

DEPARTMENT OF TRANSPORTATION

Amendment and Compilation of Chapter 19-133.5  
Hawaii Administrative Rules

April 30, 2021

SUMMARY

1. §19-133.5-1 is compiled.
2. §19-133.5-2 is amended and compiled.
3. §19-133.5-3 is amended and compiled.
4. §19-133.5-4 is amended and compiled.
5. §19-133.5-5 is amended and compiled.
6. §19-133.5-6 is amended and compiled.
7. §19-133.5-7 is amended and compiled.
8. §19-133.5-8 is amended and compiled.
9. §19-133.5-9 is amended and compiled.
10. §19-133.5-10 is amended and compiled.
11. §19-133.5-11 is amended and compiled.
12. §19-133.5-12 is compiled.
13. §19-133.5-13 is compiled.
14. §19-133.5-14 is compiled.
15. DISCRETIONARY WARNING NOTICE is revised.
16. NOTICE OF INFRACTION is revised.

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17. PETITION FOR HEARING is revised.
18. NOTICE OF INTENT TO HOLD HEARING is revised.
19. NOTICE OF HEARING is revised.

HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

SUBTITLE 5

MOTOR VEHICLE SAFETY OFFICE

CHAPTER 133.5

FINE, SUSPENSION OR REVOCATION OF AN OFFICIAL  
INSPECTION STATION OR INSPECTOR'S CERTIFICATION

Subchapter 1 General Provisions

- \$19-133.5-1 Scope
- \$19-133.5-2 Purpose
- \$19-133.5-3 Definitions

Subchapter 2 Suspension and Revocation Procedures

- \$19-133.5-4 Notice of Infraction and service of notice
- \$19-133.5-5 Procedures upon receipt of notice of an infraction
- \$19-133.5-6 Amount of fine and length of suspension or revocation of inspectors and stations

Subchapter 3 Hearing Procedures

- \$19-133.5-7 Petition for hearing
- \$19-133.5-8 Notice of intent to hold hearing and notice of hearing
- \$19-133.5-9 Hearing officer
- \$19-133.5-10 Duties of the hearing officer
- \$19-133.5-11 Disposition of petition

§19-133.5-1

§19-133.5-12 Appeal to circuit court

Subchapter 4 Severability and Effective Date

§19-133.5-13 Severability

§19-133.5-14 Effective date

Historical note. Chapter title [am and comp  
AUG 0 2 2021 ].

SUBCHAPTER 1

GENERAL PROVISIONS

**§19-133.5-1 Scope.** This chapter shall apply to every official inspection station and every person who conducts official vehicle safety inspections. [Eff 7/31/89; comp AUG 0 2 2021 ] (Auth: HRS §§286-17, 28) (Imp: HRS §286-28)

**§19-133.5-2 Purpose.** The purpose of this chapter is to establish:

- (1) Minimum criteria relating to suspension or revocation of an official inspection station permit or a certified vehicle inspector's certification;
- (2) Minimum fines and periods of suspension or revocation for various infractions; and
- (3) Hearing practices and procedures for aggrieved persons. [Eff 7/31/89; am and comp AUG 0 2 2021 ] (Auth: HRS §§286-17, 28) (Imp: HRS §286-28)

**§19-133.5-3 Definitions.** The definitions in chapter 19-133.2, HAR apply to this chapter. As used in this chapter:

"Inspection equipment" means the equipment required by every inspection station to conduct

official vehicle safety inspections in accordance with chapter 19-133.2, Hawaii Administrative Rules (HAR).

