

HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 8

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

PART 11

ELEVATORS AND RELATED SYSTEMS

CHAPTER 229

GENERAL, ADMINISTRATIVE, AND LEGAL PROVISIONS

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Historical Note: Chapter 12-229 is based substantially on chapter 12-241, Hawaii Administrative Rules. [Eff 7/6/98; R 6/19/00]

§12-229-1 Scope and application. This part contains general and administrative rules and legal provisions which apply to this part. This part applies to all elevators, escalators, moving walks, dumbwaiters, material lifts, lifts for the mobility impaired, personnel hoists, and amusement rides in the State, with the following exceptions:

- (1) Equipment or apparatus installed in private residences provided the equipment or apparatus is not accessible to the public or to other occupants in the building;
- (2) Coin or token operated amusement rides considered or known in the amusement trade as kiddie rides;
- (3) Material hoists used to raise or lower materials during construction, alteration or demolition. (within the scope of ANSI A10.5); and
- (4) Equipment or apparatus installed in buildings or structures wholly owned and operated by the United States government. [Eff 6/19/00; am and comp 6/30/14; comp 11/10/16; am and

comp **FEB 15 2019**] (Auth: HRS §394-4)
(Imp: HRS §397-4)

§12-229-2 Definitions. As used in this part:

"Alteration" means any change to equipment, including parts, components, or subsystems other than maintenance, repair, or replacement.

"Amusement ride" means a mechanically or electrically operated device designed to carry passengers in various modes and used for entertainment and amusement.

"ANSI" means the American National Standards Institute.

"ANSI/American Society of Safety Engineers A10.4" means ANSI/ASSE, Personnel Hoists and Employee Elevators on Construction and Demolition Sites, as adopted and incorporated by reference in section 12-229-3.1.

"Appeals board" means the labor and industrial relations appeals board, department of labor and industrial relations.

"Approved" means approved by the department.

"Appurtenance" means a device installed on and used in the normal operation of an elevator, escalator, or kindred equipment.

"ASME" means American Society of Mechanical Engineers.

"ASME A17.1" means ASME A17.1, Safety Code for Elevators and Escalators, as adopted and incorporated by reference in section 12-229-3.1.

"ASME A17.3" means ASME A17.3, Safety Code for Existing Elevators and Escalators, as adopted and incorporated by reference in section 12-229-3.1.

"ASME A17.6" means ASME A17.6, Standard for Elevator Suspension, Compensation and Governor Systems, as adopted and incorporated by reference in section 12-229-3.1.

"ASME A18.1" means ASME A18.1, Safety Standard for Platform Lifts and Stairway Chairlifts, as adopted and incorporated by reference in section 12-229-3.1.

"ASTM" means American Society for Testing and Materials.

"ASTM-F24" means ASTM-F24 1997 standard on amusement rides and devices.

"Attorney general" means the attorney general of the State of Hawaii or any of the attorney general's deputies.

"Authority Having Jurisdiction" or "AHJ", means the director of labor and industrial relations or the director's designee.

"Authorized inspection agency" means the department of labor and industrial relations, elevator inspection section.

"Building code" means the currently adopted, applicable county code in the revised ordinances of the applicable county, or the code adopted by the State of Hawaii for state buildings.

"Certificate of competency" means a certificate issued to a person who has passed the examination prescribed by the director.

"Contractor" means any person, firm, or corporation installing, repairing, or servicing any amusement ride, elevator, or kindred equipment or structure inspected pursuant to chapter 397, HRS.

"Department" means the department of labor and industrial relations, State of Hawaii.

"Director" means the director of the department of labor and industrial relations or the director's designee.

"Discrepancy" means the non-conformance to codes, standards, rules, or regulations required by this part.

"Division" means the Hawaii occupational safety and health, department of labor and industrial relations, State of Hawaii.

"Elevator" means a hoisting and lowering mechanism equipped with a car that moves within guides and serves two or more fixed landings, and is classified by elevator types as described in ASME A17.1, as adopted and incorporated by reference in section 12-229-3.1.

"Elevators and related systems" means elevators and kindred equipment and amusement rides.

"Existing installation" means any device or equipment where the application for the installation was properly filed with the department before the

effective date of this chapter.

"HAW" means the registration number assigned to an elevator and kindred equipment or amusement ride by the AHJ.

"Hawaii Revised Statutes" or "HRS" means laws enacted by the Hawaii state legislature.

"IBC" means the International Building Code, as adopted and incorporated by reference in section 12-229-3.1.

"Installation" means a complete elevator or kindred equipment, including its hoistway, hoistway enclosures and related construction, and all machinery and equipment necessary for its operation.

"Installation or alteration permit" means a document, which may be electronic, issued by the department authorizing the installation or alteration of an elevator or kindred equipment, or the department approval of a new amusement ride.

"Kindred equipment" means escalators, moving walks, dumbwaiters, permanently installed material lifts, platform lifts, inclined lifts, stage lifts, stairway chairlifts, personnel hoists, and any other similar mechanized equipment used to convey people in places other than a public right-of-way, but does not include amusement rides.

"May" means not mandatory.

"New installation" means any device or equipment that is not an existing installation or an existing installation that is being relocated.

"NFPA" means the National Fire Protection Association.

"NFPA 1, UFC" means the NFPA 1, Uniform Fire Code, as adopted and incorporated by reference in section 12-229-3.1.

"NFPA 70" means NFPA 70, National Electrical Code, as adopted and incorporated by reference in section 12-229-3.1.

"Operating permit" means a permit issued by the department authorizing the operation of an elevator, kindred equipment, or amusement ride.

"Order" means a command to perform a mandatory act issued by the department.

"Overtime" means hours outside a regular eight-hour working day.

"Owner" means any person, firm, or corporation with legal title to any amusement ride, and elevator and kindred equipment inspected pursuant to chapter 397, HRS.

