

CONCURRING OPINION BY ACOBA, J.

I concur in the result but on the ground that Hawai'i Revised Statutes (HRS) § 91-7 (1993) on its face is specific and thus plainly and unambiguously controls as to Plaintiff-Appellant Hawaii Home Infusion Associates' particular "petition" for declaratory review of an agency rule. See Richardson v. City and County of Honolulu, 76 Hawai'i 46, 55, 868 P.2d 1193, 1202 (1994) (stating that, "'where there is a 'plainly irreconcilable' conflict between a general and a specific statute concerning the same subject matter, the specific will be favored'" (quoting Mahiai v. Suwa, 69 Haw. 349, 356-57, 742 P.2d 359, 366 (1987) (citations omitted)). Because HRS § 91-7 is the applicable statute, "may" must be construed as compulsory, i.e., allowing a judicial declaration upon the filing of a petition in the circuit court of the affected county, rather than as indicating an alternative basis for jurisdiction. See Kepo'o v. Kane, 106 Hawai'i 270, 288 n.30, 103 P.3d 939, 957 n.30 (2005) (stating that "'[m]ay' is also defined as 'shall, must -- used especially in deeds, contracts, and statutes'" (brackets and citation omitted)); cf. Lingle v. Hawai'i Gov't Employees Ass'n, AFSCME, Local 152, 107 Hawai'i 178, 187 & n.1, 111 P.3d 587, 596 & n.1 (2005) (Acoba, J., concurring) (stating that HRS § 91-8 (1993), which provides that "'[a]ny interested person may petition an agency for a declaratory order as to the applicability of any statutory provision or of any rule or order of the agency[,]" must be construed as "authoriz[ing] interested persons to petition agencies for declaratory rulings" (emphases added)).