"Major infraction" means but is not necessarily limited to the following:

- (1) Allowing an uncertified person who is not officially in training to assist the certified inspector with inspections. A trainee must officially register at the County PMVI office before assisting an inspector during inspections;
- (2) Charging customers excessive inspection fees;
- (3) Expired comprehensive public liability insurance coverage;
- (4) Failure to cooperate with a County officer or State DOT PMVI representative attempting to monitor the inspection activities at the station;
- (5) Failure to inspect the vehicle as required by sections 19-133.2-21, -22, -24, -27 through -38, -38.5(2), -38.6, -40, -40.5, and -40.6;
- (6) Failure to monitor inspectors to ensure they are taking proper photographs and inspecting in accordance with this chapter and chapter 19-133.2, HAR. Any inspector suspended for more than sixty days is considered a failure to monitor by the station;
- (7) Failure to maintain in working order required inspection equipment to conduct vehicle inspections;
- (8) Failure to properly mark the floor location where headlamp aiming is performed;
- (9) Failure to remove and properly dispose of expired inspection stickers after removal unless driver requests to have new sticker placed over the old one;
- (10) Failure to maintain employment of a certified vehicle inspector;

- (11) Failure to maintain valid inspection station comprehensive public liability insurance coverage;
- (12) Permitting an unauthorized person to inspect, issue or affix an inspection sticker to a vehicle. Only a certified inspector may affix a sticker to a vehicle, provided a vehicle inspector certifies that the vehicle was inspected and it passed the appropriate requirements of chapter 19-133.2, HAR;
- (13) Unauthorized or improper use of electronic inspection form equipment or software;
- (14) Unauthorized certification of a vehicle that is required to be inspected in the motor carrier program.
- (15) Failure to notify DOT of circumstances that preclude conducting an inspection in accordance with these rules.
- (16) Failure to pay the electronic form contractor by the deadline specified in the contract between the station and the contractor.

"Minor infraction" means but is not necessarily limited to the following:

- (1) Failure to display inspection station permit or inspector certificate in a conspicuous place at the location where the inspections are conducted;
- (2) Failure to maintain a safe and clean environment in the inspection area;
- (3) Failure to maintain the minimum required hours of operation of eight hours per day, five days per week between 6:00 A.M. and 6:00 P.M.;
- (4) Failure to notify DOT of change in inspection station address within ten calendar days;
- (5) Failure to notify DOT of change in ownership or management of the inspection station within ten calendar days;



- (6) Failure to notify DOT of inspector's change in employment status within ten days;
- (7) Failure to properly mark all the appropriate inspection items in the electronic inspection form and take required photographs. [Eff 7/31/89; am and comp AUG 02 2021] (Auth: HRS §§286-17, 28) (Imp: HRS §286-28)

SUBCHAPTER 2

SUSPENSION AND REVOCATION PROCEDURES

**§19-133.5-4 Notice of infraction and service of notice.** (a) The director may issue a notice of infraction for a major or minor infraction defined in this chapter committed by a certified vehicle inspector or observed at an official inspection station. The director may alternatively issue a discretionary warning notice in place of the notice of infraction for the first infraction only.

(b) The director shall suspend or revoke a station permit or inspector certification for repeated infractions committed by a certified vehicle inspector or observed at an official inspection station.

(c) The notice of infraction or discretionary warning notice shall be delivered by certified mail or in person to the station owner, manager, supervisor, or responsible operator of an inspection station or to any of its certified vehicle inspectors.

(d) Letters and notices provided for in these rules shall be deemed to have been received three business days after they are mailed by certified mail.

(e) The form for a Notice of Infraction is located at the end of this chapter. [Eff 7/31/89; am 3/314/94; am and comp AUG 02 2021] (Auth: HRS §§286-17, 28) (Imp: HRS §286-28)

**§19-133.5-5 Procedures upon receipt of notice of an infraction.** (a) Within ten calendar days

following the receipt of a notice of an infraction, the station owner, manager, supervisor, responsible operator of an inspection station, certified vehicle inspector, or applicant who was granted the permit for the station must:

- (1) Pay the fine, correct the infraction of chapter 19-133.2, HAR that resulted in the notice of infraction, and provide verification to the department; or
- (2) Petition the department for a hearing to challenge the notice of infraction.

(b) If payment and verification or a petition under paragraph (a) is not received by the department within ten calendar days following a receipt of a notice of an infraction, the department may immediately reinspect the station and issue a new notice of infraction if the infraction remains, or if a certified vehicle inspector is fined, prohibit the inspector from inspecting vehicles until payment or an arrangement for installment payments is made.