"Permit to operate" means a document, which may be electronic, issued by the department authorizing the operation of an elevator, kindred equipment, or an amusement ride.

"Qualified elevator inspector" means an elevator inspector employed by the department holding a valid certificate of competency issued by the department and a Qualified Elevator Inspector certification that meets the criteria of the American Society of Mechanical Engineers and the standards for the qualification of elevator inspectors of the American National Standards Institute. The certificate of competency is valid only while the inspector is employed by the department.

"Regular operating permit" means an operating permit that is not indicated as temporary.

"Shall" means mandatory.

"Unsafe" means potential exposure to a recognized hazard.

"Violation" means the failure to comply with any citation, notice, or order of the department, or rule or standard promulgated under chapter 397, HRS. [Eff 6/19/00; am and comp 6/30/14; am and comp 11/10/16; am and comp **FEB 15 2019**] (Auth: HRS §§397-4, 397-6) (Imp: HRS §§397-4, 397-6)

§12-229-3 REPEALED. [R 6/30/14]

§12-229-3.1 Codes incorporated and adopted by reference. The following codes are incorporated and adopted by reference and made a part of this chapter and shall apply to elevators, kindred equipment, and amusement rides in this part, unless otherwise modified by the rules pertaining to elevators, kindred equipment, and amusement rides:

- (1) ANSI/ASSE A10.4-2007, Personnel Hoists and Employee Elevators on Construction and Demolition Sites, as copyrighted and

- published in 2007 by American National Standards Institute, Inc., 25 West 43rd Street, New York, NY 10036;
- (2) ASME A17.1-2010/CSA-B44-10, Safety Code for Elevators and Escalators, as copyrighted and published in 2010 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990;
 - (3) ASME A17.3-2011, Safety Code for Existing Elevators and Escalators, as copyrighted and published in 2011 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990;
 - (4) ASME A17.5-2011, Elevator and Escalator Electrical Equipment, as copyrighted and published in 2011 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990;
 - (5) ASME A17.6-2010, Standard for Elevator Suspension, Compensation and Governor Systems, as copyrighted and published in 2010 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990;
 - (6) ASME A18.1-2011, Safety Standard for Platform Lifts and Stairway Chairlifts, as copyrighted and published in 2011 by the American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990;
 - (7) International Building Code, 2012 edition, as copyrighted and published in 2012 by the International Code Council, Incorporated, 500 New Jersey Avenue, 6th Floor, Washington, DC 20001;
 - (8) ICC A117.1-2009, Accessible and Usable Buildings and Facilities, as copyrighted and published in 2010 by the International Code Council, Incorporated, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001;
 - (9) NFPA 1, Uniform Fire Code, 2009 Edition, as copyrighted and published in 2009 by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-7471;
 - (10) NFPA 72, National Fire Alarm and Signaling Code, 2010 edition, as copyrighted and

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published in 2010 by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-7471;

- (11) NFPA 13, Standard for the Installation of Sprinkler Systems, 2010 edition, as copyrighted and published in 2010 by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-7471; and
- (12) NFPA 70, National Electrical Code, 2011 edition, as published in 2011 by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-7471.
[Eff and comp 6/30/14; comp 11/10/16; am and comp FEB 15 2019] (Auth: HRS §397-4)
(Imp: HRS §397-4)

§12-229-4 REPEALED. [R 6/30/14]

§12-229-4.1 Installation and alteration permits.

(a) No person shall install, construct, reconstruct, relocate, or make an alteration to any elevator, kindred equipment, or amusement ride subject to this part without first obtaining an installation or alteration permit from the department.

The owner shall be responsible for contracting the work with a licensed elevator contractor, and shall ensure that the contractor obtains all permits and inspections required by this part. The contractor shall be responsible for the safe operation of equipment during the installation, alteration, or relocation, until a permit to operate has been issued by the department. An amusement ride owner shall register the new apparatus or an alteration by submitting an application for review and registration.

An application on a form provided by the department shall be submitted and approved prior to commencement of work. The application shall include:

- (1) Applicant's name (elevator contractor licensed to perform the work), business address and license number, expiration date of the

- license, name and contact information of the licensed mechanic or supervisor in charge of the work;
- (2) Building name and complete address, including island and zip code, of the installation or alteration;
 - (3) The name and complete address of the legal owner of the elevator, kindred equipment, or amusement ride;
 - (4) The anticipated start date of the installation or alteration and the anticipated completion date;
 - (5) The type of equipment to be installed or altered, manufacturer of equipment, maximum rise and number of floors;
 - (6) The plans and specifications for installation or alteration of elevators and kindred equipment together with the building details that are pertinent to the installation;
 - (7) Copies of engineering data, tests, and laboratory reports, and any other pertinent information deemed necessary by the department;
 - (8) For amusement rides, the application to review, approve, and register the new apparatus shall be submitted on a form authorized by the department and shall include manufacturers' drawings, and engineering and test data; and
 - (9) Any other information indicated as required by the application.
- (b) Applications to install, alter, or register must be accompanied by the payment of the appropriate installation or alteration processing fee for each conveyance subject to this part as per the schedules in Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated January 1, 2019, which is made a part of this chapter and located at the end of this chapter, and Exhibit B, titled "Elevator and Kindred Equipment Inspection Fees", dated January 1, 2019, which is made a part of this chapter and located at the end of this chapter.

- (1) Refunds of the initial installation or alteration processing fee minus the department's cost to review the application thus far may be refunded upon written or electronic request to the department. A refund of the initial installation or alteration processing fee may be granted upon satisfactory showing that the withdrawal or amendment of the application was due to circumstances beyond the control of the applicant; and
- (2) No refunds will be issued for expired permits.

