

DEPARTMENT OF HEALTH
Amendment and Compilation of Chapter 11-282
Hawaii Administrative Rules

1. Chapter 282 of Title 11, Hawaii Administrative Rules, entitled "Deposit Beverage Container Recycling" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 282

DEPOSIT BEVERAGE CONTAINER RECYCLING

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SUBCHAPTER 1

GENERAL PROVISIONS

§11-282-01 Purpose. The purpose of this chapter is to implement the deposit beverage container program, chapter 342G, part VIII, [HRS] Hawaii Revised Statutes ("HRS"), and to establish minimum standards for the collection of empty beverage containers, to foster systems of redemption which facilitate recycling of empty beverage containers, and to minimize costs without inconveniencing consumers. [Eff 7/01/05; comp 4/21/07; am and comp] (Auth: HRS §342G-109) (Imp: HRS §342G-109)

§11-282-02 Applicability. These rules are applicable to all persons defined in this chapter who are subject to regulation under the deposit beverage container program, including, but not limited to, beverage manufacturers, distributors, recycling facilities, redemption centers, dealers and other businesses that sell deposit beverages in deposit beverage containers, unless specifically stated otherwise. [Eff 7/01/05; comp 4/21/07; comp] (Auth: HRS §342G-109) (Imp: HRS §342G-109)

§11-282-03 Definitions. The following definitions shall apply whenever the terms are used in this chapter:

"Applicant" means the person who has the authority to legally bind a redemption center to a contract.

"Certification" means an official document issued by the department of health that identifies a redemption center as being certified by the department.

"Certified" means a redemption center that has met the minimum requirements established by the department as defined in section 11-282-42.

"Consumer" means a person who buys a beverage in

a deposit beverage container for use or consumption and pays the deposit.

"Director" means the director of health.

"Facility" means all contiguous land including buffer zones and structures, other appurtenances, and improvements on the land used for the handling of solid waste.

"Field citation" as used in this subchapter is a "Field Citation" as referred to in Appendix I entitled "Field Citation/Settlement Agreement", dated 8/07, which is made a part of this chapter and attached at the end of the chapter and which includes a Notice of Citation and Field Citation Order, and is valid after an authorized employee of the department signs and issues it to an owner or operator. A field citation is an offer to settle an administrative case involving a violation of this chapter or any provision of chapter 342G, HRS, and is not an administrative order.

"Force majeure" is any event arising from causes beyond the control of the owner or operator or of any entity controlled by the owner or operator (including, but not limited to, the owner or operator's contractors and subcontractors) that delays or prevents the performance of any obligation under the field citation, despite the owner or operator's best efforts to fulfill the obligation. The owner or operator's "best efforts to fulfill the obligation" include using good faith efforts to anticipate any potential force majeure event, and good faith efforts to address the effects of any potential force majeure event (1) as it is occurring and (2) following the force majeure event, such that the delay is minimized to the greatest extent possible.

"High-density population area" means all United States Postal Service Zip Code areas on Oahu, which contain three or more dealers of five thousand or more square feet of interior space; or a resident

population of 17,500 or greater.

"Manufactured" means the completely filled bottles, cans, or other deposit beverage containers, which are inventoried for sale or distribution.

"Manufacturer" means any person who bottles, cans, or otherwise fills deposit beverage containers for sale to distributors, dealers or consumers.

"Material" means the physical substance used to manufacture a deposit beverage container including, but not limited to, plastic, aluminum, metal, or glass.

"Mixed spirits" means a deposit beverage containing distilled spirits and added natural or artificial blending material such as fruit juices, flavors, flavorings, colorings, or preservatives, and which contain less than fifteen per cent of alcohol by volume.

"Mixed wine" means a deposit beverage containing wine and more than fifteen per cent added natural or artificial blending material such as fruit juices, flavors, flavorings, or adjuncts, water (plain, carbonated, or sparkling), colorings, or preservatives, and which contain less than seven per cent of alcohol by volume.

"Recycling" means the collection, separation, recovery, and sale or reuse of secondary resources that would otherwise be disposed of as municipal solid waste, and is an integral part of a manufacturing process aimed at producing a marketable product made of postconsumer material.