(c) If a petition for a hearing is made within ten days, the station or inspector shall be permitted to operate pending the outcome of the hearing. Information contained in the electronic inspection form repository may be used as evidence of an alleged infraction. [Eff 7/31/92; am 3/31/94; am and comp

AUG 02 2021 ] (Auth: HRS §§286-17, 28) (Imp: HRS §286-28)

**§19-133.5-6 Amount of fine and length of suspension or revocation of inspectors and stations.**

(a) The fine, length of an inspector suspension, or revocation shall be based on, but not limited to, the following schedule:



Inspector Minor Infraction Penalties

Number of Infractions	Period	Fine Amt	Suspension	Revocation
1	6-Months	0	0	0
2	6-Months	\$50	0	0
3	9-Months	\$75	0	0
4 or more	12-Months	\$100	0	0

Inspector Major Infraction Penalties

Inspector Major Infraction Penalties Number of Infractions	Period	Fine Amt	Suspension	Revocation
1	1-Year	0	0	0
2	1-Year	\$50	0	0
3	2-Years	\$75	0	0
4	3-Years	\$100	0	0
5	4-Years	0	1-Year	0
6	5-Years	0	0	Revocation

(b) The station fine, length of suspension, or revocation shall be based on, but not limited to, the following schedule:

Station Minor Infraction Penalties

Number of Infractions	Period	Fine Amt	Suspension	Revocation
1	6-Months	0	0	0
2	1-Year	\$100	0	0
3	1-Year	\$250	0	0
4	2-Year	\$500	0	0
5	3-Year	\$750	0	0
6	4-Year	\$1000	0	0
7	5-Year	0	1-Year	0
8	7-Year	0	0	Revocation

Station Major Infraction Penalties

Number of Infractions	Period	Fine Amt	Suspension	Revocation
1	3-Year	\$500	0	0
2	4-Year	\$750	0	0
3	5-Years	\$1000	0	0
4	6-Years	0	1-Year	0
5	8-Years	0	0	Revocation

(c) The period in which infractions are issued shall begin on the date of the first infraction and continue for the number of years indicated in the second column. [Eff 7/31/89; am 3/31/94; am and comp **AUG 02 2021**] (Auth: HRS §§286-17, 28) (Imp: HRS §286-28)

**§19-133.5-7 Petition for hearing.** (a) A station owner, manager, supervisor, or responsible operator of an inspection station, or any of its certified vehicle inspectors who seeks to challenge the allegations in a notice of infraction received may petition the department for a hearing. The petition must be received by the department within 10 calendar days of the receipt of the notice of infraction. A form for the petition for hearing is located at the end of this chapter.

(b) The director shall reject a petition that is untimely or fails to provide a basis to challenge the notice of infraction, including a description of the facts supporting the basis of the challenge.

(c) The director may reject a petition that is incomplete or illegible. [Eff 7/31/89; am 3/31/94; am and comp **AUG 02 2021**] (Auth: HRS §§286-27, 28) (Imp: HRS §286-28)

**§19-133.5-8 Notice of intent to hold hearing and notice of hearing.** (a) The director shall notify the petitioner of the intent to hold a hearing within twenty-one calendar days after receiving the petition for hearing from the petitioner. The form for a

notice of intent to hold a hearing for the petitioner is located at the end of this chapter and designated as Notice of Intent to Hold Hearing.

(b) When the hearing is scheduled, The director shall send the petitioner a notice of hearing. The form for a notice to hold a hearing for the petitioner is located at the end of this chapter and designated as Notice to Hold Hearing. [Eff 7/31/89; am 3/31/94; am and comp **AUG 0 2 2021** ] (Auth: HRS §§286-17, 28) (Imp: HRS §286-28)

**§19-133.5-9 Hearing officer.** (a) The director shall appoint a hearing officer for the hearing.

(b) The hearing officer shall serve without compensation except for incidental expenses as deemed necessary.