(c) Only a person who is licensed to engage in the business of installing or repairing elevators and kindred equipment by the contractors license board of the Hawaii department of commerce and consumer affairs may apply for an installation permit or alteration permit, except the application to install a personnel hoist may be made by a licensed construction contractor and the application to register an amusement ride may be made by the owner.

(d) All alteration work on elevators and kindred equipment requires an alteration permit prior to the work being performed. Alteration work includes:

- (1) All alterations to elevators and kindred equipment as described in ASME A17.1, section 8.7;
- (2) Any alteration that requires the equipment or conveyance to be tested by the department prior to being returned to service, including:
 - (A) The replacement or repair of any part or parts that would require recalibration or testing per ASME A17.1, section 8.7; or
 - (B) Work performed on components or equipment affecting or necessary for fire safety (e.g., cab interiors, systems associated with fire recall, etc.); and
- (3) Any alteration, renovation, or change to the original design of the car's interior.

(e) The application shall be deemed approved if not acted on by the department within thirty calendar days following the receipt of the completed application. The maximum period of time for the department to act on an application for installation or alteration established pursuant to this section shall be extended in the event of a national disaster, state emergency, or union strike that would prevent the applicant or the department from fulfilling application review requirements until the time the emergency conditions improve or are reasonably under control.

(f) Installation or alteration permits issued by the department shall be posted in a conspicuous place on the jobsite near the elevator, kindred equipment, or amusement ride prior to the start of any work being done. They shall remain posted until the department has witnessed all acceptance tests and issued an operating permit for the elevator or kindred equipment.

(g) Installation or alteration permits shall expire within one year of the issuance date if the installation or alteration work described on the application has not yet commenced. Otherwise, the permit is valid for a period of three years.

(h) All new elevators and kindred equipment shall have the Hawaii registration number (HAW) assigned by the department painted on or permanently attached to both the car top crosshead and the controller. The owner is responsible for having the HAW number painted on or attached to the device or equipment, and ensuring that the number remains legible. [Eff and comp 6/30/14; am and comp 11/10/16; am and comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

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§12-229-5 REPEALED. [R 6/30/14]

§12-229-5.1 Permits to operate. (a) The department shall issue a "permit to operate" for any elevator, kindred equipment, or amusement ride where the inspection and tests required by the department

show that the equipment has been designed and installed in accordance with the requirements of chapter 397, HRS, and its related rules, and are in compliance with this part. It shall be a violation for any person, firm, association, partnership, or corporation to operate an elevator, kindred equipment, or amusement ride regulated by this part unless a permit for the operation has been issued by the department and the permit remains in effect.

(b) A permit to operate an elevator or related systems shall be issued only after a qualified inspector has determined that the equipment, device, or apparatus meets all applicable requirements of this part. A permit to operate elevators or related systems shall be valid per the schedules in Exhibit C, titled "Inspection and Test Intervals (In Months)", dated January 1, 2017, which is made a part of this chapter and located at the end of this chapter, unless revoked sooner, and may be renewed only upon satisfactory completion of an inspection by a qualified inspector. A valid permit may be extended for cause by the department if so requested in writing by the owner or contractor prior to the expiration date.

(c) The owner, or the owner's duly appointed agent, shall be responsible for:

- (1) The safe operation and proper maintenance of elevators and related systems after the installation or alteration has been approved and an initial permit to operate has been issued;
- (2) Conducting all periodic or maintenance tests required by this part;
- (3) Arranging for inspections of closed buildings and not readily accessible elevators and related systems by qualified inspectors. Elevators and kindred equipment not inspected as a result of the owner's failure to provide convenient access shall be considered removed from service and shall comply with section 12-229-7.1(b)(4); and
- (4) Requesting and scheduling with the department all safety tests in accordance with the schedule in Exhibit C, titled "Inspection and Test Intervals (In Months)", dated January 1,

2017, which is made a part of this chapter and located at the end of this chapter.

(d) The permit to operate shall indicate the type of equipment for which it is issued. In the case of elevators and kindred equipment, the permit shall state whether it is passenger or freight, and the rated load and speed for the elevator, dumbwaiter, escalator, or moving walk. For new or altered elevators, after the effective date of these rules, a copy of the permit to operate shall be posted conspicuously in the car of the elevator, and on or near the dumbwaiter, escalator, moving walk, or other kindred equipment.

(e) The department may immediately revoke any permit to operate for any equipment required to be inspected by this chapter that is found to be in an unsafe condition; or when an owner or contractor fails to comply with a department order to correct specific defects or hazards and continues to use or operate the equipment, device, or apparatus without abating the hazards or defects. The department shall reissue a permit to operate when a subsequent inspection by a qualified inspector finds that the hazardous condition has been corrected or when the department receives documentation that the noncompliant item has been abated.

(f) Exhibit C, titled "Inspection and Test Intervals (In Months)", dated January 1, 2017, which is made a part of this chapter and located at the end of this chapter, establishes the required maximum intervals for the periodic reinspection and renewal of the permits to operate. The department may require that specific equipment be re-inspected more frequently if conditions found during an inspection require closer or more frequent monitoring to ensure its safe operation.

(g) The department may provide for the issuance of a temporary permit to operate while any noncomplying elevator or kindred equipment is being brought into full compliance with chapter 397, HRS.

(h) The owner or contractor may petition the department for additional time to correct any discrepancy or violation by submitting a request in writing by no later than the correction due date or the expiration date of the temporary permit, whichever is applicable, and shall include:

- (1) Specific additional time needed;

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- (2) Efforts made to date to effect correction; and
- (3) Any interim steps or actions taken to ensure the safe operation of the equipment, device, or apparatus.

(i) No elevator, kindred equipment, or amusement ride that is required to be inspected pursuant to chapter 397, HRS, shall be operated except as necessary to install, repair, or test the elevator, kindred equipment, or amusement ride unless a permit to operate has been issued by the department and remains valid.

