

DEPARTMENT OF AGRICULTURE

Repeal of Chapter 4-96 and
Adoption of Chapter 4-96.1
Hawaii Administrative Rules

April 7, 2009

SUMMARY

1. Chapter 4-96, Hawaii Administrative Rules, entitled "Schedule and Fees for Licensing Devices Susceptible of Commercial Usage, and Measuring Devices and Measurement Standards for Testing or Certification," is repealed.
2. Chapter 4-96.1, Hawaii Administrative Rules, entitled "Schedule and Fees for Licensing Devices Susceptible of Commercial Usage, and Measuring Devices and Measurement Standards for Testing or Certification," is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 4

DEPARTMENT OF AGRICULTURE

SUBTITLE 7

QUALITY ASSURANCE DIVISION

CHAPTER 96.1

SCHEDULE AND FEES FOR LICENSING DEVICES
SUSCEPTIBLE OF COMMERCIAL USAGE, AND
MEASURING DEVICES AND MEASUREMENT STANDARDS
FOR TESTING OR CERTIFICATION

§4-96.1-1	Severability
§4-96.1-2	Violation
§4-96.1-3	Applicability
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§4-96.1-5	Commercial usage device annual license required
§4-96.1-6	License renewal
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§4-96.1-8	Fee responsibility
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§4-96.1-10	Special test request; fee
§4-96.1-11	Returned-check charge
§4-96.1-12	Exemptions

Historical note: This chapter is based substantially upon chapter 4-96.
[Eff 1/27/72; am 12/26/81; R APR 25 2009]

§4-96.1-1 Severability. If any provision of this chapter is held invalid, the invalidity shall not affect the remainder of this chapter and, to this end, the

§4-96.1-1

provisions of this chapter are severable. [Eff APR 25 2009] (Auth: HRS §486-7) (Imp: HRS §486-7)

§4-96.1-2 Violation. Any person omitting the required acts or committing the proscribed acts, or failing to pay the fees as established herein shall be in violation of this chapter and subject to the provisions of chapter 486 Hawaii Revised Statutes. [Eff APR 25 2009] (Auth: HRS §486-7) (Imp: HRS §486-7)

§4-96.1-3 Applicability. This chapter shall apply to all weighing and measuring devices engaged in or susceptible of commercial usage. [Eff APR 25 2009] (Auth: HRS §486-7) (Imp: HRS §486-7)

§4-96.1-4 Definitions. As used in this chapter,

“Accurate” means the performance or value (the indications, deliveries, recorded representations, or capacity or actual value, etc., as determined by tests conducted according to suitable standards) of a piece of equipment conforms to the standard within the applicable tolerances and other performance requirements. Equipment that fails so to conform is considered to be inaccurate.

“Administrator” means the administering officer of the quality assurance division, or any qualified person so designated by the chairperson of the board of agriculture.

"Certification fee" means the charge for testing for the certification of measuring devices or measurement standards.

"Commercial usage" means persons, things, and actions, including governmental agencies, involved in establishing the net, gross, or tare measure, cost, or value of any part, portion, or proration of the total, as it may be used in the quantification or measurement of anything impacting upon salary or wages, commerce or trade, or its documentation, including the establishing of taxes due.

"Correctness" means a piece of equipment is considered to be correct when, in addition to being accurate, the piece of equipment meets all applicable specifications, tolerances, and other technical requirements.

"License fee" means a fixed charge for permission granted by the administrator authorizing usage of a device susceptible of commercial usage.

"Suitability" means a measurement standard, which has been submitted to and approved by the administrator as to correctness and type for its intended use.

"Testing fee" means the charge for services rendered, by the administrator, for testing measuring devices or measurement standards on a request basis.

[Eff APR 25 2009] (Auth: HRS §486-7) (Imp: HRS §486-7)

§4-96.1-5 Commercial usage device annual license required. (a)

Prior to the use of any device susceptible of commercial usage, an annual license fee shall be paid as prescribed in Table I entitled "Schedule of Annual License Fees", dated November 25, 2008, and located at the end of this chapter.

