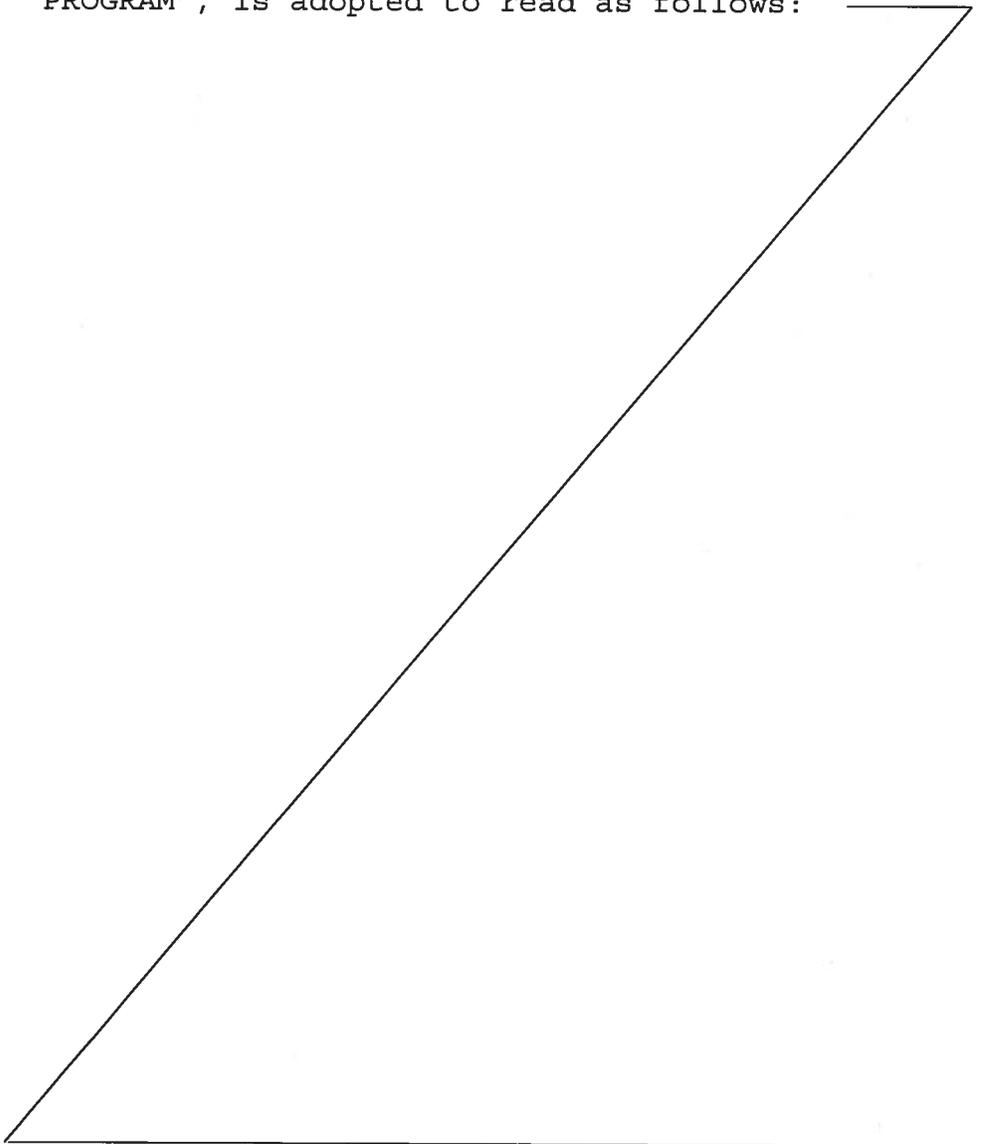


DEPARTMENT OF AGRICULTURE

Adoption of Chapter 4-162
Hawaii Administrative Rules

July 24, 2018

1. Chapter 4-162, Hawaii Administrative Rules, entitled "FOOD SAFETY CERTIFICATION COSTS GRANT PROGRAM", is adopted to read as follows:



HAWAII ADMINISTRATIVE RULES

TITLE 4

DEPARTMENT OF AGRICULTURE

SUBTITLE 7

QUALITY ASSURANCE DIVISION

CHAPTER 162

FOOD SAFETY CERTIFICATION COSTS GRANT PROGRAM

§4-162-1	Definitions
§4-162-2	Purpose of program
§4-162-3	Eligibility requirements
§4-162-4	Eligible costs
§4-162-5	Ineligible costs
§4-162-6	Applications
§4-162-7	Invoicing
§4-162-8	Grant amounts

§4-162-1 Definitions. As used in this chapter:

"Department" means the department of agriculture.

"Farming or ranching" means operations that grow, harvest, pack, or hold fresh produce; or grow, harvest, manufacture, and hold livestock feed for commercial sale purposes.

"FDA" means the federal Food and Drug Administration.

"FDA regulations" means title 21 of the Code of Federal Regulations, parts 112, 112, 117, and 507.

"Food Safety Preventive Controls Alliance" means the collaboration between the Illinois Institute of Technology and the FDA to help industry comply with the FSMA preventive controls rules for human and animal food.

"FSMA" means the FDA Food Safety Modernization Act (P.L. 111-353).

"Good agricultural practices and good handling practices audits" means audits performed by a third party government agency or private company to verify that fruits and vegetables are produced, packed, handled, and stored as safely as possible to minimize risks of microbial food safety hazards.

"HRS" means the Hawaii Revised Statutes.

"Produce Safety Alliance" means the collaboration between Cornell University, the FDA, and the USDA to prepare fresh produce growers to meet the regulatory requirements included in the FSMA's Produce Safety Rule.