[Eff and comp 6/30/14; am and comp 11/10/16; am and comp **FEB 15 2019**] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-6 REPEALED. [R 6/30/14]

§12-229-6.1 Fees. (a) Departmental inspection fees. The department shall collect from the owner or contractor, the fee listed in the schedules in Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated January 1, 2019, which is made a part of this chapter and located at the end of this chapter, and Exhibit B, titled "Elevator and Kindred Equipment Inspection Fees", dated January 1, 2019, which is made a part of this chapter and located at the end of this chapter, for each inspection made by a qualified inspector. The following shall apply to departmental inspection fees:

- (1) The fees for scheduled inspections delayed or canceled by the requester, shall be charged to the requester in accordance with the scheduled fee for the type of inspection scheduled; however, if the notice of cancellation or delay of the scheduled inspection is provided at least forty-eight hours prior to the scheduled date and time, not counting weekends and state holidays, no additional fee will be charged. A delayed inspection includes situations where the equipment is not ready for the inspection or the requester is not

- ready to conduct the required tests within one hour of the scheduled date and time;
- (2) Where an inspection must be re-scheduled due to untimely notification of delay or cancellation, the appropriate inspection fee must be paid prior to the re-scheduling of the inspection;
 - (3) Permit renewal and witness fees are per inspection, which may constitute one day or part of the day. If the inspector is required or requested to return on another day or at another time on the same day, additional fees shall be assessed at the rate of \$325 per day for up to two hours and \$650 per day for more than two hours. Fees for overtime hours shall be \$650 per day for up to two hours and \$1,300 per day for more than two hours;
 - (4) When a special or dedicated inspection is made at the request of the owner, contractor, or vendor, the sum of expenses incurred shall be charged in addition to the inspection fee;
 - (5) Whenever the requester of an inspection fails to pay the fees required pursuant to this section within sixty days after notification, the requester shall pay, in addition to the fees required, a penalty equal to fifty percent of the fee. For the purpose of this section, the date of invoice shall be considered the date of notification. For online inspection requests, fees must be paid at the time of the request, except for additional fees for special, dedicated, return, or overtime inspections for which the amount owed could not be determined in advance. In such cases, the requester shall be invoiced by the department;
 - (6) Departmental reports of inspections for which expenses must be added to the basic fee shall be accompanied by an itemized account of the inspections made and the expenses incurred;
 - (7) For elevators that have considerable rise but few openings, such as observation or deep well elevators, each ten feet of vertical rise shall be considered one floor in determining installation permit fees; and

- (8) The department shall charge and collect the fee listed in Exhibit B, titled "Elevator and Kindred Equipment Inspection Fees", dated January 1, 2019, which is made a part of this chapter and located at the end of this chapter, for each category 3 or 5, or internal escalator inspection, witnessed by qualified inspectors of the department during regular working hours. If the inspector is required or requested to return on another day or at another time on the same day, additional fees shall be assessed at the rate of \$325 per day for up to two hours and \$650 per day for more than two hours. Fees for overtime hours shall be \$650 per day for up to two hours and \$1,300 per day for more than two hours.
- (b) Departmental installation and alteration permit and test fees. The following shall apply to installation, alteration, and test fees:
 - (1) The department, before accepting an application for installing, constructing, re-constructing, or relocating an elevator or a related system, shall charge and collect a fee for each object in accordance with Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated January 1, 2019, which is made a part of this chapter and located at the end of this chapter;
 - (2) The department, before accepting an application for an alteration, shall charge and collect a fee for each object in accordance with Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated January 1, 2019, which is made a part of this chapter and located at the end of this chapter. For online applications, fees must be paid electronically at the time of the application. Any transaction failure shall void the application;
 - (3) For each instance requiring an installation or alteration permit fee, the department shall provide the final installation drawing review, inspection and witnessing of the initial



- acceptance test on the installation, any resulting permit to operate, and one additional follow-up inspection per permit, and the follow-up inspection shall be at the convenience of the department;
- (4) Fees in accordance with Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated January 1, 2019, which is made a part of this chapter and located at the end of this chapter, or the fee in effect on the application submittal date shall be charged and collected for all applications for installation or alteration permits;
 - (5) For each instance requiring a building plan review, the department shall charge a fee in accordance with Exhibit A, titled "Elevator and Kindred Equipment Installation and Alteration Fees", dated January 1, 2019, which is made a part of this chapter and located at the end of this chapter;
 - (6) For additional follow-up inspections for final acceptance, the fee shall be \$325 per day for up to two hours and \$650 per day for more than two hours if during the normal workday. Fees for overtime hours shall be \$650 per day for up to two hours and \$1,300 per day for more than two hours; and
 - (7) For elevators that have considerable rise but few openings, such as observation or deep well elevators, each ten feet of vertical rise shall be considered one floor in determining installation permit fees.
- (c) Amusement rides, fees. The following shall apply to amusement ride fees:
- (1) The fee for an inspection of an amusement ride shall be \$200;
 - (2) Inspections, for which a fee is to be charged, shall include, but are not limited to:
 - (A) A reinspection of a ride at a site to allow it to operate at that site after the ride was found at an earlier inspection to be unsafe;
 - (B) An inspection made at a site after being unable to complete an earlier inspection at

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- that site due to delay within the control of the requester;
- (C) A permit to operate; and
 - (D) Scheduled inspections delayed or canceled by the requester where notification was provided to the department less than forty-eight hours prior to the scheduled inspection date and time (not including weekends and state holidays);
- (3) When an unscheduled inspection is made at the request of the owner or contractor, the sum of expenses incurred shall be charged in addition to the inspection fee;
 - (4) For additional follow-up inspections for final acceptance, the fee shall be \$300 per day for up to two hours and \$600 per day for more than two hours if during the normal workday. Fees for overtime hours shall be \$600 per day for up to two hours and \$1,200 per day for more than two hours; and
 - (5) Whenever the requester fails to pay the fees required under this section within sixty days after notification, the requester shall pay, in addition to the fees required, a penalty equal to fifty percent of the fee. For the purpose of this section, the date of invoice shall be considered the date of notification. For online inspection requests, fees must be paid at the time of the request, except for additional fees for unscheduled, return, or overtime inspections, which will be invoiced to the requester. [Eff and comp 6/30/14; am and comp 11/10/16; am and comp FEB ↑ 5 2019]
(Auth: HRS §397-4) (Imp: HRS §397-5)