"Recycling facility" means all contiguous land and structures and other appurtenances, and improvements on the land used for collection, separation, recovery, and sale or reuse of secondary resources that would otherwise be disposed of as municipal solid waste, and is an integral part of the manufacturing process aimed at producing a marketable product made of post consumer material.

"Refund value" means the amount of the deposit established under chapter 342G, part VIII, HRS.

"Rural area" means a non-high density population area.

"Segregated" means divided by material type and that such divided load consists of [100%] one hundred per cent Hawaii refund value material.

"Segregated rate" means a payment rate set by the department for loads of segregated deposit beverage containers assessed by weight. [Eff 7/01/05; comp 4/21/07; am and comp] (Auth: HRS §342G-109) (Imp: HRS §342G-109)

§11-282-04 General requirements. (a) Inspection. For purposes of enforcing the provisions of this chapter, and chapter 342G, [Hawaii Revised Statutes] HRS, a person who manufactures, distributes, sells, stores, handles, transports, redeems, recycles, and disposes deposit beverage containers, shall, upon request of any duly authorized representative of the director, furnish information relating to such deposit beverage containers and facilities, and permit such representative at reasonable times to have access to, and to copy all relevant records relating to such containers.

Each such inspection shall be commenced and completed with reasonable promptness.

(b) Enforcement. If the director determines that any person has violated or is violating any provision of this chapter, any rule adopted pursuant to this chapter, or any term or condition of a certification or permit issued pursuant to this chapter, the director may do one or more of the following:

- (1) Issue a field citation assessing an administrative penalty and ordering corrective action immediately or within a specified time;
- (2) Issue an order assessing an administrative penalty for any past or current violation;
- (3) Require compliance within a specified time; and

(4) Commence a civil action in circuit court in which the violation occurred or where the person resides or maintains the person's principal place of business for appropriate relief, including a temporary, preliminary, or permanent injunction, the imposition and collection of civil penalties, or other relief.

(c) Any order issued pursuant to this section may include a suspension, modification, or revocation of a certification or permit issued under this chapter, and shall state with reasonable specificity the nature of the violation.

(d) Any order issued under this chapter shall become final, unless not later than twenty days after the notice of order is served, the person or persons named therein request in writing a hearing before the director. Upon request for a hearing, the director shall require that the alleged violator or violators appear before the director for a hearing at a time and place specified in the notice and answer the charges complained of.

(e) Any hearing conducted under this section shall be conducted as a contested case under chapter 91, HRS. [Eff 7/01/05; comp 4/21/07; am and comp] (Auth: HRS §342G-72) (Imp: HRS §342G-72)

SUBCHAPTER 2

DEPOSIT BEVERAGE DISTRIBUTORS

§11-282-21 Deposit beverage container requirements. [(a)] Every deposit beverage container sold or offered for sale in the State shall have the Hawaii refund value clearly indicated in accordance with section 342G-112, HRS. The refund value should not be placed on the removable portion of the container. [Eff 7/01/05; comp 4/21/07; am and comp] (Auth: HRS §342G-105) (Imp: HRS §342G-105)

SUBCHAPTER 3

DEALERS

§11-282-31 Exemptions. Dealers are exempt from having to operate as a redemption center for empty deposit beverage containers if they:

- (1) Are located in a high-density population area and within two miles of a certified redemption center that is operated independently from a dealer;
- (2) Are located in a rural area; or
- (3) Can demonstrate physical hardship including, but not limited to, the following:
 - (A) Would pose a threat to public safety; or
 - (B) Square footage needed to accommodate a redemption center would exceed one [percent (1%)] per cent of the dealer's retail space; or
- (4) Can demonstrate financial hardship including, but not limited to, the following:
 - (A) Provide documentation to show that the cost to operate a redemption center will jeopardize the dealer's ability to conduct business; or
 - (B) Would threaten the dealer's ability to lease or occupy its place of business. [Eff 7/01/05; comp 4/21/07; am and comp] (Auth: HRS §342G-113) (Imp: HRS §342G-113)

SUBCHAPTER 4

REDEMPTION CENTERS

§11-282-41 Uncertified redemption activities.

