaculatum</u>	cichlid, three-spot
<u>Cichlasoma aureum</u>	cichlid, golden
<u>Cichlasoma autochthom</u>	cichlid
<u>Cichlasoma axelrodi</u>	chuco, black
<u>Cichlasoma bartoni</u>	cichlid, Barton's
<u>Cichlasoma beani</u>	cichlid
<u>Cichlasoma bifasciatum</u>	cichlid, red-spotted
<u>Cichlasoma bimaculatum</u>	cichlid, two-spot
<u>Cichlasoma biocellatum</u>	Jack Dempsey
<u>Cichlasoma carpinte</u>	cichlid, pearlscale
<u>Cichlasoma centrarchus</u>	cichlid, flier
<u>Cichlasoma citrinellum</u>	cichlid, midas
<u>Cichlasoma coryphaenoides</u>	cichlid, chocolate
<u>Cichlasoma crassa</u>	cichlid
<u>Cichlasoma cutteri</u>	cichlid, Cutter's
<u>Cichlasoma cyanoguttatum</u>	cichlid, Texas
<u>Cichlasoma dovii</u>	cichlid, Dow's
<u>Cichlasoma erythraeum</u>	devil, red
<u>Cichlasoma facetum</u>	chanchito
<u>Cichlasoma fenestratum</u>	cichlid
<u>Cichlasoma festae</u>	cichlid, Festa's
<u>Cichlasoma festivum</u>	cichlid, flag
<u>Cichlasoma friedrichsthalii</u>	cichlid, Friedrichsthal's
<u>Cichlasoma grammodes</u>	cichlid, many-pointed
<u>Cichlasoma guttulatum</u>	cichlid, gold-cheeked
<u>Cichlasoma haitiensis</u>	cichlid

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Cichlasoma hartwegi</u>	cichlid, Hartweg's
<u>Cichlasoma hellabrunni</u>	cichlid
<u>Cichlasoma intermedium</u>	cichlid, Jordan's
<u>Cichlasoma kraussi</u>	cichlid, sharpheaded
<u>Cichlasoma labiatum</u>	cichlid, red devil
<u>Cichlasoma labridens</u>	cichlid, curve-bar
<u>Cichlasoma longimanus</u>	cichlid, longfin
<u>Cichlasoma macracanthus</u>	cichlid, high-spine
<u>Cichlasoma maculicauda</u>	cichlid, blackbelt
<u>Cichlasoma managuense</u>	managuense
<u>Cichlasoma meeki</u>	firemouth
<u>Cichlasoma melanurum</u>	cichlid
<u>Cichlasoma minkleyi</u>	cichlid, Minkley's
<u>Cichlasoma motaguense</u>	motaguense
<u>Cichlasoma nicaraguense</u>	spilotum
<u>Cichlasoma nigrofasciatum</u>	cichlid, convict
<u>Cichlasoma octofasciatum</u>	Jack Dempsey
<u>Cichlasoma ornatum</u>	cichlid
<u>Cichlasoma panamense</u>	cichlid
<u>Cichlasoma popenoi</u>	cichlid
<u>Cichlasoma psitticum</u>	cichlid, parrot
<u>Cichlasoma ramsdeni</u>	cichlid
<u>Cichlasoma robertsoni</u>	cichlid, Robertson's
<u>Cichlasoma rostratum</u>	cichlid
<u>Cichlasoma sajica</u>	cichlid, t-bar; sajica
<u>Cichlasoma salvini</u>	cichlid, Salvin's yellow-belly
<u>Cichlasoma severum</u>	severum
<u>Cichlasoma sexfasciatum</u>	cichlid
<u>Cichlasoma sieboldi</u>	cichlid
<u>Cichlasoma spectabile</u>	cichlid
<u>Cichlasoma spilotum</u>	cichlid
<u>Cichlasoma spilurum</u>	cichlid, blue-eye
<u>Cichlasoma spinosissimum</u>	cichlid
<u>Cichlasoma temporale</u>	cichlid
<u>Cichlasoma terrabae</u>	cichlid
<u>Cichlasoma tetracanthus</u>	cichlid, Cuban
<u>Cichlasoma trimaculatum</u>	cichlid, three-spot
<u>Cichlasoma tuba</u>	cichlid
<u>Cichlasoma umbriferum</u>	umbriferum
<u>Cichlasoma urophthalmus</u>	cichlid, eight-barred
<u>Cichlasoma zonatum</u>	cichlid
<u>Corematodus shiranus</u>	cichlid
<u>Crenicara (all species in genus)</u>	cichlid, checkered
<u>Cyathochromis obliquidens</u>	cichlid
<u>Cyathopharynx furcifer</u>	furcifer

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Cynotilapia afra</u>	cichlid, dwarf zebra (dogtooth)
<u>Cynotilapia axelrodi</u>	cichlid, Axelrod's dogtooth
<u>Cyphotilapia frontosa</u>	frontosa <u>Cyprichromis</u>
<u>brieni</u>	cichlid, slender
<u>Cyprichromis leptosoma</u>	cichlid, black-finned slender
<u>Cyprichromis microlepidotus</u>	cichlid
<u>Cyprichromis nigripinnis</u>	cichlid
<u>Cyrtocara annectens</u>	cichlid
<u>Cyrtocara moorei</u>	cichlid
<u>Cyrtocara venusta</u>	cichlid
<u>Dicrossus</u> (all species in genus)	cichlid, checkered
<u>Docimodus johnstoni</u>	cichlid
<u>Eretmodus cyanostictus</u>	cichlid, striped goby
<u>Etroplus maculatus</u>	chromide, orange
<u>Etroplus suratensis</u>	chromide, banded
<u>Genyochromis mento</u>	scale-eater, Malawian
<u>Geophagus australis</u>	earth eater, austral
<u>Geophagus auticeps</u>	cutie
<u>Geophagus balzanii</u>	mouthbrooder, Paraguay
<u>Geophagus brasiliensis</u>	cichlid, Brazil high hat (pearl)
<u>Geophagus cupido</u>	geophagus
<u>Geophagus gymnoglenys</u>	geophagus, squarehead
<u>Geophagus hondae</u>	geophagus, redhump
<u>Geophagus jurupari</u>	earth eater, demon fish
<u>Geophagus rhabdotus</u>	geophagus, pearl-striped
<u>Geophagus steindachneri</u>	geophagus, redrump
<u>Geophagus surinamensis</u>	geophagus, Surinam
<u>Gephyrochromis lawsi</u>	cichlid, violet
<u>Gephyrochromis moovei</u>	cichlid
<u>Gephyrochromis morii</u>	cichlid, yellow-tailed violet
<u>Gobiochromis timanti</u>	cichlid, dwarf African
<u>Gynogeophagus australis</u>	cichlid, earth eater
<u>Gynogeophagus balzanii</u>	cichlid, earth eater
<u>Haplochromis ahli</u>	haplochromis, electric blue
<u>Haplochromis anaphyrmus</u>	cichlid
<u>Haplochromis annectens</u>	annectens
<u>Haplochromis argyrosoma</u>	cichlid
<u>Haplochromis atritaeniata</u>	cichlid
<u>Haplochromis auromarginatus</u>	cichlid
<u>Haplochromis boadzulu</u>	cichlid
<u>Haplochromis burtoni</u>	mouthbrooder, Burton's

