

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.

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

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

"Certified redemption center" 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.

"Dealer" means a person who engages in the sale of beverages in deposit beverage containers to a consumer for off-premises consumption in the State.

"Department" means the department of health.

"Deposit beverage" means beer, ale, or other drink produced by fermenting malt, mixed spirits, mixed wine, tea and coffee drinks regardless of dairy-derived product content, soda, or noncarbonated water, and all nonalcoholic drinks in liquid form and intended for internal human consumption that is contained in a deposit beverage container.

The term "deposit beverage" excludes the following:

- (1) A liquid which is:
  - (A) A syrup;
  - (B) In a concentrated form; or
  - (C) Typically added as a minor flavoring ingredient in food or drink, such as extracts, cooking additives, sauces, or condiments;
- (2) A liquid which is a drug, medical food or infant formula as defined by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §301 et seq.);
- (3) A liquid which is designed and consumed only as a dietary supplement and not as a beverage as defined in the Dietary Supplement Health and Education Act of 1994 (P.L. 103-417);
- (4) Products frozen at the time of sale to the consumer, or, in the case of institutional users such as hospitals and nursing homes, at the time of sale to the users;
- (5) Products designed to be consumed in a frozen state;
- (6) Instant drink powders;
- (7) Seafood, meat, or vegetable broths, or soups, but not juices; and

(8) Milk and all other dairy-derived products, except tea and coffee drinks with trace amounts of these products.

"Deposit beverage container" means the individual, separate, sealed glass, polyethylene terephthalate, high density polyethylene, or metal container less than or equal to sixty-eight fluid ounces, used for containing, at the time of sale to the consumer, a deposit beverage intended for use or consumption in this State.

"Deposit beverage distributor" or "distributor" means a person who is a manufacturer of beverages in deposit beverage containers in this State, or who imports and engages in the sale of filled deposit beverage containers to a dealer or consumer. The term includes federal agencies and military distributors, but does not include airlines and shipping companies that merely transport deposit beverage containers.

"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 chapter is an offer to settle an administrative case involving a violation of this chapter or a provision of chapter 342G, HRS.

"Force majeure" is any event arising from causes beyond the control of the person subject to the field citation or of any entity controlled by the person (including, but not limited to, the person's contractors and subcontractors) that delays or prevents the performance of any obligation under the field citation, despite the person's best efforts to fulfill the obligation. The person'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.

"Person" means individual, partnership, firm, association, public or private corporation, federal agency, the State or any of its political subdivisions, trust, estate, or any other legal entity.

"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.

"Redemption center" means an operation which accepts from consumers and provides the refund value for empty deposit beverage containers intended to be recycled and ensures that the empty deposit beverage containers are properly recycled.

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

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

"Reverse vending machine" means a mechanical device, which accepts one or more types of empty deposit beverage containers and issues a redeemable credit slip with a value not less than the container's refund value. The refund value payments shall be aggregated and then paid if more than one container is redeemed in a single transaction.

"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] distributor, dealer, certified redemption center, and recycling facility, 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] settlement amount 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 resolution of easily verifiable violations of chapter 342G, HRS, and this chapter. [Eff and comp ] (Auth: HRS §342G-72) (Imp: HRS §342G-72)

§11-282-72 Applicability. The rules of this subchapter 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.

[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, persons who are subject to regulation under the deposit beverage container program 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 a person who is subject to regulation under the deposit beverage container program who violates any provision of chapter 342G, HRS or this chapter.

(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 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 person subject to the field citation. [Eff and comp ] (Auth: HRS §342G-72) (Imp: HRS §342G-72)

§11-282-74 Citation. (a) The 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 person subject to the field citation, or on-site representative.

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

§11-282-75      Field citation order and settlement agreement. By signing the settlement agreement, the person subject to the field citation accepts the settlement agreement. [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 Citation and Field Citation Order, the person subject to the field citation 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 an extension for the person subject to the field citation to correct the violations, pay the settlement amount, and sign and return the settlement agreement. An extension may be granted provided that within the initial thirty days:

- (1) The person subject to the field citation submits to the department a written request for an extension;
- (2) The person subject to the field citation satisfactorily demonstrates to the department that there are factors beyond the control of the person 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 person subject to the field citation demonstrates to the satisfaction of the department that a force majeure event has occurred.