(b) The license fee, payable to the state director of finance by check, cash, or money order, shall be mailed or delivered to the administrator as scheduled in this section. When available, payment may be made by credit card or electronic fund transfer.

- (1) Scales and linear measuring devices (except taximeters):
 - (A) License fees shall be due and payable February 1; and
 - (B) Licenses shall be valid from February 1 to January 31 of the following year;
- (2) Taximeters:
 - (A) License fees shall be due and payable June 1; and
 - (B) Licenses shall be valid from June 1 to May 31 of the following year;
- (3) Volumetric meters and dispensers:
 - (A) License fees shall be due and payable September 1; and
 - (B) Licenses shall be valid from September 1 to August 31 of the following year; and
- (4) All other non-categorized measurement standards:
 - (A) License fees shall be due and payable October 1; and
 - (B) Licenses shall be valid from October 1 to September 30 of the following year.

(c) The license fee shall be due immediately for any measuring device placed in service after the due date and the license shall be valid to its respective termination date stated in this section. [Eff APR 25 2009] (Auth: HRS §486-7) (Imp: HRS §486-7)

§4-96.1-6

§4-96.1-6 License renewal. (a) Any measuring device engaged in or susceptible of commercial usage shall be licensed for the year of potential use. The license fee shall become due and payable as scheduled in section 4-96.1-5.

(b) The use of any measuring device, not licensed as required in this chapter, is prohibited.

(c) Any license issued under this chapter shall not be transferred from one device to another. This shall not preclude the transfer of the title of a measuring device, along with its current license, to another person, provided the complete device is transferred. [Eff APR 25 2009] (Auth: HRS §486-7) (Imp: HRS §486-7)

§4-96.1-7 License application form. The measurement standards application for licensing a commercial measuring device may be obtained from the administrator upon request. [Eff APR 25 2009] (Auth: HRS §486-7) (Imp: HRS §486-7)

§4-96.1-8 Fee responsibility. The payment of a license fee shall be the responsibility of the person deriving the direct economic benefit from the use of the device. [Eff APR 25 2009] (Auth: HRS §486-7) (Imp: HRS §486-7)

§4-96.1-9 Certification of measurement standards; fee. (a) A measurement standard, used in proving the correctness of equipment engaged in or susceptible of commercial usage, shall be submitted annually to the administrator for examination as to suitability.

(b) Certification fees shall be paid according to Table 2 entitled "Schedule of Calibration Fees", dated November 25, 2008, and located at the end of this chapter. [Eff APR 25 2009] (Auth: HRS §486-7) (Imp: HRS §486-7)

§4-96.1-10 Special test request; fee. The fee for a requested special test shall be \$500 except if:

- (1) The requested special test requires the use of the test-weight truck, the fee shall be \$750;
- (2) The requested special test requires the use of the one-thousand-gallon petroleum test equipment, the fee shall be \$750. [Eff APR 25 2009] (Auth: HRS §486-7) (Imp: HRS §486-7)

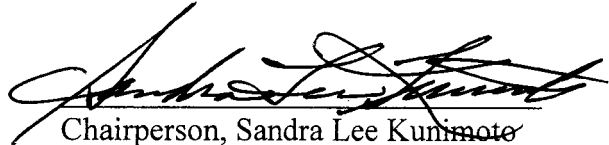
§4-96.1-11 Returned-check charge. When the payment of any fee established in this chapter is made by check, a charge of \$ 25.00 shall be assessed, in addition to the amount of the fee, if the check is not honored due to insufficient funds. [Eff APR 25 2009] (Auth: HRS §486-7) (Imp: HRS §486-7)

§4-96.1-12 Exemptions. The administrator may exempt a device or class of devices from the fee requirements of this chapter when the exemption is in the public interest. [Eff APR 25 2009] (Auth: HRS §486-7) (Imp: HRS §486-7)

DEPARTMENT OF AGRICULTURE

The repeal of Chapter 4-96 and the adoption of chapter 4-96.1, Hawaii Administrative Rules, on the Summary Page dated November 25, 2008, were adopted on November 25, 2008 following public hearings held on Oahu; Kauai and Maui; Kona and Hilo; respectively, on October 28, 24, 23, 22, and 21, 2008, after public notice was given, respectively, in The Honolulu Star Bulletin, The Garden Island newspaper, Maui News, the West Hawaii Today, and the Hawaii Tribune-Herald newspapers on Sunday September 21, 2008.