§12-229-7 **REPEALED.** [R 6/30/14]

§12-229-7.1 Inspections and tests. (a) The department shall inspect to ensure compliance with chapter 397, HRS, any activity related to the erection, construction, alteration, demolition, or maintenance of

buildings, structures, bridges, highways, roadways, dams, tunnels, sewers, underground buildings or structures, underground pipelines or ducts, and other construction projects or facilities containing elevators or kindred equipment.

(b) Elevators and kindred equipment. The following shall apply to inspections and tests:

- (1) All permit renewal inspections and witnessing of tests of elevators or kindred equipment as required under this chapter shall be performed by qualified inspectors employed by the department;
- (2) Where notations of discrepancies, recommendations, or requirements are made, these notations shall refer to the applicable code, rule, or standard;
- (3) Elevator or kindred equipment regulated under this part shall be inspected and tested in accordance with the schedule in Exhibit C, titled "Inspection and Test Intervals (In Months)", dated January 1, 2017, which is made a part of this chapter and located at the end of this chapter;
 - (A) Internal inspections of escalators and moving walks shall be performed at intervals of thirty-six months;
 - (B) Personnel hoists shall be load tested at intervals of three months;
 - (C) The category 3 test shall be performed on all holed and holeless hydraulic elevator systems. The interval may be extended at the discretion of the department for those hydraulic elevator installations such as holeless hydraulic elevators in which all components are readily accessible for visual inspection; and
 - (D) The period between inspections may be extended by the department for cause. A written application by the owner must be received by the department prior to the expiration date for review;
- (4) Any elevator or kindred equipment that is out of service and not continuously maintained for a period exceeding one year or has not



been inspected in accordance with paragraph (3) shall be taken out of service by the owner by complying with the following:

- (A) Car and counterweight (if any) shall be landed at the bottom of the hoistway and hoisting ropes shall be disconnected at both ends. For hydraulic driven elevators and hydraulic driven kindred equipment, the car shall be lowered to the bottom of the hoistway, oil line disconnected with partial or total oil supply line removal, and oil removed from the tank reservoir;
 - (B) All electric power shall be removed by disconnecting and removing the power feeders; and
 - (C) All hoistway entrances or escalator entrances and exits shall be permanently blocked or barricaded to prevent inadvertent entry. The owner or the owner's agent shall submit a certification that the unit has been properly taken out of service as indicated in this paragraph, on a form provided by the department. Prior to placing the elevator or kindred equipment back in service, the department shall be notified and an inspection made; and
- (5) While conducting tests and inspections required by section 12-229-5.1 for acceptance of new elevators for load testing of elevators, a positive means of communication, such as a walkie-talkie system, between the various testing and witnessing personnel shall be furnished by the elevator maintenance company performing the test or inspection.
- (c) Amusement rides. The following shall apply to amusement rides:
- (1) The department shall inspect and witness load tests, in accordance with ASTM-F24 and chapter 12-250 at least semi-annually, for all amusement rides at a carnival, circus, fair, amusement park, or other public venue, for protecting the safety of the public;
 - (2) After the initial inspection, each amusement ride shall be inspected as often as necessary

- to ensure safe operation but not less than twice annually at intervals of not less than five months nor greater than seven months;
- (3) If the department finds, upon inspection, that an amusement ride is in a safe operating condition and meets with the requirements of this chapter and chapter 12-250, the department shall affix to the ride in a prominent location a permit to operate bearing upon its face the date of the inspection and the permit expiration date; and
 - (4) No ride shall be operated unless it has affixed to it a current permit to operate. [Eff and comp 6/30/14; am and comp 11/10/16; am and comp **FEB 15 2019**] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-8 REPEALED. [R 6/30/14]

§12-229-8.1 Rights and enforcement. (a) Rights.

- (1) Authorized representatives of the director may enter without delay during regular working hours and at other reasonable times, any place, establishment, or premises in which are located amusement rides, or elevators and kindred equipment requiring inspection pursuant to chapter 397, HRS;
 - (2) The department may question any employer, owner, operator, agent, or employee in investigation, enforcement, and inspection activities covered by this chapter; and
 - (3) Any employee of the State acting within the scope of the employee's office, employment, or authority under this chapter shall not be liable for or made a party to any civil action growing out of administration and enforcement of chapter 397, HRS.
- (b) Enforcement.
- (1) Whenever the right of entry to a place to inspect an amusement ride, elevator, or kindred equipment required by this chapter to

be inspected is refused to an authorized representative of the director, the department may apply to the circuit court where the equipment is located for a search warrant providing on its face that the wilful interference with its lawful execution may be punished as a contempt of court;