"Program" means the Hawaii food safety certification costs grant program.

"State" means the State of Hawaii.

"State food safety laws" means chapter 321, Hawaii Revised Statutes, and chapter 11-50, Hawaii Administrative Rules.

"USDA" means the United States Department of Agriculture. [Eff _____] (Auth: HRS §141-12.5) (Imp: HRS §141-12.5)

§4-162-2 Purpose of program. The purpose of the Hawaii food safety certification costs grant program is to provide grants to assist farmers or ranchers in meeting the costs of complying with the FSMA, FDA regulations, and state food safety laws.

[Eff _____] (Auth: HRS §141-12.5) (Imp: HRS §141-12.5)

§4-162-3 Eligibility requirements. (a) To be eligible for a food safety certification costs grant, an applicant shall:

- (1) Be engaged in farming or ranching in the State as defined in this chapter; and
- (2) Be:
 - (A) An individual person residing in the State;

- (B) An institution of higher education in the State; or
- (C) A business entity having its principal place of business in the State with employees for whom the business is legally required to provide employee benefits.

[Eff] (Auth: HRS §141-12.5) (Imp:
HRS §141-12.5)

§4-162-4 Eligible costs. (a) Grants shall be awarded to reimburse costs incurred for practices necessary for compliance with the FSMA, FDA regulations, or state food safety laws.

(b) Eligible costs may include:

(1) Training

- (A) Training recognized by the FDA to be equivalent to the Produce Safety Alliance's standardized curriculum;
- (B) Training recognized by the FDA to be equivalent to the Food Safety Preventive Control Alliance's standardized curriculum;
- (C) Training recognized by the FDA to comply with the hazard analysis and risk-based preventive controls for human foods rule;
- (D) Training recognized by the FDA to comply with the hazard analysis and risk-based preventive controls for animal foods rule; and
- (E) Preventive controls systems training emphasizing prevention of hazards before they occur, such as hazard analysis critical control point, or hazard analysis and risk-based preventive controls;

(2) Water systems, sanitizer treatment supplies, and monitoring meters;

§4-162-5 Ineligible costs. Costs that are not eligible for reimbursement include but are not limited to:

- (1) Costs that are not directly related to, and necessary for, compliance with the FSMA, FDA regulations, or state food safety laws;
- (2) Costs related to the general operation of the applicant's business;
- (3) Wages, compensation, or benefits for the applicant's employees;
- (4) Costs of travel, entertainment, or lobbying activities;
- (5) Costs of vehicles and related vehicle expenses;
- (6) Costs for which the applicant already has been or will be reimbursed;
- (7) Insurance costs; and
- (8) Costs incurred more than five years prior to the time the application for grant is received by the department.

[Eff _____] (Auth: HRS §141-12.5)
 (Imp: HRS §141-12.5)

§4-162-6 Applications. (a) Each applicant for a food safety certification costs grant shall submit a signed, complete, accurate, and legible application, on a form provided by the department, which shall include the following:

- (1) The applicant's name, and business name if different, mailing address, farm or ranch's physical address, phone number, and if applicable, electronic mail address;
- (2) If the applicant is an individual or partnership, the date of birth of the individual or partners;
- (3) Proof of compliance with the State's business registration, tax, and labor laws;
- (4) A photocopy of the applicant's general excise tax license;

- (5) A completed W-9 tax information form signed by the applicant;
 - (6) Evidence of the implementation of farm food safety plan and practices, including photographs of equipment and their use;
 - (7) Proof of third party audit of good agricultural practices or good handling practices; and
 - (8) The applicant's agricultural operation details, including but not limited to:
 - (A) Acreage in production;
 - (B) Crops produced;
 - (C) Agricultural production experience;
 - (D) Food safety plan information;
 - (E) Farm size;
 - (F) Good agricultural practices certifications, if any; and
 - (G) Applicable income categories, as specified by the FSMA.
- (b) The application shall also include applicant's acknowledgment and agreement to the following terms and conditions:
- (1) The applicant has the legal authority to authorize, and by submitting an application does authorize, the department to enter the applicant's place of business at reasonable times to inspect records, facilities, and the premises either in the processing of the application or in the administration of the grant;
 - (2) The applicant certifies that all information and documents submitted in support of the application are correct and complete to the best of the applicant's knowledge;
 - (3) The applicant has all licenses, permits, and other approvals required by federal, state, or county governmental entities to conduct its operations and implement the practices for which the grant is intended;
 - (4) The applicant shall comply with all applicable federal and state laws prohibiting discrimination against any

DEPARTMENT OF AGRICULTURE

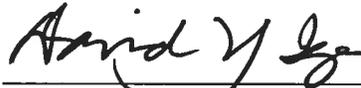
Chapter 4-162, Hawaii Administrative Rules, on the Summary Page dated July 24, 2018, was adopted on July 24, 2018, following public hearings held in Molokai, Kona, Maui, Kauai, Hilo, Oahu, on June 15, 2018, June 18, 2018, June 21, 2018, June 22, 2018, June 25, 2018, and June 26, 2018, respectively, after public notice was published in the Honolulu Star Advertiser, Hilo Tribune Herald, West Hawaii Today, Maui News, and The Garden Isle on May 9, 2018, and in the Molokai Dispatch on May 16, 2018.

The adoption of chapter 4-162, shall take effect the first day of the month following ten days after filing with the Office of the Lieutenant Governor.



SCOTT E. ENRIGHT
Chairperson
Board of Agriculture

APPROVED:



DAVID Y. IGE
Governor
State of Hawaii

Dated: 10-17-2018

APPROVED AS TO FORM:


Deputy Attorney General

Filed

