



**HAWAII
SMALL BUSINESS
REGULATORY REVIEW
BOARD**

Periodic Review; Evaluation Report

**In Compliance with
Regulatory Flexibility Act
Section 201M –7,
Hawaii Revised Statutes**

2014

TABLE OF CONTENTS

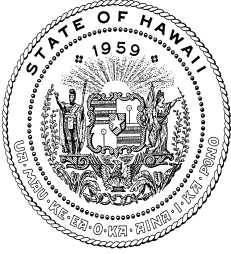
Message from Director	2
Message from Chair	3
Overview	4-5
Administrative Rule Review Matrix	6
List of Administrative Rules Reviewed	7-16
Justification of Rules	17
Department of Accounting and General Services	17
Department of Agriculture	18
Department of the Attorney General	18
Department of Budget and Finance	18
Financial Administration Division	18-19
Public Utilities Commission	19-21
Department of Business, Economic Development & Tourism	21-25
Department of Commerce and Consumer Affairs	25-28
Department of Defense	28
Department of Education	28
Department of Hawaiian Home Lands	28
Department of Health	28-40
Department of Human Resources Development	40
Department of Human Services	40-42
Department of Labor and Industrial Relations	42-43
Department of Land and Natural Resources	43-48
Department of Public Safety	48
Department of Taxation	48
Department of Transportation	48-49
University of Hawaii	49

MESSAGE FROM DIRECTOR



On behalf of the Department of Business, Economic Development & Tourism, I continue to extend my sincere appreciation to the Small Business Regulatory Review Board members for their dedication and hard work.

Richard C. Lim
Director



SMALL BUSINESS REGULATORY REVIEW

Department of Business, Economic Development & Tourism
No. 1 Capitol District Bldg., 250 South Hotel St. 5th Fl., Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Tel 808 586-2594

Neil Abercrombie
Governor

Richard C. Lim
Director, DBEDT

Mary Alice Evans
Deputy Director, DBEDT

Members

Chu Lan Shubert-Kwock
Chair
Oahu

Anthony Borge
Vice Chair
Oahu

Leslie Mullens
Second Vice Chair
Maui County

Barbara Bennett
Kauai County

Howard Lum
Oahu

Kyoko Y. Kimura
Maui County

Craig Takamine
Hawaii County

Harris Nakamoto
Oahu

Richard C. Lim
Director, DBEDT
Voting Ex Officio

MESSAGE FROM CHAIR



This 210M-7 Report consists of existing administrative rules that the State departments have determined impact small business and the reasons for the rules' continued implementation or amendment. This is in accordance to our State's effort to reduce negative small business impact and to improve our State's rule-making procedures.

The Legislature's vision in 1998 was *"that good rules will stimulate our economy and improve our State's small business image, which will help draw capital investment into our State economy and at the same time help our small business survive and thrive.* The Legislature was aware *"small business makes up the backbone of our country's economy."* Therefore, a partnership between our rule-making departments with small business is a definite Win-Win for all.

I am very proud of our SBRRB members who work hard and are very dedicated to the cause of reducing negative business impacts. I congratulate each Board Member for their effort, team play, and for keeping our mission front and center. We thrive to be transparent, accountable and successful. We understand and appreciate our responsibility to the State of Hawaii.

On behalf of this Board, I extend a special thank you to our State Legislature, our Governor, our Departments, our Administrative agencies, DBEDT Director Richard Lim, Deputy Director Mary Alice Evans, and our SBRRB Senior Staffer, Ms. Dori Palcovich for their support of our Board's work.

It has been an honor to be part of such a successful team. We hope 2014 will be even more successful, especially if more resources are available to assist our mission to benefit all stakeholders in the State of Hawaii.

Chu Lan Shubert-Kwock, Chair, SBRRB, 2014

OVERVIEW

In 2013, the SBRRB requested from the State agencies a list of existing administrative rules that affect small business, a report describing the specific public purpose or interest for adopting the respective rules, and any other reasons to justify the rules' continued implementation for the period of July 1, 2011 through June 30, 2013 pursuant to the Regulatory Flexibility Act, Chapter 201M-7, Section (a), Hawaii Revised Statutes. The information in this 2014 report is a compilation of the responses and justifications received from the State agencies.

Section 201M-7 Periodic review; evaluation

(a) Each agency having rules that affect small business in effect on July 1, 1998 shall submit by June 30 of each odd-numbered year, a list of those rules to the small business regulatory review board; provided that, by June 30 of each year, each agency shall submit to the small business regulatory review board a list of any rules to be amended or repealed, based upon any new, amended or repealed statute. The agency shall also submit a report describing the specific public purpose or interest for adopting the respective rules and any other reasons to justify its continued implementation.

(b) The small business regulatory review board shall provide to the head of each agency a list of any rules adopted by the agency that affect small business and have generated complaints or concerns, including any rules that the board determines may duplicate, overlap, or conflict with other rules, or exceed statutory authority. Within forty-five days after being notified by the board of the list, the agency shall submit a written report to the board in response to the complaints or concerns. The agency shall also state whether the agency has considered the continued need for the rules and the

degree to which technology, economic conditions, and other relevant factors may have diminished or eliminated the need for maintaining the rules.

(c) The board may solicit testimony from the public regarding any report submitted by the Agency under this section at a public meeting held pursuant to chapter 92. Upon consideration of any report submitted by an agency under this section and any public testimony, the board shall submit an evaluation report to the next regular session of the legislature. The evaluation report shall include an assessment as to whether the public interest significantly outweighs a rule's effect on small business and any legislative proposal to eliminate or reduce the effect on small business. The legislature may take any action in response to the report as it finds appropriate.

ADMINISTRATIVE RULE REVIEW MATRIX

State Department	Number of Newly Approved, Amended, or To Be Amended Rules (July 2011 to June 2013)
1. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES	3
2. DEPARTMENT OF AGRICULTURE	NA
3. DEPARTMENT OF THE ATTORNEY GENERAL	0
4. DEPARTMENT. OF BUDGET AND FINANCE	
FINANCIAL ADMINISTRATION DIVISION	7
PUBLIC UTILITIES COMMISSION	17
5. DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM	5
6. DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS	11
7. DEPARTMENT OF DEFENSE	0
8. DEPARTMENT OF EDUCATION	0
9. DEPARTMENT OF HAWAIIAN HOME LANDS	0
10. DEPARTMENT OF HEALTH	
MEDICAL DIVISON	29
ENVIRONMENTAL DIVISION	48
11. DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT	0
12. DEPARTMENT OF HUMAN SERVICES	9
13. DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS	7
14. DEPARTMENT OF LAND AND NATURAL RESOURCES	21
15. DEPARTMENT OF PUBLIC SAFETY	0
16. DEPARTMENT OF TAXATION	2
17. DEPARTMENT OF TRANSPORTATION	1
18. UNIVERSITY OF HAWAII	0

LIST OF ADMINISTRATIVE RULES REVIEWED

Below is a listing of administrative rules submitted by the following State departments.

Department of Accounting and General Services

State Procurement Office

1. HAR Title 3 Chapter 120 – General Provisions
2. HAR Title 3 Chapter 124 - Preferences
3. HAR Title 3 Chapter 125 – Modifications and Terminations of Contracts

Rules to be amended or repealed, based upon any new, amended or repealed statute:

None were provided.

Department of Agriculture

As of the printing of this report, the Department of Agriculture did not provide the requested information.

Department of the Attorney General

The Department of the Attorney General reported that it did not have any rules affecting small business that were approved for the period of July 1, 2011 through June 30, 2013, nor is it working on any rules that will affect small business.

Department of Budget and Finance

Financial Administration Division

1. HAR Title 6 Chapter 1 – Public Records; Administrative Procedures; Receiving and Paying Hours, Amendment – Treasury Cash
2. HAR Title 6 Chapter 2 - Special Purpose Revenue Bonds for Health Care Facilities
3. HAR Title 6 Chapter 10 - Special Purpose of Revenue Bonds for Industrial Enterprises
4. HAR Title 6 Chapter 12 – Special Purpose Revenue Bonds for Manufacturing Enterprises
5. HAR Title 6 Chapter 13 – Special Purpose Revenue Bonds for Processing Enterprises
6. HAR Title 6 Chapter 16 – Special Purpose Revenue Bonds for Early childhood Education and Care Facilities

7. HAR Title 6 Chapter 17 – Special Purpose Revenue Bonds for Not-for-Profit Private Nonsectarian and Sectarian Elementary Schools

Public Utilities Commission

1. HAR Title 6 Chapter 60 – Standards for Electric and Gas Services in the State of Hawaii
2. HAR Title 6 Chapter 61 – Rules of Practice and Procedure before the Public Utilities Commission
3. HAR Title 6 Chapter 62 – Motor Carrier Rules and Classification of Property and Passenger Carriers
4. HAR Title 6 Chapter 62-8 GO 5 - Repeal of General Order No. 5 – Uniform System of Accounts for Motor Carriers
5. HAR Title 6 Chapter 62-8 Insurance Requirements
6. HAR Title 6 Chapter 63 – Motor Carrier Tariffs and Schedules
7. HAR Title 6 Chapter 65 – Water Carriers
8. HAR Title 6 Chapter 68 – Investigation and Enforcement of Laws Governing Public Utilities, Motor Carriers, and Water Carriers
9. HAR Title 6 Chapter 73 – Installation, Operation, and Maintenance of Overhead and Underground Electrical Supply and Communication Lines
10. HAR Title 6 Chapter 74 – Standards for Small Power Production and Cogeneration
11. HAR Title 6 Chapter 76 – Shared Tenant Service
12. HAR Title 6 Chapter 77 – Transportation of Natural and Other Gas by Pipeline; Minimum Safety Standards
13. HAR Title 6 Chapter 79 – Aggregator and Operator Service
14. HAR Title 6 Chapter 80 – Competition in Telecommunications Services
15. HAR Title 6 Chapter 81 – Universal Service Fund
16. HAR Title 6 Chapter 82 – Pay Telephone Service
17. HAR Title 6 Chapter 83 – Hawaii One Call Center Subsurface Installation Damage Prevention Program

Rules to be amended or repealed, based upon any new, amended or repealed statute:

None were provided.

Department of Business, Economic Development and Tourism

1. HAR Title 15 Chapter 215 - Kalaeloa Community Development District Rules
2. HAR Title 15 Chapter 216 - Kalaeloa Community Development District Reserved Housing Rules
3. HAR Title 15 Chapter 217 - Kakaako Mauka Area Rules
4. HAR Title 15 Chapter 218 - Kakaako Reserved Housing Rules
5. HAR Title 15 Chapter 219 - Rules of Practice and Procedure

Rules to be amended or repealed, based upon any new, amended or repealed statute:

None were provided.