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Haplochromis callipterus</u>	callipterus
<u>Haplochromis chrysonotus</u>	cichlid
<u>Haplochromis cinereus</u>	hap, ashy
<u>Haplochromis compressiceps</u>	eye-biter, Malawian
<u>Haplochromis decorus</u>	cichlid
<u>Haplochromis desfontainesi</u>	mouthbrooder, desert
<u>Haplochromis dichrourus</u>	hap, Victoria lavender
<u>Haplochromis electra</u>	hap, deep-water
<u>Haplochromis epichorialis</u>	cichlid
<u>Haplochromis ericotaenia</u>	hap
<u>Haplochromis euchilus</u>	euchilus, big lips
<u>Haplochromis eucinostomus</u>	cichlid
<u>Haplochromis favimanus</u>	cichlid
<u>Haplochromis fenestratus</u>	cichlid
<u>Haplochromis fuscotaeniatus</u>	cichlid
<u>Haplochromis guentheri</u>	hap
<u>Haplochromis hennydaviesae</u>	cichlid
<u>Haplochromis heterotaenia</u>	cichlid
<u>Haplochromis horei</u>	haplochromis, spothead
<u>Haplochromis ineda</u>	hap
<u>Haplochromis jacksoni</u>	cichlid
<u>Haplochromis kiwinge</u>	cichlid
<u>Haplochromis labridens</u>	cichlid
<u>Haplochromis labrosus</u>	labrosus
<u>Haplochromis lacrymosus</u>	hap, tear-drop
<u>Haplochromis lacteristriga</u>	hap, basket
<u>Haplochromis lepturus</u>	cichlid
<u>Haplochromis linni</u>	polystigma, elephant-nose
<u>Haplochromis livingstoni</u>	livingstoni
<u>Haplochromis loboichilus</u>	livingstoni
<u>Haplochromis longimanus</u>	cichlid
<u>Haplochromis macrognathus</u>	hap, Victoria big-mouth
<u>Haplochromis macrostoma</u>	livingstoni
<u>Haplochromis margarita</u>	livingstoni
<u>Haplochromis melanotaenia</u>	hap, black-fin
<u>Haplochromis mloto</u>	livingstoni
<u>Haplochromis modestus</u>	livingstoni
<u>Haplochromis mollis</u>	hap, softly
<u>Haplochromis moorii</u>	lumphead, blue
<u>Haplochromis multicolor</u>	mouthbreeder, Egyptian
<u>Haplochromis nigritaeniatus</u>	mouthbreeder, Egyptian
<u>Haplochromis nitidus</u>	mouthbreeder, Egyptian
<u>Haplochromis nkatae</u>	nkatae, common
<u>Haplochromis nototaenia</u>	hap, stripe-back
<u>Haplochromis nubilus</u>	cichlid
<u>Haplochromis obtusus</u>	hap, pig-nose
<u>Haplochromis ovatus</u>	mouthbreeder, Egyptian

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SCIENTIFIC NAMECOMMON NAME

<u>Haplochromis pardalis</u>	hap
<u>Haplochromis pectoralis</u>	hap
<u>Haplochromis pfefferi</u>	hap, Tanganyika
<u>Haplochromis philander</u>	mouthbreeder, Egyptian
<u>Haplochromis pholidophorus</u>	mouthbreeder, Egyptian
<u>Haplochromis placodon</u>	mouthbreeder, Egyptian
<u>Haplochromis plagiotaenia</u>	hap, rainbow
<u>Haplochromis polyodon</u>	hap
<u>Haplochromis polystigma</u>	polystigma, polly
<u>Haplochromis quadrimaculatus</u>	polystigma, polly
<u>Haplochromis riponianus</u>	hap, Victoria red-tail
<u>Haplochromis rostratus</u>	rostratus
<u>Haplochromis sauvagei</u>	hap, Victoria mottled
<u>Haplochromis similis</u>	polystigma, polly
<u>Haplochromis sphaerodon</u>	polystigma, polly
<u>Haplochromis spilonotus</u>	polystigma, polly
<u>Haplochromis spilostichus</u>	polystigma, polly
<u>Haplochromis stonemani</u>	polystigma, polly
<u>Haplochromis strigatus</u>	polystigma, polly
<u>Haplochromis subocularis</u>	polystigma, polly
<u>Haplochromis taeniolatus</u>	rostratus
<u>Haplochromis tetrastigma</u>	rostratus
<u>Haplochromis venustus</u>	rostratus
<u>Haplochromis virginalis</u>	rostratus
<u>Haplochromis wingati</u>	mouthbrooder, Nigerian
<u>Haplochromis woodi</u>	rostratus
<u>Hemichromis bimaculatus</u>	cichlid, jewel
<u>Hemichromis cristatus</u>	cichlid, crown jewel
<u>Hemichromis fasciatus</u>	hemichromis, five-spotted
<u>Hemichromis lifalili</u>	cichlid, blood-red jewel
<u>Hemichromis paynei</u>	cichlid, Payne's jewel
<u>Hemichromis tersquamatus</u>	cichlid
<u>Hemichromis thomasi</u>	cichlid <u>Hemichromis</u>
<u>voltae</u>	cichlid
<u>Hemihaplochromis multicolor</u>	mouthbrooder, Egyptian
<u>Hemihaplochromis philander</u>	mouthbrooder, South African
<u>Hemitylapia oxyrhynchus</u>	cichlid, oxyrhynchus
<u>Herichthys cyanoguttatus</u>	cichlid, Texas
<u>Heros affinis</u>	cichlid
<u>Heros facetus</u>	cichlid
<u>Heros septemfasciatus</u>	cichlid
<u>Herotilapia multispinosa</u>	cichlid, rainbow
<u>Iodotropheus sprengerae</u>	cichlid, rusty
<u>Julidochromis (all species in genus)</u>	cichlid, dwarf
<u>Labeotropheus fuelleborni</u>	cichlid, Fuelleborn's
<u>Labeotropheus trewavasae</u>	trewavasae, red-top

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SCIENTIFIC NAMECOMMON NAME

<u>Labidochromis caeruleus</u>	labido, blue-white
<u>Labidochromis fryeri</u>	labido, white
<u>Labidochromis vellicans</u>	vellicans
<u>Laetacara (all species in genus)</u>	cichlid, dwarf
<u>Lamprologus attenuatus</u>	lamprologus, marbled
<u>Lamprologus brevis</u>	brevis
<u>Lamprologus brichardi</u>	lamprologus, lyretail
<u>Lamprologus buescheri</u>	lamprologus, Buescher's
<u>Lamprologus callipterus</u>	callipterus
<u>Lamprologus calvus</u>	lamprologus, pearly
<u>Lamprologus compressiceps</u>	compressiceps
<u>Lamprologus congoensis</u>	lamprologus, Congo
<u>Lamprologus cunningtoni</u>	lamprologus, black
<u>Lamprologus elongatus</u>	elongatus
<u>Lamprologus falcicula</u>	lamprologus, long-fin
<u>Lamprologus fasciatus</u>	lamprologus, barred
<u>Lamprologus furcifer</u>	cichlid, sail-fin
<u>Lamprologus gracilis</u>	lamprologus, graceful
<u>Lamprologus kendalli</u>	nkambe
<u>Lamprologus leleupi</u>	cichlid, lemon
<u>Lamprologus lemairii</u>	lamprologus, Lemaire's
<u>Lamprologus magarae</u>	shell-dweller, magara
<u>Lamprologus meeli</u>	meeli
<u>Lamprologus mocquardi</u>	lamprologus, Mocquard's
<u>Lamprologus mondabu</u>	lamprologus, mondabu
<u>Lamprologus moorii</u>	lamprologus, moorii
<u>Lamprologus multifasciatus</u>	lamprologus, many-banded dwarf
<u>Lamprologus mustax</u>	lamprologus, white-cheeked
<u>Lamprologus niger</u>	lamprologus, muddy
<u>Lamprologus nkambae</u>	cichlid
<u>Lamprologus obscurus</u>	lamprologus, mottly
<u>Lamprologus ocellatus</u>	shell-dweller, ocellated
<u>Lamprologus olivaceus</u>	lamprologus, olive
<u>Lamprologus ornatipinnis</u>	lamprologus
<u>Lamprologus pleuromaculatus</u>	lamprologus, blotched
<u>Lamprologus prochilus</u>	lamprologus, sling-jaw
<u>Lamprologus profundicola</u>	lamprologus, deep-water
<u>Lamprologus savoryi elongatus</u>	lamprologus, lyretail
<u>Lamprologus sexfasciatus</u>	lamprologus, six-bar
<u>Lamprologus tetracanthus</u>	lamprologus, pearl-lined
<u>Lamprologus toae</u>	lamprologus
<u>Lamprologus tretocephalus</u>	cichlid, five-bar
<u>Lamprologus weneri</u>	lamprologus
<u>Leptotilapia irvinei</u>	cichlid
<u>Leptotilapia tinanti</u>	cichlid
<u>Limnochromis auritus</u>	auritus

