

**Appendix H: Fugitive Dust,
Open Burning, and Field
Citations**

Fugitive Dust Rule Revisions
after Governor's Approval on 2-8-2024
Hawaii Administrative Rules, Title 11, Chapter 60.1

single source of emission, for a period aggregating not more than six minutes in any sixty minutes, air pollutants of a density not darker than sixty percent opacity.

(c) Compliance with visible emission requirements shall be determined by evaluating opacity of emissions pursuant to 40 CFR Part 60, Appendix A, Method 9, other EPA approved methods, or any other credible evidence.

(d) Emissions of uncombined water, such as water vapor, are exempt from the provisions of subsections (a) and (b), and do not constitute a violation of this section. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-32 is based substantially upon §11-60-3. [Eff 11/29/82; am, ren §11-60-3 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

§11-60.1-33 Fugitive dust. (a) No person shall cause or permit visible fugitive dust to become airborne without taking reasonable precautions. Examples of reasonable precautions are:

- (1) Use of water or suitable chemicals for control of fugitive dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land;
- (2) Application of asphalt, water, or suitable chemicals on roads, material stockpiles, and other surfaces which may result in fugitive dust;
- (3) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials. Reasonable containment methods shall be employed during sandblasting or other similar operations;

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- (4) Covering all moving, open-bodied trucks transporting materials which may result in fugitive dust;
- (5) Conducting agricultural operations, such as tilling of land and the application of fertilizers, in such manner as to reasonably minimize fugitive dust;
- (6) Maintenance of roadways in a clean manner; and
- (7) Prompt removal of earth or other materials from paved streets which have been transported there by trucking, earth-moving equipment, erosion, or other means.

(b) Except for persons engaged in agricultural operations or persons who are implementing the best practical operation or treatment, no person shall cause or permit the discharge of visible fugitive dust beyond the property lot line on which the fugitive dust originates.

(c) Except for persons engaged in agricultural operations, no person shall cause or permit visible fugitive dust emissions equal to or in excess of twenty percent opacity for more than twenty-four individual readings recorded during any one-hour period. Opacity observations shall be conducted in accordance with 40 CFR Part 51, Appendix M, Method 203B, "Visual Determination of Opacity of Emissions from Stationary Sources for Time-Exception Regulations." This rule shall be in addition to complying with paragraphs (a) and (b), including when reasonable precautions are applied and shall be applicable in all circumstances. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp FEB - J 2024]
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-33 is based substantially upon §11-60-5. [Eff 11/29/82; am, ren §11-60-5 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

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§11-60.1-42 Waste gas disposal. (a) No person shall cause or permit the emissions of gas streams containing volatile organic compounds from a vapor blowdown system unless these gases are burned by smokeless flares, or abated by an equally effective control device as approved by the director.

(b) Compliance with smokeless flare or equally effective control device requirements shall be in accordance with section 11-60.1-32. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; am and comp FEB - 8 2024]
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

Historical note: §11-60.1-42 is based substantially upon §11-60-13. [Eff 11/29/82; am, ren §11-60-13 and comp 4/14/86; comp 6/29/92; R 11/26/93]

§11-60.1-43 All operation and maintenance of permitted source. Permittees shall, at all times, operate and maintain their permitted source, including air pollution control and monitoring equipment, in a manner consistent with good air pollution control practices for minimizing emissions, at a minimum, to the levels required by their permits.

Determination of whether such operation and maintenance procedures are being used will be based on information available to the director, which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source. [Eff and comp FEB - 8 2024]
(Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)
(Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416)

SUBCHAPTER 3

OPEN BURNING

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§11-60.1-51 Definitions. As used in this subchapter:

"Agricultural burning" means the use of open burning in agricultural operations, forest management, or range improvements.

"Agricultural operation" means a bona fide agricultural, silvicultural, or aquacultural activity for the purpose of making a profit by raising, harvesting and selling crops, or by raising and selling livestock or poultry, or produce thereof. Agricultural operation also means activities conducted by non-profit agricultural research organizations and by educational institutions for the purpose of providing agricultural instruction. The burning of animal carcasses is not an agricultural operation.

"Attended" means to be physically present at the immediate location of the fire, to actively and physically look after, or to actively and physically take charge of.