Department of Commerce and Consumer Affairs

Insurance Division

1. HAR Title 16 Chapter 23 – Motor Vehicle Insurance Law
2. HAR Title 16 Chapter 171 – Miscellaneous Insurance Rules

Professional and Vocational Licensing Division

3. HAR Title 16 Chapter 53 – Fees Relating to Boards and Commissions
4. HAR Title 16 Chapter 71 – Certified Public Accountants and Public Accountants
5. HAR Title 16 Chapter 88 – Naturopaths
6. HAR Title 16 Chapter 89 – Nurses
7. HAR Title 16 Chapter 100 – Speech Pathologists and Audiologists
8. HAR Title 16 Chapter 115 – Professional Engineers, Architects, Surveyors, and Landscape Architects

Rules to be amended or repealed, based upon any new, amended or repealed statute:

Division of Financial Institutions

1. HAR Title 16 Chapter 24 – Money Transmitters
2. HAR Title 16 Chapter 25 – Application Procedure Relating to Hawaii Financial Institutions
3. HAR Title 16 Chapter 26 – Examination and Off-Site Monitoring of Hawaii Financial Institutions

Department of Defense

The Department of Defense reported that it did not have any rules affecting small business that were approved for the period of July 1, 2011 through June 30, 2013.

Department of Education

The Department of Education reported that it did not have any rules affecting small business that were approved for the period of July 1, 2011 through June 30, 2013, nor does it intend to amend or repeal existing rules passed on new, amended or repealed statutes.

Department of Hawaiian Home Lands

The Department of Hawaiian Home Lands reported that it did not have any rules affecting small business that were approved for the period of July 1, 2011 through June 30, 2013, nor did the department anticipate completing any rulemaking before June 30, 2013.

Department of Health

Medical

Office of Planning, Policy and Program Development

1. HAR Title 11 Chapter 1 – Rules of Practice and Procedure

Food and Drug Branch

1. HAR Title 11 Chapter 29 – Food and Food Products
2. HAR Title 11 Chapter 33 – Hawaii Drug Formulary of Equivalent Drug Products
3. HAR Title 11 Chapter 35 – Shellfish Sanitation
4. HAR Title 11 Chapter 36 – Sale of Prophylactics Through Vending Machines

Office of Health Care Assurance

5. HAR Title 11 Chapter 79 – Licensing Dietitians
6. HAR Title 11 Chapter 89 – Developmental Disabilities Domiciliary Homes
7. HAR Title 11 Chapter 90 – Assisted Living Facility
8. HAR Title 11 Chapter 93 – Broad Service Hospitals and Critical Access Hospitals
9. HAR Title 11 Chapter 94.1 – Skilled Nursing / Intermediate Care Facilities
10. HAR Title 11 Chapter 95 – Freestanding Surgical Outpatient (FSOF) or Ambulatory Surgical Centers
11. HAR Title 11 Chapter 96 – Freestanding Adult Day Health Centers
12. HAR Title 11 Chapter 97 – Home Health Agencies
13. HAR Title 11 Chapter 98 – Special Treatment Facilities/Therapeutic Living Programs
14. HAR Title 11 chapter 99 – Intermediate Care Facilities for the Mentally Retarded
15. HAR Title 11 Chapter 100.1 – Adult Residential Care Homes (includes Expanded ARCH)
16. HAR Title 11 Chapter 104.1 – Management and Disposal of Infectious Waste
17. HAR Title 11 Chapter 110.1 – Clinical Laboratories and Laboratory Personnel

Development Disabilities Division

18. HAR Title 11 Chapter 88 – Services for the Developmentally Disabled or Intellectually Disabled (previously “Mentally Retarded”)
19. HAR Title Chapter 148 – Certification of Adult Foster Homes

State Laboratories Division

20. HAR title 11 Chapter 113 – Substance Abuse Testing by Laboratories

Tobacco Settlement Project/Healthy Hawaii Initiative – Chronic Disease Management & Control Branch

21. HAR Title 11 Chapter 81 – Smoking in Public Places

Child and Adolescent Mental Health Divisions

22. HAR Title 11 Chapter 98 – Special Treatment Facilities

Alcohol and Drug Abuse Division

23. HAR Title 11 Chapter 117.1 – Certification Standards for Substance Abuse Counselors, Program Administrators, Prevention Specialists, Clinical Supervisors, Criminal Justice Addictions Professionals, and Co-Occurring Disorders Professional Diplomate

Communicable Disease and Public Health Nurses Division

24. HAR Title 11 Chapter 156 – Communicable Diseases

25. HAR Title 11 Chapter 164 - Tuberculosis

Disease Outbreak Control Division

26. HAR Title 11 Chapter 157 – Examination and Immunization

State Health Planning and Development Agency

27. HAR Title 11 Chapter 186 – Certificate of Need

Disability and Communication Access Board

28. HAR Title 11 Chapter 218 – Communication Access Services for Persons who are Deaf, Hard of Hearing and Deaf-Blind

29. HAR Title 11 Chapter 219 – Parking for Persons with Disabilities

Environmental

Hazard Evaluation and Emergency Response Branch

1. HAR Title 11 Chapter 5 – Environmentally-Related Illness and Injury Reporting
2. HAR Title Chapter 451 – State Contingency Plan

3. HAR Title 11 Chapter 453 – Hawaii Emergency Planning and Community Right-to-Know-Act

Sanitation Branch

4. HAR Title 11 Chapter 10 – Swimming Pools
5. HAR Title 11 Chapter 11 – Sanitation
6. HAR Title 11 Chapter 12 – Food Service and Food Establishment Sanitation Code
7. HAR Title 11 Chapter 15 – Milk
8. HAR Title 11 Chapter 17 – Tattoo Artists
9. HAR Title 11 Chapter 18 – Licensing of Sanitarians
10. HAR Title 11 Chapter 22 – Mortuaries, Cemeteries, Embalmers, Undertakers & Mortuary Authorities

Safe Drinking Branch

11. HAR Title 11 Chapter 19 – Emergency Plan for Safe Drinking Water
12. HAR Title 11 Chapter 20 – Rules Relating to Public Water Systems
13. HAR Title 11 Chapter 21 – Cross-Connection & Backflow Control
14. HAR Title 11 Chapter 23 – Underground Injection Control
15. HAR Title 11 Chapter 25 – Rules Relating to Certification of Public Water System Operators

Vector Control Branch

16. HAR Title 11 Chapter 26 – Vector Control

Clean Water Branch

17. HAR Title 11 Chapter 54 – Water Quality Standards
18. HAR Title 11 Chapter 55 – Water Pollution Control

Clean Air Branch

19. HAR Title 11 Chapter 59 – Ambient Air Quality Standards
20. HAR Title 11 Chapter 60.1 – Air Pollution Control

Wastewater Branch

21. HAR Title 11 Chapter 61 – Mandatory Certification of Wastewater Treatment Plants
22. HAR Title 11 Chapter 62 – Waste Water Systems

Noise, Radiation and Indoor Air Quality Branch

23. HAR Title 11 Chapter 39 – Air Conditioning & Ventilating
24. HAR Title 11 Chapter 41 – Lead-Based Paint Activities
25. HAR Title 11 Chapter 44 – Radiologic Technology Board Radiologic Technology Rules
26. HAR Title 11 Chapter 45 – Radiation Control
27. HAR Title 11 Chapter 46 – Community Noise Control
28. HAR Title 11 Chapter 501 – Asbestos Requirements
29. HAR Title 11 Chapter 502 – Asbestos Containing Materials in Schools
30. HAR Title 11 Chapter 503 – Fees for Asbestos Removal
31. HAR Title 11 Chapter 504 – Asbestos Abatement Certification Program

Solid and Hazardous Waste Branch

32. HAR Title 11 Chapter 58.1 – Solid Waste Management Control
33. HAR Title 11 Chapter 68 – Litter Control
34. HAR Title 11 Chapter 260 – Hazardous Waste Management General Provisions
35. HAR Title 11 Chapter 261 – Hazardous Waste Management Identification & Listing of Hazardous Waste
36. HAR Title 11 Chapter 262 – Hazardous Waste Management Standards Applicable to Generators of Hazardous Waste
37. HAR Title 11 Chapter 263 – Hazardous Waste Management Standards Applicable to Transporters of Hazardous Waste
38. HAR Title 11 Chapter 264 – Hazardous Waste Management Standards for Owners & Operators of Hazardous Waste Treatment, Storage, & Disposal Facilities
39. HAR Title 11 Chapter 265 – Hazardous Waste Management Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, & Disposal Facilities
40. HAR Title 11 Chapter 266 – Hazardous Waste Management Standards for the Management of Specific Hazardous Wastes & Specific Types of Hazardous Waste Management Facilities
41. HAR Title 11 Chapter 268 – Hazardous Waste Management Land Disposal Restrictions
42. HAR Title 11 Chapter 270 – Hazardous Waste Management State Administered Permits: The Hazardous Waste Permit Program
43. HAR Title 11 Chapter 271 – Hazardous Waste Management Procedures for Decision Making
44. HAR Title 11 Chapter 273 – Hazardous Waste Management Standards for Universal Waste Management
45. HAR Title 11 Chapter 279 – Standards for the Management of Used Oil
46. HAR Title 11 Chapter 280 – Hazardous Waste Management Public Information
47. HAR Title 11 Chapter 281 – Underground Storage Tanks (USTs)
48. HAR Title 11 Chapter 282 – Deposit Beverage Container Program

Rules to be amended or repealed, based upon any new, amended or repealed statute:

None were provided.

Department of Human Resources Development

The Department of Human Resources Development reported that it did not have any rules affecting small business and that it had not adopted any new rules since 2003.

Department of Human Services

1. HAR Title 17 Chapters 1700, 1721, 1721.1, 1727, 1728, 1728.1, 1732, 1735, and 1737
2. HAR Title 17 Chapter 1727 – Hawaii Health Quest
3. HAR Title 17 Chapter 1728 – Quest-Net
4. HAR Title 17 Chapter 1728.1 – Quest-Adult Coverage Expansion (ACE)
5. HAR Title 17 Chapter 1722.3 – Basic Health Hawaii
6. HAR Title 17 Chapter 1725 – Assets
7. HAR Title 17 Chapter 1727 - Quest
8. HAR Title 17 Chapter 1739.1 – Authorization, Payment, and Claims in the Fee for Service Medical Assistance-General Provisions for Reimbursement
9. HAR Title 17 Chapter 1745 – Death Payment Programs

Rules to be amended or repealed, based upon any new, amended or repealed statute:

None were provided.