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SCIENTIFIC NAMECOMMON NAME

<u>Lobochilotes labiatus</u>	cichlid, zebra
<u>Melanochromis auratus</u>	cichlid, malawi golden
<u>Melanochromis brevis</u>	mbuna
<u>Melanochromis chipokae</u>	mbuna, Chipokee
<u>Melanochromis exasperatus</u>	mbuna
<u>Melanochromis johanni</u>	johanni
<u>Melanochromis labrosus</u>	mbuna
<u>Melanochromis melanopterus</u>	mbuna, black
<u>Melanochromis parallelus</u>	mbuna, parallel-striped
<u>Melanochromis perspicax</u>	mbuna, violet-striped
<u>Melanochromis simulans</u>	mbuna, longsnout
<u>Melanochromis vermivorus</u>	mbuna, purple
<u>Nannacara anomala</u>	cichlid, golden dwarf
<u>Nannacara aureocephalus</u>	cichlid, golden-head dwarf
<u>Nannacara taenia</u>	cichlid <u>Nanochromis</u>
(all species in genus)	cichlid, dwarf
<u>Neetroplus nematopus</u>	cichlid, little lake
<u>Otopharynx auromarginatus</u>	cichlid
<u>Otopharynx selenurus</u>	cichlid
<u>Oxylapia polli</u>	cichlid
<u>Papiliochromis</u> (all species in genus)	cichlid, butterfly
<u>Paratilapia dorsalis</u>	cichlid
<u>Paratilapia longipinnis</u>	cichlid
<u>Paratilapia nigrofasciata</u>	cichlid
<u>Paratilapia polleni</u>	cichlid
<u>Paretroplus</u> (all species in genus except <u>Paretroplus polyactis</u> and <u>P. sp. "lamena"</u>)	cichlid, Damba
<u>Pelmatochromis aereocephalus</u>	cichlid
<u>Pelmatochromis annectens</u>	cichlid, five-spot African
<u>Pelmatochromis ansorgei</u>	cichlid, five-spot African
<u>Pelmatochromis arnoldi</u>	cichlid, five-spot African
<u>Pelmatochromis batesii</u>	cichlid
<u>Pelmatochromis buettikoferi</u>	cichlid
<u>Pelmatochromis camerunensis</u>	cichlid
<u>Pelmatochromis caudifasciatus</u>	cichlid
<u>Pelmatochromis cerasogaster</u>	cichlid
<u>Pelmatochromis congicus</u>	cichlid
<u>Pelmatochromis corbali</u>	cichlid
<u>Pelmatochromis exsul</u>	cichlid
<u>Pelmatochromis guentheri</u>	mouthbreeder, Guenther's
<u>Pelmatochromis haugi</u>	cichlid
<u>Pelmatochromis humilis</u>	cichlid
<u>Pelmatochromis kingleyae</u>	cichlid
<u>Pelmatochromis klugei</u>	cichlid, Kluge's dwarf
<u>Pelmatochromis kribensis</u>	kribensis

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SCIENTIFIC NAMECOMMON NAME

<u>Pelmatochromis loennbergi</u>	cichlid
<u>Pelmatochromis longirostris</u>	cichlid
<u>Pelmatochromis ocellifer</u>	cichlid
<u>Pelmatochromis pellegrini</u>	cichlid
<u>Pelmatochromis pulcher</u>	cichlid
<u>Pelmatochromis roloffi</u>	cichlid
<u>Pelmatochromis ruweti</u>	cichlid
<u>Pelmatochromis schoutedeni</u>	cichlid
<u>Pelmatochromis subocellatus</u>	cichlid, violet
<u>Pelmatochromis thomasi</u>	cichlid, African butterfly
<u>Pelvicachromis</u> (all species in genus)	cichlid, dwarf
<u>Petenia kraussi</u>	cichlid
<u>Petenia myersi</u>	cichlid
<u>Petenia spectabilis</u>	cichlid
<u>Petenia splendida</u>	cichlid
<u>Petrochromis "golden"</u>	cichlid
<u>Petrochromis fasciolatus</u>	petrochromis, banded
<u>Petrochromis orthognatus</u>	petrochromis, plain-mouth
<u>Petrochromis polyodon</u>	petrochromis, brown
<u>Petrochromis trewavasae</u>	petrochromis, filament-fin
<u>Petrotilapia nigra</u>	petrotilapia, dusky
<u>Petrotilapia tridentiger</u>	petrotilapia, blue
<u>Pseudocrenilabrus multicolor</u>	mouthbrooder, dwarf Egyptian
<u>Pseudocrenilabrus philander</u>	mouthbrooder, South African
<u>Pseudotropheus auratus</u>	cichlid, Nyasa golden
<u>Pseudotropheus aurora</u>	cichlid, aurora
<u>Pseudotropheus brevis</u>	mbuna, silver-blue
<u>Pseudotropheus eduardi</u>	mbuna
<u>Pseudotropheus elegans</u>	elegans
<u>Pseudotropheus elongatus</u>	mbuna, slender
<u>Pseudotropheus fucoides</u>	mbuna
<u>Pseudotropheus fuscus</u>	mbuna
<u>Pseudotropheus lanisticola</u>	mbuna, snail-shell
<u>Pseudotropheus livingstoni</u>	mbuna, Livingstone's
<u>Pseudotropheus lombardoi</u>	kennyi
<u>Pseudotropheus lucerns</u>	mbuna
<u>Pseudotropheus macrophthalmus</u>	mbuna
<u>Pseudotropheus microstoma</u>	tropheops, small-mouthed
<u>Pseudotropheus minutus</u>	mbuna
<u>Pseudotropheus novemfasciatus</u>	novemfasciatus
<u>Pseudotropheus tropheops</u>	tropheops
<u>Pseudotropheus tursiops</u>	mbuna, dolphin
<u>Pseudotropheus williamsi</u>	mbuna, Williams

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COMMON NAME

<u>Pseudotropheus zebra</u>	cichlid, Malawi blue (zebra)
<u>Pterophyllum altum</u>	angelfish, long-finned
<u>Pterophyllum dumerili</u>	angelfish, long-nose
<u>Pterophyllum scalare</u>	angelfish
<u>Reganochromis calliurum</u>	calliurus <u>Sciaenochromis</u>
<u>ahli</u>	cichlid, African
<u>Simochromis diagramma</u>	simochromis, diagonal bar
<u>Spathodus erythron</u>	cichlid, blue-spotted goby
<u>Spathodus marlieri</u>	cichlid, goby
<u>Steatocranus casuarius</u>	cichlid, lionhead
<u>Steatocranus tinanti</u>	cichlid, slender lionhead
<u>Symphysodon aequifasciata</u>	discus, green
<u>aequifasciata</u>	
<u>Symphysodon aequifasciata</u>	discus, brown
<u>axelrodi</u>	
<u>Symphysodon aequifasciata</u>	discus, blue
<u>haraldi</u>	
<u>Symphysodon discus</u>	discus, red (Heckel's)
<u>Taeniacara candidi</u>	cichlid
<u>Tanganicodus irsacae</u>	cichlid, spotfin goby
<u>Teleogramma brichardi</u>	cichlid, Brichard's slender
<u>Teleogramma gracile</u>	cichlid
<u>Teleogramma monogramma</u>	cichlid
<u>Telmatochromis bifrenatus</u>	telmat, striped
<u>Telmatochromis caninus</u>	caninus
<u>Telmatochromis temporales</u>	cichlid, temporalis
<u>Telmatochromis vittatus</u>	telmat, blunt-head
<u>Thysia ansorgii</u>	cichlid, five-spot African
<u>Trematocranus jacobfreibergi</u>	jacobfreibergi
<u>Trematocranus peterdaviesi</u>	cichlid
<u>Tropheus (all species in genus)</u>	cichlid, dwarf
<u>Xenotilapia boulengeri</u>	cichlid
FAMILY Cirrhitidae	
Cirrhitidae (all species in family)	hawkfish
FAMILY Echeneidae	
<u>Echeneis naucrates</u>	sucker, shark; remora, striped
FAMILY Eleotrididae	
<u>Eleotriodes elapoides</u>	goby, silk
<u>Eleotriodes strigata</u>	sleeper, golden-headed
<u>Gobiomorphus australis</u>	gudgeon, striped