[(a)] Uncertified redemption activities shall not be eligible to collect the refund value or handling fee from the department. [Eff 7/01/05; comp 4/21/07; am and comp] (Auth: HRS §§342G-113) (Imp: HRS §342G-113)

§11-282-42 Requirements for certified redemption centers. (a) The department may impose conditions for the operation of certified redemption centers under chapter 342G HRS.

(b) Redemption centers shall have solid waste permits under chapter 342H, HRS.

(c) Certification shall be effective for a period of not more than five years following date of approval by the department.

(d) Applicants shall re-certify the redemption center before expiration of the current certification or the center shall not be eligible for the container refund value or handling fee. [Eff 7/01/05; comp 4/21/07; comp] (Auth: HRS §§342G-114) (Imp: HRS §342G-114)

§11-282-43 Request for certification. (a) Requests for certification shall be prepared on application forms provided by the department and shall include, but not limited to, the following information:

- (1) The legal name(s), street address, contact person's name and position title, and telephone and fax numbers of the owner and, if applicable, its duly authorized representative[.];
- (2) Annual tax clearance issued by the [Hawaii State Department of Taxation] state department of taxation and the Internal Revenue Service[.];
- (3) A *CERTIFICATE OF GOOD STANDING* issued by the [Department of Commerce and Consumer Affairs Business Registration

Division] department of commerce and consumer affairs business registration division, unless the applicant is a sole proprietor[.];

- (4) A description of the redemption centers including site plans and scope of services[.]; and
- (5) Redemption centers that issue vouchers for redemption values shall describe how the voucher may be redeemed for cash or other value.

(b) Applications for certification shall be submitted to the department for each redemption center site.

(c) Within thirty days of receiving a complete application, the director shall notify the owner or the duly authorized representative in writing on the status of the certification including:

- (1) Approval; or
- (2) Denial and the reasons for the denial.

(d) The basis for denial of certification will be limited to:

- (1) Applicants have outstanding balances owed to the State;
- (2) Applicants have outstanding fines, penalties, violations or audit findings within any office of the department;
- (3) Applicant history discloses revocation of a recycling center permit or certification within the last two years;
- (4) Applicant certification history demonstrates a pattern of operation in conflict with the requirements of chapter 342G, HRS; or
- (5) Principal officers of applying company have a criminal conviction of a crime of deceit.

(e) The department shall evaluate the applicant's response to the department's request for more information and shall notify the applicant in writing of the department's final approval or intent

to deny the application. No application for a certification shall be denied unless the applicant has had an opportunity for a hearing by the department in accordance with chapter 91, HRS.

(f) The department may, on the department's own motion or the application of any person, modify, suspend or revoke a certification if, after affording the applicant a hearing in accordance with chapter 91, HRS, the department determines that any condition of the certification has been violated or any provision of chapter 342G, HRS, has been violated.

(g) Applicants shall submit new applications to the department if:

- (1) The location of a redemption center changes;
- (2) The operator of a redemption center changes; or
- (3) Changes occur in operations of a redemption center.

(h) New applications shall be approved by the department before the redemption center changes its operations or the applicant shall not be eligible for refund value or handling fees.

(i) Applicants shall notify the department thirty days prior to voluntary termination of certified redemption center activities.

(j) Certificates are neither transferable nor assignable to another person, company, or redemption center.

(k) The certificate shall be kept on file at the redemption center site.

(l) The certificate is property of the department and shall be returned to the department upon decertification, revocation, invalidation, expiration of certification, or voluntary termination.

(m) The certificate issued to the applicant of a reverse vending machine shall be kept on file at the main business office of the applicant. [Eff 7/01/05; comp 4/21/07; am and comp] (Auth: HRS §§342G-113, 342G-114, 342G-121) (Imp: HRS §§342G-113, 342G-114, 342G-121)

§11-282-44 Posting of certification. (a) A certification sign will be provided to redemption centers by the department and shall be prominently displayed where customers approaching the center can view it.

(b) A certification sign shall not be displayed at a redemption center that is not certified by the department.

(c) The certification sign is property of the department and shall be returned to the department upon decertification, revocation, invalidation, expiration of certification, or voluntary termination.

