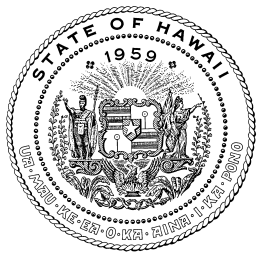


Small Business Regulatory Review Board Meeting

June 15, 2023

10:00 a.m.



SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)
No. 1 Capitol District Building, 250 S. Hotel Street, Fifth Floor, Honolulu, HI 96813
Mailing Address: P.O. Box 2359, Honolulu, HI 96804
Email: dbedt.sbrb.info@hawaii.gov
Website: sbrb.hawaii.gov

Tel: 808 798-0737

Josh Green, M.D.
Governor

Sylvia Luke
Lt. Governor

James K. Tokioka
DBEDT Director

Dane K. Wicker
DBEDT Deputy Director

Members

Robert Cundiff
Chairperson
O'ahu

Mary Albitz
Vice Chairperson
Maui

Jonathan Shick
2nd Vice Chairperson
O'ahu

Dr. Nancy Atmospera-Walch
O'ahu

William Lydgate
Kaua'i

James (Kimo) Lee
Hawai'i

Garth Yamanaka
Hawai'i

Taryn Rodighiero
Kaua'i

Sanford Morioka
O'ahu

Tessa Gomes
O'ahu

Mark Ritchie for
Director, DBEDT
Voting Ex Officio

AGENDA

Thursday, June 15, 2023 ★ 10:00 a.m.

**Leiopapa A Kamehameha Building – State Office Tower
235 S. Beretania Street, Conference Room 405
Honolulu, HI 96813**

As authorized under Act 220, Session Laws of Hawaii 2021 and Chapter 92-3.7 Hawaii Revised Statutes (HRS), the public can participate in the meeting either:

A. By attending the in-person meeting at:

Leiopapa A Kamehameha Building – State Office Tower 235 S. Beretania Street, Conference Room 405, Honolulu, HI 96813; or

B. Via Video-audio livestream or via Telephone - to join the Video-audio livestream meeting, go to:

<https://us06web.zoom.us/j/88945374966?pwd=cDhqWEEZGZHYmJLM05tMHU5Mm5HQQT09>

C. To Join via Telephone: Dial 1-669-900-6833 with Meeting ID 883 5814 0200 Passcode 066739

When the Chairperson asks for public testimony during the meeting, you may indicate that you want to provide oral testimony by using the raise hand function or, if calling in by telephone, entering * and 9 on your phone keypad. When recognized by the Chairperson, you will be unmuted. If calling in by phone, you can unmute and mute yourself by pressing * and 6 on your keypad.

Members of the public may also submit written testimony via e-mail to: DBEDT.sbrb.info@hawaii.gov or mailed to SBRRB, No. 1 Capitol District Building, 250 S. Hotel Street, Room 506A, Honolulu, HI 96813, or P.O. Box 2359, Honolulu, HI 96804. All written testimony should be received no later than 4:30 p.m., Wednesday, June 14, 2023.

Copies of the Board Packet will be available on-line for review at: [Agendas & Minutes – Small Business Regulatory Review Board \(hawaii.gov\)](#). An electronic draft of the minutes for this meeting will also be made available at the same location when completed.

The Board may go into Executive Session under Section 92-5 (a)(4), HRS to Consult with the Board's Attorney on Questions and Issues Concerning the Board's Powers, Duties, Immunities, Privileges and Liabilities.

I. Call to Order

II. Approval of May 30, 2023 Meeting Minutes

III. Old Business

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to Hawaii Administrative Rules (HAR) Title 16 Chapter 115, **Professional Engineers Architects Surveyors and Landscape Architects**, promulgated by Department of Commerce and Consumer Affairs – **Discussion Leader – Tessa Gomes**

IV. New Business

- A. Discussion and Action on the Proposed Amendments to HAR Title 13 Chapter 74, **License and Permit Provisions and Fees for Fishing, Fish, and Fish Products**, promulgated by Department of Land and Natural Resources (DLNR) – **Discussion Leader – Mary Albitz**

V. Administrative Matters

- A. Update on the Board’s Upcoming Advocacy Activities and Programs in accordance with the Board’s Powers under Section 201M-5, Hawaii Revised Statutes
 - 1. Review and Update Board’s “Discussion Leader Assignments” for the State and County Agencies’ Hawaii Administrative Rules
 - 2. Presentations to Industry Associations
 - 3. Staff Small Business Outreach
 - 4. Director Letters and Meetings with State Agencies and Counties

VI. Election of Board Officers

- A. Discussion and Action on the following:
 - 1. Chairperson, pursuant to Section 201M-5(c), HRS
 - 2. Vice Chair
 - 3. Second Vice Chair

- VII. Next Meeting:** Thursday, July 20, 2023 at 10:00 a.m., held via Zoom and at Leiopapa A Kamehameha Building – State Office Tower, Conference Room 405, Honolulu, HI 96813

VIII. Adjournment

If you need an auxiliary aid/service or other accommodation due to a disability, contact Jet’aime Ariola at 808 587-0737 and jetaime.k.ariola@hawaii.gov as soon as possible, preferably at least three (3) working days prior to the meeting. Requests made as early as possible have a greater likelihood of being fulfilled.

Upon request, this notice is available in alternate/accessible formats.

II. Approval of May 30, 2023 Meeting Minutes

Small Business Regulatory Review Board

MEETING MINUTES - **DRAFT**

May 30, 2023

- I. **CALL TO ORDER:** Chair Cundiff called the meeting to order at 10:03 a.m., with a quorum present.

MEMBERS PRESENT:

- Robert Cundiff, Chair
- Jonathan Shick, 2nd Vice Chair
- Garth Yamanaka
- James (Kimo) Lee
- William Lydgate
- Sanford Morioka
- Tessa Gomes
- Mark Ritchie

ABSENT MEMBERS:

- Mary Albitz, Vice Chair
- Dr. Nancy Atmospera-Walsh
- Taryn Rodighiero

STAFF: DBEDT

James Tokioka
Dori Palcovich
Jet'aime Ariola

Office of the Attorney General

Elise Amemiya

II. **APPROVAL OF April 20, 2023 MINUTES**

Mr. Lee motioned to accept the April 20, 2023 meeting minutes, as presented. Second Vice Chair Shick seconded the motion, and the Board members unanimously agreed.

III. **NEW BUSINESS**

- A. Discussion and Action on the Proposed Amendments to HAR Title 4 Chapter 71, Plant and Non-Domestic Animal Quarantine Non-Domestic Animal Import Rules, as follows, promulgated by Department of Agriculture (DoAG)
- a. Placement of the Beetle *Syphraea uberabensis* onto the List of Restricted Animals (Part A)
 - b. Placement of the Southern House Mosquito *Culex quinquefasciatus* onto the List of Restricted Animals (Part A)
 - c. Placement of the Butterfly *Euselasia chrysippe* onto the List of Restricted Animals (Part A)

Chair Cundiff stated that there was some hesitancy to bring these amendments to this Board due to an apparent lack of substantive small business impact; however, he requested that Mr. Christopher Kishimoto, Acting Manager at DoAg's Plant Quarantine Branch, to provide the Board with the background on the rules.

Mr. Kishimoto explained that the beetles and the mosquitos will be used for biocontrol of invasive weeds, which will allow them to be placed on the restricted animals list, Part A, for their import and release. The male mosquitos will be infected with a bacteria that forms a symbiotic relationship with its host insect preventing the males to transfer this bacteria; there is no genetic modification involved. The ultimate goal is to reduce the mosquito population in the area and prevent the spread of any type of malaria.

Mr. Lydgate was pleased with the rule proposals and questioned what other hosts there are. In response, Mr. Kishimoto stated that host range testing was performed on 60 different Hawaii-based plant species but that this beetle is very specific to only a few species invasive to Hawaii. This is the same with the butterfly as it is very specific to only a few species. He noted that the Board of Agriculture is responsible for placing species on the restricted list due to its responsibility in importing non-domestic animals, of which, insects are a part of; it is a long process to place species on the list. In terms of creating any possible ultimate consequences, it was noted that DoAG has come a long way in performing host range testing to assure near-accurate results.

Dr. Helmet Rogg, Administrator at the Plant Industry Division at DoAG, explained that there is a plant and animal advisory committee that scientifically reviews the submissions that are sent out to various subcommittees for review. After the review, commentary is sent back to DoAG, which is used to either approve or deny the recommendations of the subcommittees' submissions to the advisory committee.

Testifier Ms. Christy Martin, Program Manager & Information Officer at UH PCSU / Coordinating Group on Alien Species, is in favor of these biocontrol additions, which are tested for numerous years before they are included on the Restricted Animal List. Testifier Ms. Christy Gusman is also in support of the changes to the rules as she is concerned with the transportation of these species.

Second Vice Chair Shick motioned to move the proposed rules to public hearing. Mr. Lee seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on the Proposed Amendments to HAR Title 4 Chapter 72, Plant and Non-Domestic Animal Quarantine Plant Intrastate Rules, promulgated by DoAG

Mr. Jonathan Ho, Acting Manager at the Plant Quarantine Branch, explained that the rule amendments represent a substantial overhaul and involve the movement of plants and plant-parts within the state. The small business impact largely entails the changes to codify the costs for inspection performed off-sight; the inclusion of permitting fees; and the specific restrictions relating to the movement of the host material coconut rhinoceros beetle.

Mr. Ho added that these changes are both new and not new because although the inspection fees were mandated in 2010 and not added to the actual rules, the increase has been incurred since that time; and because the permitting fees are currently free, these are now added to the rule proposal. Specifically, the permitting fee structure includes a single movement fee of \$20 for one shipment within the course of one year or \$100 for unlimited

shipments within the course of one year. They are in-line with permitting fees for non-domestic animals and restricted plants. Currently, the biggest movers in regard to permits are coffee, green beans, and for host material for plants in soil and certain logs.

The coconut rhinoceros beetle quarantine is presently only found on Oahu. There is an interim rule right now restricting its movement with the intent to codify the spread of this beetle to other islands as it is a very devastating pest to coconut and other large palm species. Not only do these beetles attack these species but their movement would be very detrimental to tourism. The biggest impact is for those movers moving green waste and mulch because these are where the beetles reproduce. The remaining changes to the rules are non-substantive in nature and do not have major impacts on small business.

Chair Cundiff noted that several written testimonies in support of these proposed changes were received and reviewed. Back-up discussion leader Mr. Lee spoke with some of the Big Island farmers who conveyed support of the proposals, and although they were not opposed to paying more fees they are wondering how the extra funds will be used.

Mr. Lee motioned to move the proposed rule amendments to public hearing. Mr. Morioka seconded the motion, and the Board members unanimously agreed.

C. Discussion and Action on the Proposed Amendments to HAR Title 4 Chapter 71A, Plant and Non-Domestic Animal Quarantine, Microorganism Import Rules, promulgated by DoAG

Mr. Jonathan Ho, Acting Manager for DoAG's Plant Quarantine Branch, explained that this rule is very similar in structure to Chapter 4-71 (above) in that the plant quarantine regulates the importation of known cultures of microorganisms into the state. There are various lists that determine who is eligible to import and for what uses. This request is to move a particular strain of a specific fungus from the restricted A list and to have it replaced on the non-restricted microorganisms list. This would allow for the general importation for use within a biopesticide. It was noted that these changes also go through a thorough review process similar to Chapter 4-71.

With regard to the effect on small business, because these microorganisms are on the Restricted A List to be used as a microbial product, such as a biopesticide, it is currently not allowed. However, placing it onto the list of non-restricted microorganisms allow for products that contain this particular strain of Bavaria to be imported and sold, and gives those who import and sell another tool for pest control. Mr. Lydgate added that the more tools that are given the farmers, the better.

Testifier Silvia Todorova, President, Anatis Bioprotection is in support of this rule and stated that this Bavaria strain is highly selective and was largely tested in the fields and in the laboratory.

Second Vice Chair Shick motioned to move the proposed rules to public hearing. Mr. Morioka seconded the motion, and the Board members unanimously agreed.

D. Discussion and Action on the Proposed Amendments to HAR Title 13 Chapter 95, Rules Regulating the Taking and Selling of Certain Marine Resources, promulgated by Department of Land and Natural Resources (DLNR)

Mr. David Sakoda, Fisheries Program Manager with DLNR's Division of Aquatic Resources (DAR), explained that the purpose of the rule changes is to ensure there is enough fish to eat and to keep coral reefs healthy for this generation and the next. Extensive statewide scoping began in November 2020 where 10 scoping sessions were held.

In March 2021, 6 secondary scoping sessions revised the proposal based on feedback from the initial scoping, and in December 2021 follow-up scoping sessions and feedback collected via online were held. In May 2022, scoping meetings with commercial marine license holders and commercial marine dealers were held. In December 2022, the request for rule amendments was taken to the Board of Land and Natural Resources (BLNR). At that meeting, BLNR requested that DAR discuss with the commercial fishers an increase in the bag limit, which was held in February 2023. In early May 2023, BLNR approved the rules to proceed to public hearing with the revised changes.

Specific changes are as follows: the current regulation allows for a minimum Carapace length of 4 inches, no taking of females with or without eggs, and closes the season from May to August. The proposal allows for the same minimum Carapace length of 4 inches but allows taking of females without eggs, and extends the season from May to September. Other changes include increasing the minimum length of Manini by 1 inch to 6 inches, and limiting the minimum length of Kole to 5 inches.

Changes will also establish non-commercial bag limits for Kala from no daily bag limit to 2 per person per day, which is where much concern from the small business commercial fishers came in. The backbone of this proposal is a permit because in order to catch Kala for commercial purposes the fisher is required to possess a valid commercial marine license, must pay \$100 permit fee, and must have caught and sold at least 100 lbs. of Kala within the past year if a commercial Kala permit was held. The reason for this requirement is to make it more enforceable and to prevent non-commercial fishers from getting a commercial marine license to be exempt from the non-commercial bag limits.