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Gobiomorphus coxii</u>	gudgeon, Cox's
<u>Hypseleotris aurea</u>	gudgeon, golden
<u>Hypseleotris compressa</u>	gudgeon, carp; fish, empire
<u>Hypseleotris cyprinoides</u>	goby, chameleon
<u>Hypseleotris ejuncida</u>	gudgeon, slender
<u>Hypseleotris galii</u>	gudgeon, firetail
<u>Hypseleotris guentheri</u>	sleeper, chameleon
<u>Hypseleotris kimberleyensis</u>	gudgeon, Barnett River
<u>Hypseleotris klunzingeri</u>	sleeper, Australian pink (goby)
<u>Hypseleotris modestus</u>	gudgeon
<u>Hypseleotris regalis</u>	gudgeon, prince regent
<u>Milyeringa veritas</u>	gudgeon, blind (cave)
<u>Philypnodon grandiceps</u>	gudgeon, big-headed
<u>Prionobutis microps</u>	gudgeon, small-eyed
FAMILY Enoplosidae	
<u>Enoplosus armatus</u>	oldwife
FAMILY Ephippididae	
Ephippididae (all species in family)	spadefish
FAMILY Gerreidae	
Gerreidae (all species in family)	mojarra, spotfin
FAMILY Gobiidae	
Gobiidae (all species in family)	goby
FAMILY Grammidae	
Grammidae (all species in family)	basslet
FAMILY Grammistidae	
Grammistidae (all species in family)	soapfish
FAMILY Haemulidae	
Haemulidae (all species in family)	grunt
FAMILY Helostomatidae	
<u>Helostoma rudolfi</u>	gourami, kissing
<u>Helostoma temmincki</u>	gourami, kissing

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Inermiidae <u>Emmelichthys atlanticus</u>	bogita
FAMILY Kuhliidae Kuhliidae (all species in family)	aholehole
FAMILY Kyphosidae Kyphosidae (all species in family)	rudder fish
FAMILY Labridae Labridae (all species in family)	wrasse
FAMILY Lobotidae <u>Datnoides microlepis</u> <u>Datnoides quadrifasciatus</u> <u>Lobotes surinamensis</u>	tiger fish, Siamese tiger fish, many-barred tiger fish
FAMILY Lutjanidae Lutjanidae (all species in family)	snapper
FAMILY Malacanthidae Malacanthidae (all species in family)	tilefish
FAMILY Mastacembelidae <u>Macrognathus aculeatus</u> <u>Macrognathus siamensis</u> <u>Mastacembelus aculeata</u> <u>Mastacembelus argus</u> <u>Mastacembelus armatus</u> <u>Mastacembelus circumcinctus</u> <u>Mastacembelus ellipsifer</u> <u>Mastacembelus erythrotaenia</u> <u>Mastacembelus frenatus</u> <u>Mastacembelus moori</u> <u>Mastacembelus ophidium</u> <u>Mastacembelus pancalus</u> <u>Mastacembelus reticulatus</u> <u>Mastacembelus siamensis</u> <u>Mastacembelus smith</u> <u>Mastacembelus tanganicea</u> <u>Mastacembelus zebrinus</u>	eel, spiny; eel, peacock eel, spiny spot-fin (peacock) eel, spiny eel, spiny eel, white-spotted spiny eel, half-banded spiny eel, spiny eel, spotted fire eel, spiny eel, spiny eel, spiny eel, spiny eel, spiny eel, spiny eel, spot-finned spiny eel, false armatus spiny eel, spiny eel, zebra spiny (zigzag)

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Rhynchobdella aculeata</u>	eel, spiny
FAMILY Microdesmidae	
<u>Nemateleotris decora</u>	firefish, blue
<u>Nemateleotris helfrichi</u>	firefish, purple
<u>Nemateleotris magnificus</u>	firefish
<u>Ptereleotris microlepis</u>	gudgeon, blue
<u>Ptereleotris splendidum</u>	firefish
<u>Ptereleotris tricolor</u>	scissortail
FAMILY Monodactylidae	
Monodactylidae (all species in family)	mono
FAMILY Mugiloididae	
<u>Parapercis schauinslandi</u>	grub fish, red
FAMILY Mullidae	
Mullidae (all species in family)	goatfish
FAMILY Nandidae	
<u>Badis badis badis</u>	badis; fish, dwarf chameleon
<u>Badis badis burmanicus</u>	badis, Burmese
<u>Monocirrhus polyacanthus</u>	leaf fish
<u>Nandus nandus</u>	leaf fish, Asian; nandus
<u>Polycentropsis abbreviata</u>	leaf fish, African
<u>Polycentrus schomburgki</u>	leaf fish, Schomburgk's
FAMILY Nemipteridae	
<u>Scolopsis bilineatus</u>	snapper, two-lined
<u>Scolopsis cancellatus</u>	snapper, yellow stripe
FAMILY Opistognathidae	
Opistognathidae (all species in family)	jawfish
FAMILY Osphronemidae	
<u>Osphronemus gouramy</u>	gourami, giant
FAMILY Pempherididae	
Pempherididae (all species in family)	sweeper

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Pentacerotidae Pentacerotidae (all species in family)	armorhead
FAMILY Percichthyidae <u>Nannoperca vittata</u>	perch, Australian pygmy
FAMILY Percidae <u>Acerina cernua</u> <u>Etheostoma caeruleum</u>	perch, European darter, rainbow
FAMILY Pholidichthyidae <u>Pholidichthys leucotaenia</u>	goby, convict worm
FAMILY Plesiopidae Plesiopidae (all species in family)	betta, marine
FAMILY Pomacanthidae Pomacanthidae (all species in family)	angelfish
FAMILY Pomacentridae Pomacentridae (all species in family)	damsel fish
FAMILY Priacanthidae Priacanthidae (all species in family)	big-eye
FAMILY Pseudochromidae Pseudochromidae (all species in family)	dottyback
FAMILY Scaridae Scaridae (all species in family)	parrotfish
FAMILY Scatophagidae Scatophagidae (all species in family)	scat
FAMILY Sciaenidae <u>Equetus acuminatus</u> <u>Equetus lanceolatus</u> <u>Equetus punctatus</u>	cubbyu; cubbyu, high hat jackknife fish drum, spotted

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
FAMILY Scombridae Scombridae (all species in family)	tuna
FAMILY Scorpididae Scorpididae (all species in family)	stripey
FAMILY Serranidae Serranidae (all species in family)	grouper
FAMILY Sparidae <u>Archosargus probatocephalus</u> <u>Archosargus rhomboidalis</u> <u>Calamus bajonado</u> <u>Calamus calamus</u> <u>Calamus penna</u> <u>Calamus pennatula</u> <u>Diplodus caudimacula</u> <u>Sargus vulgaris</u>	sheepshead, black-barred bream, sea porgy, jolthead porgy, saucereye porgy, sheepshead pluma porgy, roundspot bream, two-banded
FAMILY Theraponidae <u>Therapon jarbua</u>	tigerfish, three-striped
FAMILY Toxotidae <u>Toxotes chatareus</u> <u>Toxotes jaculator</u> <u>Toxotes lorentzi</u> <u>Toxotes oligolepis</u>	archerfish, seven-spot archerfish archerfish, primitive archerfish, few-scaled
FAMILY Tripterygiidae Tripterygiidae (all species in family)	triplefin
ORDER Percopsiformes FAMILY Aphredoderidae <u>Aphredoderus sayanus</u>	perch, pirate
ORDER Pleuronectiformes FAMILY Bothidae <u>Bothus lunatus</u> <u>Bothus mancus</u> <u>Bothus ocellatus</u> <u>Paralichthys tropicus</u>	flounder, peacock flounder, tropical flounder, eyed flounder, tropical