"Auxiliary fuels" means butane, propane, pipeline quality natural gas, liquefied petroleum gas, or a petroleum liquid having an American Petroleum Institute gravity of at least 30.

"Aquacultural" means dealing with the cultivation of the natural produce of water.

"Clearing of land" means the removal of non-agricultural waste or vegetation from land not currently being utilized for agricultural operations, or not associated with forest management or range improvement.

"Cooking fuel" means any fuel that is processed, marketed, and sold by commercial establishments specifically for the cooking of food.

"District" means a geographic area, as designated by the director, to distinguish appropriate air basins for the purpose of smoke management.

"Forest management" means wildland vegetation management using prescribed burning procedures which have been approved by the forestry division or responsible federal agency prior to the commencement of any burn and which are being conducted by a public agency or through a cooperative agreement involving a

public agency. The fire department may be consulted for advice and guidance as part of the prescribed burning procedure.

"Forestry division" means the division of forestry and wildlife of the department of land and natural resources of the State of Hawaii.

"No-burn period" means any period in which agricultural burning or conditionally allowed open burning in subsection 11-60.1-52(e) is prohibited by the director as provided in section 11-60.1-55.

"Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack or flare.

"Range" means an extensive area of open land on which domestic livestock or wild animals wander and graze.

"Range improvement" means physical modification or treatment of rangeland which is designed to: improve production of forages; change vegetation composition; control patterns of use; provide water; stabilize soil and water conditions; and otherwise restore, protect, and improve the conditions of the rangeland ecosystems to benefit livestock, horses, and fish and wildlife.

"Recreational fire" means a fire used for social, cultural, or other activities including, but not limited to, campfires, bonfires, hand-warming fires, raku or pit pottery curing fires, or fires conducted as part of an unusual event such as fire dancing, provided the activity is not part of a business for gainful occupation.

"Silvicultural" means dealing with the cultivation of forest trees; forestry. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; am and comp 1/13/12; am and comp 6/30/14; am and comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-34; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-34; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52)

§11-60.1-52 General provisions. (a) Except as provided in subsections (b), (c), (d), (e) and section 11-60.1-53, no person shall cause, permit, or maintain any open burning. Any open burning is the responsibility of the person owning, operating, or managing the property, premises, business establishment, or industry where the open burning is occurring. Subsections (b), (c), (d), (e) and section 11-60.1-53 shall not apply to the open burning of human remains or animal carcasses unless the activities fall under the exemptions found in paragraph (d)(2).

(b) Subsection (a) shall not apply to attended fires for the cooking of food provided that:

- (1) Only untreated dry wood, charcoal, natural or synthetic natural gas, butane, propane, or cooking fuel is used, and
- (2) If visible smoke enters any residence, business or public area, best practical measures to eliminate the smoke, including extinguishing the fire, are taken.

(c) Subsection (a) shall not apply to the following, provided that notification is given to the director prior to the commencement of any burn:

- (1) Fires set to a building, structure or simulated aircraft for training personnel in firefighting methods.

(d) Subsection (a) shall not apply to the following, provided that the burning is approved by the director:

- (1) Outdoor fires for recreational, religious, ceremonial or decorative, or related purposes including, but not limited to, campfires, bonfires, pottery curing fires, that are burning dry untreated wood, charcoal, or auxiliary fuels;
- (2) Fires for the disposal of human remains and animal carcasses and debris generated from a

natural disaster or catastrophic event, where there is no reasonable alternative method of disposal;

- (3) Outdoor fires set for cultural, traditional, or related purposes and fires within cultural or traditional structures including sweat houses or lodges; and
- (4) Pyrotechnics for the creation of special effects during filming or motion pictures, television programs, or other commercial video, photography or creative arts production activities.

(e) Subsection (a) shall not apply to the following, provided that the burning is both approved by the director, and that the burning is allowed under either section 11-60.1-55 or 11-60.1-52(f):

- (1) Fires to abate a fire hazard, provided that the hazard is so declared by the fire department, forestry division, or federal agency having jurisdiction, and that a prescribed burning plan, if applicable, has been submitted to and approved by the jurisdictional agency;
- (2) Fires for prevention or control of disease, pests, invasive species or other natural threats to the environment or economy; and
- (3) Fires for the disposal of dangerous materials, where there is no alternate method of disposal;

(f) The director may provide a waiver to the section 11-60.1-55 "no-burn" period for any exemption to open burning found under subsection 11-60.1-52(e).

