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


"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.


"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;
(3) Microbial testing of water, raw produce, or facility;
(4) Personal hygiene equipment and supplies, including:
   (A) Fixed or portable restroom, but not including septic systems or sewer connections;
   (B) Rental of portable restroom including cleaning and disposal of waste;
   (C) Hand washing sinks;
   (D) Hand sanitizer and sanitizing stations;
   (E) Worker protection clothing; and
   (F) First aid kits;
(5) Harvest and packing supplies to reduce food safety risks;
(6) Costs associated with food and safety compliance in the production of livestock feed for resale, including forage grasses, hay, grains;
(8) Wildlife fencing and pest deterrents and traps;
(9) Good agricultural practices and good handling practices audit costs with a passing score;
(10) General clean-up of farm and removal of hazardous debris;
(11) Traceability software, tools, and supplies;
(13) Food grade sanitizing solutions and detergents; and
(15) Costs of other practices necessary for compliance with the FSMA, FDA regulations, or state food safety laws.
(c) Only costs that were expended within five years prior to the time the application for the grant is received by the department shall be eligible for reimbursement. [Eff  ] (Auth: HRS §141-12.5) (Imp: HRS §141-12.5)
§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
person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, or disability; and

(5) The applicant shall allow the State full access to its records, files, and other related documents for the purpose of measuring the effectiveness, and ensuring the proper expenditures, of the grant.

(c) The department may require additional documentation to verify compliance with this chapter. Any incomplete application for a grant shall be denied. [Eff ] (Auth: HRS §141-12.5) (Imp: HRS §141-12.5)

§4-162-7 Invoicing. (a) All applications shall be accompanied by invoices or receipts showing eligible costs expended for practices necessary for compliance with the FSMA, FDA regulations, or state food safety laws.

(b) Invoices and receipts shall be original and shall include:

(1) The date of purchase, the vendor’s name, mailing address, and phone number;

(2) An itemization of each good or service; and

(3) Verification of payment by the applicant.

(c) The department may require additional documentation to verify compliance with this chapter.

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

§4-162-8 Grant amounts. (a) All grants are subject to available funding.

(b) Grant awards shall be made on a reimbursement, pro-rata basis out of the funds available for food safety certification costs grants.

(c) The maximum grant amount to any one applicant in a fiscal year shall not exceed $5,000.

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