Additional changes entail a commercial daily bag limit of 50 Kala per person, no commercial harvest or sale from April to July, no commercial harvest or sale after the annual catch limit (ACL) of 10,000 lbs., and dealers must register as commercial Kala dealers. Similar minimum length limits, bag limits, permit fees and closed periods of time for spawning season apply to Uhu including small-bodied Uhu, and all other Uhu species, and spear harvesting.

Overall, while there is some small business impact, DAR has tried to mitigate the impact by setting the ACL's and bag limits, specifically for Uhu and Kala in an effort to reduce the overall take.

Chair Cundiff recognized that quite a bit of outreach was made to stakeholders. A level of success through this process is when an agency makes the effort to reach out to the small business stakeholders. Mr. Sakoda noted that there had been some opposition to the rule proposals until DAR subsequently carved out more acceptable bag limits.

Mr. Yamanaka stated that this is a situation where many others rely on fish for sustainability; not just the fishers. He inquired as to what outreach was performed with these other businesses and how the daily catch is being monitored. In response, Mr. Sakoda stated that in terms of monitoring, DAR does both – mandatory monthly reporting for commercial catch from fishers and mandatory weekly reporting on dealers as to what is purchased from the fishers. It is recognized that there are sales that are unreported such as cash sales “under the table” but the larger catches and sales to the dealers are generally reconciled each month.

There is “in-water monitoring” where diver/biologists go into the ocean and survey near-shore areas to count fish. DAR also has partners that do similar monitoring in order to capture data to have a better idea of the health of the stock. Mr. Sakoda added that there has been a stock assessment for a number of species including Uhu and Kala, however, DAR is looking to partner with the federal government because it has limited resources.

In terms of outreach to other types of businesses, the first three rounds of scoping were broadly publicized where a variety of businesses and individuals provided comments and feedback including the Hawaiian community, recreational fishers, and environmental organizations. While DAR has a good handle on the commercial catch each day, it is unknown what the non-commercial catch is each day as the data is somewhat insufficient. However, he noted that without the permit, it will be illegal for fishers to catch Ulu and Kala.

Second Vice Chair Shick inquired as to whether there are any restrictive areas where commercial fishers would be able to fish if they were fishing with a commercial permit and if there is a limitation on the number of commercial permits to be issued. Mr. Sakoda responded that while this rule proposes no restrictions as to where commercial fishers can fish, DAR will likely try again next year to limit permits. However, there are other marine management areas to establish a prohibition on commercial harvest for stricter bag limits.

Aquatic Biologist Mr. Bryan Ishida stated that now that DAR will be allowing for the female crab to be removed from the ocean, surveys have shown that throughout the year there can be differences in the catch of the crab which varies between locations. While it is about a 50/50 ratio between male and female crabs, allowing the take of the female crab has been determined to be appropriate and will not adversely affect the population. Stock assessments are done in five-year intervals with updates done in-between the five years. Mr. Ishida added that “adaptive management” rule-making was approved for DAR to approach BLNR for providing potential changes to the rules such as managing fisheries through bag limits.

In response to Mr. Lydgate’s inquiry about the take of these species related to a population size of a particular island, Mr. Sakoda explained that for the commercial take, it is centered on Oahu. Although the rules do not restrict where the fish can be taken, DAR is currently looking to include island-based management.

Mr. Shick motioned to move the proposed rules to public hearing. Mr. Lee seconded the motion, and the Board members unanimously agreed.

IV. LEGISLATIVE MATTERS

- A. Update on Governor's Message Submitted for Consideration for the Gubernatorial Nomination of Jennifer Salisbury to the Small Business Regulatory Review Board for a term to expire June 30, 2027

Senator Kouchi's office was contacted multiple times, post-legislation, to get an update on the status of Ms. Salisbury's appointment to this Board. Her appointment will likely not occur until the next legislative session.

During the meeting, DBEDT Director James Tokioka stopped by to say hello and to thank the Board members for all their hard work, and recognized how difficult it is to juggle attending board meetings while running a small business.

V. ADMINISTRATIVE MATTERS

- A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, Hawaii Revised Statutes

1. Board's Budget Request

Ms. Palcovich explained that the funds appropriated for this Board during the legislative session did not make the final approval in the budget. However, DBEDT is in the process of working on a \$150,000 contract with a public relations firm, of which, this Board is a part of and will be able to utilize some of the funds for outreach.

Ms. Palcovich added that there are funds available for this current fiscal year which will be used for updating the Board's brochure and other purposes.

2. Presentations to Industry Associations

The next presentation is scheduled for June at the Japanese Chamber of Commerce in Hilo, of which, Board member Mr. Yamanaka is the incoming president.

3. Staff's Small Business Outreach

Ms. Ariola continues to perform monthly outreach.

4. Director Letters and Meetings with State Agencies and Counties

Chair Cundiff had a very good meeting with General Attorney Anne Lopez recently. Vice Chair Albitz and Ms. Palcovich met with Director Jade Butay from Department of Labor and Industrial Relations and Assistant to the Director William Kunstman where they discussed the updating rules to be presented to this Board.

- VI. NEXT MEETING** - Thursday, June 15, 2023 at 10:00 a.m. in conference room 405 at Leiopapa A Kamehameha Building – State Office Tower – 235 S. Beretania Street, Honolulu, HI 96813.
- VII. ADJOURNMENT** - Second Vice Chair Shick motioned to adjourn the meeting and Mr. Morioka seconded the motion; the meeting adjourned at 11:43 a.m.

DRAFT

III. OLD BUSINESS

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 16 Chapter 115 **Professional Engineers Architects Surveyors and Landscape Architects**, promulgated by DCCA

SMALL BUSINESS STATEMENT
"AFTER" PUBLIC HEARING TO THE
SMALL BUSINESS REGULATORY REVIEW BOARD

(Hawaii Revised Statutes (HRS), §201M-3)

Department or Agency: Commerce & Consumer Affairs

Administrative Rule Title and Chapter: Title 16, Chapter 115

Chapter Name: Professional Engineers, Architects, Surveyors, and Landscape Architects

Contact Person/Title: Sheena Choy, Executive Officer

Phone Number: (808) 586-2702

E-mail Address: srchoy@dcca.hawaii.gov

Date: 05/17/2023

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?



Yes



No

(If "Yes," please provide webpage address and when and where rules may be viewed in person. Please keep the proposed rules on this webpage until after the SBRRB meeting.)
In-person: 335 Merchant Street, Room , Honolulu, Hawaii 96813, Website: cca.hawaii.gov/pvl/har

I. Rule Description: ☐ New ☐ Repeal ☒ Amendment ☐ Compilation

II. Will the proposed rule(s) affect small business?



Yes



No (If "No," no need to submit this form.)

* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

* "Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?



Yes



No

(If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))



Yes



No

(If "Yes" no need to submit this form.)

*

*

*

V. Please explain how the agency involved small business in the development of the proposed rules.

We hoped to address any concerns through public Board meetings at which the proposed rule amendments were discussed, the availability & distribution of minutes covering those open meetings, and the availability and distribution of the proposed rules throughout the process. Additionally, the public hearing afforded all interested persons the opportunity to comment on the proposed rules.

a. Were there any recommendations incorporated into the proposed rules? If yes, explain. If not, why not?

There were no recommendations from individuals or small businesses throughout the rule amendment process, nor do we anticipate any significant impact on small business.

VI. If the proposed rule(s) affect small business, and are not exempt as noted above, please provide the following information:

1. A description of how opinions or comments from affected small businesses were solicited.

Through public board meetings and the public hearing.

2. A summary of the public's and small businesses' comments.

There were none.

3. A summary of the agency's response to those comments.

NA

4. The number of persons who:

(i) Attended the public hearing: 0

(ii) Testified at the hearing: 0

(iii) Submitted written comments: 0

5. Was a request made at the hearing to change the proposed rule in a way that affected small business?

☐ Yes ☒ No

(i) If "Yes," was the change adopted? ☐ Yes ☐ No

(ii) If No, please explain the reason the change was not adopted and the problems or negative result of the change.

Small Business Regulatory Review Board / DBEDT
Phone: (808) 586-2594 / Email: DBEDT.sbrrb.info@hawaii.gov

This statement may be found on the SBRRB Website at:
<http://dbedt.hawaii.gov/sbrrb-impact-statements- pre-and-post-public-hearing>

Small Business Regulatory Review Board

MEETING MINUTES

October 20, 2022

- I. **CALL TO ORDER:** Chair Cundiff called the meeting to order at 10:01 a.m., with a quorum present, which was open to the public.

MEMBERS PRESENT:

- Robert Cundiff, Chair
- Mary Albitz, Vice Chair
- Jonathan Shick, 2nd Vice Chair
- Garth Yamanaka
- Taryn Rodighiero
- Mark Ritchie

ABSENT MEMBERS:

- Dr. Nancy Atmospera-Walsh
- James (Kimo) Lee
- William Lydgate
- Tessa Gomes
- Sanford Morioka

STAFF: DBEDT

Dori Palcovich
Jet'aime Ariola

Office of the Attorney General

Alison Kato

II. **APPROVAL OF September 15, 2022 MINUTES**

Vice Chair Albitz motioned to accept the September 15, 2022 meeting minutes, as presented. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

III. **NEW BUSINESS** – Before Public Hearing

A. Discussion and Action on Proposed Amendments to HAR Title 16 Chapter 115, Professional Engineers Architects Surveyors and Landscape Architects, promulgated by Department of Commerce and Consumer Affairs (DCCA)

Discussion leader Ms. Rodighiero reminded the board members that this rule was reviewed and deferred from last month because there was some confusion as to what specific changes were being made.

Ms. Lee Ann Teshima, Executive Officer at DCCA's Professional and Vocational Licensing Division, explained that in January 2022 this Board reviewed proposed changes to HAR Chapter 115. However, after the Board provided approval and subsequent to going to public hearing, additional amendments to the rules were promulgated.

Thus, last month's confusion occurred because the proposal included both changes from January 2022 and the most current changes; as such, the proposal today only includes the subsequent changes for consideration. Chair Cundiff noted that the rule proposal is very clear and the information is very thorough.

Second Vice Chair Shick questioned whether the change of the dates in the rules for applying for the engineering licenses would fall in-line with national requirements and wondered if there might potentially be some confusion with the dates of the national registration versus the state registration. Mr. Clayton Pang, Chair of the EASLA Board, DCCA, responded that the dates were changed because the majority of the exams are converting to computer-based in a testing center which no longer requires twice a year testing.

Ms. Rodighiero motioned to move the proposed rule amendments onto public hearing. Mr. Yamanaka seconded the motion, and the Board members unanimously agreed.

IV. ADMINISTRATIVE MATTERS

A. Discussion and Action on the following:

1. Board's Draft 2022 Annual Report Summary for Submission to the Hawaii State Legislature, under Section 201M-5(f), Hawaii Revised Statutes (HRS)

There is a noticeable improvement in the Matrix graph at the back of the Report that shows a lesser number of rules being "opposed" from past years. It appears this is because many of the agencies are now providing more outreach to the stakeholders, resulting in a smoother rule review process than in past years. Chair Cundiff will amend the "Chair's Message" in this Report to include this sentiment and how overtime this Board has adapted to understand how it impacts the business community and the results of its efforts. Vice Chair Albitz added that a "majority" of the agencies are assisting with the Board's efforts.

Mr. Yamanaka motioned to accept the draft *2022 Annual Report Summary* for publication with forthcoming changes to be made to the Chair's Message. Ms. Rodighiero seconded the motion, and the Board members unanimously agreed.

2. Board's Draft 2022 201M-7 Periodic Review: Evaluation Report for Submission to the Hawaii State Legislature under Section 201M-7, HRS

The members discussed an on-going lack of submission of rules for the 201M-7 Report from the County of Hawaii; Vice Chair Albitz noted that there are similar issues with Maui. Deputy Attorney General Kato confirmed that there would be no legal cause for incurring penalties upon the counties for lack of participation or nonsubmittal of the required rule information; she suggested that public pressure might be the best route to take against the counties.

Chair Cundiff noted that there is not much this Board can do to force the issue of submitting the required rule information from the counties except to reach out to the county representatives and share with them the information that it is required to the Board per statute. Second Vice Chair Shick added that advocacy and outreach to the small business community may also be helpful because if the businesses knew what changes were being proposed it may help with the counties' accountability.