(g) Subsections (b), (c), (d), or (e) shall not exempt any activity from the application of any rules or requirements in any other section or chapter. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; am and comp 1/13/12; comp 6/30/14; am and comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)

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Historical note: §11-60.1-52 is based substantially upon §11-60-31. [Eff 11/29/82; am, ren §11-60-31 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

§11-60.1-53 Agricultural burning: permit applicability. No person engaged in any agricultural operation, forest management, or range improvement shall cause or allow agricultural burning without first obtaining an agricultural burning permit from the director. Any person who fails to comply with the terms and conditions of the permit or this chapter shall be subject to the penalties and remedies provided for in sections 342B-42, 342B-44, 342B-47, and 342B-48, HRS, including the invalidation of the permit. No agricultural permit shall be granted for, or be construed to permit:

- (1) The open burning of trash, waste, or by-products generated outside the permitted property;
- (2) The open burning of trash or other waste that has been handled or processed by factory operations, not including material from the field; or
- (3) The open burning of any waste for the clearing of land. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; am and comp 1/13/12; comp 6/30/14; comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-21; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-21; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)

Historical note: §11-60.1-53 is based substantially upon §11-60-32. [Eff 11/29/82; am, ren §11-60-32 and comp 4/14/86; comp 6/29/92; R 11/26/93]

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§11-60.1-54 Agricultural burning permit

application. (a) Application for an agricultural burning permit shall be made on forms furnished by the director. The application shall include the following:

- (1) Business license information or commercial agricultural activity general excise tax license, if applicable;
- (2) Maps of areas to be burned showing fields by appropriate numbers and acreage, direction of prevailing winds, location of residential, school, and commercial establishments, public buildings, airports, and public utilities;
- (3) The designation of fields to be burned under specified wind conditions; and
- (4) Any other information as required and deemed necessary by the director to make a decision on the application.

(b) To be eligible for an agricultural burning permit, the applicant must currently be involved in agricultural operations, forest management, or range improvements at the property where burning will occur, and must have legal right, title, or possession to the property, and if not the owner, must have the written authorization of the owner or owner's representative to burn on the property.

(c) Each application shall be signed by the applicant as being true and accurate and shall constitute an agreement that the applicant shall comply with all the terms and conditions of the permit and this chapter.

(d) The director shall not continue to act upon or consider any incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

- (1) All information required or requested pursuant to subsection (a) has been submitted;
- (2) All documents in subsection (a) have been signed by the applicant; and
- (3) All applicable fees have been submitted.

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(e) The application will be deemed complete sixty days after received unless the director requests the applicant to provide additional information. [Eff 11/26/93; comp 10/26/98; comp 9/15/01; comp 11/14/03; am and comp 1/13/12; comp 6/30/14; comp

FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-21; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-21; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)

Historical note: §11-60.1-54 is based substantially upon §11-60-33. [Eff 11/29/82; am, ren §11-60-33 and comp 4/14/86; comp 6/29/92; R 11/26/93]

§11-60.1-55 Agricultural burning or conditionally allowed open burning from subsection 11-60.1-52(e): "no-burn" periods. (a) Except as provided in subsection (f), no person, with or without an agricultural burning permit, shall cause or allow agricultural burning or conditionally allowed open burning from subsection 11-60.1-52(e) when a "no-burn" period has been declared by the director.

(b) "No-burn" periods shall be determined by current and forecasted weather conditions which inhibit the dispersion of air pollutants. A no-burn period may be declared if unfavorable meteorological conditions such as high winds, temperature inversions and air stagnation are existing and forecasted to continue or deteriorate. If forecasting is unavailable, "no-burn" periods shall be determined based on visibility.