Department of Labor and Industrial Relations

1. HAR Title 12 Chapter 5 - Hawaii Employment Security Law
2. HAR Title 12 Chapter 46 – Hawaii Civil Rights Commission
3. HAR Title 12 Chapter 48 – Hoisting Machine Operators
4. HAR Title 12 Subtitle 8, Parts 1, 2, 3, 4, 5, 6, 7, 8, 10, & 11 – Hawaii Occupational Safety & Health
5. HAR Title 12 Subtitle 8, Part 10 – Boiler & Pressure Vessel

Rules to be amended or repealed, based upon any new, amended or repealed statute:

6. HAR Title 12 Chapter 22 – Wage Determinations
7. HAR Title 12 Chapter 15-90 – Medical Fee Schedule

Department of Land and Natural Resources

1. HAR Title 13 Chapter 190.1 - Dams and Reservoirs
2. HAR Title 13 Chapter 230-21 – Personal Partner

3. HAR Title 13 Chapter 231-5 – Period of Validity and Renewal of Use Permit
4. HAR Title 13 Chapter 231-28 – Use of Vessel as Place of Principal Habitation
5. HAR Title 13 Chapter 231-29 – Vessels Used as a Vacation Site
6. HAR Title 13 Chapter 233-29 – Parking Permits
7. HAR Title 13 Chapter 244- 15.5 – Operation of Power Driven Vessels (Mandatory Education)
8. HAR Title 13 Chapter 256-18 – Watersledding
9. HAR Title 13 Chapter 256-33 – Commercial Use Permits
10. HAR Title 13 Chapter 256-39 – Hanalei Bay
11. HAR Title 13 Chapter 256-73 to 13-256-73.12 – Kaneohe Bay
12. HAR Title 13 Chapter 256-73.13 – Ahu O Laka

Rules to be amended or repealed, based upon any new, amended or repealed statute:

1. HAR Title 13 Chapter 13-60.8 – New Haena Community-based Subsistence Fishing Area (Kauai)
2. HAR Title 13 Chapter 74 – New Commercial Fishing Vessel License
3. HAR Title 13 Chapter 74 – New Marine Dealer License and Reporting; Export License; Report Requirements
4. HAR Title 13 Chapter 74 – New Milolii Fisheries Management Area (Hawaii)
5. HAR Title 13 Chapter 95 – New Manta Ray Capture or Kill Prohibition
6. HAR Title 13 Chapter 95 – New Shark Fins Prohibition
7. HAR Title 13 Chapter 95 – No Taking of Female Spiny Lobsters, Kona Crabs, and Samoan Crabs
8. HAR Title 13 Chapter 184 – Designation and Regulation of Geothermal Resource Subzones
9. HAR Title 13 Chapter 282 – Rules Governing Permits for Archaeological Work

Rules to be amended or repealed, based upon any new, amended or repealed statute:

None were provided.

Department of Public Safety

The Department of Public Safety reported that no changes have been made to Title 23, Hawaii Administrative Rules, during the period of July 1, 2011 through June 20, 2013.

Department of Taxation

1. HAR Title 18 Chapter 231- Administration of Taxes
2. HAR Title 18 Chapter 235 – Income Tax Law

Department of Transportation

1. HAR Title 19 Chapter 133.2 – Periodic Inspection of Vehicles

University of Hawaii

The University of Hawaii reported that it did not have any rules affecting small business that were approved for the period of July 1, 2011 through June 30, 2013, nor does it have any administrative rules affecting small businesses to be amended or repealed based on any new, amended or repealed statute.

JUSTIFICATION OF RULES, AND ANY RULES EXPECTED TO BE AMENDED OR REPEALED BASED ON ANY NEW, AMENDED OR REPEALED STATUTE

Department of Accounting and General Services

State Procurement Office

1. HAR Title 3 Chapter 120 – General Provisions

Justification – This chapter provides the purpose of the rules, definitions, applicability, procurements exempt from HRS chapter 103D and its procedures pertaining to the Hawaii public procurement code.

Continue implementation necessary to allow for provisions, processes, authority to conduct procurement. HAR chapter 3-120 was amended in FY2012 to remove two exempt items due to statutory amendment, and to add language, specifically, the purchasing of print space in scholarly journals.

2. HAR Title 3 Chapter 124 – Preferences

Justification – The purpose is to implement preference programs for Hawaii products, printing, reciprocal, recycled products, software development businesses, tax equalization, qualified community rehabilitation programs. Preferences provide an advantage in consideration for award granted to a vendor, contractor or service provider by reason such as vendor's product classification.

Continue implementation for HRS mandated preferences for applicable solicitations and evaluation of offers. HAR chapter 3-124 Preferences, Subchapter 1, Hawaii Products was amended in FY 2012 to amend definitions to be aligned with Act 175, SLH 2009, and to reduce the number of Hawaii product classes from three to two.

3. HAR Title 3 Chapter 125 – Modifications and Terminations of Contracts

Justification – The purpose is to provide contract clauses for adjustments in price, time of performance, or other contract provisions, as appropriate, such as change orders, modifications of contract provisions, variations in quantities, suspension of work, liquidated damages, termination of contract. The contract clauses are required for use in competitive sealed bidding, competitive sealed proposals, and may be used in other contracts.

Continue implementation necessary to allow for provisions, processes, authority to conduct procurement. Section 3-125-13 Price adjustment in construction contracts was amended in FY 2012 to enact the interim amendment approved by the Procurement Policy Board on July 16, 2009 and on March 17, 2011.

Department of Agriculture

As of the printing of this report, the Department of Agriculture did not provide the requested information.

Department of the Attorney General

The Department of the Attorney General reported that it did not have any rules affecting small business that were approved for the period of July 1, 2011 through June 30, 2013, nor is it working on any rules that will affect small business.

Department of Budget and Finance

Financial Administration Division

- 1. HAR Title 6 Chapter 1 – Public Records; Administrative Procedures; Receiving and Paying Hours, Amendment – Treasury Cash**
Justification – No changes made since June 30, 2003
- 2. HAR Title 6 Chapter 4 - Special Purpose Revenue Bonds for Health Care Facilities**
Justification – No changes since June 30, 2003.
- 3. HAR Title 6 Chapter 10 - Special Purpose Revenue Bonds for Industrial Enterprises**
Justification - No changes since June 30, 2003.
- 4. HAR Title 6 Chapter 12 - Special Purpose Revenue Bonds for Manufacturing Enterprises**
Justification - No changes since June 30, 2003.
- 5. HAR Title 6 Chapter 13 - Special Purpose Revenue Bonds for Processing Enterprises**
Justification - No changes since June 30, 2003.
- 6. HAR Title 6 Chapter 16 - Special Purpose Revenue Bonds for Early Childhood Education and Care Facilities**
Justification – New chapter added in March 2005 to comply with Legislative authorization for B & F to issue SPRBs for new constitutional and statutory authorization. Rules re necessary to provide framework under which SPRBs can be issued for this purpose.
- 7. HAR Title 6 Chapter 17 - Special Purpose Revenue Bonds for Not-for-Profit Private Nonsectarian and Sectarian Elementary Schools**

Justification - New chapter added in March 2005 to comply with Legislative authorization for B & F to issue SPRBs for new constitutional and statutory authorization. Rules re necessary to provide framework under which SPRBs can be issued for this purpose.

Public Utilities Commission

8. HAR Title 6 Chapter 60 – Standards for Electric and Gas Services in the State of Hawaii

Justification – Pursuant to the Federal Public Utilities Regulatory Act of 1978, these rules are necessary to formulate uniform requirements for electric and gas utilities operating within the State of Hawaii.

9. HAR Title 6 Chapter 61 – Rules of Practice and Procedure Before the Public Utilities Commission

Justification – As a quasi-judicial agency and pursuant to HRS Chapter 91, 269, 271, and 271G, this rule is necessary to govern the practice and procedure before the Commission to ensure that all proceedings are just, speedy, and efficient.

10. HAR Title 6 Chapter 62 – Motor Carrier Rules and Classification of Property and Passenger Carriers

Justification – Pursuant to HRS Chapter 271, this rule is necessary to administer, execute and enforce the intent of the motor carrier laws, particularly the policies set forth under HRS §271-1.

11. HAR Title 6 Chapter 62-8 GO 5 - Repeal of General Order No. 5 – Uniform System of Accounts for Motor Carriers

Justification – These repealed and amended rules are necessary to allow property and passenger carriers to provide the Commission with annual financial reports using updated accounting principles, as the previous rules preserved outdated accounting principles.

12. HAR Title 6 Chapter 62-8 Insurance Requirements

Justification – This amendment to Chapter 62 requires motor carriers to provide security in the form of liability insurance for the protection of the public.

13. HAR Title 6 Chapter 63 – Motor Carrier Tariffs and Schedules

Justification – As required by HRS Chapter 271, this rule is necessary to govern the form and content of tariffs and schedules of common and contract carriers by motor vehicle; specifically those tariffs and schedules described under HRs §§271-20, 271-21, and 271-22.

14. HAR Title 6 Chapter 65 – Water Carriers

Justification – As required by HRS Chapter 271G, this rule is necessary to govern the following: (1) Form and content of tariffs of water carriers of property

and passengers, and the information and data to be submitted for the establishment of new or revised rates, fares, or charge; and (2) Filing of financial and statistical information by water carriers of property and passengers.

15. HAR Title 6 Chapter 68 – Investigation and Enforcement of Laws Governing Public Utilities, Motor Carriers, and Water Carriers

Justification – As required in various provisions set forth under HRS Chapter 91, 269, 271 and 271G, this rule is necessary to govern violations of the regulatory laws under the Commission’s jurisdiction. It further prescribes procedures for investigation alleged violations or suspected violations of regulatory laws and for issuing citations to and imposing sanctions on any person violating, allegedly violating, suspected of violating the regulatory laws.

16. HAR Title 6 Chapter 73 – Installation, Operation, and Maintenance of Overhead and Underground Electrical Supply and Communication Lines

Justification – These rules are necessary to ensure the adequacy and reliability of service and safety of the general public and all who engage in the installation, operation and the maintenance of the lines. These rules also adopt the National Electrical Safety Code to provide current industry standards regarding public utility service in the State of Hawaii.

17. HAR Title 6 Chapter 74 – Standards for Small Power Production and Cogeneration

Justification – These rules are necessary to provide qualifying criteria to become a qualifying small power production facility and a qualifying cogeneration facility to comply with the Federal Public Regulatory Policies act of 1978.

18. HAR Title 6 Chapter 76 – Shared Tenant Service

Justification – Consistent with the intent of HRS §269-16.9, these rules are necessary to prescribe procedures and standards governing share tenant service in Hawaii. As defined under HAR §6-76.1-3, “shared tenant service” means telecommunications service provided through centralized or common switching on a resale or shred basis to end users who are occupants or tenants of units in a building or a complex of buildings described in HAR §6-76.1-21.

19. HAR Title 6 Chapter 77 – Transportation of Natural and Other Gas by Pipeline; Minimum Safety Standards

Justification – Pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331), these rules are necessary to prescribe minimum safety requirements for pipeline facilities and the transportation of gas, within the limits of the outer continental shelf.

20. HAR Title 6 Chapter 79 – Aggregator and Operator Service

Justification – As required under HRS §269-16.8, these rules are necessary to prescribe procedures and standards governing aggregator and operator services in Hawaii. As defined under HRS §269-16.8(a), “aggregator” means every

person or entity that is not a telecommunications carrier, who in the transient course of its business, including but not limited to a hotel, motel, hospital, or university, that provides operator-assisted services through access to an operator service provider. "Operator service" means a service provided by a telecommunications company to assist a customer to complete a telephone call.