V. NEXT MEETING - Thursday, November 17, 2022 at 10:00 a.m.

VI. ADJOURNMENT – Vice Chair Albitz made a motion to adjourn the meeting and Ms. Rodigheiro seconded the motion; the meeting adjourned at 11:01 a.m.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-115
Hawaii Administrative Rules

April 24, 2023

SUMMARY

1. §16-115-1 is amended
2. §16-115-2 is amended
3. §16-115-4 is amended
4. §16-115-8 is amended
5. §16-115-9 is amended
6. A new §16-115-10.5 is added
7. §16-115-12 is amended
8. §16-115-21 is amended
9. §16-115-22 is amended
10. §16-115-24 is amended
11. §16-115-31 is amended
12. §16-115-33 is amended
13. §16-115-35 is amended
14. §16-115-37 is amended
15. §16-115-39 is amended
16. A new §16-115-40 is added
17. A new §16-115-40.5 is added
18. §16-115-47 is amended
19. §16-115-49 is amended

20. §16-115-50 is amended
21. §16-115-52 is amended
22. §16-115-54 is amended
23. §16-115-56 is amended
24. §16-115-58 is amended
25. §16-115-59 is amended
26. A new §16-115-60 is added
27. A new §16-115-60.5 is added
28. A new §16-115-61 is added
29. A new §16-115-62 is added
30. §16-115-66 is amended
31. §16-115-69 is amended
32. §16-115-71 is amended
33. §16-115-73 is amended
34. §16-115-75 is amended
35. §16-115-77 is amended
36. §16-115-79 is amended
37. §16-115-87 is amended
38. §16-115-94 is amended
39. §16-115-96 is amended
40. Chapter 115 is compiled

HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 115

PROFESSIONAL ENGINEERS, ARCHITECTS, SURVEYORS, AND
LANDSCAPE ARCHITECTS

Subchapter 1 General Provisions

§16-115-1	Objective
§16-115-2	Definitions
§16-115-3	Notification and filing of names, addresses, and changes
§16-115-4	Business entities
§16-115-5	Display of certificate
§16-115-6	Lost, destroyed, or mutilated certificate of licensure
§16-115-7	Biennial renewal
§16-115-8	Seal or stamp
§16-115-9	Authentication: preparation or supervision of design and observation of construction
§16-115-10	Misconduct in the practice
§16-115-10.5	Examination misconduct
§16-115-11	Oral testimony
§16-115-12	Denial
§16-115-13	Demand for hearing
§16-115-14	Proceedings upon demand for hearing
§16-115-15	Administrative practice and procedure

Subchapter 2 Professional Engineers

§16-115-21	Branches of engineering
§16-115-22	Forms and instructions
§16-115-24	Licensure by endorsement
§16-115-26	Licensure by examination
§16-115-27	Examination requirements for licensure
§16-115-29	Passing score
§16-115-31	Examination-fundamentals of engineering: qualifications, application, fees, required documents
§16-115-33	Examination-professional engineering: qualifications, application, fees, required documents
§16-115-35	Examination-professional engineering (additional branch): qualifications, application, fees, required documents
§16-115-37	Reexamination
§16-115-39	Lawful experience
§16-115-40	Licensure of environmental engineers
§16-115-40.5	Licensure of fire protection engineers

Subchapter 3 Architects

§16-115-45	Forms and instructions
§16-115-47	Licensure by endorsement
§16-115-49	Licensure by examination
§16-115-50	Examination requirements for licensure
§16-115-52	Passing score
§16-115-54	Examination: qualifications, application, fees, documents required
§16-115-56	Reexamination
§16-115-58	Lawful experience
§16-115-59	Architectural experience program
§16-115-60	Continuing education
§16-115-60.5	Requirements for approval by the board
§16-115-61	Certification of compliance and audit
§16-115-62	Waiver or modification of requirements

Subchapter 4 Land Surveyors

§16-115-64	Forms and instructions
§16-115-66	Licensure by endorsement
§16-115-68	Licensure by examination
§16-115-69	Examination requirements for licensure
§16-115-71	Passing score
§16-115-73	Examination-fundamentals of land surveying: qualifications, application, fees, required documents
§16-115-75	Examination-professional land surveying: qualifications, application, fees, required documents
§16-115-77	Reexamination
§16-115-79	Lawful experience

Subchapter 5 Landscape Architects

§16-115-85	Forms and instructions
§16-115-87	Licensure by endorsement
§16-115-89	Licensure by examination
§16-115-90	Examination requirements for licensure
§16-115-92	Passing score
§16-115-94	Examination: qualifications, application, fees, required documents
§16-115-96	Reexamination
§16-115-98	Lawful experience

Historical note: Chapter 16-115, Professional Engineers, Architects, Surveyors, and Landscape Architects, is based substantially upon chapter 16-82 of the rules of the Professional Engineers, Architects, Surveyors, and Landscape Architects. [Eff 4/18/80; am and ren 2/13/81; am and comp 10/16/82; am and comp 11/22/86; am 2/26/88; R 8/29/94]

SUBCHAPTER 1 GENERAL PROVISIONS

§16-115-1 Objective. This chapter is intended to clarify and implement chapter 464, Hawaii Revised Statutes, to the end that the provisions thereunder may be best effectuated, and the public interest most effectively served. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §464-7)

§16-115-2 Definitions. As used in this chapter:

"Agricultural engineering" means that branch of professional engineering involving the design, construction, and use of specialized equipment, machines, structures, and materials relating to the agricultural industry and economy. It requires knowledge of the engineering sciences relating to physical properties and biological variables of foods and fibers; atmospheric phenomena as they are related to agricultural operations; soil dynamics as related to traction, tillage and plant-soil-water relationships; and human factors relative to safe design and use of agricultural machines. The safe and proper application and use of agricultural chemicals and their effect on the environment are also concerns of the agricultural engineers.

"Architect committee" means members of the board who are professional architects.

"A.R.E." means the architect registration examination administered by the NCARB.

"AXP" means the Architectural Experience Program of NCARB.

"Branch examination" means a professional engineering examination which covers subjects within only one branch of professional engineering. The branches of engineering examined in are agricultural, chemical, civil, electrical, environmental, fire protection, industrial, mechanical, and structural.

"Chemical engineering" means that branch of professional engineering which embraces studies or activities relating to the development and application

of processes in which chemical or physical changes of materials are involved. These processes are usually resolved into a coordinated series of unit physical operations and unit chemical processes. It is concerned with the research, design, production, operational, organizational, and economic aspects of the above.

"Civil engineering" means that branch of professional engineering which embraces studies or activities in connection with fixed works for matters such as irrigation, drainage, waterpower, water supply, flood control, inland waterways, harbors (not including piers), municipal improvements, railroads, highways, traffic, non-structurally supported tunnels, airfields and airways, purification of water, geotechnical activities, and sewerage and refuse disposal.

"CLARB" means Council of Landscape Architectural Registration Boards.

"Consultation" means meetings, discussions, written or verbal messages, reports, etc., involving scientific, aesthetic or technical information, facts, or advice for purposes of planning, designing, deciding, or locating construction or alteration of structures, buildings, works, machines, processes, land areas, or projects.

"Design" means any procedure which conveys the plan, location, arrangement, intent, purpose, appearance, and nature of construction or alteration of existing or proposed buildings, structures, works, machines, processes, land areas, or projects.

"Digital signature" means a digital code, generated and authenticated by public encryption, which is attached to an electronically transmitted document to verify its contents and the sender's identity. A digital signature contains encryption protections using a set of algorithms to determine authenticity of a document.

"Direct control" or "directly in charge of the professional work" means personal preparation, or direct supervision of the preparation and personal review, of all instruments of professional service.

"Electrical engineering" means that branch of professional engineering which embraces studies or activities relating to the generation, transmission, and utilization of electrical energy, including the design of electrical, electronic, and magnetic circuits and the technical control of their operation and of the design of electrical gear. It is concerned with research, organizational, and the economic aspects of the above.

"Engineer committee" means members of the board who are professional engineers.

"Environmental engineering" means that branch of engineering which embraces studies of activities relating to wastewater, storm water, potable water, and water resources; air quality systems and pollution control; municipal and industrial solid waste, hazardous waste, medical, radioactive and other waste; site assessment and remediation; and environmental health and safety assessment. Except as otherwise provided above, this definition shall not be construed to permit an environmental engineer to practice any other branch of professional engineering. This definition shall also not be construed to prevent civil engineers from performing the above work within their respective scope of practice, as provided in this chapter and chapter 464, HRS.

"Experience in responsible charge" means that an individual is licensed and in direct control or personal supervision of engineering, architecture, landscape architecture, or land surveying work.

"Evaluation" means careful search, examination, or inquiry to reveal, determine, or estimate the value, worth, merit, effect, efficiency, or practicability of planning, design, location, construction, or alteration of existing or proposed structures, buildings, works, processes, land areas, or projects.

"Fire protection engineering" means that branch of engineering which involves the safeguarding of life and property from fire and fire-related hazards; the identification, evaluation, correction, or prevention of

present or potential fire and fire-related hazards in buildings, groups of buildings, or communities; and the arrangement and use of fire-resistant building materials and design of fire detection suppression and communication systems, devices, and apparatuses in order to protect life and property. Except as otherwise provided above, this definition shall not be construed to permit a fire protection engineer to practice any other branch of professional engineering. This definition shall also not be construed to prevent licensed civil, electrical, or mechanical engineers and architects from performing the above work within their respective scopes of practice, as provided in this chapter and chapter 464, HRS.

"Full-time" means forty hours or more per week.

"Geotechnical activities" means the investigation and engineering evaluation of earth materials including soil, rock, groundwater and man-made materials and their interaction with earth retention systems, structural foundations, and other civil engineering works. The activities involve application of the principles of soil mechanics and the earth sciences, and requires a knowledge of engineering laws, formulas, construction techniques, and performance evaluation of civil engineering works influenced by earth materials.

"IDP" means the intern development program of NCARB or other similar program satisfactory to the board.

"Industrial engineering" means that branch of professional engineering involving the investigation, design, and evaluation of systems of persons, materials, and facilities for the purpose of economical and efficient production, use, and distribution. It requires the application of specialized engineering knowledge of the mathematical and physical sciences, together with the principles and methods of engineering analysis and design to specify, predict, and evaluate the results to be obtained from such systems.

"Institution of higher education approved by the board" means an institution approved by the board that

offers curricula leading to a master's degree in engineering, architecture, or landscape architecture.

"Investigation" means careful search, examination, inquiry, or study to reveal or determine scientific, aesthetic, technical information, or facts for the planning, design, location, construction, or alteration of existing or proposed structures, buildings, works, machines, processes, land areas, or projects.

"Land surveyor committee" means members of the board who are professional land surveyors.

"Landscape architect committee" means members of the board who are professional landscape architects.

"Lawful experience" means that type of experience listed in sections 16-115-39, 16-115-58, 16-115-79 and 16-115-98.

"Mechanical engineering" means that branch of professional engineering, which deals with engineering problems relating to generation, transmission, and utilization of energy in the thermal or mechanical form and also with engineering problems including but not limited to the production of tools, machinery, and their products and to heating, ventilation, refrigeration, and plumbing. It is concerned with the research, design, production, operational, organizational, and economic aspects of the above.

"NCARB" means National Council of Architectural Registration Boards.

"NCEES" means National Council of Examiners for Engineering and Surveying.

"Observation of construction" means making and documenting visits to the site by a licensed engineer, architect, landscape architect, or qualified representatives working under the supervision of a licensed engineer, architect, or landscape architect, as the case may require, to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the contract documents. It is not required that they make exhaustive or continuous on-site observations to check the quality or quantity of work nor is it intended that the engineer, architect, or landscape

architect be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work.

"Part-time" means less than forty hours per week.

"Planning" means careful search, examination, inquiry, study, and the formulation or execution of a statement, outline, draft, map, drawing, diagram, or picture showing arrangement, scheme, schedule, program, or procedure for locating, building, or altering existing or proposed buildings, structures, works, machines, processes, land areas, or projects.

"Prepared by" means that a licensed engineer, architect, surveyor, or landscape architect, as the case may be, personally drafts, draws, or designs the plans, specifications, and other related documents.

"Public officials" means and includes without limitation all federal, state, and county agencies that issue permits.

"School or college approved by the board" means an institution approved by the board and offering curricula leading to degrees in engineering, architecture, geo-science, or landscape architecture accredited by the Accreditation Board for Engineering and Technology, the National Architectural Accreditation Board, Inc., the Landscape Architectural Accreditation Board, or as approved by the board.

"Specifications" means the specifying of material, equipment, projects, or methods to be used in the construction or alteration of buildings, structures, works, machines, processes, land areas, or projects.

"State-produced licensing examination" means and includes a licensing examination administered by states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, as approved by the board.

"Structural engineering" means that branch of professional engineering which deals with the investigation of, the design of, the selection of, and construction observation of the force-resisting and

load-supporting members of structures such as foundations, walls, columns, slabs, beams, girders, trusses, and similar members where such investigation, design, selection, and supervision requires a knowledge of engineering laws, formulae, practice, and knowledge of the methods used in their erection.

"Supervise", "supervision", "supervision of design", or "under the supervision of" means that a licensed engineer, architect, surveyor, or landscape architect, as the case may be, shall:

- (1) Exercise direct control and oversee the subject activity through physical presence or through the use of communication devices; provided the licensee has both direct control and detailed professional knowledge of the work being supervised; or
- (2) Substantially redraft, redraw, redesign, or recalculate the plans, specifications, and other related documents;

and be responsible for all work within the licensee's discipline performed on plans, specifications, and other related documents.

"Written examination" means paper-pencil or computer-assisted examination. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp

] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8, 464-11)

§16-115-3 Notification and filing of names, addresses, and changes. A licensee shall file the licensee's mailing address and name with the board and shall immediately notify the board in writing within thirty days of any and all changes of address or name. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp

] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

§16-115-4 Business entities. Pursuant to chapters 428 and 464, HRS, a corporation, partnership, or limited liability company may engage in the practice of professional engineering, architecture, land surveying, or landscape architecture in the State provided the person or persons connected with the business entity directly in charge of the professional work is or are duly licensed under chapter 464, HRS. The person or persons in direct charge shall be full-time employee, principal, officer, partner, member, or manager of the business entity, and shall have been delegated the legal authority to bind the business entity in all matters relating to the professional work. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-12)

§16-115-5 Display of certificate. Every licensee who, as an individual or as a member of a firm, partnership, corporation, or limited liability company, conducts an office or other place of business for the practice of the licensee's profession, shall display the licensee's certificate together with evidence of current validation in a conspicuous manner, in the licensee's principal office or place of business. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

§16-115-6 Lost, destroyed, or mutilated certificate of licensure. Upon request accompanied by affidavit showing loss, destruction, or mutilation of a certificate, a licensee shall be furnished a new certificate. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

§16-115-7 Biennial renewal. Renewal fees paid by mail shall be considered as paid when due if the envelope bears a postmark of April 30 or earlier. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

§16-115-8 Seal or stamp. (a) The licensee shall use a seal or stamp that is legible and reproducible of the following design:

- (1) Two circles - a smaller one, 1-1/8" in diameter, within a larger one, 1-1/2" in diameter. The name of the licensee and the words "Hawaii, U.S.A." shall be in the outer or annular space. The words "Licensed Professional Engineer", "Licensed Professional Architect", "Licensed Professional Land Surveyor", or "Licensed Professional Landscape Architect", together with the licensee's license number, shall be inserted in the center space;
- (2) The engineer shall also insert in the center space and after the license number, the abbreviation of the engineering branch in which the engineer has especially qualified; and
- (3) The engineering branch abbreviations shall be:
 - (A) "Ag." - Agricultural;
 - (B) "Ch." - Chemical;
 - (C) "C." - Civil;
 - (D) "E." - Electrical;
 - (E) "En." - Environmental;
 - (F) "FP." - Fire Protection;
 - (G) "I." - Industrial;
 - (H) "M." - Mechanical; and
 - (I) "S." - Structural.