The repeal of chapter 4-96 and the adoption of chapter 4-96.1 shall take effect ten days after filing with the Office of the Lieutenant Governor.


Chairperson, Sandra Lee Kunimoto
Board of Agriculture

APPROVED AS TO FORM:


Deputy Attorney General

APPROVED:


LINDA LINGLE
Governor
State of Hawaii

Dated: APR 14 2009

Filed

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LIEUTENANT GOVERNOR'S
OFFICE

TABLE I.
SCHEDULE OF ANNUAL LICENSE FEES (DATED NOVEMBER 25, 2008)

<u>DEVICE DESCRIPTION</u>	<u>UNIT FEE</u>	
	11/25/2008	11/25/2013
<u>Dispensers, retail level type</u>		
Oil/ATF (Automatic transmission fluid) type	\$5	\$5
Gas pump--each hose and nozzle	5	6
In addition to the above charges for each dispenser, the following charges are applicable to establishments so equipped:		
Remote indication or control, per system	25	29
Currency reader operated/credit card operated, per system	25	29
<u>Meters, volumetric indicating</u>		
0 up to 50 GPM (Gallons per minute)	25	29
Over 50 up to 100 GPM	50	58
Over 100 up to 1,000 GPM	75	86
Over 1,000 GPM	100	115
<u>Linear measures</u>		
Yardstick, tape measures	10	12
Fabric measures	20	23
Wire & cordage measures	20	23
Taximeters	20	23
<u>Scales</u>		
0 up to 100 pounds	15	17
Over 100 up to 500 pounds	25	29
Over 500 up to 1,000 pounds	30	35
Over 1,000 up to 9,000 pounds	40	46
Over 9,000 up to 25,000 pounds	120	138
Over 25,000 up to 60,000 pounds	140	161
Over 60,000 up to 100,000 pounds	160	184
Over 100,000 pounds	200	230

TABLE II.
SCHEDULE OF CALIBRATION FEES (DATED NOVEMBER 25, 2008)

<u>MEASUREMENT STANDARDS DESCRIPTION</u>	<u>UNIT FEE</u>	
	11/25/2008	11/25/2013
<u>Length standard</u>		
Steel tape per calibrated point	\$ 15	\$17
<u>Mass standards (ASTM class 3-7 and NIST Class F): Charge per standard</u>		
10 pounds or less	17	20
Greater than 10 pounds to and including 100 pounds	25	29
Greater than 100 pounds to and including 2500 pounds	51	59
5 kilograms or less	17	20
Greater than 5 kilograms to and including 45 kilograms	25	29
Greater than 45 kilograms to and including 1134 kilograms	51	59
<u>Mass standards, Advance Weighing Designs (ASTM class 0, 1, 2): Charge per standard</u>		
10 pounds or less	34	39
Greater than 10 pounds to and including 100 pounds	51	59
5 kilograms or less	34	39
Greater than 5 kilograms to and including 50 kilograms	51	59
<u>Volume standards, glassware, flasks and graduated cylinders: Charge per standard</u>		
1 gallon or less	50	58
4 liters or less	50	58
<u>Volume standards, metal test measures and provers: Charge per standard</u>		
5 gallons or less	80	92
Greater than 5 gallons to and including 15 gallons	160	184
Greater than 15 gallons to and including 200 gallons	320	368
Greater than 200 gallons to and including 1500 gallons	640	736
19 liters or less	80	92
Greater than 19 liters to and including 57 liters	160	184
Greater than 57 liters to and including 757 liters	320	368
Greater than 757 liters to and including 5678 liters	640	736