(c) Visibility shall be used as the basis for determining "no-burn" periods when forecasting is not possible or not available. A "no-burn" call based on visibility shall be made under the following conditions:

- (1) When the director determines that meteorological conditions have resulted in widespread haze on any island or in any

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district on the island and that these meteorological conditions will continue or deteriorate. For the purposes of this section, widespread haze shall be considered to exist when all visible ridges:

- (A) Within five to ten miles have a "smoky" or bluish appearance and colors are subdued; and
 - (B) Beyond ten miles have a blurred appearance;
- (2) When a "no-burn" period has been declared in a district and smoke from any adjacent district, as determined by the director, may impact on the affected district, the "no-burn" period shall apply to both districts; or
- (3) On the island of Oahu either when the condition specified in paragraph (1) or (2) occurs or when meteorological conditions have resulted in a rise of the carbon monoxide level exceeding five mg/m³ for an eight-hour average or the PM₁₀ level exceeding one hundred thirty five µg/m³ for twenty-four hours and when the director determines that these meteorological conditions will continue or deteriorate.

(d) Verification that widespread haze exists in any district may be accomplished by consultation with department personnel in the appropriate district.

(e) Notices of "no-burn" periods for the specified islands or districts may be posted on a department web page and shall apply to a specified "no burn" period.

(f) In a district where a long-term "no burn" declaration is in effect, the director may provide a waiver during an agricultural "no burn" period for the control of plant diseases or infestations when burning is determined to be the best available method of control. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; am and comp 1/13/12; comp 6/30/14; am and comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-43; 42 U.S.C. §§7407,

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7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-43; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)

Historical note: §11-60.1-55 is based substantially upon §11-60-34. [Eff 11/29/82; am, ren §11-60-34 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

§11-60.1-56 Agricultural burning: recordkeeping and monitoring. Each permittee shall monitor and maintain records in accordance with the agricultural burning permit issued by the director. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14; comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-28; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-28; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)

Historical note: §11-60.1-56 is based substantially upon §11-60-35. [Eff 11/29/82; am, ren §11-60-35 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

§11-60.1-57 Agricultural burning: action on application. (a) The director shall act on a complete application within a reasonable time, but not to exceed ninety calendar days from the date the complete application is received, and shall notify the applicant in writing of the approval or denial of the application. If the director has not acted on an application within the ninety calendar-day period, the application shall be deemed to have been approved. (b) If an application is denied, the applicant may request in writing, a re-evaluation of the application to the director. (c) If the application is denied after the re-evaluation, the applicant may request a hearing in accordance with chapter 91, HRS.

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(d) The permit may be granted for a period of up to one year from the date of issuance.

(e) At the director's sole discretion or the application of any person, the director may terminate, suspend, reopen, or amend a permit if, after affording the applicant a hearing in accordance with chapter 91, HRS, it is determined that:

- (1) Any condition of the permit has been violated;
- (2) Any provision of this chapter has been violated;
- (3) Any provision of chapter 342B, HRS, has been violated;
- (4) The maintenance or attainment of NAAQS and state ambient air quality standards will be interfered with; or
- (5) The action is in the public interest.

(f) The permit shall not be transferable whether by operation of law or otherwise or from one person to another. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; am and comp 1/13/12; comp 6/30/14; comp FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12, 342B-21, 342B-24, 342B-27; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-21, 342B-24, 342B-27; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)

Historical note: §11-60.1-57 is based substantially upon §11-60-36. [Eff 11/29/82; am, ren §11-60-36 and comp 4/14/86; am and comp 6/29/92; R 11/26/93]

§11-60.1-58 Agricultural burning: permit content. The director shall consider and incorporate the following elements into an agricultural burning permit, as applicable:

- (1) Notification of appropriate authorities prior to each burn;

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- (2) The type and amount of material allowed to be burned and the time period(s) when burning is allowed;
- (3) Proper fire and safety control measures;
- (4) Operator or permittee must allow the director or an authorized representative, upon presentation of credentials, to enter the burn location and inspect, all facilities, practices, and operations, or records covered under the terms and conditions of the permit; and
- (5) Any other provision to assure compliance with all applicable requirements of HAR Chapter 11-60.1. [Eff and comp 1/13/12; comp 6/30/14; comp FEB -8 2024]
(Auth: HRS §§342B-3, 342B-12, 342B-21, 342B-22, 342B-24, 342B-27, 342B-28; 42 U.S.C. §§7407, 7410, 7416; 40 C.F.R. Parts 50, 51, and 52) (Imp: HRS §§342B-3, 342B-12, 342B-21, 342B-24, 342B-27, 342B-28; 42 U.S.C. §§7407, 7416; 40 C.F.R. Parts 50, 51, and 52)

SUBCHAPTER 4

NONCOVERED SOURCES

§11-60.1-61 Definitions. As used in this subchapter, unless otherwise defined for purposes of a particular section or subsection of this subchapter:

"Applicable requirement" means all of the following as they apply to emissions units in a noncovered source:

- (1) Any NAAQS or state ambient air quality standard;
- (2) Any standard or other requirement approved pursuant to Section 111 of the Act, including Section 111(d);
- (3) Any standard or other requirement approved pursuant to Section 112 of the Act, including

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(9) Subpart FF, National Emission Standard for Benzene Waste Operations.