- (4) An example of an acceptable seal or stamp is as follows:



(b) An engineer who is licensed in more than one branch shall have a seal or rubber stamp for each branch.

(c) All plans, specifications, maps, reports, surveys, and descriptions prepared by or under the supervision of a licensed professional engineer, architect, land surveyor, or landscape architect submitted to public officials for approval shall be stamped with the authorized seal or stamp and authenticated as provided in section 16-115-9. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp] (Auth: HRS §§464-7, 464-11) (Imp: HRS §§464-7, 464-11)

§16-115-9 Authentication: preparation or supervision of design and observation of construction.

(a) All plans, specifications, maps, reports, surveys, descriptions, and every sheet in a set of design drawings prepared by or under the supervision of a licensed professional engineer, architect, land surveyor, or landscape architect shall be stamped with the authorized seal or stamp when filed with public officials. Below the seal or stamp, the authentication shall state "This work was prepared by me or under my supervision", be signed by the licensee, and state the expiration date of the license, as follows:

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION.

Signature	Expiration Date of the License
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Provided that where applicable, the form of authentication shall be as determined by the rules of the land court, the statute relating to file plans, or other legal authorities relating to maps, surveys, descriptions, etc.

(b) In addition to the requirements of subsection (a), when applications are made for building or construction permits involving public safety or health, all plans and specifications in connection therewith shall bear the authorized seal or stamp of the duly licensed professional engineer, architect, or landscape architect charged with observation of construction pursuant to sections 464-4 and 464-5, HRS. Below the seal or stamp, the authentication shall state "Construction of this project will be under my observation", be signed by the licensee, and state the expiration date of the license, as follows:

CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY
OBSERVATION

Signature	Expiration Date of the License
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(c) Where the licensed professional engineer, architect, or landscape architect has responsibility for design and observation of construction, the authentication shall state "This work was prepared by me or under my supervision and construction of this project will be under my observation", be signed by the licensee, and state the expiration date of the license, as follows:

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION
AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY
OBSERVATION

Signature	Expiration Date of the License
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(d) In the event the licensed professional engineer, architect, or landscape architect whose seal or stamp and signature appear in connection with the statement in subsection (b) or (c) concerning observation of construction has been removed, replaced, or is otherwise unable to discharge the licensee's duties, the licensed professional engineer, architect, or landscape architect shall so notify the appropriate public official~~(s)~~ in writing within fifteen days. The notification shall include the name, if known, of the licensed professional engineer,

architect, or landscape architect charged with continuing the construction observation.

(e) All signatures required under this section shall be an original or a digital signature is also acceptable. The use of rubber signature stamps or other facsimile signatures is prohibited. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp] (Auth: HRS §§464-7, 464-11) (Imp: HRS §§464-7, 464-11)

§16-115-10 Misconduct in the practice.

Misconduct in the practice of the profession of engineering, architecture, land surveying, or landscape architecture means without limitation the following:

- (1) Acting for licensee's client, or employer, in matters otherwise than as a faithful agent or trustee, or accepting any remuneration other than the licensee's stated recompense for services rendered;
- (2) To knowingly injure or attempt to injure falsely or maliciously, directly or indirectly, the professional reputation, prospects, or practice of another engineer, architect, land surveyor, or landscape architect;
- (3) Advertising in a false, misleading, or deceptive manner;
- (4) "Plan stamping"; i.e. sealing, stamping, or certifying any document which was not prepared by or supervised by the licensee; and
- (5) Misrepresentation, deceit, fraud, gross negligence, and other offenses relating to misconduct of the licensee's practice. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-10, 464-11)

§16-115-10.5 Examination misconduct. (a) Any misconduct by an applicant in applying for, taking, or subsequent to the examination shall be prohibited and shall invalidate any grade earned by an applicant on any section of the examination, and may warrant summary expulsion from the test site, disqualification from taking the examination permanently or for a specified period of time, and other action deemed appropriate by the board. [Eff and comp]
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-10)

§16-115-11 Oral testimony. (a) The board shall accept oral testimony on any item which is on the board's agenda, provided that the testimony shall be subject to the following conditions:

- (1) Each person seeking to present oral testimony is requested to notify the board not later than forty-eight hours prior to the meeting, and at that time, to state the item on which testimony is to be presented;
- (2) The board may request that any person providing oral testimony submit the remarks, or a summary of the remarks, in writing to the board;
- (3) The board may rearrange the items on the agenda for the purpose of providing for the most efficient and convenient presentation of oral testimony;
- (4) Persons presenting oral testimony shall, at the beginning of the testimony, identify themselves and the organization, if any, that they represent;
- (5) The board may limit oral testimony to a specified time period; provided that the period is not less than five minutes, and the person testifying be informed prior to the commencement of the testimony of the time constraints to be imposed; and

- (6) The board may refuse to hear any testimony which is irrelevant, immaterial, or unduly repetitious to the agenda item on which it is presented.

(b) Nothing in this section shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is the subject of another pending proceeding subject to the hearing's relief, declaratory relief, or rule relief provisions of chapter 16-201.

(c) Nothing in this section shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the board on any particular matter on the board's agenda. [Eff 8/29/94; comp 10/26/01; am and comp 5/23/13; comp]
(Auth: HRS §464-7) (Imp: HRS §92-3)

§16-115-12 Denial. In the event an application for the issuance of a license or for the reinstatement thereof is denied, the board shall notify the applicant by letter of the board's action which shall include a concise statement of the reasons therefor and a statement informing the applicant of the applicant's right to a hearing if the applicant so desires. Where the board has approved an application for licensure subject to the applicant passing an examination, but the applicant fails the examination, notice of failure of the examination shall be deemed sufficient notice under this rule. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; am and comp]
(Auth: HRS §464-7) (Imp: HRS §§464-7, 91-2)

§16-115-13 Demand for hearing. Any person whose application for a license or whose application for the reinstatement of a license has been denied by the board shall be entitled to a hearing after notice,

provided that the demand for a hearing is filed with the board within sixty days of the date of mailing of the letter informing the applicant of the denial of applicant's application. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: §§464-7, 91-2)

§16-115-14 Proceedings upon demand for hearing.

If a demand for hearing is filed within the time prescribed, the board shall order a hearing upon notice, which shall be conducted pursuant to chapter 91, HRS, and chapter 16-201, Administrative Practice and Procedure. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 91-9)

§16-115-15 Administrative practice and procedure. The rules of practice and procedure for engineers, architects, surveyors, and landscape architects shall be as provided in chapter 16-201, the rules of practice and procedure of the department of commerce and consumer affairs, which are incorporated by reference and made a part of this chapter. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 91-2)

SUBCHAPTER 2

PROFESSIONAL ENGINEERS

§16-115-21 Branches of engineering. A person may qualify for licensure in the following branches of engineering:

- (1) Agricultural;
- (2) Chemical;
- (3) Civil;
- (4) Electrical;
- (5) Environmental;
- (6) Fire Protection;
- (7) Industrial;
- (8) Mechanical; or
- (9) Structural. [Eff 8/29/94; comp 10/26/01;
comp 5/23/13; am and comp]
(Auth: HRS §464-7) (Imp: HRS §§464-1,
464-7)

§16-115-22 Forms and instructions. To apply for licensure, a person shall complete and file with the board the appropriate application forms. The following forms are currently in use by the board:

- (1) Application for Licensure-Engineer;
- (2) Additional Experience Form;
- (3) Verification of Lawful Experience; and
- (4) Verification of Experience in Responsible Charge.

The aforementioned forms may be modified from time to time as required. [Eff 8/29/94; am and comp 10/26/01;
am and comp 5/23/13; am and comp]
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

§16-115-24 Licensure by endorsement. (a) The engineer committee shall review a person's qualifications for licensure by endorsement and make recommendations to the board.

(b) To be eligible for licensure by endorsement, a person shall hold a current license from another jurisdiction, currently possess the appropriate

education and lawful experience requirements provided in section 464-8(a)(2) to (6), HRS, and sections 16-115-33(a) and 16-115-39, and shall:

- (1) Have successfully passed the NCEES fundamentals of engineering examination or a similar state-produced licensing examination; provided that this examination requirement may be waived if the person has at least fifteen years of experience in responsible charge of the appropriate branch of engineering work as approved by the board; and
- (2) Have successfully passed the NCEES professional engineering branch or combined examination, or the board-produced structural engineering examination, or a similar state-produced licensing examination.

(c) Every person shall certify on the application that the person has read, understood, and agreed to comply with the laws and rules of the board.

(d) A person applying for licensure by endorsement shall file an Application for Licensure-Engineer. The application shall be accompanied by the application fee, which shall not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school or college approved by the board; provided that if the applicant is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;
- (2) Verification of Lawful Experience completed by supervisors who are licensed professional engineers and in the same branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is

- considered a part of civil engineering, the applicant shall submit Verification of Lawful Experience completed by supervisors who are licensed professional civil engineers in that jurisdiction; and
- (3) If applicable, Verification of Experience in Responsible Charge completed by licensed professional engineers who are in the same branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification of Experience in Responsible Charge completed by licensed professional civil engineers in that jurisdiction. If the applicant operated as a sole proprietorship, the applicant shall complete and submit Verification of Experience in Responsible Charge; or
 - (4) Appropriate NCEES records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-26 Licensure by examination. (a) The engineer committee shall review a person's qualifications for licensure by examination and make recommendations to the board.

(b) To be eligible for licensure by examination, the person shall:

- (1) Meet the qualifications as contained in section 464-8(a)(2) to (6), HRS;
- (2) Have passed the appropriate examinations as contained in section 16 115-27; and
- (3) Certify on the application that the person has read, understood, and agrees to comply with the laws and rules of the board. [Eff

8/29/94; am and comp 10/26/01; comp 5/23/13;
comp] (Auth: HRS §464-7)
(Imp: HRS §§464-7, 464-8)

§16-115-27 Examination requirements for licensure. (a) A person applying for licensure by examination shall be required to pass the following examinations:

- (1) NCEES fundamentals of engineering examination; and
- (2) NCEES professional engineering branch examination.

(b) The board reserves the right to modify or supplement the examinations. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp]
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-29 Passing score. The passing score shall be:

- (1) A grade of not less than seventy for the NCEES fundamentals of engineering and professional engineering branch examinations, or a grade of pass for similar state-produced licensing examinations; and
- (2) For structural engineers, a grade of not less than seventy for Part I and a grade of pass for both portions of Part II of the NCEES structural engineering examination, or a grade of not less than seventy or pass for a state-produced structural engineering licensing examination. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-31 Examination-fundamentals of engineering: qualifications, application, fees, required documents. (a) To be eligible for the NCEES fundamentals of engineering examination, the person shall:

- (1) Hold a master's degree in engineering from an institution of higher education approved by the board;
- (2) Be a graduate of a school or college of engineering approved by the board;
- (3) Be a graduate of a school or college approved by the board, have completed an engineering technology curriculum of four years or more or an arts and science curriculum of four years or more with a math, science, or science-related major and have not less than two years of full-time lawful experience or the part-time equivalent in engineering;
- (4) Be in the last year of an engineering curriculum at a school or college approved by the board with graduation expected not later than seven months from the date of application as confirmed by the dean of the applicant's school or college of engineering. If graduation does not occur within the seven-month period, the application shall be void; or
- (5) Have not less than nine years of full-time lawful experience or part-time equivalent in engineering.

(b) A person applying for the NCEES fundamentals of engineering examination shall file an Application for Licensure-Engineer no later than ninety days prior to the examination. The application shall be accompanied by the application fee, which shall not be refunded, the examination fee, which may not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school or college approved

by the board; provided that if the applicant is educated in a foreign institution, school or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;

- (2) Verification of Lawful Experience completed by supervisors who are licensed professional engineers and in the same branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification of Lawful Experience completed by supervisors who are licensed professional civil engineers in that jurisdiction; and
- (3) If applicable, Verification of Experience in Responsible Charge completed by licensed professional engineers who are in the same branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification of Experience in Responsible Charge completed by licensed professional civil engineers in that jurisdiction; or
- (4) Appropriate NCEES records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp]
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-33 Examination-professional engineering: qualifications, application, fees, required documents.

(a) To be eligible for the NCEES professional engineering branch examination, the person shall:

- (1) Hold a master's degree in engineering from an institution of higher education approved by the board, be a graduate of a school or college approved by the board, have completed an engineering curriculum of four years or more, and have not less than three years of full-time lawful experience or the part-time equivalent in engineering;
- (2) Hold a master's degree in engineering from an institution of higher education approved by the board and have not less than four years of full-time lawful experience or the part-time equivalent in engineering;
- (3) Be a graduate of a school or college approved by the board, have completed an engineering curriculum of four years or more, and have not less than four years of full-time lawful experience or the part-time equivalent in engineering;
- (4) Be a graduate of a school or college approved by the board, have completed an engineering technology curriculum of four years or more or an arts and science curriculum of four years or more with a math, science, or science-related major, and have not less than eight years of full-time lawful experience or the part-time equivalent in engineering; or
- (5) Have not less than twelve years of full-time lawful experience or part-time equivalent in engineering.

(b) A person applying for the NCEES professional engineering branch examination in the civil, chemical, electrical or mechanical branch shall file an Application for Licensure-Engineer no later than ninety days prior to the examination.

(c) A person applying for the NCEES professional engineering branch examination in the agricultural, industrial or structural branch shall file an Application for Licensure-Engineer no later than ninety days prior to the examination.

(d) The application shall be accompanied by the application fee, which shall not be refunded, the examination fee, which may not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school or college approved by the board; provided that if the applicant is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;
- (2) Verification of Lawful Experience completed by supervisors who are licensed professional engineers and in the same branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification of Lawful Experience completed by supervisors who are licensed professional civil engineers in that jurisdiction; and
- (3) If applicable, Verification of Experience in Responsible Charge completed by licensed professional engineers who are in the same branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification of Experience in Responsible Charge completed by licensed professional civil engineers in that jurisdiction; or
- (4) Appropriate NCEES records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp]

(Auth: HRS §464-7) (Imp: HRS §§464-7,
464-8)

§16-115-35 Examination-professional engineering (additional branch): qualifications, application, fees, required documents. (a) To be eligible for the NCEES professional engineering branch examination for the additional branch, the person shall:

- (1) Hold a current professional engineer's license; and
- (2) Meet the educational and experience requirements as contained in section 16-115-33(a).