(d) If the person subject to the field citation 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 other formal enforcement action.

(e) Failure to return the settlement agreement and pay the settlement amount within the time allowed does not relieve the person subject to the field citation 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 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)



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.

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CHIYOME LEINAALA FUKINO, M.D.  
Director  
Department of Health

APPROVED AS TO FORM:

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Bill Cooper  
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**

**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 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 potential 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 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 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 an 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 an 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 sign 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 Citation section.

If this Field Citation Order/Settlement Agreement is not signed by the person subject to the field citation and by DOH, DOH reserves the right to: (1) issue a Notice of Violation for any or all of the violations described in the Citation section of this field citation, and (2) order the payment of a penalty higher than the amount(s) indicated as settlement amounts(s) in the Citation. The penalty amounts set forth in the 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 Citation section. If you have any questions, you may contact the DOH Deposit Beverage Container Program at (808) 586-4226.

**FIELD CITATION No:  
SETTLEMENT AGREEMENT**

By signing below, the person subject to the field citation accepts the terms of this Settlement Agreement, and agrees not to challenge the issuance of the 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 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 Citation, DOH AND THE PERSON 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 person signing below.
2. The person signing below certifies, subject to civil and criminal penalties for making a false submission to DOH, that the person has corrected the violations within thirty calendar days from the date of inspection (unless DOH has granted an extension) , that a check to pay the full amount of the "Proposed Settlement Total" prescribed in the Citation is enclosed and that the person agreed to the terms of the Settlement Agreement.
3. The person signing below waives any objections to DOH's jurisdiction with respect to this Field Citation/Settlement Agreement and waives any objections to the violations and settlement amount in the Citation without further notice.
4. The person signing below waives the right to a contested case hearing for the cited violations under chapter 91 HRS, and agrees to the order.
5. Upon DOH's final approval of this Settlement Agreement, DOH agrees that it will take no further action against the person for the violations described in the Citation, provided that the violations have been fully corrected and the penalty is paid on time.
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 Citation. This is not a waiver of any violations of any other statute or regulations.

**AGREEMENT BY PERSON SUBJECT TO THE FIELD CITATION**

I hereby certify that the violations cited in the Citation have been corrected, payment of the penalty is enclosed with the signed citation, and I agree to the terms of the Settlement Agreement described above.

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
*(Signature of Person Subject to the Field Citation)*

\_\_\_\_\_  
*(Print Name)*

\_\_\_\_\_  
*(Print Title)*

\_\_\_\_\_  
*(Print Mailing Address of Person Signing Agreement)*

**FINAL APPROVAL BY DOH:**

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Title)*

Appendix II - FIELD CITATION AMOUNTS

Statutory or Regulatory Citation	Violation	Settlement Amounts
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	Acceptance and payment of refund value on ineligible containers	\$300
11-282-46(1)	Use of 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	Failure by dealer, who is not exempt pursuant to HRS section 342G-113(b), to operate a redemption center	\$300
342G-113(c)	Failure by dealer, who is not a redemption center, to post a clear and conspicuous sign at the primary public entrance of the dealer's place of business that specifies name, address, and hours of operation of the closest redemption center location	\$50
342G-111(g)	Dealer charging customers the deposit value on mislabeled or ineligible containers	\$150
342G-103(a)	Failure by distributor to register with the department	\$300
342G-103(b)	Failure by distributor to keep required records regarding manufacturing, importing, and/or exporting deposit beverage containers	\$150
11-282-21 342G-112	Failure by distributor to properly label all deposit beverage containers	\$150
342G-105(a)	Failure by distributor to submit timely reports or payments or both	\$150
342G-105(a)	Failure by distributor to submit applicable reports and payments	\$300