(d) The certification sign of a reverse vending machine may be kept on file at the redemption center site or on file at the main business office of the applicant. [Eff 7/01/05; comp 4/21/07; comp] (Auth: HRS §§342G-114) (Imp: HRS §342G-114)

§11-282-45 Load inspection requirements. [(a)] Redemption center staff shall visually inspect each load of containers for which value is claimed to determine whether each load is eligible for refund value. A load of materials shall be ineligible for any refund value if it meets any criterion stated in [chapter] section 342G-116, HRS. [Eff 7/01/05; comp 4/21/07; am and comp] (Auth: HRS §§342G-114) (Imp: HRS §342G-114)

§11-282-46 Redemption by weight. Redemption centers are allowed to redeem deposit beverage containers and pay refund value based on the weight of these containers presented for redemption, as follows:

- (1) Empty beverage containers shall be weighed, recorded, and reported in tons, pounds, and fractions thereof. All weighing in this State shall be done on a scale or other device approved, tested and sealed in accordance with department of agriculture weights and measurements

- and applicable regulations[.];
- (2) To be redeemed by weight, containers must be segregated by material[.];
 - (3) Refund values for each container material shall be posted and paid according to the container per pound conversion rates issued by the department in section 11-282-61[.];
 - (4) Redemption centers must inspect loads as required under section 11-282-45[.];
and
 - (5) If requested by a consumer, for loads of two hundred containers or less, redemption centers must compute redemption value by container count rather than by weight. [Eff 7/01/05; am and comp 4/21/07; am and comp] (Auth: HRS §342G-109, 342G-117)
(Imp: HRS §342G-109, 342G-117)

§11-282-47 Obtain payment. The department shall pay certified redemption centers handling fees and refund values based on reports submitted by the redemption centers to the department. [Eff 7/01/05; comp 4/21/07; comp] (Auth: HRS §342G-117) (Imp: HRS §342G-117)

SUBCHAPTER 5

RECYCLING FACILITIES

§11-282-51 Load inspection requirements. Recycling facilities may reject loads of deposit beverage containers from redemption centers if the loads meet criteria stated in [chapter] section 342G-116, HRS. [Eff 7/01/05; comp 4/21/07; am and comp] (Auth: HRS §§342G-114, 342G-116)
(Imp: HRS §§342G-114, 342G-116)

§11-282-52 Reporting. (a) Recycling facilities receiving deposit beverage container material from redemption centers shall maintain records involving empty beverage containers.

(b) Recycling facilities shall provide documentation as to the fate of deposit beverage container material collected from redemption centers.

(c) Documentation shall include information on the end user and shall verify weight and commodity. [Eff 7/01/05; comp 4/21/07; comp] (Auth: HRS §§342G-119, 342G-120) (Imp: HRS §§342G-119, 342G-120)

SUBCHAPTER 6

DEPARTMENT OF HEALTH REQUIREMENTS

§11-282-61 Segregated rate. (a) The method used to determine the segregated rate is to calculate the average number of empty deposit beverage containers per pound by material type. This shall include sampling procedures that consider, at a minimum, the following factors:

- (1) Weight by separately aggregated size categories of containers (same size) in their original manufactured and unfilled state.
- (2) Weight by variously mixed aggregated size of containers (different sizes) in their original manufactured and unfilled state.
- (3) The segregated rates for each material type should incorporate a factor for typical contamination levels so refund value and handling fees paid by weight are based on container weights only and not contaminants.

(b) The department shall re-evaluate the segregated rate as needed.

(c) The department shall publish a segregated rate for each deposit beverage container material type. These rates must be used by redemption centers

redeeming containers by weight under section 11-282-46. [Eff 7/01/05; comp 4/21/07; comp] (Auth: HRS §§342G-109, 342G-117) (Imp: HRS §342G-117)

§11-282-62 Redemption centers established by the department. (a) If there is no redemption center within two miles of a dealer due to the criteria described in section 11-282-31, then the respective county shall determine the need for a redemption center in that area. If a redemption center is deemed necessary, then the county, with the assistance of the State, may establish the redemption center with funding from the deposit beverage container deposit special fund.