(b) A person applying for the NCEES professional engineering branch examination in the additional civil, chemical, electrical or mechanical branch shall file an Application for Licensure-Engineer no later than ninety days prior to the examination.

(c) A person applying for the NCEES professional engineering branch examination in the additional agricultural, industrial or structural branch shall file an Application for Licensure-Engineer no later than ninety days prior to the examination.

(d) The application shall be accompanied by the application fee, which shall not be refunded, the examination fee, which may not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school or college approved by the board; provided that if the applicant is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;
- (2) Verification of Lawful Experience completed by supervisors who are licensed professional engineers and in the same branch in which

- the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification of Lawful Experience completed by supervisors who are licensed professional civil engineers in that jurisdiction; and
- (3) If applicable, Verification of Experience in Responsible Charge completed by licensed professional engineers who are in the same branch in which the person seeks licensure. For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, the applicant shall submit Verification of Experience in Responsible Charge completed by licensed professional civil engineers in that jurisdiction; or
 - (4) Appropriate NCEES records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp]
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-37 Reexamination. (a) A person may retake the examination(s) failed.

(b) A person applying to retake the NCEES fundamentals of engineering or the NCEES professional engineering branch examination in the civil, chemical, electrical, or mechanical branch shall file an Application for Reexamination no later than ninety days prior to the examination.

(c) A person applying to retake the NCEES professional engineering branch examination in the agricultural, industrial, or structural branch shall file an Application for Reexamination no later than ninety days prior to the examination.

(d) The application shall be accompanied by the examination fee, which may not be refunded. [Eff 8/29/94; comp 10/26/01; am and comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-39 Lawful experience. (a) The following may be acceptable lawful experience subject to the evaluation and approval of the board:

- (1) Field, including construction, and office training or experience in engineering under the supervision of licensed professional engineers who are in the same branch in which the person seeks licensure;
- (2) For structural engineering applicants from a jurisdiction in which structural engineering is considered a part of civil engineering, field and office training in structural engineering under the supervision of a licensed professional civil engineer in that jurisdiction; or
- (3) Teaching in an accredited institution, school, or college of engineering. Maximum experience credit for teaching shall be one year of teaching third, fourth, or fifth year courses. One year of teaching shall be considered to be a total teaching load of twenty semester credit hours or thirty quarter credit hours. The teaching credit can be applied only where minimum full-time lawful experience requirements are more than two years.

(b) Lawful experience may only be applied to one branch or profession. For lawful experience to be acceptable, each engagement shall be separate and distinct; dual credit for engagements that overlap shall not be allowed.

(c) The part-time equivalent of full-time lawful experience shall be calculated as follows: divide the

total hours of part-time lawful experience by 173.33 hours to determine the number of months of full-time lawful experience; where:

- (1) 2,080 hours equals one year of full-time lawful experience; and
- (2) 2,080 hours divided by twelve months equals 173.33 hours or one month of full-time lawful experience.
- (d) Any amount of time in excess of forty hours per week, whether for one or more supervisors, shall be considered full-time experience and shall not be considered part-time experience.
- (e) Experience in responsible charge may be accepted in lieu of lawful experience in the discretion of the board; provided the applicant possesses experience in responsible charge in the ratio of 2:1 of the required lawful experience.
- (f) Lawful experience may be compiled only up to the final filing date of the examination.
- (g) A degree that is used to satisfy education requirements cannot be applied concurrently with experience credit towards licensure. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp
] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-40 Licensure of environmental engineers.

Notwithstanding any provision of this chapter to the contrary, a person may apply for licensure in the environmental branch of engineering by submitting a completed application to the board and shall be required to take and pass an environmental branch examination approved by the board, and comply with the other requirements of this chapter and chapter 464, HRS. [Eff and comp
] (Auth: HRS §464-7) (Imp: §§464-1, 464-7)

§16-115-40.5 Licensure of fire protection engineers. Notwithstanding any provision of this chapter to the contrary, a person may apply for licensure in the fire protection branch of engineering by submitting a completed application to the board and shall be required to take and pass a fire protection branch examination approved by the board, and comply with all the other requirements of this chapter and chapter 464, HRS. [Eff and comp]
(Auth; HRS §464-7) (Imp: HRS §§464-1, 464-7)

SUBCHAPTER 3

ARCHITECTS

§16-115-45 Forms and instructions. To apply for licensure, a person shall complete and file with the board the appropriate application forms. The following forms are currently in use by the board:

- (1) Application for Licensure-Architect;
- (2) Additional Experience Form;
- (3) Verification of Lawful Experience; and
- (4) Verification of Experience in Responsible Charge.

The aforementioned forms may be modified from time to time as required. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp

] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

§16-115-47 Licensure by endorsement. (a) The architect committee shall review a person's qualifications for licensure by endorsement and make recommendations to the board.

(b) To be eligible for licensure by endorsement, a person shall hold a current license from another jurisdiction, currently possess the appropriate education and lawful experience requirements provided in section 464-8(b)(2) to (5), HRS, and sections 16-115-54(a) and 16-115-58, and shall either:

- (1) Hold a current NCARB certificate; or
- (2) Have successfully passed the NCARB architect registration examination (A.R.E.) or a similar state-produced licensing examination.

(c) Every person shall certify on the application that the person has read, understood, and agreed to comply with the laws and rules of the board.

(d) A person applying for licensure by endorsement shall file an Application for Licensure-Architect. The application shall be accompanied by an application fee, which shall not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school or college approved by the board, provided that if the applicant is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials; and
- (2) Either of the following, as applicable:
 - (A) Verification of Lawful Experience completed by supervisors who are licensed professional architects;
 - (B) Verification of Experience in Responsible Charge completed by licensed professional architects. If the applicant operated as a sole proprietorship, the applicant shall complete and submit Verification of Experience in Responsible Charge; or

- (C) Appropriate NCARB records that document completion of the IDP or AXP of NCARB or appropriate documentation from a similar program satisfactory to the board.

A person may submit appropriate NCARB records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-49 Licensure by examination. (a) The architect committee shall review a person's qualification for licensure by examination and make recommendations to the board.

(b) To be eligible for licensure by examination, the person shall:

- (1) Meet the qualifications as contained in section 464-8(b) (2) to 5, HRS;
- (2) Have passed the appropriate examinations as contained in section 16-115-50; and
- (3) Certify on the application that the person has read, understood, and agrees to comply with the laws and rules of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-50 Examination requirements for licensure. (a) A person applying for licensure by examination shall be required to pass the A.R.E.

(b) The board reserves the right to modify or supplement the examinations. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-52 Passing score. The passing score shall be a grade of not less than seventy-five or pass for each of the portions of the A.R.E. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-54 Examination: qualifications, application, fees, documents required. (a) To be eligible for the A.R.E., the person shall either:

- (1) Hold a bachelor's, master's, or higher degree in architecture from a school or college approved by the board as of satisfactory standing, and be enrolled in IDP or AXP;
- (2) Be a graduate of a school or college with an architectural curriculum of four years or a pre-architecture or arts and science curriculum of four years or more, have not less than five years of full-time lawful experience or the part-time equivalent in architecture, and have completed IDP or AXP;
- (3) Be a graduate of a community college or other technical training school with an architectural technology curriculum of two years or more, have not less than eight years of full-time lawful experience or the part-time equivalent in architecture and have completed IDP or AXP; or
- (4) Have not less than eleven years of full-time lawful experience or the part time equivalent in architecture and have completed IDP or AXP.

(b) A person applying for the A.R.E. shall file an Application for Licensure-Architect. The application shall be accompanied by the application fee, which shall not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school, or college approved by the board; provided that if the applicant is educated in a foreign institution, school or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials; and
- (2) Appropriate NCARB records that document completion or enrollment in IDP or AXP of NCARB or appropriate documentation from a similar program satisfactory to the board; and if applicable:
 - (A) Verification of Lawful Experience completed by supervisors who are licensed professional architects; and
 - (B) Verification of Experience in Responsible Charge completed by licensed professional architects.
- (3) A person meeting the requirements in subsection (a)(1) may register for the A.R.E. directly with NCARB. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §§4647, 464-8)

§16-115-56 Reexamination. (a) A person may retake the failed portions of the A.R.E. every six months or at times specified by NCARB.

(b) The testing agency approved by the board shall send a notice of authorization to retake the failed portions of the A.R.E. to the person prior to the date the examination may be retaken.

(c) A person shall schedule the reexamination with the testing agency approved by the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and

comp] (Auth: HRS §464-7) (Imp: HRS
§§464-7, 464-8)

§16-115-58 Lawful experience. (a) The following may be acceptable lawful experience subject to the evaluation and approval of the board:

- (1) Field and office training or experience in architecture under the supervision of licensed professional architects;
- (2) Teaching in an accredited institution, school, or college of architecture. Maximum experience credit for teaching shall be one year of teaching third, fourth, or fifth year courses. One year of teaching shall be considered to be a total teaching load of twenty semester credit hours or thirty quarter credit hours. The teaching credit can be applied only where minimum full-time lawful experience requirements are more than two years;
- (3) IDP or AXP experience approved by the board; or
- (4) Successful completion of the practicum experience component in an architecture doctorate degree program.

(b) Lawful experience may only be applied to one profession. For lawful experience to be acceptable, each engagement shall be separate and distinct; dual credit for engagements that overlap shall not be allowed.

(c) The part-time equivalent of full-time lawful experience shall be calculated as follows: divide the total hours of part-time lawful experience by 173.33 hours to determine the number of months of full-time lawful experience; where:

- (1) 2,080 hours equals one year of full-time lawful experience; and
- (2) 2,080 hours divided by twelve months equals 173.33 hours or one month of full-time lawful experience.

(d) Any amount of time in excess of forty hours per week, whether for one or more supervisors, shall be considered full-time experience and shall not be considered part-time experience.

(e) Experience in responsible charge may be accepted in lieu of lawful experience in the discretion of the board; provided the applicant possesses experience in responsible charge in the ratio of 2:1 of the required lawful experience. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-59 Architectural experience program.

(a) An applicant for examination shall be required to fulfill the training requirements of the current AXP of NCARB as approved by the board.

(b) Completion of the AXP shall fulfill the lawful experience requirement provided in section 16-115-54(a)(1) as approved by the board. For sections 16-115-54(a)(2) to (4), time participating in the AXP shall be credited toward the lawful experience requirement as approved by the board. [Eff and comp 10/26/01; am and comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-60 Continuing education. (a) Continuing education ("CE") shall be required to renew a license for all architects effective as of the biennial renewal date for a license expiring on April 30, 2008, and for every biennial renewal period thereafter. Each licensee shall have completed the CE program requirements for two years preceding the biennial renewal date. All CE courses shall be relevant to public protection subjects, as approved by the board.

(b) Each licensee shall be required to have sixteen CE credit hours for each biennium period as a condition to renew a license, provided that:

- (1) A licensee initially licensed in the first year of the biennium shall complete eight CE credit hours;
- (2) A licensee initially licensed in the second year of the biennium shall not be required to complete any CE credit hours;
- (3) "Credit hours" means one 60-minute clock hour of an educational activity with no less than 50 minutes of instructional content within the hour; and
- (4) CE credits earned in excess of the sixteen required for renewal may not be carried forward to apply towards the next renewal period.

(c) Except as provided in section 16-115-62, failure of a licensee to present evidence of compliance with the CE program requirements shall constitute a forfeiture of license, which may be restored pursuant to section 464-9(c), HRS. [Eff and comp]
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

§16-115-60.5 Requirements for approval by the board. (a) Public protection subjects shall be related to the health, safety, and welfare ("HSW") of the public.

- (1) Such subjects include building design, landscape design, environmental or land use analysis, life safety, architectural programming, site planning, site and soils analyses, plant material, accessibility, structural systems considerations, lateral forces, building codes, evaluation and selection of building systems, products or materials, construction methods, contract documentation, construction administration, energy conservation, zoning and governance

policies and procedures, hurricane/high wind safety and design, sustainability, building in coastal requirements, mold mitigation, and the impact of design on human physiology and neurology;

- (2) CE courses shall be structured educational activities in which the teaching methodology consists primarily of the systematic presentation of public protection subjects by qualified individuals or organizations, including monographs; courses of study taught in person or by correspondence (including courses of study taught by distance education via computer, video, or telephone); organized lectures, presentations, or workshops; and other means through which identifiable technical and professional subjects are presented in a planned manner;
- (3) Teaching or instructing an architectural course, seminar, lecture, presentation, or workshop on a qualifying HSW subject may be used to satisfy the CE requirements of this section, provided that:
 - (A) One credit hour shall be accepted for each hour spent in the actual seminar, lecture, presentation, or workshop;
 - (B) These credits shall only be valid when the course, seminar, lecture, presentation, or workshop is initially taught or instructed and may be acceptable up to a maximum of fifty percent of the required credits; and
 - (C) Teaching credit shall not apply to full-time faculty at a college, university, or other educational institution;
- (4) Contact hours spent in professional service to the public which draws upon the licensee's professional expertise on boards, commissions, and committees of the State or its political subdivisions (e.g., serving on planning commissions, building code advisory boards, urban renewal boards, code study

committees or regulatory boards) may be acceptable up to a maximum of fifty percent of the required credits; and

- (5) The Board shall not pre-approve individual courses or programs.

(b) Licensees shall comply with CE requirements by completing the required number of HSW hours in courses approved or offered by organizations such as the American Institute of Architects (AIA), Construction Specifications Institute (CSI), National Council of Architectural Registration Boards (NCARB), University of Hawaii School of Architecture (UHSoA) or similar organizations devoted to architectural education, design, or construction technology education, as approved by the board. [Eff and comp]
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

§16-115-61 Certification of compliance and audit.

(a) At the time of renewal, each licensee shall certify on the renewal application that the licensee has satisfied all of the CE requirements in this section and chapter.