21. HAR Title 6 Chapter 80 – Competition in Telecommunications Services

Justification – As mandated by Act 225, Session Laws of Hawaii 1995, the Commission's telecommunications infrastructure docket (Docket No. 7702), the Federal Telecommunications Act of 1996, these rules are necessary to adopt standards and procedures governing intrastate competition in the State's telecommunications marketplace.

22. HAR Title 6 Chapter 81 – Universal Service Fund

Justification – As mandated by Act 225, Session Laws of Hawaii 1995, and the Federal Telecommunications Act of 1996, these rules are necessary to adopt standards and procedures governing the implementation of the universal service fund for the State.

23. HAR Title 6 Chapter 82 – Pay Telephone Service

Justification – Consistent with Act 225, Session Laws of Hawaii 1995, and the Federal Telecommunications Act of 1996, these rules are necessary to adopt procedures and standards for pay telephone service that will foster competition in the provisioning of pay telephone service, ensure the payment service that will foster competition to providers of pay telephone service, and protect the interest of users of pay telephones.

24. HAR Title 6 Chapter 83 – Hawaii One Call Center Subsurface Installation Damage Prevention Program

Justification – These rules are necessary to monitor and enforce the requirements of HRS, Chapter 269E "One Call Center; Advance Warning to Excavators." The rules describe the responsibilities excavators, underground facility operators (i.e., water, gas and electric companies), the Hawaii One Call Center system, and the Commission to protect underground utilities to avoid injury or death.

Rules to be amended or repealed, based upon any new, amended or repealed statute:

None were provided.

***Department of Business, Economic Development and
Tourism***

1. HAR Title 15 Chapter 215 – Kalaeloa Community Development District Rules

Justification – The rules were initially adopted in 2000 by the Barbers Point Naval Air Station Redevelopment Commission, entitled Rules for Health and Safety within the Kalaeloa Community Development District. Since then, HCDA adopted the Kalaeloa Master Plan (KMP) in 2006. These rules establish new zoning rules for all development within the Kalaeloa Community Development District (KCDD). The zoning rules are designed to fulfill the vision, mission and assumptions laid out in the KMP. The rules are considered hybrid form-based rules, which allow for the flexibility of natural to urban core zoning, including special districts in the KCDD. The form-based zoning strategies lay out densities for development by transects' Kalaeloa's 3700-acre district is divided into six transect zones.

The KCDD rules create a predictable urban form and public realm by controlling the physical form of developments with a greater focus on land use. Land use within the KCDD shall be mixed-use (commercial, residential, light industrial, public and rural use). The regulations and standards are presented in both diagrams and text.

The KCDD rules provide the necessary guidance in planning for a *Wahi Ho'okela*, Center of Excellence, in the Ewa District that promotes positive economic development, preserves Kalaeloa's diverse cultural heritage and incorporates best practices in energy and environmental sustainability.

2. **HAR Title 15 Chapter 216 – Kalaeloa Community Development District Reserved Housing Rules**

Justification – The rules were initially adopted in 2000 by the Barbers Point Naval Air Station Redevelopment Commission, entitled Rules for Health and Safety within the Kalaeloa Community Development District. Since then, HCDA adopted the Kalaeloa Master Plan (KMP) in 2006. These rules establish new zoning rules for all development within the Kalaeloa Community Development District (KCDD). The zoning rules are designed to fulfill the vision, mission and assumptions laid out in the KMP. The rules are considered hybrid form-based rules, which allow for the flexibility of natural to urban core zoning, including special districts in the KCDD. The form-based zoning strategies lay out densities for development by transects' Kalaeloa's 3700-acre district is divided into six transect zones.

The KCDD rules create a predictable urban form and public realm by controlling the physical form of developments with a greater focus on land use. Land use within the KCDD shall be mixed-use (commercial, residential, light industrial, public and rural use). The regulations and standards are presented in both diagrams and text.

The KCDD rules also include a reserved housing requirement to establish an increased supply of for-sale and rental housing for residents of low- or moderate-income within the KCDD.

The KCDD rules provide the necessary guidance in planning for a *Wahi Ho'okela*, Center of Excellence, in the Ewa District that promotes positive economic development, preserves Kalaeloa's diverse cultural heritage and incorporates best practices in energy and environmental sustainability.

3. **HAR Title 15 Chapter 217 - Kakaako Mauka Area Rules**

Justification – The rules were initially adopted in 1982 and proposed a mixed-use district of high-rise structures on large lots formed by land consolidation. The State Legislature's intent for the Mauka Area was to bring about a mixed-use community comprised of housing, parks and open spaces, commercial industrial uses. To a large extent, many of the goals have been achieved. However, due to longstanding issues relating to the Mauka Area Plan's urban design scheme and the livability of Kakaako's neighborhoods, the HCDA embarked on a comprehensive review and revision of the Mauka Area Plan and Rules.

In 2007, a Draft Mauka Area Plan was developed with the principles of Smart Growth. Smart Growth advocates land use patterns that are compact, transit-oriented, walkable, bicycle friendly, and include mixed-use development with a range of housing choices. Project objectives for the proposed Mauka Area Plan include the following:

- a. Develop the Plan around key Smart Growth concepts including:
 - Pedestrian-friendly urban form, including structures built at human scale and defined public space.
 - Neighborhoods defined by centers, edges and a mix of uses.
 - Streets designed to accommodate multiple modes of transportation and to balance the need for access, circulation and mobility.
 - Street patterns that create a network and alternative travel routes throughout the District.
 - Civic buildings (meeting halls, community facilities, churches, schools, and museums) are located on prominent sites within neighborhood centers.
- b. Promote mixed-use neighborhoods, recognizing that every project need not be mixed-use.
- c. Strengthen connection with surrounding neighborhoods and districts.
- d. Define and establish specific objectives for neighborhoods, corridors and streets. Seven distinct neighborhoods are proposed within the Mauka Area.
- e. Building on existing assets and planned investments, such as Mother Waldron Neighborhood Park, street and utility improvements and the proposed high-capacity transit line.
- f. Encourage a mix of housing opportunities including reserved housing and affordable units.

Pursuant to Chapter 343, Hawaii Revised Statutes, a Final Environmental Impact Statement for the Mauka Area Plan was completed and filed with the Office of

Environmental Quality Control in April 2009. The proposed Rules administer the vision and objectives established in the Draft Mauka Area Plan.

The proposed Mauka Area Rules are primarily form-based in nature. The Mauka Area Rules create a predictable urban form and public realm by controlling the physical form of developments with a lesser focus on land use. Land use within the Mauka Area shall remain mixed-use (commercial, residential, industrial, public and community service use). The regulations and standards are presented in both diagrams and text.

Generally, the proposed rules may affect small businesses that develop or redevelop their property, relocate, change land use, make improvements to their existing site or expand their existing property; but impacts will be no more than the existing rules that were initially in place.

Overall, these rules provide the necessary guidance in planning for a high quality urban community that promotes positive economic development, preserves Honolulu's diverse cultural heritage and incorporates best practices in energy and environmental sustainability.

4. **HAR Title 15 Chapter 218 – Kakaako Reserved Housing Rules**

Justification – The rules were initially adopted in 1982 and proposed a mixed-use district of high-rise structures on large lots formed by land consolidation. The State Legislature's intent for the Mauka Area was to bring about a mixed-use community comprised of housing, parks and open spaces, commercial industrial uses. To a large extent, many of the goals have been achieved. However, due to longstanding issues relating to the Mauka Area Plan's urban design scheme and the livability of Kakaako's neighborhoods, the HCDA embarked on a comprehensive review and revision of the Mauka Area Plan and Rules.

In 2007, a Draft Mauka Area Plan was developed with the principles of Smart Growth. Smart Growth advocates land use patterns that are compact, transit-oriented, walkable, bicycle friendly, and include mixed-use development with a range of housing choices. Project objectives for the proposed Mauka Area Plan include the following:

- a. Develop the Plan around key Smart Growth concepts including:
 - Pedestrian-friendly urban form, including structures built at human scale and defined public space.
 - Neighborhoods defined by centers, edges and a mix of uses.
 - Streets designed to accommodate multiple modes of transportation and to balance the need for access, circulation and mobility.
 - Street patterns that create a network and alternative travel routes throughout the District.
 - Civic buildings (meeting halls, community facilities, churches, schools, and museums) are located on prominent sites within neighborhood centers.

- b. Promote mixed-use neighborhoods, recognizing that every project need not be mixed-use.
- c. Strengthen connection with surrounding neighborhoods and districts.
- d. Define and establish specific objectives for neighborhoods, corridors and streets. Seven distinct neighborhoods are proposed within the Mauka Area.
- e. Building on existing assets and planned investments, such as Mother Waldron Neighborhood Park, street and utility improvements and the proposed high-capacity transit line.
- f. Encourage a mix of housing opportunities including reserved housing and affordable units.

Pursuant to Chapter 343, Hawaii Revised Statutes, a Final Environmental Impact Statement for the Mauka Area Plan was completed and filed with the Office of Environmental Quality Control in April 2009. The proposed Rules administer the vision and objectives established in the Draft Mauka Area Plan.

In addition to the Mauka Area Plan and Rules (above), HCDA's reserved housing program was evaluated and revised. These Kakaako Reserved Housing Rules propose to require new residential projects on lots measuring at least 20,000 square feet to provide reserved housing. Reserved housing units are to be developed for sale or rent to workforce and/or gap group, defined as 100 – 140% of Area Median Income range.

Generally, the proposed rules may affect small businesses that develop or redevelop their property, relocate, change land use, make improvements to their existing site or expand their existing property; but impacts will be no more than the existing rules that were initially in place.

5. HAR Title 15 Chapter 219 – Rules of Practice and Procedure

Justification – These rules provide clear and legally defensible procedures for every proceeding administered by HCDA. They are governed under Chapter 206E, Hawaii Revised Statutes.

The rules were initially adopted on June 25, 1981 and subsequently amended on September 8, 1986 and October 3, 1994. Certain provisions were deemed outdated and revisions were needed. No small business impact is expected.

Department of Commerce and Consumer Affairs

Insurance Division

1. HAR Title 16 Chapter 23 – Motor Vehicle Insurance Law

Justification – This chapter was amended in 2012 to repeal rules that (1) were mere restatements of the statute; or (2) superseded by statute amendment or case law; or (3) had become obsolete or irrelevant due to passage of time. This

chapter is necessary for continued implementation and effective regulation of the motor vehicle insurance industry. The statute and rules affect insurers, policyholders, and claimants.

2. HAR Title 16 Chapter 171 – Miscellaneous Insurance Rules

Justification – This chapter is concerned with several topics. Subchapter 3 Licensing Requirements would affect small business. It prescribes the requirements for producer licensing, renewal licenses, and continuing education. The rules complement the statute and provide for a comprehensive licensing procedure. This subchapter was amended in 2012 to repeal rules relating to Life Settlement Providers Act that sun-set in 2010. The Division intends to adopt similar Life Settlements Providers rules as required by the re-enacted Life Settlement Providers Act 2012. Other subchapters establishes sales practices to military personnel and dependents; adopts mortality tables to be used in calculating reserve requirements.