- (2) Whenever the department finds that the construction of or the operation of any amusement ride, or elevator and kindred equipment required to be inspected under this part is not safe, or that any practice, means, method, operation, or process employed or used is unsafe or is not in conformance with the standards and codes adopted pursuant to chapter 91, HRS, the department shall issue an order to render the construction or operation safe or in conformance with chapter 397, HRS, or its standards and codes and deliver the same to the contractor or owner. Each order shall be in writing and may be delivered by mail, electronically, or in person. The department may in the order direct that, in the manner and within a time specified, such additions, repairs, improvements, or changes be made and such safety devices and safeguards be furnished, provided, and used as are reasonably required to ensure compliance with the purposes and provisions of chapter 397, HRS. An order to bring the operation of elevator or kindred equipment into compliance may require the owner to submit a plan of compliance that addresses interim corrective plans to ensure public and worker safety as well as the schedule for the correction of the non-conforming element. A plan of compliance shall not exceed five years for residential buildings or three years for all other buildings. The owner or contractor shall obey and observe all orders issued by the department or be subject to appropriate civil penalties;
- (3) Whenever, in the opinion of the department, the condition of or the operation of amusement rides, or elevators and kindred equipment

required to be inspected by chapter 397, HRS, or any practice, means, method, operation, or process employed or used, is unsafe, or is not properly guarded, or is dangerously placed, its use may be prohibited by the department. An order to that effect shall be posted prominently on the equipment or near the place or condition referred to in the order. The order shall be removed when a determination has been made by an authorized representative of the department that the amusement rides, or elevators and kindred equipment are safe and the required safeguards or safety devices are provided;

- (4) Pursuant to section 397-4(d)(4), HRS, when an imminent hazard exists, the department may apply for a restraining order from a circuit court to effect enforcement restraining the use or operation until the use or operation is made safe;
- (5) Pursuant to section 397-4(d)(5), HRS, the director, or an authorized representative, shall have the same powers as are possessed by the court respecting administering of oaths, compelling attendance of witnesses, producing documentary evidence, and examining witnesses or causing them to be examined, and may take depositions and certify to official acts;
- (6) Where a condition or practice involving any amusement ride, or elevator and kindred equipment required to be inspected by chapter 397, HRS, could reasonably be expected to cause death or serious physical harm, the department shall have the right, independent of any other enforcement powers under this chapter, to:
 - (A) Immediately take steps to obtain abatement by informing the owner, contractor, and all persons in harm's way of the hazard by meeting, posted notice, or otherwise;
 - (B) Take steps to immediately obtain abatement through direct control or elimination of the hazard if, after

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- reasonable search, the owner, contractor, or their representative is not available;
- (C) Take steps to obtain immediate abatement when the nature and imminence of the danger or hazard does not permit a search for the owner or contractor; and
 - (D) Where appropriate, initiate necessary legal proceedings to require abatement by the owner or contractor; and
- (7) The department may prosecute, defend, and maintain actions in the name of the department for the enforcement of the provisions of chapter 397, HRS, including the enforcement of any order issued by it, the appeal of an administrative or court decision, and other actions necessary to enforce chapter 397, HRS. [Eff and comp 6/30/14; comp 11/10/16; am and comp] (Auth: HRS §397-4) (Imp: HRS §§397-4, 397-6, 397-8)

§12-229-9 REPEALED. [R 6/30/14]

§12-229-9.1 Complaints. (a) Complaints may be made to the department and where reasonable grounds exist for the department to believe there may be a hazard, there shall be an inspection in response to the complaint.

(b) Names of all complainants and witnesses shall be held in confidence by the department, unless prior permission has been given by the complainants or witnesses to release his or her names, or unless it has been determined by the state attorney general that disclosure is necessary for the enforcement and review under this chapter. [Eff and comp 6/30/14; comp 11/10/16; comp] (Auth: HRS §397-4) (Imp: HRS §397-7)

§12-229-10 REPEALED. [R 6/30/14]

§12-229-10.1 Reporting of accidents. (a)

Whenever an accident occurs involving either an amusement ride, or an elevator and kindred equipment, the owner shall promptly notify the division within eight hours by telephone at (808)586-9141. For reporting purposes, "accident" is defined as an occurrence resulting in significant damage to an elevator and kindred equipment and amusement device, including when it is rendered inoperative or any occurrence resulting in physical injury to a person or persons.

An accident report shall be submitted to the department within two calendar days after the owner has completed the accident investigation, and shall include the following information:

- (1) The date and time of the accident;
- (2) Hawaii registration number (HAW number) of the amusement ride, elevator, or kindred equipment involved;
- (3) Name and address of the victim or victims;
- (4) A brief description of the accident, including the nature and scope of the injuries;
- (5) Whether the amusement ride, elevator, or kindred equipment sustained any damage rendering it inoperative for any period of time;
- (6) Names and contact information of any witnesses interviewed;
- (7) A brief description of any inspections or tests conducted of the equipment to determine probable causation and who conducted them;
- (8) The investigators' conclusions as to the cause of the accident; and
- (9) The name and contact information of the investigator. For purposes of this section, the owner may contract another to perform the actual accident investigation, however, the owner is responsible for the report and its timely submittal to the department. If the accident investigation cannot be completed within three months of the date of the incident, the owner shall submit the incomplete report to the department with information as to when the investigation is expected to be completed. The final report



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shall be submitted as soon as the investigation is completed.

(b) Whenever an accident occurs which results in loss of life, the owner shall promptly notify the division by telephone at (808)586-9141, or messenger, within eight hours, and neither the amusement ride, or elevator and kindred equipment, or any of their parts, shall be removed or disturbed before permission has been given by the department except for the purpose of saving human life or limiting consequential damage.

(c) Additional reports, in writing or otherwise, may be required by the director. [Eff and comp 6/30/14; am and comp 11/10/16; comp FEB 15 2019] (Auth: HRS §397-4) (Imp: HRS §397-4)

§12-229-11 REPEALED. [R 6/30/14]

§12-229-11.1 Investigations. The department may investigate accidents reported under section 12-229-10.1 involving amusement rides, and elevators and kindred equipment inspected under this chapter and may issue orders and recommendations with respect to the elimination and control of the causal factors. [Eff and comp 6/30/14; comp 11/10/16; comp FEB 15 2019] (Auth: HRS §397-4) (Imp: HRS §§397-4, 397-6)

§12-229-12 REPEALED. [R 6/30/14]

§12-229-12.1 Violations and penalties. (a) The director may assess all civil penalties provided in this section, giving due consideration to the gravity of the violation, the good faith of the owner or contractor, and the history of previous violations.

