

Proposed changes to 19-133.5, HAR

§19-133.5:

Change the title of the rules to include the word “Fine.”

§19-133.5-2(2):

Add minimum fines to the penalties for both station and inspector infractions - in response to Act 73, SLH 2018.

§19-133.5-3:

Correct the erroneous reference number 19-134 to 19-133.5. Also delete eight definitions (certificate of inspection, certified vehicle inspector, County agency, department, director, official inspection station, official vehicle safety inspection, and safety inspection stickers), which are not needed here, because they are in 19-133.2, HAR. Combine the definitions of three classes of penalties into two classes: major and minor and delete the term “serious infraction.” This simplifies the penalties.

§19-133.5-4:

Delete this section and rewrite it with the title, “Notice of infraction and service of notice.” The most significant change is that the notice of infraction can be for a station or an inspector. Also, amend the sample notice.

§19-133.5-5:

Delete this section and rewrite it. Provide procedures for issuing a notice of infraction and update these procedures to accommodate the electronic forms plus the new penalties that were brought about by Act 73, SLH 2018.

§19-133.5-6:

Delete this section and rewrite it to provide a schedule for fines, suspensions and revocations for both inspectors and stations. The changes are the result of Act 73, SLH 2018. Although Act 73 only lists fines for stations, section 286-16 and -18, HRS give the director authority to develop rules necessary to implement the program. Since the Legislature established fines for stations, which are managed by certified inspectors, fines for inspectors are also included in these rules. Fines are generally a less severe penalty than suspensions.

Act 73 requires fines but does not provide amounts. When the program was originally established, the consensus of the stakeholders was that suspensions and revocations would be the most equitable way of imposing penalties for infractions, because the number of inspections conducted by the 663 stations statewide varies greatly. When the penalties are based on suspensions, their impact is relatively the same for each station regardless of the volume of inspections conducted. For instance, if one station generates an income of \$1,000 per month and another station generates \$3000 per month, a penalty of a one-month suspension will result in a loss of income for one month. When a fine is imposed, this relative equality disappears. For example, a \$500 fine for the first station represents 50% of a month’s income, but it is only 17% of the second station’s income. The fine amounts were established to provide at least a modicum of equitability between stations.

§19-133.5-7:

Delete this section and rewrite it. Leave the title unchanged. The most significant change is making it mandatory for the director to reject a petition that fails to provide the basis

for the petition or facts supporting the basis of the petition. However, it is not mandatory to reject the petition if it is incomplete or illegible.

§19-133.5-8:

Amend this section to extend the period for DOT to notify the petitioner of an intent to hold a hearing, from 14 calendar days to 21. The additional time is needed, because the DOT must coordinate with at least three agencies to decide on a hearing. Prior commitments of personnel involved can slow the process significantly.

§19-133.5-9:

Amend this section by changing the word “hearings” to singular to clarify that a different hearing officer can be used for different hearings. Also limit the petitions to be heard to only those accepted by the director of transportation, and give the director explicit authority to conduct remote hearings.

§19-133.5-10:

Amend this section by clarifying that the hearing officer is not required to reside in the community of the petitioner. This simplifies the process of selecting a hearing officer. Also clarify that the hearing officer must review relevant evidence and testimony presented regarding the notice of infraction.

§19-133.5-11:

Amend this section to include the possibility of a fine in the hearing officer’s report to the director.