(b) The Board may audit and shall require any licensee to submit copies of the original documents or evidence of attendance (e.g., certificate of attendance, transcripts, proof of registration, etc.) demonstrating compliance with the CE requirements. The Board may require additional evidence demonstrating the licensee's compliance with the CE requirements.

(c) It shall be the responsibility of each licensee to retain or otherwise produce evidence of such compliance. The evidence shall be retained for at least four years following the renewal period for which the CE courses were taken.

(d) A false certification to the board by a licensee shall be deemed a violation of this chapter and chapter 464, HRS, as applicable, and subject the licensee to disciplinary proceedings. [Eff and comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

§16-115-62 Waiver or modification of requirements.

(a) A licensee seeking renewal of license without full compliance of the CE requirements shall submit:

- (1) A written request for waiver or modification of the CE requirements, with an explanation why the waiver or modification is being sought; and
- (2) Other supporting documents.

(b) The board may grant a waiver or modification of the CE requirements for:

- (1) A licensee who is a member of the armed forces, national guard or a reserve component on full-time active duty and deployed for a period of time exceeding one hundred twenty consecutive days during the renewal period, where such activity restricts participation in a CE program;
- (2) A licensee who demonstrates to the satisfaction of the board that meeting these requirements would constitute an undue hardship by reason of a medical disability, illness, or other clearly extenuating circumstances. Such supporting documentation shall be in the form of a sworn statement by the licensee, and a statement from a physician or medical records which show that the disability or illness prevented the licensee's participation in active practice and in the CE program during a substantial part of the renewal period;
- (3) A licensee who has retired from practice but wishes to maintain a license may be exempt from the CE requirement; provided that the licensee has not performed any architectural services and have not sealed or signed any documents in the preceding two-year period. A licensee who is granted a retired status shall not perform any architectural services during the renewal biennial period; or

- (4) A licensee who has been granted an exemption and desires to reenter active practice shall complete CE requirements for each year of inactive practice, not to exceed thirty-two CE credit hours. [Eff and comp]
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

SUBCHAPTER 4

LAND SURVEYORS

§16-115-64 Forms and instructions. To apply for licensure, a person shall complete and file with the board the appropriate application forms. The following forms are currently in use by the board:

- (1) Application for Licensure-Land Surveyor;
- (2) Additional Experience Form;
- (3) Verification of Lawful Experience; and
- (4) Verification of Experience in Responsible Charge.

The aforementioned forms may be modified from time to time as required. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

§16-115-66 Licensure by endorsement. (a) The land surveyor committee shall review a person's qualifications for licensure by endorsement and make recommendations to the board.

(b) To be eligible for licensure by endorsement, a person shall hold a current license from another jurisdiction, currently possess the appropriate

education and lawful experience requirements provided in section 464-8(c)(1)(B) to (D), HRS, and sections 16-115-75(a) and 16-115-79, and shall:

- (1) Have successfully passed the NCEES fundamentals of land surveying examination provided that this examination requirement may be waived if the person has at least 15 years of experience in responsible charge of land surveying work as approved by the board; and
- (2) Have successfully passed the NCEES professional land surveying examination.
- (c) Every person shall be required to pass the board-produced professional land surveying examination and certify on the application that the person has read, understood, and agrees to comply with the laws and rules of the board.
- (d) A person applying for licensure by endorsement shall file an Application for Licensure-Land Surveyor. The application shall be accompanied by the application fee, which shall not be refunded, and the following applicable documents:
 - (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school or college approved by the board; provided that if the applicant is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;
 - (2) Verification of Lawful Experience completed by supervisors who are licensed professional land surveyors; and
 - (3) If applicable, Verification of Experience in Responsible Charge completed by licensed professional land surveyors. If the applicant operated as a sole proprietorship, the applicant shall complete and submit Verification of Experience in Responsible Charge; or

- (4) Appropriate NCEES records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-68 Licensure by examination. (a) The land surveyor committee shall review a person's qualifications for licensure by examination and make recommendations to the board.

(b) To be eligible for licensure by examination, the person shall:

- (1) Meet the qualifications as contained in section 464-8(c)(1)(B) to (D), HRS;
- (2) Have passed the appropriate examinations as contained in section 16-115-69; and
- (3) Certify on the application that the person has read, understood, and agrees to comply with the laws and rules of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-69 Examination requirements for licensure. (a) A person applying for licensure by examination shall be required to pass the following examinations:

- (1) NCEES fundamentals of land surveying examination;
- (2) NCEES professional land surveying examination; and
- (3) Board-produced professional land surveying examination.

(b) The board reserves the right to modify or supplement the examinations. [Eff 8/29/94; comp

10/26/01; comp 5/23/13; am and comp]
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-71 Passing score. The passing score shall be:

- (1) A grade of not less than seventy for the NCEES fundamentals of land surveying and professional land surveying examinations, or a grade of pass; and
- (2) A grade of not less than seventy for the board-produced professional land surveying examination. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-73 Examination-fundamentals of land surveying: qualifications, application, fees, required documents. (a) To be eligible for the NCEES fundamentals of land surveying examination, the person shall:

- (1) Be a graduate of a school or college approved by the board and have completed a land surveying, geo-science, civil engineering, or general engineering curriculum of four years or more;
- (2) Be a graduate of a school or college approved by the board, have completed a civil engineering technology (survey option) curriculum of two years or more or arts and science curriculum of four years or more with a math, science, or science-related major and have not less than five years of full-time lawful experience or the part-time equivalent in land surveying;
- (3) Be in the last year of a land surveying, geo-science, civil engineering, or general engineering curriculum at a school or

college approved by the board with graduation expected not later than seven months from the date of application as confirmed by the dean of the applicant's school or college. If graduation does not occur within the seven-month period, the application shall be void; or

- (4) Have not less than nine years of full-time lawful experience or the part-time equivalent in land surveying.

(b) A person applying for the NCEES fundamentals of land surveying examination shall file an Application for Licensure-Land Surveyor no later than ninety days prior to the examination. The application shall be accompanied by the application fee, which shall not be refunded, the examination fee, which may not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school, or college approved by the board; provided that if the applicant is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;
- (2) Verification of Lawful Experience completed by supervisors who are licensed professional land surveyors; and
- (3) If applicable, Verification of Experience in Responsible Charge completed by licensed professional land surveyors; or
- (4) Appropriate NCEES records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp]
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-75 Examination-professional land surveying: qualifications, application, fees, required documents. (a) To be eligible for the NCEES or board-produced professional land surveying examination, the person shall:

- (1) Be a graduate of a school or college approved by the board, have completed a land surveying, geo-science, civil engineering, or general engineering curriculum of four years or more and also have not less than three years of full-time lawful experience or part-time equivalent in land surveying;
- (2) Be a graduate of a school or college approved by the board, have completed a civil engineering technology (survey option) curriculum of two years or more or arts and sciences curriculum of four years or more with a math, science, or science-related major, and also have not less than seven years of full-time lawful experience or the part-time equivalent in land surveying; or
- (3) Have not less than eleven years of full-time lawful experience or the part time equivalent in land surveying.

(b) A person applying for the NCEES or board-produced professional land surveying examination shall file an Application for Licensure-Land Surveyor no later than ninety days prior to the examination. The application shall be accompanied by the application fee, which shall not be refunded, the examination fee, which may not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school, or college approved by the board; provided that if the applicant is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has

- evaluated the person's foreign educational credentials;
- (2) Verification of Lawful Experience completed by supervisors who are licensed professional land surveyors; and
 - (3) If applicable, Verification of Experience in Responsible Charge completed by licensed professional land surveyors; or
 - (4) Appropriate NCEES records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp]
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-77 Reexamination. (a) A person may retake the examination(s) failed.

(b) A person applying to retake the NCEES fundamentals of land surveying examination, NCEES professional land surveying examination, and board-produced professional land surveying examination shall file an Application for Reexamination no later than ninety days prior to the examination.

(c) The application shall be accompanied by the examination fee, which may not be refunded. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-79 Lawful experience. (a) The following may be acceptable lawful experience subject to the evaluation and approval of the board:

- (1) Field and office training or experience in land surveying under the supervision of licensed professional land surveyors; or
- (2) Teaching in an accredited institution, school, or college. Maximum experience credit for teaching shall be one year of

teaching third, fourth, or fifth year courses. One year of teaching shall be considered to be a total teaching load of twenty semester credit hours or thirty quarter credit hours. The teaching credit can be applied only where minimum full-time lawful experience requirements are more than two years.

(b) Lawful experience may only be applied to one profession. For lawful experience to be acceptable, each engagement shall be separate and distinct; dual credit for engagements that overlap shall not be allowed.

(c) The part-time equivalent of full-time lawful experience shall be calculated as follows: divide the total hours of part-time lawful experience by 173.33 hours to determine the number of months of full-time lawful experience; where:

- (1) 2,080 hours equals one year of full-time lawful experience; and
- (2) 2,080 hours divided by twelve months equals 173.33 hours or one month of full-time lawful experience.

(d) Any amount of time in excess of forty hours per week, whether for one or more supervisors, shall be considered full-time experience and shall not be considered part-time experience.

(e) Experience in responsible charge may be accepted in lieu of lawful experience in the discretion of the board; provided the applicant possesses experience in responsible charge in the ratio of 2:1 of the required lawful experience.

(f) Lawful experience may be compiled only up to the final filing date of the examination.

(g) A degree that is used to satisfy education requirements cannot be applied concurrently with experience credit towards licensure. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp

] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

SUBCHAPTER 5

LANDSCAPE ARCHITECTS

§16-115-85 Forms and instructions. To apply for licensure, a person shall complete and file with the board the appropriate application forms. The following forms are currently in use by the board:

- (1) Application for Licensure-Landscape Architect;
- (2) Additional Experience Form;
- (3) Verification of Lawful Experience; and
- (4) Verification of Experience in Responsible Charge.

The aforementioned forms may be modified from time to time as required. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-9)

§16-115-87 Licensure by endorsement. (a) The landscape architect committee shall review a person's qualifications for licensure by endorsement and make recommendations to the board.

(b) To be eligible for licensure by endorsement, a person shall hold a current license from another jurisdiction, currently possess the appropriate education and lawful experience requirements provided in section 464-8(d) (2) to (5), HRS, and sections 16-115-94(a) and 16-115-98, and shall have successfully passed a CLARB landscape architectural licensing examination.

(c) Every person shall be required to pass the board-produced landscape architectural licensing examination on the State's climatic conditions, native plants and ecosystems, land use ordinances and special

management area requirements, and cultural and historical conditions affecting landscape architecture, and certify on the application that the person has read, understood, and agreed to comply with the laws and rules of the board.

(d) A person applying for licensure by endorsement shall file an Application for Licensure-Landscape Architect. The application shall be accompanied by an application fee, which shall not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation or official transcripts from an institution, school or college approved by the board; provided that if the applicant is educated in a foreign institution, school, or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;
- (2) Verification of Lawful Experience completed by supervisors who are licensed professional landscape architects; and
- (3) If applicable, Verification of Experience in Responsible Charge completed by licensed professional landscape architects. If the applicant operated as a sole proprietorship, the applicant shall complete and submit Verification of Experience in Responsible Charge; or
- (4) Appropriate CLARB records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; am and comp]
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-89 Licensure by examination. (a) The landscape architect committee shall review a person's

qualifications for licensure by examination and make recommendations to the board.

(b) To be eligible for licensure by examination, the person shall:

- (1) Meet the qualifications as contained in section 464-8(d)(2) to (5);
- (2) Have passed the appropriate examinations as contained in section 16-115-90; and
- (3) Certify on the application that the person has read, understood, and agreed to comply with the laws and rules of the board. [Eff 8/29/94; am and comp 10/26/01; am and comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-90 Examination requirements for licensure. (a) A person applying for licensure by examination shall be required to pass the following examinations:

- (1) CLARB landscape architectural licensing examination; and
- (2) Board-produced landscape architectural licensing examination on the State's climatic conditions, native plants and native ecosystems, land use ordinances and special management area requirements, and cultural and historical conditions affecting landscape architecture.

(b) The board reserves the right to modify or supplement the examinations. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-92 Passing score. The passing score shall be:

- (1) A grade of not less than seventy-five for each section of the CLARB landscape architectural licensing examination, or a

- grade of pass for similar state-produced licensing examination; and
- (2) A grade of not less than seventy-five for the board-produced landscape architectural licensing examination. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-94 Examination: qualifications, application, fees, required documents. (a) To be eligible for the CLARB or board-produced landscape architectural licensing examinations, the person shall:

- (1) Hold a master's degree in landscape architecture from an institution of higher education approved by the board, be a graduate of a school or college approved by the board, have completed a landscape architecture curriculum of four years or more and have not less than two years of full-time lawful experience or the part-time equivalent in landscape architecture;
- (2) Be a graduate of a school or college approved by the board, have completed a landscape architectural curriculum of four years or more and also have not less than three years of full-time lawful experience or the part-time equivalent in landscape architecture;
- (3) Be a graduate of a school or college approved by the board, have completed a pre-landscape architectural or arts and science curriculum of four years or more and also have not less than five years of full-time lawful experience or the part-time equivalent in landscape architecture; or
- (4) Have not less than twelve years of full-time lawful experience or part-time equivalent in landscape architecture.

(b) A person applying for the CLARB or board-produced landscape architectural licensing examination shall file an Application for Licensure-Landscape Architect no later than ninety days prior to the examination. The application shall be accompanied by the application fee, which shall not be refunded, the examination fee, which may not be refunded, and the following applicable documents:

- (1) A certified copy of a diploma or certificate of graduation, or official transcripts from an institution, school, or college approved by the board; provided that if the applicant is educated in a foreign institution, school or college, the applicant shall submit an official report by a professional service approved by the board which has evaluated the person's foreign educational credentials;
- (2) Verification of Lawful Experience completed by supervisors who are licensed professional landscape architects; and
- (3) If applicable, Verification of Experience in Responsible Charge completed by licensed professional landscape architects; or
- (4) Appropriate CLARB records that document any of the above to the satisfaction of the board. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp]
(Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-96 Reexamination. (a) A person may retake the failed portions of the CLARB landscape architectural examination or the board-produced landscape architectural examination.