(c) The hearing officer shall hear the petitions submitted by the station operators or inspectors and accepted by the director. The hearing may be conducted by video conference call or other similar means. [Eff 7/31/89; am 3/31/94; am and comp **AUG 0 2 2021** ] (Auth: HRS §§286-17, 28) (Imp: HRS §286-28)

**§19-133.5-10 Duties of the hearing officer.** (a) The appointed hearing officer shall conduct the hearing as required by the director.

(b) The hearing officer shall review all relevant evidence presented, including verbal and written arguments, investigative reports, and other pertinent information and testimony regarding the notice of infraction.

(c) After the hearing, the hearing officer shall make a written report of the officer's findings and conclusions upon which an order affirming, denying, modifying, or reversing the action proposed to be taken against the petitioner shall be issued and provide the written report to the director. [Eff 7/31/89; am 3/31/94; am and comp **AUG 0 2 2021** ] (Auth: HRS §§286-17, 28) (Imp: HRS §286-28)

240

§19-133.5-11

**§19-133.5-11 Disposition of petition.** The director shall issue a decision and order based on the written report of the hearing officer and shall affirm, deny, modify or reverse the proposed fine, suspension, or revocation. [Eff 7/31/89; am 3/31/94; am and comp **AUG 0 2 2021** ] (Auth: HRS §§286-17, 28) (Imp: HRS §286-28)

**§19-133.5-12 Appeal to circuit court.** Any order issued pursuant to the authority granted by chapter 91, HRS, and these rules of procedures shall be subject to appeal to the circuit court. [Eff 7/31/89; comp **AUG 0 2 2021** ] (Auth: HRS §91-14) (Imp: HRS §91-14)

#### SUBCHAPTER 4

#### SEVERABILITY AND EFFECTIVE DATE

**§19-133.5-13 Severability.** If any portion of this chapter is held invalid for any reason, the invalidity shall not affect the validity of the remainder of the chapter. [Eff 7/31/89; comp **AUG 0 2 2021** ] (Auth: HRS §91-14) (Imp: HRS §91-14)

**§19-133.5-14 Effective date.** This chapter shall take effect ten days after it is filed with the lieutenant governor." [Eff 7/31/89; comp **AUG 0 2 2021** ] (Auth: HRS §§286-17, 18) (Imp: HRS §286-28)

Amendments to and compilation of Chapter 133.5, Title 19, Hawaii Administrative Rules, on the Summary Page Dated April 30, 2021 were adopted on April 30, 2021 following public hearings held on April 21, 2021 after notice was given in the Maui News on March 20, 2021, the Garden Island News, the Honolulu Star Advertiser, the Hawaii Tribune-Herald, and the West Hawaii Today on March 21, 2021.

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



\_\_\_\_\_  
JADE T. BUTAY  
Director of Transportation

APPROVED:

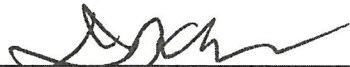


\_\_\_\_\_  
DAVID Y. IGE  
Governor State of Hawaii

Date: 7/23/21

Filed: \_\_\_\_\_

APPROVED AS TO FORM:



\_\_\_\_\_  
DEPUTY ATTORNEY GENERAL  
DUANE M. KOKESCH

21 JUL 23 AM 12:21

LIEUTENANT GOVERNOR'S OFFICE

3408

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
MOTOR VEHICLE SAFETY OFFICE

DISCRETIONARY WARNING NOTICE

Dear

Uniform standards and procedures governing periodic motor vehicle inspections are provided in §19-133.2, and 19-135, Hawaii Administrative Rules.

Based upon an investigation on \_\_\_\_\_ of the inspection station (station number \_\_\_\_\_) located at \_\_\_\_\_ and inspector (number \_\_\_\_\_), the following station infractions were committed:

*[List specific infractions, references to rules, ordinances or laws and dates. Provide written explanations to ensure that each specific infraction is clearly understood by the reader. Use pictures and additional pages as needed.]*

This letter serves as a Discretionary Warning Notice of the above infraction(s) and that repeated infractions are cause for suspension or revocation of the inspector's certificate or the inspection station permit.