(b) Violations. The following shall apply to violations:

- (1) Any owner or contractor who violates chapter 397, HRS, or any safety standards and codes

- adopted pursuant to chapter 91, HRS, or who violates or fails to comply with any order made under or by virtue of chapter 397, HRS, or who defaces, displaces, destroys, damages, or removes without the authority of the department any safety device, safeguard, notice, order, or warning required by chapter 397, HRS, its standards, or codes, shall be assessed a civil penalty of not more than \$10,000 for each such violation;
- (2) Any owner who allows the installation, construction, reconstruction, relocation, or alteration of any elevator or kindred equipment prior to obtaining an installation or alteration permit as required by section 12-229-5.1 shall be assessed a civil penalty of not more than \$10,000. The penalty may be reduced by a maximum of ten percent for history of past violations;
 - (3) Owners who fail to report an accident as required by section 12-229-10.1 shall be assessed a civil penalty of not more than \$5,000 per instance. Consideration may be given for good faith and history of violations;
 - (4) Owners who fail to maintain or provide records or reports to the department as required by this part shall be assessed a civil penalty of not more than \$5,000 per record not maintained or provided;
 - (5) Repeated violations shall be assessed a civil penalty of not more than \$10,000. Consideration may be given for gravity only;
 - (6) Owners who fail to take an elevator or kindred equipment out of service as specified in section 12-229-7.1(b)(4) shall be assessed a civil penalty of not more than \$10,000; and
 - (7) Each day a violation continues shall constitute a separate violation except during an abatement period.
- (c) Discrepancies and penalties. The following shall apply to discrepancies and penalties:
- (1) Any conditions found not in conformance with applicable standards or codes adopted pursuant to chapter 397, HRS, shall be regarded as

discrepancies and shall be made known to the owner or contractor by letter or written order to correct or both. All discrepancies shall be satisfactorily resolved as soon as possible. When, in the opinion of the department, a discrepancy constitutes a potentially serious hazard, the department may prohibit the use of the equipment until the condition is abated. Failure to abate unsafe conditions or failure to correct discrepancies within the time prescribed shall be a violation subject to the civil penalties prescribed in this section;

- (2) Assessing penalties.
- (A) Consideration shall be given to the gravity of the violation. For a violative condition that could not or probably would not result in serious harm to life the penalty may be reduced by forty percent;
 - (B) Consideration shall be given to the good faith of the owner or contractor. For immediate correction or for attempts to make corrections or abate hazards that have been thwarted by conditions beyond the control of the owner or contractor, the penalty may be reduced by forty percent; and
 - (C) Consideration shall be given for the history of previous violations. For no previous violations by the owner or contractor, the penalty may be reduced by ten percent.

(d) Anyone who knowingly makes a false statement on any document required by chapter 397, HRS, upon conviction, shall be punished by a fine of not more than \$10,000 or imprisonment or both. Any evidence suggesting that a false statement may have been made shall be immediately referred to the director, who shall consult with the state attorney general for purposes of initiating appropriate action. [Eff and comp 6/30/14; am and comp 11/10/16; am and comp]
(Auth: HRS §397-4) (Imp: HRS §397-8)

FEB 15 2019

§12-229-13 REPEALED. [Eff 6/19/00; R 6/30/14]

§12-229-13.1 Review and appeal. (a) Any order or citation of the director shall be final and conclusive against an owner or contractor, unless an appeal is made in writing, clearly stating what items are being contested. The notice of contest must be addressed to the director and received or, if mailed, postmarked by no later than the twentieth calendar day following receipt of the order or citation.

(b) The director or the director's designee may hold a formal hearing, which shall result in a decision and order by the director. Any party who disagrees with the director's decision may appeal in writing to the director within twenty calendar days of receipt of the decision and order. The director shall promptly notify the labor and industrial relations appeals board of the notice of contest. Where a prior formal hearing is held at the department level, the labor and industrial relations appeals board shall conduct a case review using only the record.

(c) An owner or contractor may petition the director for modification of the abatement requirements in an order, as provided in section 397-9, HRS. [Eff and comp 6/30/14; comp 11/10/16; comp **FEB 15 2019**] (Auth: HRS §397-4) (Imp: HRS §397-9)

§12-229-14 REPEALED. [R 6/30/14]

§12-229-14.1 Trade secrets. Information obtained by the department containing or revealing a trade secret shall be held confidential and access shall be limited to authorized representatives of the director for purposes of carrying out chapter 397, HRS. [Eff and comp 6/30/14; comp 11/10/16; comp **FEB 15 2019**] (Auth: HRS §397-4) (Imp: HRS §397-11)

§12-229-15 REPEALED. [R 6/30/14]

§12-229-15.1

§12-229-15.1 Notifications of transfer and location. (a) The seller of any elevator or kindred equipment regulated by this part shall notify the department in writing using a form provided by the department within thirty calendar days of the sale giving the HAW number, location name, location address of the equipment, and the name and address of the purchaser.

(b) The owner of any elevator or kindred equipment who gives, scraps, demolishes, or removes the device shall report the transaction and the name and address of the new owner, if any, within thirty calendar days of the transaction to the department using the form provided by the department. [Eff and comp 6/30/14; am and comp 11/10/16; comp] (Auth: HRS §397-4) (Imp: HRS §397-4)

FEB 15 2019

§12-229-16 REPEALED. [R 6/30/14]

§12-229-16.1 Variances. (a) In cases of practical difficulties, undue hardships, or new developments, an owner may apply for a variance from any elevator safety standard. The application must be in writing, clearly stating the standard from which a variance is sought, the conditions, means, practices, methods, operations, or processes proposed to be used, together with drawings, specifications, and other supporting data. The director may issue an order for a variance if what is proposed will provide a substantially equivalent level of safety to that provided by the standard.