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Pseudorhombus cinnamoneus</u>	flounder, cinnamon
FAMILY Cynoglossidae Cynoglossidae (all species in family)	tonguefish
FAMILY Soleidae <u>Achirus errans</u>	sole, Brazilian freshwater
<u>Achirus lineatus</u>	flounder, freshwater
<u>Trinectes maculatus</u>	sole, freshwater
ORDER Salmoniformes FAMILY Umbridae <u>Leptobarbus hoeveni</u>	barb, pink-tailed
ORDER Scorpaeniformes FAMILY Cottidae <u>Cottus bairdi</u>	sculpin, mottled
ORDER Siluriformes FAMILY Amphiliidae <u>Phractura ansorgei</u>	catfish, African whiptailed
FAMILY Aspredinidae <u>Agmus lyriformia</u>	catfish, lumpy banjo
<u>Aspredo aspredo</u>	catfish
<u>Bunocephalus amaurus</u>	catfish <u>Bunocephalus</u>
<u>amaurus</u>	catfish, banjo
<u>Bunocephalus bicolor</u>	catfish, frying-pan
<u>Bunocephalus coracoideus</u>	catfish, z-color banjo
<u>Bunocephalus kneri</u>	catfish
FAMILY Auchenipteridae <u>Auchanipterichthys thoracatus</u>	woodcat, zamora
<u>Auchenipterus damerarae</u>	woodcat, demerara
<u>Centromochlus heckili</u>	woodcat, Heckel's
<u>Pseudoauchenipterus nodosus</u>	catfish, black tailband
<u>Pseudepapterus hasemani</u>	woodcat, haseman's
<u>Tatia aulopygia</u>	woodcat, snowflake
<u>Tatia creutzbergi</u>	woodcat, Creutzberg's
<u>Tetranematichthys quadrifilia</u>	woodcat, hi-hat
<u>Trachelyopterichthys taeniatus</u>	woodcat, striped

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SCIENTIFIC NAME

COMMON NAME

FAMILY Bagridae

Leiocassis brashnikowi
Leiocassis siamensis
Mystus micracanthus
Mystus tengara
Mystus vittatus
Parauchenipterus galeatus
Parauchenoglanis guttatus
Parauchenoglanis macrostoma
Pseudobagrus fulvidraco

catfish, Russian
 catfish, barred Siamese
 catfish, two-spot
 catfish, Asiatic
 catfish
 catfish, starry
 catfish, African flathead
 catfish, African spotted
 catfish, tawny dragon

FAMILY Callichthyidae

Aspidoras (all species in genus)
Brochis (all species in genus)
Callichthys callichthys
Corydoras (all species in genus)
Dianema longibarbis
Dianema urostriata
Hoplosternum littorale
Hoplosternum pectorale
Hoplosternum thoracatum

catfish, dwarf armored
 catfish, dwarf armored
 catfish, slender armored
 catfish, dwarf armored
 catfish, porthole
 catfish, stripe-tailed
 hoplo; cascudo
 catfish
 hoplo, port; atipa

FAMILY Helogenidae

Helogene marmoratus

helogenes, marbled

FAMILY Ictaluridae

Ictalurus punctatus

catfish, channel

FAMILY Loricariidae

Ancistrus cirrhus
Ancistrus dolichopterus
Ancistrus hoplogenyis
Ancistrus lineolatus
Ancistrus temmincki
Ancistrus triradiatus
Cochliodon plecostomoides
Cteniloricaria fowleri
Cteniloricaria maculata
Cteniloricaria platystoma
Farlowella acus
Farlowella gracilis
Farlowella schreitmulleri
Hemiancistrus nicefordi
Hemiancistrus vittatus
Hemidonichthyes acispenserinus
Hypancistrus zebra

catfish
 catfish
 sucker, pearl
 bristle-nose
 bristle-nose, Temminck's
 bristle-nose, branched
 catfish, spoon-tooth
 sucker
 catfish
 catfish
 catfish
 farlowella
 twig fish
 farlowella, royal
 catfish, clown sucker
 catfish, striped sucker
 catfish
 plecostomus,

zebra

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SCIENTIFIC NAMECOMMON NAME

<u>Hypoptopoma inexpectatum</u>	catfish, dwarf sucker
<u>Hypoptopoma guentheri</u>	catfish, dwarf sucker
<u>Hypostomus plecostomus</u>	catfish, sucker
<u>Hypostomus punctatus</u>	catfish
<u>Loricaria filamentosa</u>	catfish, whiptail
<u>Loricaria lanceolata</u>	catfish
<u>Loricaria parva</u>	catfish, whiptail
<u>Microlepidogaster oxypropsis</u>	catfish, dwarf sucker
<u>Monistiaancistrus carachama</u>	catfish
<u>Otocinclus affinis</u>	catfish, midget sucker
<u>Otocinclus arnoldi</u>	catfish, Arnold's sucker
<u>Otocinclus flexilis</u>	catfish, sucker imitator
<u>Otocinclus mariae</u>	otocinclus, Maria's
<u>Otocinclus paulinus</u>	otocinclus
<u>Otocinclus vestitus</u>	catfish, Ampiyacu dwarf sucker
<u>Otocinclus vittatus</u>	catfish, striped sucker
<u>Panaque nigrolineatus</u>	panaque; royal plecostomus
<u>Panaque suttoni</u>	plecostomus, blue-eyed
<u>Parancistrus aurantiacus</u>	catfish, sucker
<u>Parotocinclus maculicauda</u>	catfish
<u>Peckoltia arenaria</u>	peckoltia
<u>Peckoltia brevis</u>	catfish, spotted head
<u>Peckoltia oligospila</u>	peckoltia
<u>Peckoltia platyrhyncha</u>	catfish, flat faced
<u>Peckoltia pulcher</u>	catfish, pretty
<u>Peckoltia vittatus</u>	catfish, banded
<u>Plecostomus bolivianus</u>	catfish, Bolivian sucker
<u>Pseudacanthius leopardus</u>	catfish
<u>Pterygoplichthys anisitsi</u>	pleco, snow king
<u>Pterygoplichthys gibbiceps</u>	plecostomus, sailfin
<u>Pterygoplichthys bolivianus</u>	catfish, Bolivian sucker
<u>Rineloricaria castrol</u>	cat, whiptail
<u>Rineloricaria fallax</u>	catfish
<u>Rineloricaria hasemani</u>	catfish
<u>Rineloricaria lanceolata</u>	catfish
<u>Stoneiella leopardus</u>	catfish, orange-trim sucker
<u>Xenocara dolichoptera</u>	catfish, bushy-mouth
FAMILY Mochokidae	
<u>Brachysynodontis batensoda</u>	catfish
<u>Hemisynodontis schall</u>	catfish
<u>Synodontis acanthomias</u>	catfish
<u>Synodontis afro-fischeri</u>	catfish
<u>Synodontis alberti</u>	catfish
<u>Synodontis albolineatus</u>	catfish