(b) The department may negotiate, and pay, higher handling fees for redemption centers established pursuant to this section. [Eff 7/01/05; comp 4/21/07; comp] (Auth: HRS §342G-113) (Imp: HRS §342G-113)

SUBCHAPTER 7

FIELD CITATIONS

§11-282-71 Purpose. The purpose of this subchapter is to create a field citation program that facilitates the effective and expeditious settlement of easily verifiable violations of chapter 342G, HRS, and this chapter. This subchapter presents an alternative, expedited administrative settlement process to the often costly and lengthy traditional administrative enforcement process. [Eff and comp] (Auth: HRS §342G-72) (Imp: HRS §342G-72)

§11-282-72 Applicability. (a) The rules of this subchapter shall apply to those violations of chapter 342G, HRS, and this chapter that the

department, in its discretion, deems appropriate for resolution through the issuance of a field citation.

(b) The field citation is an offer to settle an administrative case that the department shall withdraw if the owner or operator declines to accept the department's offer to settle, in which case the department may bring a formal administrative action under Section 342G-72(a), HRS and section 11-282-04(b) of this chapter. [Eff and comp] (Auth: HRS §342G-72 (Imp: HRS §342G-72)

§11-282-73 Issuance and contents of a field citation.

(a) In addition to any other remedy provided by law, owners or operators who violate any provision of chapter 342G, HRS or this chapter may be subject to a field citation.

(b) Any authorized employee of the department may issue a field citation to an owner or operator.

(c) A field citation issued pursuant to this section must:

(1) Be in the form prescribed by the department (see Appendix I entitled "Field Citation/Settlement Agreement", dated 8/07, which is made a part of this chapter and attached at the end of this chapter); and

(2) Contain a notice of citation and a field citation order and settlement agreement.

(d) The Field Citation Order/Settlement Agreement portion of the field citation is not effective unless it is signed by the owner or operator and by the director or an authorized representative of the director. Approval by the director is in the director's sole discretion. [Eff and comp] (Auth: HRS §342G-72) (Imp: HRS §342G-72)

§11-282-74 Notice of citation. (a) The notice of citation shall:

(1) Identify the provision alleged to have been violated;

(2) Contain a brief description of the alleged violation;

(3) Set forth the settlement amount; and

(4) Be signed by the department employee who issues the field citation and the owner, operator, or on-site representative.

(b) A penalty amount for settlement, specified in section 11-282-78, may be imposed for a violation of any of the provisions set forth in that section. [Eff and comp] (Auth: HRS §342G-72) (Imp: HRS §342G-72)

§11-282-75 Field citation order and settlement agreement. (a) By signing the settlement agreement, the owner or operator agrees not to challenge the Notice of Citation and Field Citation Order and accepts the settlement agreement. Subsequent signature by the director constitutes acceptance by the director of the settlement agreement.

(b) The owner or operator signing the settlement agreement waives the right to a contested case hearing pursuant to chapter 91, HRS. [Eff and comp] (Auth: HRS §342G-72) (Imp: HRS §342G-72)

§11-282-76 Correcting violations; paying the settlement amount; and signing the settlement agreement. (a) In order to settle the Notice of Citation and Field Citation Order, the owner or operator must correct the violations, pay the settlement amount, and sign and return the settlement agreement within thirty calendar days of the issuance of the field citation.

(b) The department, at its discretion, may grant one extension for the owner or operator to correct the violations, pay the settlement amount, and sign and return the settlement agreement. An extension of no more than thirty calendar days from the expiration of the initial thirty calendar days will be granted provided that within the initial thirty days:

- (1) The owner or operator submits to the department a written request for an extension;
- (2) The owner or operator satisfactorily demonstrates to the department that there are factors beyond the control of the owner or operator that necessitate an extension; and
- (3) The department believes that compliance will be achieved within the period of the extension.

(c) The department may consider granting an additional extension to the first extension if the owner or operator demonstrates to the satisfaction of the department that a force majeure event has occurred.

"Force majeure" is defined in section 11-282-03.

(d) If the owner or operator does not correct the violations, pay the settlement amount, and sign and return the settlement agreement within the initial thirty days or within an extension period, the field citation is automatically withdrawn and, pursuant to section 342G-72, HRS, and section 11-282-04(b), the department may proceed with a formal enforcement action.