(b) Any owner or operator who constructs, reconstructs, modifies, or operates an applicable source subject to covered source permitting is subject to the application and permitting requirements of subchapter 5. Each emission standard in 40 CFR Part 61 (including emission limits, control, operational, and maintenance requirements, compliance dates, and associated recordkeeping, monitoring, testing, notification, and reporting requirements) is an applicable requirement of subchapter 5, Covered Sources.

c) Any owner or operator who constructs, reconstructs, modifies, or operates an applicable source subject to noncovered source permitting requirements is subject to the application and permitting requirements of subchapter 4. Each emission standard in 40 CFR Part 61 (including emission limits, control, operational, and maintenance requirements, compliance dates, and associated recordkeeping, monitoring, testing, notification, and reporting requirements) is an applicable requirement of subchapter 4, Noncovered Sources. [Eff 11/26/93; comp 10/26/98; am and comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14, am and comp

FEB - 8 2024] (Auth: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7412, 7416; 40 C.F.R. Part 61) (Imp: HRS §§342B-3, 342B-12; 42 U.S.C. §§7407, 7416; 40 C.F.R. Part 61)

SUBCHAPTER 10

FIELD CITATIONS

§11-60.1-191 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 342B, HRS, and this chapter, as listed in §11-60.1-192(a). The

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field citation program creates an expedited administrative settlement process that is an alternative to the often costly and lengthy traditional administrative enforcement process. [Eff and comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14, comp FEB - § 2024] (Auth: HRS §342B-42)

§11-60.1-192 Offer to settle; penalties. (a) A field citation is an offer to settle an administrative case. In lieu of issuing a formal notice and finding of violation and order, the director may, at the director's sole discretion, through any authorized employee, issue a field citation by personal service or certified mail to a person who:

- (1) Causes or permits visible fugitive dust to become airborne without taking reasonable precautions, in violation of subsection 11-60.1-33(a);
- (2) Causes or permits the discharge of visible fugitive dust beyond the property lot line on which the fugitive dust originates, in violation of subsection 11-60.1-33(b);
- (3) Cause or permit visible fugitive dust emissions equal to or in excess of twenty percent opacity for more than twenty-four individual readings recorded during any one hour period, as determined by using EPA 40 CFR 51 Appendix M, Method 203B, in violation of subsection 11-60.1-33(c);
- (4) Causes or allows open burning in violation of subsection 11-60.1-52(a);
- (5) Fails to comply with the notification requirement for fires found in subsection 11-60.1-52(c);
- (6) Fails to comply with any approved condition or requirement for fires described in subsection 11-60.1-52(d);
- (7) Fails to comply with any approved condition or requirement for fires described in subsection 11-60.1-52(e) and allowed under

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- (8) Fails to comply with any condition found in a permittee's agricultural burning permit, in violation of the specific condition found in the permittee's applicable agricultural burning permit;
 - (9) Fails to comply with any condition or requirement found in a permittee's noncovered source permit, in violation of the specific condition or requirement found in the permittee's applicable noncovered source permit;
 - (10) Fails to comply with any condition or requirement found in a permittee's covered source permit, in violation of the specific condition or requirement found in the permittee's applicable covered source permit;
 - (11) Fails to obtain a noncovered source permit, in violation of subsection 11-60.1-62(a); or
 - (12) Fails to obtain a covered source permit, in violation of subsection 11-60.1-82(a).
- (b) The notice of citation shall assess the following penalties for the violations in subsection (a):
- (1) Any person who violates paragraph (a)(1) shall be fined \$300 for a first violation, and \$500 for a subsequent violation.
 - (2) Any person who violates paragraph (a)(2) shall be fined \$500 for a first violation, and \$1000 for a subsequent violation.
 - (3) Any person who violates paragraph (a)(3) shall be fined \$200 for a first violation, and \$400 for a subsequent violation.
 - (4) Any person who violates paragraph (a)(4) shall be fined \$100 for a first violation, and \$300 for a subsequent violation.
 - (5) Any person who violates paragraph (a)(5) shall be fined \$250 for a first violation, and \$500 for a subsequent violation.
 - (6) Any person who violates paragraph (a)(6) shall be fined \$250 for a first violation,