(b) A person applying to retake the failed portions of the CLARB landscape architectural licensing examination or board-produced landscape architectural licensing examination shall file an

Application for Reexamination no later than ninety days prior to the examination.

(c) The application shall be accompanied by the examination fee which may not be refunded. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; am and comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-98 Lawful experience. (a) The following may be acceptable lawful experience subject to the evaluation and approval of the board:

- (1) Field and office training or experience in landscape architecture under the supervision of licensed professional landscape architects; or
- (2) Teaching in an accredited institution, school, or college of landscape architecture. Maximum experience credit for teaching shall be one year of teaching third, fourth, or fifth year courses. One year of teaching shall be considered to be a total teaching load of twenty semester credit hours or thirty quarter credit hours. The teaching credit can be applied only where minimum full-time lawful experience requirements are more than two years.

(b) Lawful experience may only be applied to one profession. For lawful experience to be acceptable, each engagement shall be separate and distinct; dual credit for engagements that overlap shall not be allowed.

(c) The part-time equivalent of full-time lawful experience shall be calculated as follows: divide the total hours of part-time lawful experience by 173.33 hours to determine the number of months of full-time lawful experience; where:

- (1) 2,080 hours equals one year of full-time lawful experience; and

(2) 2,080 hours divided by the twelve months equals 173.33 hours or one month of full-time lawful experience.

(d) Any amount of time in excess of forty hours per week, whether for one or more supervisors, shall be considered full-time experience and shall not be considered part-time experience.

(e) Experience in responsible charge may be accepted in lieu of lawful experience in the discretion of the board; provided the applicant possesses experience in responsible charge in the ratio of 2:1 of the required lawful experience.

(f) Lawful experience may be compiled only up to the final filing date of the examination. [Eff 8/29/94; am and comp 10/26/01; comp 5/23/13; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

Amendments to and compilation of chapter 16-115, Hawaii Administrative Rules, on the Summary page dated April 24, 2023, were adopted on April 24, 2023, following a public hearing held on April 24, 2023, after public notice was published in the Garden Island, Maui News, West Hawaii Today, Hawaii Tribune-Herald, and Star Advertiser on March 23, 2023.

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

APPROVED:



NADINE Y ANDO
Director of Commerce and
Consumer Affairs

Date: _____

JOSH GREEN, M.D.
Governor
State of Hawaii

Date: _____

APPROVED AS TO FORM:



Christopher Leong
Deputy Attorney General

Filed

IV. NEW BUSINESS

- A. Discussion and Action on the Proposed Amendments to HAR Title 13 Chapter 74, **License and Permit Provisions and Fees for Fishing, Fish, and Fish Products**, promulgated by DLNR

PRE-PUBLIC HEARING SMALL BUSINESS IMPACT STATEMENT
TO THE
SMALL BUSINESS REGULATORY REVIEW BOARD
(Hawaii Revised Statutes §201M-2)

Date: _____

Department or Agency: _____

Administrative Rule Title and Chapter: _____

Chapter Name: _____

Contact Person/Title: _____

E-mail: _____ Phone: _____

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?

☐ Yes ☐ No

If "Yes," provide details: _____

I. Rule Description:

☐ New ☐ Repeal ☐ Amendment ☐ Compilation

II. Will the proposed rule(s) affect small business?

☐ Yes ☐ No

(If "No," no need to submit this form.)

* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

* "Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?

☐ Yes ☐ No

(If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))

☐ Yes ☐ No

(If "Yes" no need to submit this form.)

* * *

If the proposed rule affects small business and are not exempt as noted above, please provide a reasonable determination of the following:

1. Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected.

2. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.

If the proposed rule imposes a new or increased fee or fine:

- a. Amount of the current fee or fine and the last time it was increased.

 - b. Amount of the proposed fee or fine and the percentage increase.

 - c. Reason for the new or increased fee or fine.

 - d. Criteria or methodology used to determine the amount of the fee or fine (i.e., Consumer Price Index, Inflation rate, etc.).
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3. The probable monetary costs and benefits to the agency or other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used.

4. The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or other mitigating techniques.
5. The availability and practicability of less restrictive alternatives that could be implemented in lieu of the proposed rules.
6. Consideration of creative, innovative, or flexible methods of compliance for small businesses. The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules.
7. How the agency involved small business in the development of the proposed rules.
 - a. If there were any recommendations made by small business, were the recommendations incorporated into the proposed rule? If yes, explain. If no, why not.

8. Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

If yes, please provide information comparing the costs and benefits of the proposed rules to the costs and benefits of the comparable federal, state, or county law, including the following:

- a. Description of the public purposes to be served by the proposed rule.
- b. The text of the related federal, state, or county law, including information about the purposes and applicability of the law.
- c. A comparison between the proposed rule and the related federal, state, or county law, including a comparison of their purposes, application, and administration.
- d. A comparison of the monetary costs and benefits of the proposed rule with the costs and benefits of imposing or deferring to the related federal, state, or county law, as well as a description of the manner in which any additional fees from the proposed rule will be used.
- e. A comparison of the adverse effects on small business imposed by the proposed rule with the adverse effects of the related federal, state, or county law.

* * *

Small Business Regulatory Review Board / DBEDT
Phone: (808) 586-2594 / Email: DBEDT.sbrrb.info@hawaii.gov

This Statement may be found on the SBRRB Website at: <http://dbedt.hawaii.gov/sbrrb/resources/small-business-impact-statements>

ATTACHMENT A: Supplement to the Pre-Public Hearing Small Business Impact Statement to the Small Business Regulatory Review Board

HAR Chapter 13-74 – License and Permit Provisions and Fees for Fishing, Fish, and Fish Products

A. Statement of the topic of the proposed rules or a general description of the subjects involved:

Request to Hold Public Hearings on Proposed Amendments to and Compilation of Chapter 13-74, Hawaii Administrative Rules, "License and Permit Provisions and Fees for Fishing, Fish, and Fish Products," to Establish and Add Provisions for a New Nonresident Recreational Marine Fishing License Pursuant to Section 188-72, Hawaii Revised Statutes (HRS), Establish and Add Provisions for a New Commercial Marine Vessel License Pursuant to HRS §189-2, Establish and Add Provisions for a New Commercial Marine Dealer License Pursuant to HRS §189-10, Increase the Fee for the Bait License, the Mullet Pond Operator and Closed Season Sales License, the Kona Crab and Lobster Closed Season Sales License, the Special Marine Animal or Product Possession and Sale License, and the Aquaculture License from \$50.00 to \$100.00, Establish a Fee of \$200 for a License to Sell Reared Species, Clarify the Penalties for Violations of the Chapter, Add Asset Forfeiture as an Administrative Enforcement Tool Within the Chapter, and make Other Non-Substantive Housekeeping Amendments for Clarity and Consistency With Other Chapters.

B. III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?

The Nonresident Recreational Marine Fishing License is being adopted to implement HRS §188-72, which does not require the agency to interpret the requirements of the statute. The remaining proposed rule amendments are not strictly constrained by statutory requirements and allow DLNR-DAR to establish requirements through rulemaking.

1. Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected.

Small businesses required to comply with the proposed rules will include:

- a) Commercial Marine Dealers including seafood dealers, wholesalers, and restaurants that buy marine life landed in the State of Hawaii directly from commercial fishers.
- b) Commercial fishers that possess a bait license.
- c) Mullet pond operators that catch juvenile striped mullet lawfully in the closed season and sell such pond raised mullet during the closed season.
- d) Businesses or individuals that possess, sell, or offer for sale during the closed season Kona crab or lobster lawfully caught in Hawaii waters during the open season.
- e) Businesses or individuals that possess, sell, or offer for sale any marine animal taken outside of waters of the State when such taking, possession, or sale is prohibited within waters of the of the State.
- f) Aquaculture facility operators that fish for, rear, possess, or sell aquatic life whose fishing, possession, or sale is prohibited by closed season, minimum size, or bag limit.

- g) Businesses or individuals that possess, sell, or offer for sale any aquatic life whose fishing, possession, or sale is prohibited by closed season, minimum size, or bag limit provided that the aquatic life was reared in a licensed aquaculture facility.

2. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.

Commercial Marine Dealers, noted above as a), will be required to obtain an annual \$100 Commercial Marine Dealer License. Commercial Marine Dealers are currently required to register and report their transactions weekly and there will be no change to the existing reporting requirement.

Licenses to sell or possess certain regulated species, noted above as b) through g), will cost \$100 annually. Reporting requirements for particular licenses will increase, i.e., Bait License, but not beyond what is currently required for other commercial take.

If the proposed rule imposes a new or increased fee or fine:

a) Amount of the current fee or fine and the last time it was increased.

- Bait license - \$50, 1999
- Mullet pond operator and closed season sales license - \$50, 1999
- Kona crab and lobster closed season sales license – \$50, 1999
- Special marine animal or product possession and sale license - \$50, 1999
- Aquaculture license - \$50, 1996
- License to sell reared species – free (fee waived)
- Commercial marine dealer license – no existing license

b) Amount of the proposed fee or fine and the percentage increase.

- Bait license - \$100 (100% increase)
- Mullet pond operator and closed season sales license - \$100 (100% increase)
- Kona crab and lobster closed season sales license – \$100 (100% increase)
- Special marine animal or product possession and sale license - \$100 (100% increase)
- Aquaculture license - \$100 (100% increase)
- License to sell reared species – \$200 for two-year license (no previous fee)
- Commercial marine dealer license – \$100 (no previous fee)

c) Reason for the new or increased fee or fine.

The new Commercial Marine Dealer License fee will offset some of the administrative costs to issue the license and develop and maintain the Dealer Licensing and Reporting System.

Fee increases for existing licenses reflect increased costs of issuing these licenses and maintain online licensing systems.

3. The probable monetary costs and benefits to the agency or other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used.

The new Commercial Marine Dealer License fees and the increased fees for the other specialized fishing and dealer licenses are expected to generate approximately \$37,650, which will be deposited into DAR's commercial fish special fund. This fund is used to support DAR's commercial fisheries program (licensing and data processing staff salary and supplies).

The new optional Commercial Marine Vessel License fees are not expected to generate additional revenue. Any revenue generated from CMVLs would be offset by losses from less purchases of individual Commercial Marine Licenses.

The new Nonresident Recreational Marine Fishing License fees are expected to generate approximately \$1 million annually, which will be deposited into DAR's Sportfish Special Fund and used to support recreational fishing projects, such as DAR's Fish Aggregation Device (FAD) program, artificial reefs, stock enhancement, habitat improvement, and outreach and education.

7. How the agency involved small business in the development of the proposed rules.

a) If there were any recommendations made by small business, were the recommendations incorporated into the proposed rule? If yes, explain. If no, why not.

Scoping Commercial Marine Dealers provided the recommendation that the Commercial Marine Dealer License either be forgone or offered at a much lower fee than the proposed \$100. Eliminating the licensing requirement altogether was not adopted as it would not achieve any of DARs stated goals including increasing compliance and enforcement capability. The recommendation to lower the proposed fee was not adopted as DAR feels it is reasonable and commensurate with other DAR-issued licenses.

Charter operators proposed several recommendations including no additional licensing requirement for non-resident recreational fishers and an alternative in which the charter operator would incur part, or all of the licensing costs directly to avoid the licensing requirement falling on their clients. Complete elimination of the proposed Non-Resident Recreational Marine Fishing Licenses was not adopted as it would not be consistent with statutory requirements. The option to pass on client's licensing costs directly to the charter operator was an innovative solution, but was ultimately not adopted as it would require modification to the statute.

Commercial fishers offered some recommendations regarding the Commercial Marine Vessel License including varied pricing for non-longline vessels based on size. This recommendation was found to be valid and was adopted. Longline representatives also provided input regarding average crew size and appropriate cost. Their input was considered in creating the proposed longline-specific vessel fee.

Amendment and Compilation of Chapter 13-74
Hawaii Administrative Rules

(Date of Adoption)

1. Chapter 13-74, Hawaii Administrative Rules, entitled "License and Permit Provisions and Fees for Fishing, Fish, and Fish Products", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART IV FISHERIES RESOURCE MANAGEMENT

CHAPTER 74

LICENSE AND PERMIT PROVISIONS AND FEES
FOR FISHING, FISH, AND FISH PRODUCTS

Subchapter 1 General Provisions

§13-74-1	Definitions
§13-74-2	General license and permit conditions
§13-74-3	Suspension, revocation, and non-issuance of licenses and permits, generally
§13-74-4	Penalties, generally
§13-74-4.5	Asset forfeiture
§§13-74-5 to 13-74-9	(Reserved)

Subchapter 2 Recreational Fishing

§13-74-10	Freshwater game fishing license
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§13-74-11 Nonresident recreational marine fishing
license

Subchapter 3 Commercial Fishing

Subchapter 4 Other Licenses and Permits

SUBCHAPTER 1

§13-74-1 Definitions. As used in this chapter, unless otherwise provided:

"Baitfish" means any of the species listed in section 13-74-22.

"Baitfishing report" means a monthly report that is furnished to the department with respect to any baitfish taken.

~~["Board" means the board of land and natural resources.]~~

"Bottomfish fishing activity" means those fishing activities associated with the taking of bottomfish while on a vessel.

"Catch report" means a monthly report that every commercial marine licensee shall furnish to the department with respect to the marine life taken.

"Commercial marine dealer" means any person who sells or exchanges, or who is an agent in the transfer of marine life obtained directly from a commercial marine licensee, or any commercial marine licensee who sells or exchanges marine life at retail.

"Commercial marine license" means [a] any license issued to take marine life within or outside the State for commercial purpose.

"Commercial marine licensee" means a person who has been issued a commercial marine license pursuant to section 189-2, HRS.

"Commercial marine vessel license" means a license issued to an individual for a specific vessel that allows all crew on board the vessel to take marine life within or outside the State for commercial purpose without requiring each crew member to possess an individual commercial marine license.

"Commercial purpose" means the taking of marine life for profit or gain or as a means of livelihood where the marine life is taken in or outside of the State, or where the marine life is sold, offered for sale, landed, or transported for sale anywhere in the State.

"Department" means the department of land and natural resources.