(e) Failure to return the settlement agreement and pay the settlement amount within the time allowed does not relieve the owner or operator of the responsibility to comply fully with the provisions of this chapter and chapter 342G, HRS, including correcting the violations that have been specifically identified in the field citation. [Eff and comp](Auth: HRS §342G-72) (Imp: HRS §342G-72)

§11-282-77 Methods of payment. (a) Payment of a settlement penalty amount imposed pursuant to section 11-282-75 must be made by cashier's or personal check made payable to the "State of Hawaii". The number of the field citation shall be written on the check.

(b) The check and the signed settlement agreement shall be submitted to the Hawaii Department of Health,

Solid and Hazardous Waste Branch, Deposit Beverage
Container Program, 919 Ala Moana Boulevard, Room 212,
Honolulu, Hawaii 96814. [Eff and comp]
(Auth: HRS §342G-72) (Imp: HRS §342G-72)

§11-282-78 Field citation penalty amounts for
settlement. The penalties that may be assessed for
settlement of a field citation are as listed in
Appendix II entitled "Field Citation Penalty
Amounts", dated August 2007, which is made a part of
this
chapter and attached at the end of this chapter. [Eff
and comp] (Auth: HRS §342G-72) (Imp: HRS
§342G-72)

§§11-282-79 to 11-282-80 (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.

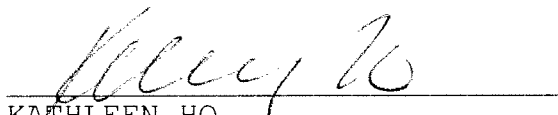
4. These amendments to and compilation of chapter 11-282, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

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.



CHIYOME FOKINO, M.D.
Director
Department of Health

APPROVED AS TO FORM:



KATHLEEN HO
Deputy Attorney General

(8/07)

APPENDIX I

HAWAII DEPARTMENT OF HEALTH
Solid and Hazardous Waste Branch
Deposit Beverage Container Program
919 Ala Moana Blvd., Room 212
Honolulu, Hawaii 96814

FIELD CITATION/SETTLEMENT AGREEMENT

NOTICE OF CITATION

On ___/___/___, at ___:___ am/pm at the Facility known as:

located at:

ID number:

in the presence of the Owner/Operator/On-site Representative:

an authorized employee of the Hawaii Department of Health (DOH) inspected this facility to determine compliance with deposit beverage container recycling regulations promulgated under chapter 342G, Hawaii Revised Statutes (HRS). This inspection revealed the following violations:

*§ 11-282-___, HAR Settlement: \$_____
Violation: _____

Date(s): _____

*§ 11-282-___, HAR Settlement: \$_____
Violation: _____

Date(s): _____

*§ 11-282-___, HAR Settlement: \$_____
Violation: _____

Date(s): _____

*§ 11-282-___, HAR Settlement: \$_____
Violation: _____

Date(s): _____

*HAR means the Hawaii Administrative Rules

Proposed Settlement Total: \$

FIELD CITATION ORDER

The owner and operator are hereby ordered to correct the violations described above.

The Field Citation Order is not an adjudicatory proceeding or contested case under chapter 91, HRS but is an offer to settle an administrative case that is issued solely with reference to the Settlement Agreement on the reverse of this form. If the Settlement Agreement is not returned in correct form within 30 calendar days of the date of inspection, this Field Citation Order is hereby withdrawn, without prejudice to DOH's ability to file additional enforcement actions for the above or any other violations.

I have personally observed the violations described above, and find the owner and operator in violation of the above-referenced regulations.

Date: ___/___/___

(Signature of DOH Inspector)

FIELD CITATION No:

RECEIPT BY OWNER OR OPERATOR

I hereby acknowledge receipt of this Notice of Citation/Field Citation Order

Date: ___/___/___

(Signature of Owner, Operator or On-site Representative)

(Print Name)

(Print Title)

(Print Mailing Address of Owner or Operator)

INSTRUCTIONS

WITHIN THIRTY CALENDAR DAYS OF THE INSPECTION DATE:

If you wish to avoid enforcement actions and penalties for the violations noted of up to \$10,000 per violation per day, you may participate in an expedited settlement by:

- 1. Correcting all of the violations noted by the inspector.
2. Providing a description of all of the actions you took to correct the violations in the blank space provided below, attaching additional pages for information that does not fit within the space provided, and attaching copies of any records or other documents evidencing the actions you took to correct the violations.
3. After you have corrected all of the violations, but no later than thirty calendar days after the date of the inspection, signing the Settlement Agreement and Certification on the reverse side.
4. Submitting a cashier's or personal check made out to "State of Hawaii" for the full payment of the "Proposed Settlement Total" noted in the Notice of Citation section, together with the original of this form, to: Hawaii Department of Health, Solid and Hazardous Waste Branch, Deposit Beverage Container Program, 919 Ala Moana Blvd, Room 212, Honolulu, Hawaii 96814.