Professional and Vocational Licensing Division

3. HAR Title 16 Chapter 53 – Fees Relating to Boards and Commissions

Justification – The purpose of these rules is to establish the licensing and registration fees of professions under the licensing Division’s regulatory authority. The fee amendments positively impact the condominium community and the general public because the CETF fee increases would significantly improve the REC’s ability to effectively and meaningfully administer the CETF. Additionally, the condominium project registration fees establish and clarify fees for registration of condominium projects pursuant to the re-codified condominium property regime law. A Small business Impact Statement dated September 2, 2011, was sent to the SBRRB, and on October 12, 2011, we received a response from the SBRRB raising no objections to the proposed rule amendments.

4. HAR Title 16 Chapter 71 – Certified Public Accountants and Public Accountants

Justification – The purpose of this chapter is to implement licensing and regulation of this profession. The rules are still needed because they facilitate licensing and enforcement of the licensing law. The Department has determined that adopting the proposed rules is the most readily available and practical means by which to accomplish its goal to repeal the requirement that the CPA supervisor who is certifying an applicant’s experience, hold both a CPA license and a permit to practice. A Small Business Impact Statement dated July 5, 2011 was sent to the SBRRB, and on July 26, 2011, the SBRRB raised no objections to the proposed rule amendments.

5. HAR Title 16 Chapter 88 – Naturopaths

Justification – The purpose of this chapter is to implement licensing and regulation of this profession. The rules are still needed because they facilitate licensing and enforcement of the licensing law. The amendments implement Act 22, Special Session 2009. With the expanded scope of practice provided by Act 22, establishment of standards of practice, care, and ethics for naturopathic

physicians provides increased consumer protection. A Small Business Impact Statement dated April 27, 2011 was sent to the SBRRB; and on June 3, 2011, the SBRRB raised no objections to the proposed rule amendments.

6. HAR Title 16 Chapter 89 – Nurses

Justification – The purpose of this chapter is to implement licensing and regulation of this profession. The rules are still needed because they facilitate licensing and enforcement of the licensing law. The amendments clarify and aid licensees as well as the public and other health care providers; i.e., pharmacists, of the requirements and scope of practice of an advanced practice registered nurse with prescriptive authority. A Small Business Impact Statement dated August 10, 2012, the SBRRB raised no objections to the proposed rule amendments.

7. HAR Title 16 Chapter 100 – Speech Pathologists and Audiologists

Justification – The purpose of this chapter is to implement licensing and regulation of this profession. The rules are still needed because they facilitate licensing and enforcement of the licensing law. The amendments add two additional routes of licensure for audiologists. Additionally, the amendments clarify requirements and aid licensees as well as the public in understanding the license requirements for both speech pathologists and audiologists. A Small Business Impact Statement dated October 11, 2013 was sent to the SBRRB, and on December 10, 2012, the SBRRB raised no objections to the proposed rule amendments.

8. HAR Title 16 Chapter 115 – Professional Engineers, Architects, Surveyors, and Landscape Architects

Justification – The purpose of this chapter is to implement licensing and regulation of this profession. The rules are still needed because they facilitate licensing and enforcement of the licensing law. The amendments are less restrictive than the current requirements and will result in faster licensure for architects and thus resulting in more architects available to be productive employees of small businesses. A Small Business Impact Statement dated September 21, 2012 was sent to the SBRRB; and on December 10, 2012, the SBRRB raised no objections to the proposed rule amendments.

Rules to be amended or repealed, based upon any new, amended or repealed statute:

Division of Financial Institutions

9. HAR Title 16 Chapter 24 – Money Transmitters

Justification – this chapter was adopted and is necessary for the continued implementation in response to federal and state requirements and to promote effective regulation of the industry.

Rule to be amended - Act 167, SLH 2013 – Sections related to exam fees and bonds are outdated.

10. HAR Title 16 Chapter 25 – Application Procedure Relating to Hawaii Financial Institutions

Justification – This chapter was adopted and is necessary for the continued implementation in response to federal and state requirements and to promote effective regulation of the industry.

Rule to be amended – Act 172, SLH 2013 – All sections referring to application fees are outdated.

11. HAR Title 16 Chapter 26 – Examination and Off-Site Monitoring of Hawaii Financial Institutions

Justification – This chapter was adopted and is necessary for continued implementation in response to federal and state requirements and to promote effective regulation of the industry.

Rule to be amended – Act 172, SLH 2013 – Section with definitions is outdated since it refers to OTS; Section listing examination format and procedures for the different types of FIs is outdated.

Department of Defense

The Department of Defense reported that it did not have any rules affecting small business that were approved for the period of July 1, 2011 through June 30, 2013.

Department of Education

The Department of Education reported that it did not have any rules affecting small business that were approved for the period of July 1, 2011 through June 30, 2013, nor does it intend to amend or repeal existing rules passed on new, amended or repealed statutes.

Department of Hawaiian Home Lands

The Department of Hawaiian Home Lands reported that it did not have any rules affecting small business that were approved for the period of July 1, 2011 through June 30, 2013, nor did the department anticipate completing any rulemaking before June 30, 2013.

Department of Health

Medical

Office of Planning, Policy and Program Development

1. HAR Title 11 Chapter 1 – Rules of Practice and Procedure

Justification – This rule impacts small business since it outlines the procedures for contested case hearings, appeals, and seeks public input on adoption, amendment or repeal of rules. The public benefit is that it provides recourse to the public and oversight to department rule-making. The justification is that HRS Chapter 91 requires agencies to promulgate rules.

Food and Drug Branch

2. HAR Title 11 Chapter 29 – Food and Food Products

Justification – The rule is necessary as it provides standards for definition, labeling and storage of foods. They also allow for the adoption of the U.S. Food & Drug Administration regulations, as stated through HRS §§321, 321-9, 321-10, 321-11, 328-8, 328-13, 328-91.1 and 328-21.

3. HAR Title 11 Chapter 33 – Hawaii Drug Formulary of Equivalent Drug Products

Justification – The rule is necessary as it establishes and maintains a Hawaii drug formulary of equivalent drug products, as stated through HRS §328-96.

4. HAR Title 11 Chapter 35 – Shellfish Sanitation

Justification – The rule is necessary as it establishes sanitary controls for the shellfish industry. These provisions apply to the growing area and all aspects of harvesting, processing, packaging, storing, and distribution of shellfish, as stated through HRS §§321-9, 321-10, and 321-11.

5. HAR Title 11 Chapter 36 – Sale of Prophylactics Through Vending Machines

Justification – The rule is necessary as it establishes rules for controlling the sale of prophylactics through vending machines, as stated through HRS §§321-9, 321-10, 321-11, 321-115, and 328-21.

Office of Health Care Assurance

6. HAR Title 11 Chapter 79 – Licensing Dietitians

Justification – The rule is developed to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rule is necessary because it looks at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

7. HAR Title 11 Chapter 89 – Developmental Disabilities Domiciliary Homes

Justification – The rule is developed to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rule is necessary because it looks at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with

county building, fire, and zoning requirements, as well as sanitation requirements.

8. HAR Title 11 Chapter 90 – Assisted Living Facility

Justification – The rule is developed to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rule is necessary because it looks at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

9. HAR Title 11 Chapter 93 – Broad Service Hospitals and Critical Access Hospitals

Justification – The rule is developed to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rule is necessary because it looks at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

10. HAR Title 11 Chapter 94.1 – Skilled Nursing / Intermediate Care Facilities

Justification – The rule is developed to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rule is necessary because it looks at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

11. HAR Title 11 Chapter 95 – Freestanding Surgical Outpatient (FSOF) or Ambulatory Surgical Centers

Justification – The rule is developed to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rule is necessary because it looks at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

12. HAR Title 11 Chapter 96 – Freestanding Adult Day Health Centers

Justification – The rule is developed to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rule is necessary because it looks at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

13. HAR Title 11 Chapter 97 – Home Health Agencies

Justification – The rule is developed to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rule is necessary because it looks at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

14. HAR Title 11 Chapter 98 – Special Treatment Facilities/Therapeutic Living Programs

Justification – The rule is developed to ensure the health, safety and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rule is necessary because it looks at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

15. HAR Title 11 chapter 99 – Intermediate Care Facilities for the Mentally Retarded

Justification – The rule is developed to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rule is necessary because it looks at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

16. HAR Title 11 Chapter 100.1 – Adult Residential Care Homes (includes Expanded ARCH)

Justification – The rule is developed to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rule is necessary because it looks at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

17. HAR Title 11 Chapter 104.1 – Management and Disposal of Infectious Waste

Justification – The rule is developed to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rule is necessary because it looks at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

18. HAR Title 11 Chapter 110.1 – Clinical Laboratories and Laboratory Personnel

Justification – The rule is developed to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or

facilities. The rule is necessary because it looks at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

Tobacco Settlement Project/Healthy Hawaii Initiative – Chronic Disease Management & Control Branch

19. HAR Title 11 Chapter 81 – Smoking in Public Places

Justification – The rule is required by statute, HRS §328J-11(b) to protect employees and the public from exposure to smoke in enclosed and partially enclosed workplaces and public places. Smoking is permitted outside of 20 feet from entrances, exists, operable windows, and air intake ducts. The U.S. Surgeon General has determined that secondhand smoke presents a significant health risk to adults and children for which there is no safe level of exposure. The Hawaii adult smoking rate is very low (14.5%), most businesses have been smoke-free when the rule was adopted, and there is no known negative economic impact from this law.

Development Disabilities Division

20. HAR Title 11 Chapter 88 – Services for the Developmentally Disabled or Intellectually Disabled (previously “Mentally Retarded”)

Justification – This rule is required by HRS Section 333F. The rule is necessary to establish a system, services, and conditions for the provision of services for persons who are developmentally and/or intellectually disabled. All services and programs contracted or provided by the division shall meet the division’s program and fiscal standards as well as federal standards when applicable.

21. HAR Title Chapter 148 – Certification of Adult Foster Homes

Justification – This rule is necessary to protect the health and safety of persons who are developmentally or/or intellectually disabled that are placed in adult foster homes.

Child and Adolescent Mental Health Division

22. HAR Title 11 Chapter 98 – Special Treatment Facilities/Therapeutic Living Programs

Justification – This Chapter establishes minimum requirements for the protection of the health, welfare, and safety of residents, personnel and the public in special treatment facilities. This chapter shall not be construed as lowering standards or rules established by other divisions or subdivisions of government. In all instances the more stringent rules shall apply. (HRS Sections, 321-9, 321-10, 321-11, Imp. Sections 321-10, 321-11). Impact: Chapter 98 sets the standards

that Special Treatment Facilities much have in order to be licensed and to maintain licenses.