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- and \$500 for a subsequent violation.
- (7) Any person who violates paragraph (a) (7) shall be fined \$250 for a first violation, and \$500 for a subsequent violation.
 - (8) Any person who violates paragraph (a) (8) shall be fined \$250 for a first violation, and \$500 for a subsequent violation.
 - (9) Any person who violates paragraph (a) (9) shall be fined \$500 for a first violation, and \$1,000 for a subsequent violation.
 - (10) Any person who violates paragraph (a) (10) shall be fined \$750 for a first violation, and \$1,500 for a subsequent violation.
 - (11) Any person who violates paragraph (a) (11) shall be fined \$750 for a first violation, and \$1500 for a subsequent violation.
 - (12) Any person who violates paragraph (a) (12) shall be fined \$1000 for a first violation, and \$2000 for a subsequent violation. [Eff and comp 9/15/01; comp 11/14/03; am and comp 1/13/12; am and comp 6/30/14, am and comp
FEB -8 2024] (Auth: HRS §342B-42)

§11-60.1-193 Acceptance or withdrawal of citation. (a) To accept the director's offer to settle, the person to whom a field citation was issued must, within twenty days of its issuance, correct the violations, sign the settlement agreement, and deliver the signed agreement with payment of the penalty by check or money order to the State of Hawaii. The director, on the director's own initiative, or upon request from the person to whom a field citation was issued, may extend the deadline to accept the offer to settle if the director determines that reasonable justification exists for the extension.

- (b) By signing the settlement agreement, the person to whom a field citation was issued agrees to:
- (1) waive the person's right to a contested case hearing pursuant to chapter 91, HRS;
 - (2) waive any challenge to the field citation;

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- (3) pay the penalty assessed;
 - (4) correct the violation; and
 - (5) enter into the settlement agreement.
- (c) The settlement agreement is not effective until it is signed by both the person to whom the field citation was issued and by the director. Approval by the director shall be at the director's sole discretion.
- (d) The director may withdraw the field citation if the person to whom it is issued:
- (1) declines to accept the director's offer to settle;
 - (2) fails to satisfactorily meet any of the conditions set forth in subsection 11-60.1-193(a); or
 - (3) fails to satisfactorily meet any of the conditions set forth in subsection 11-60.1-193(b), in which case the director may bring a formal administrative action under HRS, §342B-42 and pursue any remedies available under this chapter, HRS, chapter 342B, or any other law. [Eff and comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14, am and comp FEB - 8 2024] (Auth: HRS §342B-42)

§11-60.1-194 Form of citation. A field citation issued pursuant to this section shall be in the form prescribed by the department. [Eff and comp 9/15/01; comp 11/14/03; comp 1/13/12; comp 6/30/14, comp FEB - 8 2024] (Auth: HRS §342B-42)

SUBCHAPTER 11

GREENHOUSE GAS EMISSIONS

§11-60.1-201 Purpose. The purpose of this subchapter is to further implement the goals of Act

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Hawaii Administrative Rule Amendments
Governor's Approval on 2-8-2024

DEPARTMENT OF HEALTH

Amendments to and compilation of chapter 11-60.1, Hawaii Administrative Rules, on the Summary Page dated February 8, 2024 were adopted on February 8, 2024 following a public hearing held on April 28, 2023, after public notice was given in the *Honolulu Star Advertiser*, *The Maui News*, *The Garden Island*, and *Hawaii Tribune-Herald* on May 30, 2023.

The rules shall take effect ten days after filing with the Office of the Lieutenant Governor.



KENNETH S. FINK, MD, MGA, MPH
Director of Health

APPROVED:



JOSH GREEN, M.D.
Governor
State of Hawaii

APPROVED AS TO FORM:



LYLE T. LEONARD
Deputy Attorney General

FEB - 8 2024

Filed

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LIEUTENANT GOVERNOR'S
OFFICE

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