(b) All variances granted pursuant to this chapter shall have only a future effect. The director may decline to entertain an application for variance on a subject or issue for which a discrepancy letter or citation has been issued to the owner or contractor involved and the discrepancy or violation has not yet been satisfactorily corrected or resolved.

(c) Before granting the variance, the director shall publish a notice in a paper of general

circulation or post notice on the department's website notifying all potentially affected parties of the director's intent to grant the variance. The notice shall provide a period of thirty calendar days to object to the granting of the variance, after which time the variance shall become final if no objections are filed or a hearing is requested. The cost of the publication shall be borne by the petitioning party. Every notice shall specify the alternative to the safety standard being considered.

(d) Any party objecting to the granting of the variance must notify the director in writing within the thirty-day period, stating the reasons why the variance should not be granted and the resultant specific impact on public safety. The objecting party's reasons for objection may also be based on grounds other than impact on public safety such as feasibility of compliance or lack of undue hardship to the petitioner. The objecting party may also elect to provide the reasons for the objection at a hearing.

(e) The hearing requested by the objecting party shall be held no later than forty-five days after the thirty-day period stated in the public notice as follows:

- (1) The objecting party or parties and the variance applicant shall be provided notice of the date, time, and place of the hearing at least fourteen calendar days before the scheduled hearing;
- (2) Each party shall be prepared to provide evidence supporting the party's case, including a brief oral statement summarizing such evidence;
- (3) The director shall provide a written determination to all parties;
- (4) If the director determines that the evidence does not support denial of the variance request, no further notice is required; and
- (5) If the director determines that the evidence supports a denial of the variance request, a notice shall be published in a newspaper of general circulation stating the reasons why the variance is not granted.

(f) If the variance application does not include all relevant information as indicated in subsection (a),



the director may deny the application. The denial shall be submitted in writing to the applicant within thirty calendar days. A notice of denial shall include a brief statement of the grounds for the denial. A denial of an application shall be without prejudice to the filing of another application.

(g) Requests for reconsideration on denied variance requests. The variance applicant whose variance request was denied may file a petition for reconsideration of the denial with the director. The petition must be filed in writing within twenty calendar days of the denial notice and should include all pertinent facts regarding why the variance should be granted.

- (1) The director may review the record on the case along with any additional information provided by the applicant or conduct further inquiries on the matter; and
- (2) Any party objecting to the director's decision shall use the review and appeal process as provided for in section 12-229-13.1. [Eff and comp 6/30/14; am and comp 11/10/16; am and comp **FEB 15 2019**] (Auth: HRS §397-4)
(Imp: HRS §397-4)

§12-229-17 Records. Records shall be maintained by the elevator inspection branch of the department of labor and industrial relations for the purpose of preserving reports of inspections, witnessing of test and accident investigations, correspondence, prints, and memoranda for all objects inspected pursuant to this chapter. These records shall be maintained for a period of not less than five years for amusement rides, elevators, and kindred equipment. [Eff and comp 6/30/14; comp 11/10/16; comp **FEB 15 2019**] (Auth: HRS §397-4) (Imp: HRS §397-4)

EXHIBIT B

ELEVATOR AND KINDRED EQUIPMENT INSPECTION FEES

January 1, 2019

Permit and Renewal Inspection Fees¹:

Dumbwaiter or material lift	\$150
Escalator, moving walk, or moving ramp	\$225
Platform Lift or Stairway Chairlift	\$225
Hydraulic elevator - holed	\$275
Hydraulic elevator - holeless	\$275
Hydraulic elevator - roped holeless	\$325
Traction elevators:	
1-3 floors	\$250
4-9 floors	\$275
10-19 floors	\$300
20-29 floors	\$350
30-39 floors	\$425
40 or more floors	\$500
Personnel hoist	\$300
Temporary Use Permit (construction car)	\$300

Safety, load or internal test (witness fees):

Category 3 test	\$325
Category 3 test with safety overspeed valve	\$375
Category 3/5 test for roped hydraulic	\$425
Category 5 test	\$425
Category 5 with counterweight test	\$525
Escalator, internal	\$425

¹ For elevators which have considerable rise but few openings, such as observation or deep-well elevators, each ten feet of vertical rise shall be considered one floor for the purpose of determining permit renewal inspection fees.

Permit renewal and witness fees are per inspection, which may constitute one day or part of the day. If the inspector is required to return on another day or at another time on the same day, additional fees shall be assessed at the rate of \$325 per day for up to two hours and \$650 per day for more than two hours. Fees for overtime hours shall be \$650 per day for up to two hours and \$1,300 per day for more than two hours.

EXHIBIT C

INSPECTION AND TEST INTERVALS (IN MONTHS)

January 1, 2017

Equipment Type	Permit Renewal	Category 3	Category 5
Electric elevators	12	N/A	60
Hydraulic elevators	12	36	N/A
Escalators and moving walks ⁽¹⁾	12	36	N/A
Dumbwaiters	12	36	60
Material lifts	12	36	60
Platform lifts and stairway chairlifts	12	N/A	N/A
Inclined elevators	12	36	60
Screw-column elevators	12	36	60
Roof-top elevators	12	36	60
Limited-use/limited- application elevators	3	36	60
Construction cars	3	36	60
Personnel hoists ⁽²⁾	3	N/A	N/A
Amusement rides	6	N/A	N/A

¹ Internal inspections of escalators and moving walks shall be performed at intervals of 36 months.

² Personnel hoists shall be load tested at intervals of 3 months.

Where an equipment is listed under both Category 3 of 36 months and Category 5 of 60 months, the appropriate testing interval is dependent on whether the lifting mechanism is rope or hydraulic or a combination of rope and hydraulic."