State Laboratories Division

HAR Title 11 Chapter 113 – Substance Abuse Testing by Laboratories

Justification – The rule is required by statute HRs Section 329B. This is developed to ensure that the appropriate and uniform substance abuse test procedures are employed throughout the State. The rule is necessary because it protects the privacy rights of persons who are tested for substance abuse in the workplace. It also ensures that the results of substance abuse tests are reliable and accurate.

Alcohol and Drug Abuse Division

23. HAR Title 11 Chapter 117.1 – Certification Standards for Substance Abuse Counselors, Program Administrators, Prevention Specialists, Clinical Supervisors, Criminal Justice Addictions Professionals, and Co-Occurring Disorders Professional Diplomate

Justification – The rule is required by §321-193(10), Hawaii Revised Statutes. The rule is necessary to establish standards for the certification of substance abuse counselors, substance abuse program administrators, prevention specialist, clinical supervisors, criminal justice addictions professionals, and co-occurring disorders professional diplomate.

Communicable Disease and Public Health Nurses Division

24. HAR Title 11 Chapter 156 – Communicable Diseases

Justification – This rule, authorized by HRS Section, 325-2, 325-71, and 325-104 establishes reporting requirements for physicians, laboratory directors and other health care professionals with regards to diseases or conditions declared to be communicable or dangerous to the public's health. This rule enables control of communicable diseases by the Department of Health that, on the whole, greatly support small business operations in Hawaii.

25. HAR Title 11 Chapter 164 – Tuberculosis

Justification – This rule is necessary, as it establishes reporting, screening, and testing requirements for tuberculosis authorized in HRS Sections 325-2 and 325 Part IV, Tuberculosis. This rule enables control of tuberculosis by the Department of Health that ultimately benefits small business operations in Hawaii.

Disease Outbreak Control Division

26. HAR Title 11 Chapter 157 – Examination and Immunization

Justification – This rule, required by HRS §§302A-1162, 321-11, 325-11, and 325-32, establishes pediatric immunization requirements and immunization and

examination requirements for school and post-secondary school attendance in the State of Hawaii. The rule serves to ensure high immunization coverage against a broad spectrum of vaccine preventable diseases, thereby potentially reducing the economic and health burdens to the State from primary and secondary medical costs. The resulting immunization coverage should in turn reduce the potential for disease outbreaks/epidemics secondary to vaccine preventable diseases and their associated financial and manpower burdens.

State Health Planning and Development Agency

27.HAR Title 11 Chapter 186 – Certificate of Need

Justification – This rule is required by statute HRS Section 323D. It impacts the health care industry in Hawaii by establishing an agency to administer the state health planning and cost containment activities as required by law. The State Health Planning and Development Agency assesses existing health care services and facilities to determine whether there are redundant, excessive, or inappropriate services or facilities and make public findings of any that are found to be so, and weigh the costs of the health care services or facilities against the benefits the services or facilities provide and there shall be a negative presumption against marginal services.

Justification of this rule is to promote mandatory planning for health care facilities and health care services in the State, in order to promote accessibility for all the people of the State to quality health care services at reasonable cost and to promote the development of health delivery systems that meet the people's health care needs.

Disability and Communication Access Board

28.HAR Title 11 Chapter 218 – Communication Access Services for Persons who are Deaf, Hard of Hearing and Deaf-Blind

Justification – The rule ensures effective communication access for all activities, services, and programs of local government entities in compliance with the Americans with Disabilities Act and establishes the Hawaii Quality Assurance System to test and credential communication access providers in Hawaii. The rule also contains a recommended fee schedule to compensate effective communication providers based on level of skill.

29.HAR Title 11 Chapter 219 – Parking for Persons with Disabilities

Justification – The rule contains requirements for signage and design of accessible parking stalls reserved for persons with disabilities. These requirements are consistent with the Americans with Disabilities Act requirements for design. They include specific wording on the signage, and the requirements ensure that parking tickets, which are issued to persons who are illegally parking in the stalls are upheld in court. Appropriate sign and notice to motorists is critical to having valid tickets.

Environmental

Hazard Evaluation and Emergency Response Branch

30. HAR Title 11 Chapter 5 – Environmentally-Related Illness and Injury Reporting

Justification – The rule is necessary as it provides state requirements for health care professionals and laboratory directors to report to the department, the diagnosis of any person afflicted with a designated environmentally related illness or injury as stated through HRS §§321-1, 321-9, and 321-317.

31. HAR Title Chapter 451 – State Contingency Plan

Justification – The rule is necessary as it is federally required.

32. HAR Title 11 Chapter 453 – Hawaii Emergency Planning and Community Right-to-Know-Act

Justification – The rule is necessary for the implementation of the Hawaii Emergency Planning and Community-Right-to-Know Act. The rules are to administer and enforce the reporting requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III) and regulations for emergency planning notification, material safety data sheets, chemical lists, emergency and hazardous chemical inventory forms, and toxic chemical release forms and to supplement the federal statute and regulations in the interest of protecting the health and safety of the citizens of Hawaii.

Sanitation Branch

33. HAR Title 11 Chapter 10 – Swimming Pools

Justification – The rule is necessary as it sets the minimum requirements for the protection of public health in respect to public swimming pools, as stated through HRS §§321-10, and 321-11.

34. HAR Title 11 Chapter 11 – Sanitation

Justification – The rule is necessary as it provides minimum requirements so that public health, human welfare and safety hazards will be minimized. This rule applies to barber shops and beauty parlors, public laundries, livestock, poultry and stables, garbage and swill, vegetables, natural bathing places, minimum sanitary facilities, vector control, burial places, transportation of bodies, public funerals, funeral and sanitation in funeral establishments, and embalming and embalmers, as stated through HRS §321-11.

35. HAR Title 11 Chapter 12 – Food Service and Food Establishment Sanitation Code

Justification – The rule is necessary as it provides minimum requirements for the protection of the life, health, safety, and welfare of the general public, and applies to all food establishments, or portions thereof, used, designed or intended to be

used as a food establishment or food operation within the State, as stated through HRS §321-11.

36. HAR Title 11 Chapter 15 – Milk

Justification – The rule is necessary as it regulates the production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of milk and milk products, the inspection of dairy herds, dairy farms, and milk plants, the issuing and revocation of permits to milk producers, haulers, and distributors, and fixing of penalties, as stated through HRS §321-11.

37. HAR Title 11 Chapter 17 – Tattoo Artists

Justification – The rule is necessary as it sets forth minimum requirements for the safety and protection of public health by regulating tattoo artists, as stated through HRS §§321-10, and 321-13.

38. HAR Title 11 Chapter 18 – Licensing of Sanitarians

Justification – The rule is necessary as it ensures no person shall practice as a registered sanitarian in the state or offer the person's services or engage in employment as a registered sanitarian unless the person is the holder of a current sanitarian license, as stated through HRS §321-10 and 321-13.

39. HAR Title 11 Chapter 22 – Mortuaries, Cemeteries, Embalmers, Undertakers & Mortuary Authorities

Justification – The rule is necessary as it provides minimum standards relating to the practice of embalming to the business of an undertaker, and to the sanitary condition of places where such business or practice is conducted, as stated through HRS §469-2.

Safe Drinking Branch

40. HAR Title 11 Chapter 19 – Emergency Plan for Safe Drinking Water

Justification – The rule is necessary as it is federally required.

41. HAR Title 11 Chapter 20 – Rules Relating to Public Water Systems

Justification – The rule is necessary as it is federally required.

42. HAR Title 11 Chapter 21 – Cross-Connection & Backflow Control

Justification – The rule is necessary as it ensures that the public water supplies will be protected from contamination through cross-connections in the distribution system.

43. HAR Title 11 Chapter 23 – Underground Injection Control

Justification – The rule is necessary as it is similar to federal rules and it ensures that underground sources of drinking water are protected from the disposal of wastes through injection wells.

44. HAR Title 11 Chapter 25 – Rules Relating to Certification of Public Water System Operators

Justification – The rule is necessary as it is federally required.

Vector Control Branch

45. HAR Title 11 Chapter 26 – Vector Control

Justification – This rule is necessary as it establishes standards for inspection and abatement of vectors, as stated through HRS §§321-9, and 321-10.

Clean Water Branch

46. HAR Title 11 Chapter 54 – Water Quality Standards

Justification – The rule is necessary as it is federally required.

47. HAR Title 11 Chapter 55 – Water Pollution Control

Justification – The rule is necessary as it is federally required.

Clean Air Branch

48. HAR Title 11 Chapter 59 – Ambient Air Quality Standards

Justification – The rule is necessary as it is federally required.

49. HAR Title 11 Chapter 60.1 – Air Pollution Control

Justification – The rule is necessary as it is federally required.

Wastewater Branch

50. HAR Title 11 Chapter 61 – Mandatory Certification of Wastewater Treatment Plants

Justification – The rule is necessary as it is federally required.

51. HAR Title 11 Chapter 62 – Waste Water Systems

Justification – The rule is necessary as it ensures disposal of wastewater from wastewater treatment works and individual wastewater systems, does not contaminate or pollute any drinking water or potential drinking water supply, or the waters of any beaches, shores, ponds, lakes, streams, groundwater, or shellfish growing waters, does not encourage harborage of insects, rodents or other possible vectors, does not give rise to nuisances, does not become a hazard to public health, safety and welfare, contributes to the achievement of wastewater management goals contained in approved county water quality management plans, and reinforces state and county planning policies, as stated through HRS §§321-11, 322-8(a), 342D-1, 342D-2, 342D-4, and 342D-5.

Noise, Radiation and Indoor Air Quality Branch

52. HAR Title 11 Chapter 39 – Air Conditioning & Ventilating

Justification – The rule is necessary as it seeks to assure the adequate and healthful design, construction, installation, and operation of comfort air conditioning and ventilating systems as stated through HRS §§321-9 and 321-11.

53. HAR Title 11 Chapter 41 – Lead-Based Paint Activities

Justification – This rule is necessary as it is federally required.

54. HAR Title 11 Chapter 44 – Radiologic Technology Board Radiologic Technology Rules

Justification – The rule is necessary as it establishes minimum state standards of education, training and experience for persons who apply x-rays, cobalt 60, or electrons to human beings, as stated through HRS §466J-2.

55. HAR Title 11 Chapter 45 – Radiation Control

Justification – The rule is necessary as it sets minimum standards for all persons and facilities who receive, possess, use, transfer, own, or acquire any source of radiation, all persons who install and service sources of radiation, and all persons who provide radiation services as stated through HRS §§321-10, 321-11, and 321-71.

56. HAR Title 11 Chapter 46 – Community Noise Control

Requirement – The rule is necessary as it defines maximum permissible sound levels, and provide for prevention, control, and abatement of noise pollution in the state, to establish noise quality standards to protect public health and welfare, and to prevent the significant degradation of the environment and quality of life, as state through HRS Sections 342F-3, and 342F-31.

57. HAR Title 11 Chapter 501 – Asbestos Requirements

Justification – The rule is necessary as it is federally required.