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SCIENTIFIC NAMECOMMON NAME

<u>Synodontis angelicus</u>	catfish, polka-dot African
<u>Synodontis angierasi</u>	catfish
<u>Synodontis annectens</u>	catfish
<u>Synodontis ansorgii</u>	catfish
<u>Synodontis arabi</u>	catfish
<u>Synodontis arnouliti</u>	catfish
<u>Synodontis aterrimus</u>	catfish
<u>Synodontis augierasi</u>	catfish
<u>Synodontis bastiani</u>	catfish
<u>Synodontis batensoda</u>	catfish
<u>Synodontis batesi</u>	catfish
<u>Synodontis brichardi</u>	catfish
<u>Synodontis budgetti</u>	catfish
<u>Synodontis camelopardalis</u>	catfish
<u>Synodontis caudalis</u>	catfish
<u>Synodontis caudovittatus</u>	catfish
<u>Synodontis centralis</u>	catfish
<u>Synodontis citernii</u>	catfish
<u>Synodontis clarias</u>	catfish
<u>Synodontis colyeri</u>	catfish
<u>Synodontis congicus</u>	catfish
<u>Synodontis contractus</u>	catfish, David's upside-down
<u>Synodontis courteti</u>	catfish
<u>Synodontis cuangoanus</u>	catfish
<u>Synodontis dageti</u>	catfish
<u>Synodontis davidi</u>	catfish
<u>Synodontis decorus</u>	catfish
<u>Synodontis depauwi</u>	catfish
<u>Synodontis dhonti</u>	catfish
<u>Synodontis dorsomaculatus</u>	catfish
<u>Synodontis eburneensis</u>	catfish
<u>Synodontis eupterus</u>	catfish
<u>Synodontis eurystomus</u>	catfish
<u>Synodontis fascipinna</u>	catfish
<u>Synodontis filamentosus</u>	catfish
<u>Synodontis flavitaeniatus</u>	synodontis, yellow-striped
<u>Synodontis frontosus</u>	catfish
<u>Synodontis fueleborni</u>	catfish
<u>Synodontis gambiensis</u>	catfish
<u>Synodontis geledensis</u>	catfish
<u>Synodontis gobroni</u>	catfish
<u>Synodontis granulosis</u>	catfish
<u>Synodontis greshoffi</u>	catfish
<u>Synodontis guentheri</u>	catfish
<u>Synodontis guttatus</u>	catfish

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Synodontis haugi</u>	catfish
<u>Synodontis hollyi</u>	catfish
<u>Synodontis holopercnus</u>	catfish
<u>Synodontis humeratus</u>	catfish
<u>Synodontis irsacae</u>	catfish
<u>Synodontis ituriensis</u>	catfish
<u>Synodontis iturii</u>	catfish
<u>Synodontis jallae</u>	squeaker, Jalla's
<u>Synodontis katangae</u>	catfish
<u>Synodontis khartoumensis</u>	catfish
<u>Synodontis koensis</u>	catfish
<u>Synodontis labeo</u>	catfish
<u>Synodontis lacustricolus</u>	catfish
<u>Synodontis leopardinus</u>	squeaker, spotted
<u>Synodontis longirostris</u>	catfish
<u>Synodontis longispinis</u>	catfish
<u>Synodontis loppei</u>	catfish
<u>Synodontis lufirae</u>	catfish
<u>Synodontis macrepipterus</u>	catfish
<u>Synodontis macrodon</u>	catfish
<u>Synodontis macrophthalmus</u>	catfish
<u>Synodontis macrops</u>	catfish
<u>Synodontis macrostigma</u>	squeaker, spotted
<u>Synodontis maculatus</u>	catfish
<u>Synodontis maculipinna</u>	catfish
<u>Synodontis maculosis</u>	catfish
<u>Synodontis marmoratus</u>	catfish
<u>Synodontis matthesi</u>	catfish
<u>Synodontis melanogaster</u>	catfish
<u>Synodontis melanopterus</u>	catfish
<u>Synodontis melanostictus</u>	catfish
<u>Synodontis membranaceus</u>	catfish
<u>Synodontis menanogaster</u>	catfish
<u>Synodontis multimaculatus</u>	catfish
<u>Synodontis multipunctatus</u>	catfish
<u>Synodontis nebulosus</u>	squeaker
<u>Synodontis nigrita</u>	catfish, lace
<u>Synodontis nigriventris</u>	catfish, black-belly upside-down
<u>Synodontis nigromaculatus</u>	catfish, black-dot upside-down
<u>Synodontis notatus</u>	catfish, spotted
<u>Synodontis nummifer</u>	catfish
<u>Synodontis nummifer dshahensis</u>	catfish
<u>Synodontis nyassae</u>	catfish
<u>Synodontis obesus</u>	catfish

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<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Synodontis ocellatus</u>	catfish
<u>Synodontis ocellifer</u>	catfish
<u>Synodontis omias</u>	catfish
<u>Synodontis ornatipinnis</u>	catfish
<u>Synodontis ornatus</u>	catfish
<u>Synodontis ovidius</u>	catfish
<u>Synodontis pantherinus</u>	catfish
<u>Synodontis pardalis</u>	catfish
<u>Synodontis petricola</u>	catfish
<u>Synodontis pfefferi</u>	catfish
<u>Synodontis pleurops</u>	catfish
<u>Synodontis polydon</u>	catfish
<u>Synodontis polystigma</u>	catfish
<u>Synodontis pulcher</u>	catfish
<u>Synodontis punctifer</u>	catfish
<u>Synodontis punctulatus</u>	catfish
<u>Synodontis rebeli</u>	catfish
<u>Synodontis resupinatus</u>	catfish
<u>Synodontis robbianus</u>	catfish
<u>Synodontis ruandae</u>	catfish
<u>Synodontis ruffigiensis</u>	catfish
<u>Synodontis schall</u>	catfish
<u>Synodontis schoutendeni</u>	catfish
<u>Synodontis sepentis</u>	catfish
<u>Synodontis serratus</u>	catfish
<u>Synodontis smiti</u>	catfish
<u>Synodontis soloni</u>	catfish
<u>Synodontis sorex</u>	catfish
<u>Synodontis stendachneri</u>	catfish
<u>Synodontis tenuis</u>	catfish
<u>Synodontis tessmanni</u>	catfish
<u>Synodontis thamalakanensis</u>	catfish
<u>Synodontis tholloni</u>	catfish
<u>Synodontis thysi</u>	catfish
<u>Synodontis tourei</u>	catfish
<u>Synodontis unicolor</u>	catfish
<u>Synodontis velifer</u>	catfish
<u>Synodontis vermiculatus</u>	catfish
<u>Synodontis victoriae</u>	catfish
<u>Synodontis violaceus</u>	catfish
<u>Synodontis vittatus</u>	catfish, striped
<u>Synodontis wamiensis</u>	catfish
<u>Synodontis waterfoti</u>	catfish
<u>Synodontis wernerii</u>	catfish
<u>Synodontis woosnami</u>	catfish
<u>Synodontis xiphias</u>	catfish

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Synodontis zambezensis</u>	catfish
<u>Synodontis zambezensis</u> <u>rukwaensis</u>	catfish
<u>Synodontis zanzibaricus</u>	catfish
FAMILY Pangasiidae	
<u>Pangasius sutchi</u>	shark, Siamese
FAMILY Pimelodidae	
<u>Microglanis parahybae</u>	catfish, dwarf marbled <u>Microglanis poecilus</u> catfish, dwarf marbled <u>Pimelodella dorseyi</u>
<u>Pimelodella dorseyi</u>	pimelodella, Dorsey's <u>Pimelodella gracilis</u> pimelodella, slender <u>Pimelodella hartwelli</u> pimelodella
<u>Pimelodella imitator</u>	catfish
<u>Pimelodella laticeps</u>	pimelodella, flat-head
<u>Pimelodella linami</u>	pimelodella, Linam's
<u>Pimelodella metae</u>	pimelodella, Rio Meta
<u>Pimelodella parnahybae</u>	pimelodella, parnahyba
<u>Pimelodella pictus</u>	catfish, pictus
<u>Pimelodella rambarrani</u>	catfish
<u>Pimelodus albofasciatus</u>	pimelodus, banded
<u>Pimelodus clarias</u>	pimelodus, spotted
<u>Pimelodus maculatus</u>	pimelodus, spotted
<u>Pimelodus ornatus</u>	pimelodus, ornate
<u>Pimelodus pictus</u>	pimelodus, angelicus
<u>Pinirampus pirinampu</u>	catfish, long-finned
<u>Sciades marmoratus</u>	catfish, marbled
<u>Sciades pictus</u>	catfish, painted
<u>Sorubim lima</u>	catfish, shovelnose
<u>Sorubimichthys planiceps</u>	catfish, spotted shovelnose
FAMILY Schilbeidae	
<u>Eutropiellas debauwi</u>	catfish, three-striped glass
<u>Parailia longifilis</u>	catfish, mottled glass
<u>Platytropius siamensis</u>	catfish
<u>Schilbe marmoratus</u>	catfish, African shoulder spot
<u>Schilbe mystus</u>	catfish, striped schilbe
<u>Schilbe uranoscopus</u>	catfish, silver schilbe
FAMILY Siluridae	
<u>Kryptopterus bicirrhis</u>	catfish, glass
<u>Kryptopterus macrocephalus</u>	catfish, poor man's glass
<u>Ompok bimaculatus</u>	catfish, one-spot glass
<u>Ompok sabanus</u>	catfish