DESCRIPTION OF CORRECTIONS

In the space below, please describe the work performed to correct the violations, attaching additional pages if you need more space. Attach copies of all documents describing the work that was performed.

**INFORMATION ABOUT THIS
FIELD CITATION/SETTLEMENT AGREEMENT**

The Hawaii Department of Health (DOH) has authority under chapter 342G, Hawaii Revised Statutes to issue Notices of Violation and Compliance Orders and to pursue civil penalties for violations of the deposit beverage container recycling laws. However, DOH encourages the expedited settlement of easily verifiable violations of deposit beverage container recycling laws, such as the violations described in the Notice of Citation section on the reverse, by agreeing to standard settlement terms that include expedited correction of the violations and payment of the settlement amount indicated in the Notice of Violation section on the reverse side of this form.

You may resolve the cited violations quickly by correcting the violations, paying the settlement amount and signing and returning the Settlement Agreement to DOH within 30 calendar days of the issuance of the field citation. DOH, at its discretion, may grant one 30 calendar day extension of this settlement offer for good cause. The payment of the settlement agreement must be in the form of a check payable to the "State of Hawaii" with the number of the field citation written on the check.

DOH will not accept nor approve the Settlement Agreement if there is any alteration of the Field Citation/Settlement Agreement, if there is payment of less than the full amount of the settlement, if the Settlement Agreement is not returned within the time required, or if the violations are not corrected within the time allowed. DOH will treat any response to the field citation, other than timely acceptance of the Settlement Agreement, or timely request for a 30-day extension, as an indication that you are not interested in pursuing this expedited settlement procedure.

If the Settlement Agreement is not returned in proper form or if full payment of the settlement amount is not made within the time required, DOH may proceed without prejudice to file enforcement actions for the above cited or any other violations or both. Failure to pay the Settlement Agreement and pay the settlement amounts within the time allowed does not relieve you of the responsibility to correct the violations identified by the inspector, nor to comply fully with all other regulatory requirements.

This Field Citation/Settlement Agreement is not an adjudicatory proceeding or contested case under chapter 91, HRS. However, if you do not sign and return the Settlement Agreement and pay the settlement amounts within the time allowed, and DOH pursues further enforcement measures in order to have the violations corrected or to seek penalties, you will receive instructions describing your rights under applicable laws. By signing this Field Citation Order/Settlement Agreement, you waive your right to a contested case hearing under chapter 91, HRS with respect to the violations cited in the Notice of Citation section.

If this Field Citation Order/Settlement Agreement is not signed by the owner or operator and by DOH, DOH reserves the right to: (1) issue a Notice of Violation for any or all of the violations described in the Notice of Citation section of this field citation, and (2) order the payment of a penalty higher than the amount(s) indicated as settlement amount(s) in the Notice of Citation. The penalty amounts set forth in the Notice of Citation section are lower than the penalties ordinarily issued in a Notice of Violation because they are amounts adjusted for expedited settlement.

Final approval of the Settlement Agreement is in the sole discretion of DOH. Upon final approval by DOH, a copy of the approved Settlement Agreement will be returned to you, and DOH will take no further action against you for the violations cited in the Notice of Citation section. If you have any questions, you may contact the DOH DBC Program at (808) 586-4226.