58. HAR Title 11 Chapter 502 – Asbestos Containing Materials in Schools

Justification – The rule is necessary as it is federally required.

59. HAR Title 11 Chapter 503 – Fees for Asbestos Removal

Justification – The rule is necessary as it is federally required.

60. HAR Title 11 Chapter 504 – Asbestos Abatement Certification Program

Justification – The rule is necessary as it is federally required.

Solid and Hazardous Waste Branch

61. HAR Title 11 Chapter 58.1 – Solid Waste Management Control

Justification – The rule is necessary as it establishes minimum standards governing design, construction, installation, operation, and maintenance of solid waste disposal, recycling, reclamation, and transfer systems, as stated through HRS §§321-11, 342G-3, 342G-13, 342H-3, 342H-18, and 342N-3.

62. HAR Title 11 Chapter 68 – Litter Control

Justification – The rule is necessary as it reduces litter by setting minimum requirements for the number of litter receptacles for various places of public use, establish requirements for the design, construction and maintenance of litter receptacles, clarify the prohibitions on littering, and determine responsibility of owners and lessees of real property to maintain frontage in a litter-free state, as stated through HRS §339-2.

63. HAR Title 11 Chapter 260 – Hazardous Water Management General Provisions

Justification – The rule is necessary as it is federally required.

64. HAR Title 11 Chapter 261 – Hazardous Waste Management Identification & Listing of Hazardous Waste

Justification – The rule is necessary as it is federally required.

65. HAR Title 11 Chapter 262 – Hazardous Waste Management Standards Applicable to Generators of Hazardous Waste

Justification – The rule is necessary as it is federally required.

66. HAR Title 11 Chapter 263 – Hazardous Waste Management Standards Applicable to Transporters of Hazardous Waste

Justification – The rule is necessary as it is federally required.

67. HAR Title 11 Chapter 264 – Hazardous Waste Management Standards for Owners & Operators of Hazardous Waste Treatment, Storage, & Disposal Facilities

Justification – The rule is necessary as it is federally required.

68. HAR Title 11 Chapter 265 – Hazardous Waste Management Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, & Disposal Facilities

Justification – The rule is necessary as it is federally required.

69. HAR Title 11 Chapter 266 – Hazardous Waste Management Standards for the Management of Specific Hazardous Wastes & Specific Types of Hazardous Waste Management Facilities

Justification – The rule is necessary as it is federally required.

70. HAR Title 11 Chapter 268 – Hazardous Waste Management Land Disposal Restrictions

Justification – The rule is necessary as it is federally required.

71. HAR Title 11 Chapter 270 – Hazardous Waste Management State Administered Permits: The Hazardous Waste Permit Program

Justification – The rule is necessary as it is federally required.

72. HAR Title 11 Chapter 271 – Hazardous Waste Management Procedures for Decision Making

Justification – The rule is necessary as it is federally required.

73. HAR Title 11 Chapter 273 – Hazardous Waste Management Standards for Universal Waste Management

Justification – The rule is necessary as it is federally required.

74. HAR Title 11 Chapter 279 – Standards for the Management of Used Oil

Justification – The rule is necessary as it is federally required.

75. HAR Title 11 Chapter 280 – Hazardous Waste Management Public Information

Justification – The rule is necessary as it is federally required.

76. HAR Title 11 Chapter 281 – Underground Storage Tanks (USTs)

Justification – The rule is necessary as it is federally required.

77. HAR Title 11 Chapter 282 – Deposit Beverage Container Program

Justification – The rule is necessary as it establishes minimum standards for the collection of empty beverage containers and fosters systems of redemption which facilitate the recycling of empty beverage containers by consumers.

Rules to be amended or repealed, based upon any new, amended or repealed statute:

None were provided.

Department of Human Resources Development

The Department of Human Resources Development reported that it did not have any rules affecting small business and that it had not adopted any new rules since 2003.

Department of Human Services

1. HAR Title 17 Chapters 1700, 1721, 1721.1, 1727, 1728, 1728.1, 1732, 1735, and 1737

Justification – The amendments have minimal or no impact to small business. The changes amended definitions, housekeeping measures and other clarification of coverage under the state Medicaid programs (QUEST, QUEST

EXA, QUEST Net, QUEST-ACE, Coverage of Blind or Disabled, Pregnant Women.

2. HAR Title 17 Chapter 1727 – Hawaii Health Quest

Justification – The amendment decreases uncompensated care provider costs by allowing for the reimbursement of medical services within the retroactive period without regard to the place of service. The changes amended definitions, housekeeping measures, and clarification of enrollment period.

3. HAR Title 17 Chapter 1728 – Quest-Net

Justification – The amendments off-set the minimal reduction in program recipients through the continuation of eligibility for program recipients who become eligible for and/or in receipt of Medicare A and/or B benefits and reimbursement of medical services during the retroactive period regardless of the place of service. The changes amended definitions, housekeeping measures, financial eligibility requirements and other clarification of coverage.

4. HAR Title 17 Chapter 1728.1 – Quest-Adult Coverage Expansion (ACE)

Justification – The amendment decreases uncompensated provider costs through the continuation of reimbursement for program recipients eligible for or in receipt of Medicare A and/or B benefits. The changes amended definitions, housekeeping measures, financial eligibility requirements and other clarification of coverage.

5. HAR Title 17 Chapter 1722.3 – Basic Health Hawaii

Justification – The amendments have no impact to small business. The changes amended definitions, housekeeping measures, financial eligibility requirements and other clarification of coverage.

6. HAR Title 17 Chapter 1725 – Assets

Justification – The amendments have no impact to small business. The changes amended definitions, housekeeping measures, financial eligibility requirements and other clarification of coverage.

7. HAR Title 17 Chapter 1727 – Quest

Justification – The continuation of benefits without reduction will eschew potentially decreased revenue and therefore participation for otherwise affected providers. The changes codify the restoration of benefits prior to implementation of their reduction.

8. HAR Title 17 Chapter 1739.1 – Authorization, Payment, and Claims in the Fee-for-Service Medical Assistance Program for Non-institutional Service

Justification – The reimbursement methodology was developed in partnership with pharmacy providers who will receive a slight decrease in revenue from the Medicaid fee-for-service program. The changes amended definitions and payment for drugs and related supplies.

9. HAR Title 17 Chapter 1745 – Death Payment Programs

Justification – The amendments resulted in no impact to small business. The changes amended housekeeping measures and clarified reimbursement procedures.

Rules to be amended or repealed, based upon any new, amended or repealed statute:

None were provided.

Department of Labor and Industrial Relations

1. HAR Title 12 Chapter 5 - Hawaii Employment Security Law

Justification – Pursuant to Act 15 (SLH, 2013), section 383-38 of the Hawaii Revised Statutes was amended to allow: 1) a minimum 12-day notice period for unemployment appeal hearings instead of the previous 15-day notice requirement; and 2) parties to file unemployment appeals and reopening requests, receive electronic notification of hearing dates and related requests, and view appeal documents online. This statutory amendment will require corresponding rule amendments to Haw. Admin. R. sec. 12-5-93, “Benefits appeals” for consistency.

2. HAR Title 12 Chapter 46 – Hawaii Civil Rights Commission

Justification – Pursuant to Act 30, L. 2009 and Act 139, L. 2010, the legislature directed the HCRC to conform its administrative rules, at a minimum, to the Americans with Disabilities Act Amendments Act (ADAAA) of 2008. The Hawaii Civil Rights Commission was required to amend its rules within one year after the U.S. EEOC published its final regulations interpreting the ADAAA. The EEOC published those regulations on March 25, 2011.

Amendments to Chapter 12-46 Subchapters 1 and 20 – discrimination in real property transactions (housing). Specific rules to be amended are 12-46-7, 12-46-11, 12-46-20, 12-46-302, 12-46-305, 12-46-306, 12-46-311, 12-46-313 and 12-46-318. These proposed rule amendments were submitted to the SBRRB for review on February 10, 2013 and were approved for public hearing by the SBRRB on May 15, 2013. A public hearing on the rules was held on July 16, 2013.

3. HAR Title 12 Chapter 48 – Hoisting Machine Operators

Justification – Changes made to be in compliance with the new federal OSHA guidelines adopted by HIOSH; effective July 30, 2012.

4. HAR Title 12 Subtitle 8, Parts 1, 2, 3, 4, 5, 6, 7, 8, 10, & 11 – Hawaii Occupational Safety & Health

Justification – Hawaii had adopted OSHA standards and amendments between 1974 and 2010. Many of the changes were confusing. This repeals all the

original adoptions and changes made to the originals over the 36-year period, resulting in the repeal of several chapters.

Amendments also adopted the 2011 version of the OSHA standards for general industry 29 CFR 1910, for construction, 29 CFR 1926, and for maritime, 29 CFR Parts 1915, 1917, and 1918; and changed OSHA definitions to state specific definitions. This included the adoption of amendments to 12-50, 12-64.1, 12-67.2, 12-69.1, 12-73.2, 12-74.1, 12-78.2, 12-133.2, 12-157, 12-170, 12-180, 12-190, and 12-202.

The amendments included the deletion of library policies since the library was abolished. Incorporation of changes made by OSHA to the general industry standards. Incorporation of changes made by OSHA to the construction standards and changes made to the construction standard for site inspections expanding responsibility to small contractors. In corporation of changes made by OSHA to the maritime standards; adoption of amendments were effective October 17, 2012.

5. HAR Title 12 Subtitle 8, Part 10 – Boiler & Pressure Vessel

Justification – Amendments were made to bring Hawaii boiler and pressure vessel codes p to the 2010 ASME national standard for boilers and pressure vessels; adoption of amendments were effective November 18, 2012.

Rules to be amended or repealed, based upon any new, amended or repealed statute:

6. HAR Title 12 Chapter 22 – Wage Determinations

7. HAR Title 12 Chapter 15-90 – Medical Fee Schedule

Department of Land and Natural Resources

1. HAR Title 13 Chapter 190.1 - Dams and Reservoirs

Justification – The reason for the changes to these rules was due to the changes to Chapter 179D, Hawaii Revised Statutes (HRS), entitled Dam and Reservoir Safety Act of 2007. The purpose of Chapter 179D, HRS is to provide for inspection and regulation of construction, operation, and removal of certain dams and reservoirs in order to protect the health, safety, and welfare of the citizens of the State by reducing the risk of failure of such dams.

The rules in question predominately affect large land owners and government and focus on public safety protection. The proposed rule changes were sent to all dam owners and “interest parties.” Only two owners were identified by the department as small businesses and neither provided any comments to the proposed changes.

After the March 2006 Ka Loko Dam breach on Kauai, the Legislature mandated a self-funded dam safety program with 80% of administrative fees collected going towards improvements which would increase public safety. The fees collected would be used for dam inspection, training and permit reviews. The Department adjusted some of the fees due to feedback from some of the dam owners commenting that the fees were too high. There are provisions for administrative fines and criminal penalties if there are violations. Owners must have an operations and maintenance manual including an emergency action plan. The Department has made templates for the operations and maintenance manual available online for businesses to use.