\_\_\_\_\_  
D.O.T. Representative or Agent

Date: \_\_\_\_\_

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
MOTOR VEHICLE SAFETY OFFICE

NOTICE OF INFRACTION

Dear \_\_\_\_\_;

Station Infraction	Inspector Infraction
The Official Inspection Station having Station Number: _____  <input type="checkbox"/> is fined \$ _____.00, <input type="checkbox"/> it's permit is suspended for _____ (months/years), or <input type="checkbox"/> it's permit is revoked.	The Certified Vehicle Inspector, employed at Inspector Number: _____  <input type="checkbox"/> is fined \$ _____.00, <input type="checkbox"/> his/her certification is suspended for _____ (months/years), or <input type="checkbox"/> his/her certification is revoked.

The above action is based on the following infraction(s):

Date	Infraction Description	Rule reference

NOTE: List specific date, infraction description, and provision of the HAR violated. Provide written explanations to ensure that each specific infraction is clearly understood by the reader. Pictures and additional pages may be included as needed.

Within ten calendar days following the receipt of this notice, the recipient must: (1) pay the fine, correct the infraction, and provide verification to the department; or (2) petition the department for a hearing to challenge the notice of infraction.

\_\_\_\_\_  
D.O.T. Representative or Agent  
(Print name and sign)

\_\_\_\_\_  
Date

APPROVED: \_\_\_\_\_  
(Print name and sign)



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
MOTOR VEHICLE SAFETY OFFICE

PETITION FOR HEARING

TO: DIRECTOR OF TRANSPORTATION  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HI 96813-5035

1. I, \_\_\_\_\_  
(Print Full Name and certificate #)  
of \_\_\_\_\_  
(Print Mailing Address and station #)

whose telephone number is \_\_\_\_\_,  
and whose place of employment is \_\_\_\_\_

\_\_\_\_\_  
(Name, Address, County, Station Number)

do hereby petition (within ten calendar days of being notified of infraction) for a hearing on the following infractions (designate each infraction you deny and explain why you deny it. Use additional pages as needed.):

2. The following are reasons why I am requesting a hearing. (Be specific and provide facts that support your position. Use additional pages, as needed).

\_\_\_\_\_  
(Petitioner's Signature)

\_\_\_\_\_  
(Date)

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
MOTOR VEHICLE SAFETY OFFICE

NOTICE OF INTENT TO HOLD HEARING

Docket No. MVS0 - \_\_\_\_\_

Date: \_\_\_\_\_

Dear

Re: In the Matter of Inspection Station or  
Safety Inspector \_\_\_\_\_  
[provide inspector or station name and number]

Petition for Hearing on the Notice of infraction dated  
\_\_\_\_\_.

Pursuant to your Petition for Hearing dated  
\_\_\_\_\_, postmarked \_\_\_\_\_, and  
filed at the Department of Transportation on  
\_\_\_\_\_, please be informed that  
the HDOT intends to hold a hearing on this matter.  
You will be notified of the date, location and time of  
the hearing, after all arrangements for the hearing  
are made.

The topic of this hearing will be the attached  
notice of infraction.

Yours truly,

\_\_\_\_\_  
Director of Transportation

STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
MOTOR VEHICLE SAFETY OFFICE

Notice of Hearing

Docket No. MVSO - \_\_\_\_\_

Date: \_\_\_\_\_

Dear

Re: [provide inspector name and number]

Pursuant to your Petition for Hearing dated \_\_\_\_\_, postmarked \_\_\_\_\_, and filed at the Department of Transportation on \_\_\_\_\_, please be informed that a contested hearing will be held on the following date, time and place:

Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Place: \_\_\_\_\_  
\_\_\_\_\_

This hearing shall be conducted in accordance to Chapters 19-1 and 19-133.5, Hawaii Administrative Rules, and Chapter 91, Hawaii Revised Statutes. You will be afforded the opportunity to present evidence and arguments on all issues involved to a hearings officer who will make a written report of findings and conclusions upon which the Director of Transportation may affirm, modify, or reverse the action taken against you.

For the Director of Transportation

By: \_\_\_\_\_

Date: \_\_\_\_\_