FIELD CITATION No:

SETTLEMENT AGREEMENT

By signing below, the owner or operator accepts the terms of this Settlement Agreement, and agrees not to challenge the issuance of the Notice of Citation and Field Citation Order. Subsequent signature by DOH constitutes its acceptance of the Settlement Agreement. This Field Citation/Settlement Agreement is not effective until signed by both the owner or operator and by DOH. **This settlement offers expires thirty calendar days after the date of the inspection, unless otherwise specified in a written extension granted by DOH.**

SETTLEMENT AGREEMENT. To expeditiously settle the violations described in the Notice of Citation, DOH AND THE OWNER OR OPERATOR SIGNING BELOW HEREBY ENTER INTO THE SETTLEMENT AGREEMENT, subject to the following terms and conditions:

1. This Settlement Agreement is binding on DOH and the Owner or Operator signing below.
2. The Owner or Operator signing below certifies, subject to civil and criminal penalties for making a false submission to DOH, that the Owner or Operator has corrected the violations within thirty calendar days from the date of inspection (unless DOH has granted an extension) and has presented DOH with a check to pay the full amount of the "Proposed Settlement Total" prescribed in the Notice of Citation section on the reverse.
3. The Owner or Operator signing below waives any objections to DOH's jurisdiction with respect to this Field Citation/Settlement Agreement, waives any objections to the violations and settlement amount in the Notice of Citation section, and consents to DOH's final approval of this Settlement Agreement without further notice.
4. The Owner or Operator signing below waives the right to a contested case hearing for the cited violations under chapter 91 HRS.
5. Upon DOH's final approval of this Settlement Agreement, DOH agrees that it will take no further action against the Owner or Operator for the violations described in the Notice of Citation section, provided that the violations have been fully corrected.
6. DOH does not waive any enforcement action it may take for any past, present or future violations of the deposit beverage container recycling laws not described in the Notice of Citation section. This is not a waiver of any violations of any other statute or regulations.
7. Final approval of the Settlement Agreement is in the sole discretion of DOH. Upon DOH's final approval below, this Settlement Agreement becomes effective, and DOH shall mail a copy to the Owner or Operator.

AGREEMENT BY OWNER OR OPERATOR

I hereby certify that the violations cited in the Notice of Citation have been corrected, and agree to the terms of the Settlement Agreement described above.

Date: ____ / ____ / ____

(Signature of Owner and/or Operator)

(Print Name)

(Print Title)

(Print Mailing Address of Person Signing Agreement)

FINAL APPROVAL BY DOH:

Date: ____ / ____ / ____

(Signature)

(Title)

Appendix II - FIELD CITATION PENALTY AMOUNTS - August 2007

Statutory or Regulatory Citation	Violation	Penalty for Settlement
HAR 11-282-43(k)	Failure to keep certificate on file at site	\$50
11-282-44	Failure to prominently display certification sign	\$50
11-282-46(3)	Failure to post refund values for each material	\$50
11-282-42(a)	Failure to post hours of operation	\$50
11-282-45(a) 342G-114(d)(2), HRS	Failure to visually inspect container loads	\$150
11-282-45 342G-116	Accepting and paying refund value on ineligible containers	\$300
11-282-46(1)	Weighing on a scale that is not approved, tested, and sealed by the department of agriculture	\$150
11-282-46(5)	Failure to meet the minimum container count requirements	\$150
342G-114(d)(3)	Failure to pay full refund value for all deposit beverage containers	\$300
342G-114(d)(1)	Failure to accept all types of empty deposit beverage containers	\$300
11-282-43(g)(3)	Failure to notify the department of changes in operation	\$150

11-282-04(a)	Failure to furnish previously requested information and/or records upon request	\$150
11-282-42(a)	Violation of site-specific certification conditions	\$150
11-282-42(a)	Failure to operate during certified hours of operation	\$300
342G-113	Dealer does not operate a redemption center and is not exempt pursuant to HRS §342G-113(b)	\$300
342G-113(c)	Dealer lacks a clear and conspicuous sign, which specifies the closest redemption center location	\$50
342G-111(g)	Dealer is charging customers the deposit value on mislabeled or ineligible containers	\$150
342G-103(a)	Distributor failed to register with the department	\$300
342G-103(b)	Distributor lacks required records regarding manufacturing, importing, and/or exporting deposit beverage containers	\$150
11-282-21	Distributor failed to properly label all deposit beverage containers	\$150
342G-112		
342G-105(a)	Distributor is late in submitting applicable reports and payments	\$150
342G-105(a)	Distributor failed to submit applicable reports and payments	\$300