CONDITIONAL ANIMAL LIST
SCIENTIFIC NAME

S4-71-6.5

COMMON NAME

ORDER Tetraodontiformes	
FAMILY Balistidae	
Balistidae (all species in family)	leatherjacket
FAMILY Diodontidae	
Diodontidae (all species in family)	porcupinefish
FAMILY Monacanthidae	
Monacanthidae (all species in family)	filefish
FAMILY Ostraciidae	
Ostraciidae (all species in family)	boxfish
FAMILY Tetraodontidae	
Tetraodontidae (all species in family)	puffer
FAMILY Triodontidae	
<u>Triodon macropterus</u>	puffer, three-toothed

BIRDS

(After Sibley and Monroe 1990)

PHYLUM Chordata

CLASS Aves

ORDER Columbiformes

FAMILY Columbidae

Chalcophaps indica

dove, emerald

Columba leuconota

pigeon, snow

Columba picazuro

pigeon, Picazuro

Columbina minuta

dove, plain-breasted
ground

Columbina squammata

dove, scaled

Gallicolumba criniger

dove, Bartlett's; Mindinao
bleeding-heart

Gallicolumba luzonica

dove, Luzon bleeding-heart

Geopelia cuneata

dove, diamond

Geopelia striata

dove, zebra (barred)
(barred shouldered)

CONDITIONAL ANIMAL LIST

S4-71-6.5

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>
<u>Geophaps lophotes</u>	pigeon, crested
<u>Goura victoria</u>	pigeon, Victoria crowned
<u>Macropygia magna</u>	dove, cuckoo large (greater)
<u>Oena capensis</u>	dove, cape (masked) (namaqua)
<u>Phaps chalcoptera</u>	pigeon, bronzewing
<u>Streptopelia bitorquata</u>	dove, Javanese collared (Javanese turtle)
<u>Streptopelia capicola</u>	dove, ring-necked (Chinese) (lace-necked)
<u>Streptopelia chinensis</u>	dove, white sacred (spotted)
<u>Streptopelia decaocto</u>	dove, collared
<u>Streptopelia roseogrisea risoria</u>	dove, ringed turtle (domesticated form)
<u>Turtur chalcospilos</u>	dove, emerald-spotted wood
FAMILY Pteroclididae	
<u>Pterocles exustus</u>	sandgrouse, Indian (chestnut-bellied)
ORDER Galliformes	
FAMILY Numididae	
<u>Acryllium vulturinum</u>	guineafowl, vulturine
FAMILY Odontophoridae	
<u>Callipepla californicus</u> (= <u>Lophortyx californicus</u>)	quail, California
<u>Callipepla gambelii</u> (=Lophortyx gambelii)	quail, Gambel's
<u>Callipepla squamata</u>	quail, scaled
<u>Colinus</u> (all species in genus)	bobwhites
<u>Cyrtonyx montezumae</u>	quail, Montezuma
<u>Oreortyx picta</u>	quail, mountain
FAMILY Phasianidae	
<u>Alectoris barbara</u>	partridge, barbary
<u>Alectoris chukar</u>	partridge, chukar
<u>Alectoris rufa</u>	partridge, red-legged
<u>Ammoperdix griseogularis</u>	partridge, see-see
<u>Argusianus argus</u>	argus, great
<u>Bambusicola fytchii</u>	partridge, mountain bamboo
<u>Bambusicola thoracica</u>	partridge, Chinese bamboo
<u>Catreus wallichi</u>	pheasant, cheer

SCIENTIFIC NAMECOMMON NAME

<u>Chysolophus</u> (all species in genus)	pheasant, ruffed
<u>Coturnix chinensis</u>	quail, blue-breasted
<u>Coturnix japonica</u>	quail, Japanese
<u>Crossoptilon</u> (all species in genus)	pheasant, eared
<u>Francolinus</u> (all species in genus)	francolins
<u>Gallus</u> (all species in genus)	junglefowl
<u>Ithaginis cruentus</u>	pheasant, blood
<u>Lophophorus</u> (all species in genus)	pheasant, monal
<u>Lophura</u> (all species in genus)	gallopheasant
<u>Meleagris gallopavo</u>	turkey, wild common
<u>Numida meleagris</u>	guinea-fowl, helmeted
<u>Pavo</u> (all species in genus)	peafowl
<u>Perdix perdix</u>	partridge, grey
<u>Phasianus colchicus</u>	pheasant, common
<u>Polyplectron</u> (all species in genus)	pheasant, peacock
<u>Pucrasia macrolopha</u>	pheasant, koklass
<u>Rheinardia ocellata</u>	argus, crested
<u>Rollulus roulroul</u>	partridge, crested
<u>Syrmaticus</u> (all species in genus)	pheasant, long-tailed
<u>Tragopan</u> (all species in genus)	pheasant, tragopan
ORDER Passeriformes	
FAMILY Alaudidae	
<u>Melanocorypha mongolica</u>	lark, Mongolian
FAMILY Corvidae	
<u>Oriolus chinensis</u> (males only)	oriole, black-naped
<u>Oriolus oriolus</u> (males only)	oriole, Eurasian golden
<u>Pericrocotus flammeus</u>	minivet, scarlet
FAMILY Fringillidae	
<u>Carduelis carduelis</u> (males only)	goldfinch, European
<u>Carpodacus erythrinus</u> (males only)	rosefinch, common
<u>Coccothraustes coccothraustes</u> (males only)	hawkfinch
<u>Coryphospingus pileatus</u> (males only)	finch, pileated
<u>Emberiza aureola</u>	bunting, yellow-breasted
<u>Emberiza cioides</u>	bunting, meadow (Hojiro)