The adopted rules establish a program that provides incentives to get into compliance sooner than later. The rules encourage continued maintenance and upgrades to dams and reservoirs will increase public safety.

2. HAR Title 13 Chapter 230-21 – Personal Partner

Justification – Rule amendments or new rules formalized by the Department’s Division of Boating and Ocean Recreation (DOBOR) in fiscal years 2012 and 2013 were designed to make small boat harbor operation and management of marine related activities more efficient and enforceable.

The amendments to these rules encompassed a wide variety of administrative rules that include, but are not limited to, commercial use permits, vehicle parking requirements, definitions, mooring requirements, ocean recreation management areas, the definition of a personal partner, caretaker requirements, mandatory education for operators of powered vessels, requirements for marine surveyors, etc.

3. HAR Title 13 Chapter 231-5 – Period of Validity and Renewal of Use Permit

Justification –

Rule amendments or new rules formalized by the Department’s Division of Boating and Ocean Recreation (DOBOR) in fiscal years 2012 and 2013 were designed to make small boat harbor operation and management of marine related activities more efficient and enforceable.

The amendments to these rules encompassed a wide variety of administrative rules that include, but are not limited to, commercial use permits, vehicle parking requirements, definitions, mooring requirements, ocean recreation management areas, the definition of a personal partner, caretaker requirements, mandatory education for operators of powered vessels, requirements for marine surveyors, etc.

4. HAR Title 13 Chapter 231-28 – Use of Vessel as Place of Principal Habitation

Justification – Rule amendments or new rules formalized by the Department’s Division of Boating and Ocean Recreation (DOBOR) in fiscal years 2012 and 2013 were designed to make small boat harbor operation and management of marine related activities more efficient and enforceable.

The amendments to these rules encompassed a wide variety of administrative rules that include, but are not limited to, commercial use permits, vehicle parking requirements, definitions, mooring requirements, ocean recreation management areas, the definition of a personal partner, caretaker requirements, mandatory education for operators of powered vessels, requirements for marine surveyors, etc.

5. HAR Title 13 Chapter 231-29 – Vessels Used as a Vacation Site

Justification – Rule amendments or new rules formalized by the Department’s Division of Boating and Ocean Recreation (DOBOR) in fiscal years 2012 and 2013 were designed to make small boat harbor operation and management of marine related activities more efficient and enforceable.

The amendments to these rules encompassed a wide variety of administrative rules that include, but are not limited to, commercial use permits, vehicle parking requirements, definitions, mooring requirements, ocean recreation management areas, the definition of a personal partner, caretaker requirements, mandatory education for operators of powered vessels, requirements for marine surveyors, etc.

6. HAR Title 13 Chapter 233-29 – Parking Permits

Justification – Rule amendments or new rules formalized by the Department’s Division of Boating and Ocean Recreation (DOBOR) in fiscal years 2012 and 2013 were designed to make small boat harbor operation and management of marine related activities more efficient and enforceable.

The amendments to these rules encompassed a wide variety of administrative rules that include, but are not limited to, commercial use permits, vehicle parking requirements, definitions, mooring requirements, ocean recreation management areas, the definition of a personal partner, caretaker requirements, mandatory education for operators of powered vessels, requirements for marine surveyors, etc.

7. HAR Title 13 Chapter 244- 15.5 – Operation of Power Driven Vessels (Mandatory Education)

Justification - Rule amendments or new rules formalized by the Department’s Division of Boating and Ocean Recreation (DOBOR) in fiscal years 2012 and 2013 were designed to make small boat harbor operation and management of marine related activities more efficient and enforceable.

The amendments to these rules encompassed a wide variety of administrative rules that include, but are not limited to, commercial use permits, vehicle parking requirements, definitions, mooring requirements,

ocean recreation management areas, the definition of a personal partner, caretaker requirements, mandatory education for operators of powered vessels, requirements for marine surveyors, etc.

8. HAR Title 13 Chapter 256-18 – Watersledding

Justification – Rule amendments or new rules formalized by the Department’s Division of Boating and Ocean Recreation (DOBOR) in fiscal years 2012 and 2013 were designed to make small boat harbor operation and management of marine related activities more efficient and enforceable.

The amendments to these rules encompassed a wide variety of administrative rules that include, but are not limited to, commercial use permits, vehicle parking requirements, definitions, mooring requirements, ocean recreation management areas, the definition of a personal partner, caretaker requirements, mandatory education for operators of powered vessels, requirements for marine surveyors, etc.

9. HAR Title 13 Chapter 256-33 – Commercial Use Permits

Justification – Rule amendments or new rules formalized by the Department’s Division of Boating and Ocean Recreation (DOBOR) in fiscal years 2012 and 2013 were designed to make small boat harbor operation and management of marine related activities more efficient and enforceable.

The amendments to these rules encompassed a wide variety of administrative rules that include, but are not limited to, commercial use permits, vehicle parking requirements, definitions, mooring requirements, ocean recreation management areas, the definition of a personal partner, caretaker requirements, mandatory education for operators of powered vessels, requirements for marine surveyors, etc.

10. HAR Title 13 Chapter 256-39 – Hanalei Bay

Justification – Rule amendments or new rules formalized by the Department’s Division of Boating and Ocean Recreation (DOBOR) in fiscal years 2012 and 2013 were designed to make small boat harbor operation and management of marine related activities more efficient and enforceable.

The amendments to these rules encompassed a wide variety of administrative rules that include, but are not limited to, commercial use permits, vehicle parking requirements, definitions, mooring requirements, ocean recreation management areas, the definition of a personal partner, caretaker requirements, mandatory education for operators of powered vessels, requirements for marine surveyors, etc.

Among these amendments were the new proposed HARs regarding Kaneohe Bay that were developed in conjunction with the Kaneohe Bay Regional Council as well as the amended HARs concerning recreational and

commercial marine activities taking place in Hanalei Bay, Kauai. The two groups of amendments lay foundations for protecting and managing two prime natural resources in a manner that is sustainable and equitable. This rule pertains to use of commercial vessels at Hanalei River Mouth and Anini Beach Launch Ramp, was repealed to make way for the new Hanalei commercial regulations.

11. HAR Title 13 Chapter 256-73 to 13-256-73.12 – Kaneohe Bay

Justification – Rule amendments or new rules formalized by the Department's Division of Boating and Ocean Recreation (DOBOR) in fiscal years 2012 and 2013 were designed to make small boat harbor operation and management of marine related activities more efficient and enforceable.

The amendments to these rules encompassed a wide variety of administrative rules that include, but are not limited to, commercial use permits, vehicle parking requirements, definitions, mooring requirements, ocean recreation management areas, the definition of a personal partner, caretaker requirements, mandatory education for operators of powered vessels, requirements for marine surveyors, etc.

Among these amendments were the new proposed HARs regarding Kaneohe Bay that were developed in conjunction with the Kaneohe Bay Regional Council as well as the amended HARs concerning recreational and commercial marine activities taking place in Hanalei Bay, Kauai.

12. HAR Title 13 Chapter 256-73.13 – Ahu O Laka

Justification – This rule was implemented by DOBOR to identify a safety zone around Ahu O Laka (also known as the Kaneohe Sandbar) in Kaneohe Bay. The goal in doing this was to protect the public while they visit Ahu O Laka during three-day weekends involving a State Holiday (Memorial Day, July 4th, and Labor Day). The new rule prohibits possession, use, or consumption of alcohol in the safety zone; prohibits a person under the influence of alcohol, narcotics, or drugs from remaining in or entering the safety zone; and prohibits disorderly behavior while in the safety zone each day of the three-day week-end.

Rules to be amended or repealed, based upon any new, amended or repealed statute:

13. HAR Title 13 Chapter 13-60.8 – New Haena Community-based Subsistence Fishing Area (Kauai)

14. HAR Title 13 Chapter 74 – New Commercial Fishing Vessel License

15. HAR Title 13 Chapter 74 – New Marine Dealer License and Reporting; Export License; Report Requirements

16. HAR Title 13 Chapter 74 – New Milolii Fisheries Management Area (Hawaii)

17. HAR Title 13 Chapter 95 – New Manta Ray Capture or Kill Prohibition

18. HAR Title 13 Chapter 95 – New Shark Fins Prohibition
19. HAR Title 13 Chapter 95 – No Taking of Female Spiny Lobsters, Kona Crabs, and Samoan Crabs
20. HAR Title 13 Chapter 184 – Designation and Regulation of Geothermal Resource Subzones
21. HAR Title 13 Chapter 282 – Rules Governing Permits for Archaeological Work

Department of Public Safety

The Department of Public Safety reported that no changes have been made to Title 23, Hawaii Administrative Rules, during the period of July 1, 2011 through June 20, 2013.

Department of Taxation

1. **HAR Title 18 Chapter 231- Administration of Taxes**

Justification – The rules are necessary to expand upon the duties and powers granted to the Department under Chapter 231 in order to administer the state tax laws.

The Department adopted administrative rules regarding (1) payment of taxes by credit card and debit card and (2) guidance to taxpayers and tax practitioners on tax penalties. The Department adopted *temporary* administrative rules relating to cash economy enforcement; citations.

The rules are effective from July 21, 2011 to January 21, 2013.

2. **HAR Title 18 Chapter 235 – Income Tax Law**

Justification – The rules are necessary to expand upon the provisions contained in Chapter 235, of which, the essential purpose is to raise revenue and to conform the income tax law of the state as closely as may be with the Internal Revenue Code in order to simplify the filing of returns and minimize the taxpayers' burdens in complying with the income tax law.

The Department adopted administrative rules regarding returns; form, verification and authentication, time of filing. The Department adopted *temporary* administrative rules relating renewable energy technology income tax credit.

The rules are effective from November 16, 2012 to May 16, 2014.

Department of Transportation

1. **HAR Title 19 Chapter 133.2 – Periodic Inspection of Vehicles**

Justification – This chapter, which affects small businesses, was amended in 2011. These amended rules were approved by the Governor on August 2, 2011, and became effective on August 13, 2011.

The adopted of the amended Chapter 19-133.2 was needed to continue protecting the safety of drivers and passengers on state highways. The purpose of the amended rules is to establish, implement and enforce the Periodic Motor Vehicle Inspection program. This statewide program ensures that motor vehicles meet the safety standards set forth in this chapter.

DOT has no other rules affecting small business which were approved during the period from July 2011 through June 30, 2013. DOT does not have any rules affecting small business which will be amended or repealed based on any new, amended or repealed statute.

University of Hawaii

The University of Hawaii reported that it did not have any rules affecting small business that were approved for the period of July 1, 2011 through June 30, 2013, nor does it have any administrative rules affecting small businesses to be amended or repealed based on any new, amended or repealed statute.

Small Business Regulatory Review Board

No. 1 Capitol District Building

250 South Hotel Street

Honolulu, Hawaii 96813

Phone (808) 586-2594