CONDITIONAL ANIMAL LIST

S4-71-6.5

SCIENTIFIC NAME

COMMON NAME

<u>Emberiza elegans</u>	bunting, elegant (yellow-throated)
<u>Emberiza rustica</u>	bunting, rustic
<u>Emberiza sulphurata</u>	bunting, yellow
<u>Emberiza tristrami</u>	bunting, Tristram's
<u>Gubernatrix cristata</u>	cardinal, yellow
<u>Paroaria capitata</u>	cardinal, yellow-billed
<u>Paroaria dominicana</u>	cardinal, pope (red-cowled)
<u>Paroaria gularis</u>	cardinal, red-capped
<u>Serinus canaria</u>	canary, island
<u>Serinus leucopygius</u>	seed-eater, white-rumped
<u>Serinus mozambicus</u>	canary, yellow-fronted
<u>Sicalis flaveola</u> (males only)	finch, saffron
<u>Tiaris canora</u>	finch, Cuban grassquit (Cuban melodius)
<u>Tiaris olivacea</u>	finch, yellow-faced grassquit (Cuban olive)
<u>Volatinia jacarina</u>	grassquit, blue-black
FAMILY Irenidae	
<u>Irena puella</u>	bluebird, Asian fairy
FAMILY Muscicapidae	
<u>Copsychus malabaricus</u>	shama, white-rumped
<u>Copsychus saularis</u>	thrush, Dayal; oriental magpie robin
<u>Gracula religiosa</u>	myna, hill
<u>Myiophonus horsfieldii</u>	thrush, whistling Malabar
FAMILY Passeridae	
<u>Amadina erythrocephala</u>	finch, red-headed
<u>Amadina fasciata</u> (males only)	finch, cut-throat (ribbon)
<u>Amandava amandava</u>	finch, red avadavat
<u>Amandava subflava</u>	waxbill, zebra
<u>Chloebeia gouldiae</u>	finch, Gouldian
<u>Emblema pictum</u>	finch, painted (emblem)
<u>Erythrura cyaneovirens</u>	parrotfinch, red-headed
<u>Erythrura prasina</u>	parrotfinch, pintailed
<u>Erythrura psittacea</u>	parrotfinch, red-headed
<u>Erythrura trichroa</u>	parrotfinch, blue-faced
<u>Erythrura viridifacies</u> (males only)	parrotfinch, green-faced
<u>Estrilda astrild</u>	finch, St. Helena waxbill (common waxbill)
<u>Estrilda atricapilla</u>	waxbill, black-headed
<u>Estrilda caerulescens</u>	waxbill, lavender
<u>Estrilda erythronotos</u>	waxbill, black-cheeked

CONDITIONAL ANIMAL LIST

S4-71-6.5

SCIENTIFIC NAMECOMMON NAME

<u>Estrilda melpoda</u>	waxbill, orange-cheeked
<u>Estrilda troglodytes</u>	waxbill, black-rumped
<u>Euplectes afer</u>	bishop, yellow-crowned
<u>Euplectes franciscanus</u>	bishop, orange
<u>Euplectes hordeaceus</u>	bishop, black-winged
<u>Euplectes orix</u>	bishop, red
<u>Heteromunia pectoralis</u>	munia, pictorella
<u>Hypargos niveoguttatus</u>	finch, Peter's twinspot
<u>Lagonosticta rara</u>	finch, black-bellied
<u>Lagonosticta rubricata</u>	firefinch, African
<u>Lagonosticta senegala</u>	firefinch, red-billed
<u>Lagonosticta striata</u>	munia, Bengalese;
<u> acutucauda</u>	white-rumped munia
<u>Lonchura cantans</u>	silver-bill, African
<u>Lonchura cucullata</u>	munia, bronze
<u>Lonchura ferruginosa</u>	munia, white-capped
<u>Lonchura flaviprymna</u>	munia, yellow-rumped
<u>Lonchura malacca</u>	munia, black-headed
<u>Lonchura punctulata</u>	munia, scaly-breasted
<u>Lonchura striata</u>	munia, white-rumped
<u>Neochmia modesta</u>	finch, plum-headed
<u>Neochmia phaeton</u>	finch, crimson (Australian fire)
<u>Neochmia ruficauda</u>	finch, star
<u>Neochmia temporalis</u>	firetail, red-browed
<u>Poephila acuticauda</u>	finch, long-tailed
<u>Poephila cincta</u>	finch, black-throated
<u>Poephila personata</u>	finch, masked
<u>Pytilia afra</u>	finch, orange-winged pytilia
<u>Pytilia melba</u>	finch, melba (green-winged pytilia)
<u>Pytilia phoenicoptera</u>	finch, red-winged pytilia
<u>Stagonopleura guttata</u>	firetail, diamond
<u>Taeniopygia guttata</u>	finch, zebra
<u>Uraeginthus bengalus</u>	finch, cordon bleu (red-cheeked)
<u>Uraeginthus cyanocephala</u>	finch, blue-capped cordon bleu
<u>Uraeginthus granatina</u>	grenadier, common
<u>Uraeginthus ianthinogaster</u>	grenadier, purple
<u>Vidua macroura</u>	whydah, pin-tailed
<u>Vidua paradisaea</u>	whydah, eastern paradise

SCIENTIFIC NAMECOMMON NAME

FAMILY Sylviidae

<u>Cettia diphone</u>	bush-warbler, Japanese
<u>Garrulax albogularis</u>	laughingthrush, white-throated
<u>Garrulax canorus</u>	hwamei
<u>Garrulax chinensis</u> (males only)	laughingthrush, black-throated
<u>Garrulax leucolophus</u> (males only)	laughingthrush, white-crested
<u>Leiothrix argentauris</u> (males only)	mesia, silver-eared
<u>Leiothrix lutea</u>	leiothrix, red-billed
<u>Minla cyanouroptera</u>	minla, blue-winged

ORDER Psittaciformes

FAMILY Psittacidae

<u>Agapornis</u> (all species in genus)	lovebird
<u>Alisterus</u> (all species in genus)	parrot, king
<u>Amazona</u> (all species in genus)	parrot, Amazon
<u>Anodorhynchus</u> (all species in genus)	macaw
<u>Aprosmictus</u> (all species in genus)	parrot
<u>Ara</u> (all species in genus)	macaw
<u>Aratinga</u> (all species in genus except <u>A. nana astec</u>)	parakeet
<u>Bolborhynchus lineola</u>	parakeet, barred
<u>Cacatua</u> (all species in genus)	"cockatoo, white"
<u>Callocephalon fimbriatum</u>	cockatoo, Gang-gang
<u>Calyptorhynchus</u> (all species in genus)	"cockatoo, black"
<u>Cyanoliseus patagonus</u>	conure, Patagonian; burrowing parakeet
<u>Cyanoramphus</u> (all species in genus)	parakeet
<u>Deropterus accipitrinus</u>	parrot, hawk-headed; red-fan parrot
<u>Eclectus roratus</u>	parrot, eclectus
<u>Elophus roseicapillus</u>	Galah
<u>Enicognathus</u> (all species in genus)	conure, slender-billed; parakeet <u>Eunymphicus</u>
<u>cornutus</u>	parakeet, horned
<u>Leptosittaca branickii</u>	parakeet, golden-plumed
<u>Melopsittacus undulatus</u>	parakeet, budgerigar
<u>Neophema</u> (all species in genus)	parrot
<u>Nymphicus [holandicus] hollandicus</u>	cockatiel
<u>Pionus</u> (all species in genus)	parrot

CONDITIONAL ANIMAL LIST

S4-71-6.5

SCIENTIFIC NAME

COMMON NAME

<u>Platycercus</u> (all species in genus)	rosella; ringneck
<u>Poicephalus</u> (all species in genus)	parrot
<u>Polytelis</u> (all species in genus)	parrot
<u>Probosciger aterrimus</u>	cockatoo, Palm
<u>Psephotus</u> (all species in genus)	parrot
<u>Psittacula alexandri</u>	parakeet, moustache (red-breasted)
<u>Psittacula cyanocephala</u>	parakeet, plum-headed
<u>Psittacula derbiana</u>	parakeet, Lord Derby's (Derbyan's)
<u>Psittacula eupatria</u>	parakeet, Alexandrine
<u>Psittacula himalayana</u>	parakeet, slaty-headed
<u>Psittacula roseata</u>	parakeet, rose-headed (blossom-headed)
<u>Psittacus erithacus</u>	parrot, grey
<u>Purpureicephalus spurius</u>	parrot, red-capped
<u>Pyrrhura</u> (all species in genus)	parakeet
<u>Tanygnathus</u> (all species in genus)	parrot

ORDER Turniciformes

FAMILY Turnicidae

Turnicidae (all species in family)	buttonquail
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MAMMALS

PHYLUM Chordata

CLASS Mammalia

ORDER Rodentia

FAMILY Caviidae

<u>Cavia cobaya</u> (= <u>Cavia porcellus</u>)	guinea pig
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FAMILY Chinchillidae

<u>Chinchilla lanigera</u>	chinchilla
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FAMILY Muridae

<u>Mus musculus</u>	mice, domesticated
<u>Rattus</u> sp.	rat, domesticated