"Fishing", "fishing activities", or "to fish" means catching, taking, or harvesting, or attempting to catch, take, or harvest, aquatic life. The use of a pole, line, hook, net, trap, spear, or other gear which

is designed to catch, take, or harvest aquatic life, by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be caught, taken, or harvested, shall be deemed to be fishing.

"Freshwater game fishes" means those introduced freshwater fishes as listed in section 13-99-2.

"Freshwater game fishing license" means a license issued to take freshwater game fishes.

"License period" means the period of time during which the license is or was valid.

"Licensee" means any person who has been issued a license pursuant to this chapter.

"Main Hawaiian islands" means those islands, reefs, and shoals, as well as their respective appurtenant reefs and territorial waters of the Hawaiian Islands chain beginning and including Ni'ihau island to and including the Big Island of Hawai'i.

"Marine life" means any type or species of saltwater fish, shellfish, mollusks, crustaceans, coral, or other marine animals, including any part, product, egg, or offspring thereof; or seaweeds or other marine plants, including any part, product, seed, or root thereof.

"Nonresident" means any individual who is not a resident of the State of Hawai'i.

~~["Northwestern Hawaiian Islands" means those islands, reefs, and shoals, as well as their respective appurtenant reefs and territorial waters of the Hawaiian Islands chain beginning and including Nihoa island to and including Kure island.]~~

"Permittee" means any person who has been issued a permit pursuant to this chapter.

"Person" means an individual, partnership, firm, company, corporation, association, or other entity.

"Qualified aquaculturist" means a person, or association of persons, actively engaged in aquaculture farming, aquacultural produce processing, or aquacultural product development activities.

"Resident" means an individual that has established the individual's primary residence and worked in the State continuously for a period of

twelve months or longer immediately prior to applying for~~7~~ or obtaining a license or permit, or has filed or paid the individual's State income taxes for the previous tax period~~-~~, or has established domicile in the State. Domicile may be established by providing documentation including a valid Hawai'i driver's license or identification card, a valid school identification card, or any other official document issued to the individual within the previous thirty days from a government agency, financial institution, insurance company, or utility company.

"Trip" means any bout of fishing activity occurring in state marine waters in the course of a one way or round trip, and generally includes when a vessel has left port or shore until it puts into port or goes ashore, even if not to the point of origin.
[Eff 8/12/93; am 10/18/10; comp 8/27/21; am and comp
] (Auth: HRS §§187A-5, 188-44, 188-45, 188-50, 188-53, 188-57, 189-2, 189-6) (Imp: HRS §§187A-5, 188-44, 188-45, 188-50, 188-53, 188-57, 189-2, 189-6)

§13-74-2 General license and permit conditions.

Except as otherwise provided:

- (1) All licenses and permits issued pursuant to this chapter are non-refundable and non-transferable and shall be valid for not longer than one year from the date of issuance. A duplicate license or permit may be issued upon affidavit that the original has been lost or destroyed, and upon payment of a duplicate license fee; provided that the duplicate license or permit shall expire on the same date as when the original license or permit would have expired;
- (2) A licensee or permittee shall show the license or permit and confirming identification upon the demand of any officer authorized to enforce the fishing laws of the State. No person shall refuse

any such officer the examination of the license or permit and confirming identification, or inspection of any bag or container of any kind that could reasonably be used to carry any aquatic life or any vehicle or conveyance used to transport any aquatic life if such officer [has probable cause, as provided by law, to believe that such bag, container, vehicle, or conveyance contains evidence of a violation of the fishing laws of the State.] reasonably believes that the person is, or recently has been, engaged in fishing activities.

Failure or refusal to show the license or permit and confirming identification or examination and search of any bag, container, vehicle, or conveyance shall be prima facie evidence of a violation of this chapter and sufficient cause for the immediate revocation of the license or permit by the [board,] department;

- (3) No licensee or permittee shall allow any other person to carry, display, or use the license or permit, except if the license or permit is issued ~~[to]~~ for a vessel;
- (4) The department or its agents may issue licenses and permits as authorized by law, and with such conditions necessary to manage, protect, and conserve aquatic life;
- (5) Should a monthly report be required by any license or permit, such report shall be rendered to the department as a true and correct statement of such information the department may require, on or before the tenth day of the following month in which the aquatic resources were taken or purchased, except for the Kona crab and lobster closed season sales license issued pursuant to section 13-74-41 whose report shall be rendered five days after the end of each of the closed season months on forms either furnished by, or approved by the

department;

- (6) Should a trip report be required as a condition of any license or permit, the report shall be timely submitted to the department as a true and correct statement of such information the department may require, on or before the fifth day following the last day of each trip in which aquatic life was landed. A trip report includes such information but is not limited to: start and end dates of the trip, locations fished, hours spent fishing at each location; numbers, kinds and weights of aquatic life caught, released, or lost to predators; and
- (7) Any information submitted to the department as required under this section or chapters 187A, 188, and 189, HRS, shall be confidential and shall not be disclosed, except when required under court order or by the state attorney general's office subpoena, or with the prior written consent of the person submitting the information, or under cooperative agreements with United States government agencies for the exchange and use of the information specifically to manage aquatic resources. The department may establish procedures to preserve the confidentiality of submitted information, except that the department may release or make public information in the aggregate or summary form that does not directly or indirectly disclose the identity of any person who submits information. [Eff 8/12/93; am 1/15/99; am 10/18/10; comp 8/27/21; am and comp]
- (Auth: HRS §§187A-5, 187A-5.5, 188-44, 188-45, 188-50, 188-53, 188-57, 189-2, 189-3, 189-3.5, 189-6, 189-10) (Imp: HRS §§187A-2, 187A-5, 187A-12.4, 187A-15, 188-44, 188-45, 188-50, 188-53, 188-57, 189-2, 189-3, 189-3.5, 189-6, 189-10)

§13-74-3 Suspension, revocation and non-issuance of licenses and permits, generally. Except as may be otherwise provided, the ~~[board]~~ department may:

- (1) Suspend any and all licenses and permits issued pursuant to this chapter when such action is necessary for the protection and conservation of the aquatic life;
- (2) Revoke any license or permit issued pursuant to this chapter for any infraction of the terms and conditions of the license or permit and any person whose license or permit was revoked shall not be eligible to be issued another license or permit until the expiration of one year from the date of revocation, unless another time period is specified;
- (3) In any proceeding for the revocation of ~~[a-commercial marine]~~ any license or permit issued pursuant to ~~[section 13-74-20,]~~ this chapter, the licensee or permittee shall be given notice and opportunity for hearing in conformity with chapter 91, HRS. Upon revoking the license~~[,]~~ or permit, the ~~[board]~~ department may specify a period of time during which the ~~[commercial]~~ licensee or permittee shall not be eligible to be issued another license; provided that the period shall not exceed one year from the date of revocation; and
- (4) Refuse to issue any license or permit to a person who is not legally admitted to the United States, who does not provide proper identification, who has unresolved violations of any license or permit issued pursuant to this chapter, or for other just cause. Should the department refuse to issue any license or permit, the department shall give the person notice and an opportunity for hearing in accordance with chapter 91,

HRS. [Eff 8/12/93; am 1/15/99; comp 8/27/21;
am and comp] (Auth: HRS
§§187A-5, 188-44, 188-45, 188-50, 188-53,
189-2, 189-5, 189-6) (Imp: HRS §§187A-5,
188-44, 188-45, 188-50, 188-53, 189-2, 189-
3, 189-5, 189-6)

§13-74-4 Penalties, generally. (a) [A] Unless otherwise provided, any person violating any provision of this chapter, or the terms and conditions of any license or permit issued [as provided by] pursuant to this chapter, shall be [punished as provided by law.] subject to:

- (1) Administrative penalties as provided by section 187A-12.5, HRS,;
- (2) Criminal penalties as provided by sections 187A-13, 188-70, and 189-4, HRS; and
- (3) Any other penalty as provided by law.

(b) Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of the State.

[Eff 8/12/93; am 1/15/99; comp 8/27/21; am and comp
] (Auth: HRS §§187A-5, 188-44, 188-45,
188-50, 188-53, 188-57, 189-2, 189-6) (Imp: HRS
§§187A-5, 187A-12.5, 187A-13, 188-45, 188-50, 188-53,
189-2, 189-6)

§13-74-4.5 Asset forfeiture. Any equipment, article, instrument, aircraft, vehicle, vessel, business record, or natural resource used or taken in violation of this chapter or any of the terms and conditions of any license or permit issued pursuant to this chapter may be seized and subject to forfeiture as provided by section 199-7 and chapter 712A, HRS.
[Eff and comp] (Auth: HRS §§187A-5,
187A-12.5, 188-44, 188-45, 188-50, 188-53, 188-57,
189-2, 189-6) (Imp: HRS §199-7, ch. 712A)

SUBCHAPTER 2

RECREATIONAL FISHING

§13-74-10 Freshwater game fishing license. (a)

No person~~[, except children below nine years of age,]~~ shall fish, take, or catch any introduced ~~[fresh-water]~~ freshwater game fish without first obtaining a freshwater game fishing license, provided that children ~~[exempt by this section]~~ below nine years of age may fish without a license ~~[only]~~ when accompanied by a licensed adult.

(b) ~~[Licenses]~~ Freshwater game fishing licenses shall require the person's name, address, domicile, or residence, length of residence in the State, age, race, height, weight, and color of hair and eyes.

(c) The fee for the freshwater game fishing license shall be:

- (1) Minors ~~[between nine and]~~ under fifteen years of age, \$3;
- (2) Residents ~~[over]~~ between fifteen and ~~[under]~~ sixty-five years of age, \$5;
- (3) Persons sixty-five years of age and older, free;
- (4) Persons not qualifying under (1), (2), or (3) but over fifteen years of age, \$25, except that:
 - (A) Members of the armed forces of the United States on active duty in the State whether qualifying as a resident or not, and their ~~[spouse]~~ spouses and children fifteen years of age and over, \$5;
 - (B) 7-Day tourist license which is valid for only seven days from the date of issue, \$10;
 - (C) Tourist license which is valid for only thirty days from the date of

- issue, \$20;
- (5) Duplicate license, \$1. [Eff 8/12/93; am
1/15/99; am and comp 8/27/21; am and comp
] (Auth: HRS §§187A-5, 188-
50) (Imp: HRS §§187A-5, 188-50)

§13-74-11 Nonresident recreational marine fishing license. (a) It is unlawful for any nonresident of the State who has attained the age of fifteen, except members of the armed forces of the United States on active duty in the State and their spouses and minor children, to fish for, take, or catch any marine life for noncommercial or recreational purposes without first obtaining a nonresident recreational marine fishing license.

(b) Licenses shall require the person's name, address, date of birth, height, weight, color of hair and eyes, and such other information as the department may require.

(c) The fee for the nonresident recreational marine fishing license shall be:

(1) For a one-day fishing license, \$20;
(2) For a seven-day fishing license, \$40; and
(3) For an annual fishing license, \$70.

(d) Any person violating this section shall be subject to administrative penalties as provided by section 187A-12.5, HRS. [Eff and comp
] (Auth: HRS §188-72) (Imp: HRS
§§187A-12.5, 188-72)

SUBCHAPTER 3

COMMERCIAL FISHING

§13-74-20 Commercial marine license. (a) No person shall take marine life for commercial purposes whether the marine life is caught or taken within or

outside of the State, without first obtaining a commercial marine license~~[-]~~; provided that a valid commercial marine vessel license issued pursuant to section 13-74-23 shall satisfy the commercial marine license requirement for all persons taking marine life for commercial purposes aboard a validly-licensed vessel.

(b) ~~[Additionally, any]~~ Any person providing ~~[vessel]~~ charter services in the State for the taking of marine life in or outside of the State shall obtain a commercial marine license~~[-]~~; provided that a valid commercial marine vessel license issued pursuant to section 13-74-23 shall satisfy the commercial marine license requirement for all persons providing charter services for the taking of marine life aboard a validly-licensed vessel.

~~[(b)]~~ (c) ~~[Licenses to persons with proof of identity to engage in the activities described in subsection (a)]~~ Commercial marine licenses shall require the person's name, address, age, place of birth, ~~[length of residence in the State,]~~ residency, height, weight, color of hair and eyes, citizenship, and such other information as the department may require. The department may require an applicant for a commercial marine license to show proof of identity prior to issuance or renewal of a license.

~~[(e)]~~ (d) The fee for the issuance or renewal of a commercial marine license shall be:

- (1) \$100 for residents; and
- (2) \$250 for all other persons.

The fee for a duplicate license shall be \$10.

~~[(d)]~~ (e) No person may:

- (1) Renew a commercial marine license more than two months prior to its expiration date; or
- (2) Be issued more than one commercial marine license at any one time~~[-]~~; provided that a person may hold a commercial marine license simultaneously with commercial marine vessel licenses or other licenses issued pursuant to this chapter.

~~[(e)]~~ (f) ~~[The department may require persons issued the commercial marine license to]~~ Commercial

marine licensees shall submit reports of their fishing activity. Such reports shall be submitted to the department monthly[+] pursuant to section 13-74-2(5); provided that persons taking bottomfish as defined in chapter 13-94, in the main Hawaiian islands, shall, in addition to their monthly report for species other than bottomfish, submit trip reports of their bottomfish fishing activity [if requested.] pursuant to section 13-74-2(6). The monthly and trip reports shall be subject to section 13-74-2, sections 189-3 and 189-3.5, HRS, and as may be otherwise provided by law. [Eff 8/12/93; am 1/15/99; am 10/18/10; am 1/7/18; am and comp 8/27/21; am and comp] (Auth: HRS §§189-2, 189-3, 189-3.5) (Imp: HRS §§189-2, 189-3, 189-3.5)

~~§13-74-21 Northwestern Hawaiian Islands fishing permit.~~ (a) ~~The department may issue permits to commercial marine licensees who own or operate a vessel deemed capable by the department for effectively taking marine life within the Northwestern Hawaiian Islands, to fish for such marine life, or utilize methods or appliances which may be regulated or prohibited elsewhere within the State. The department may limit the number of permits issued to take marine life in any particular area and such limitation shall be on the basis of the order of application for permits.~~

~~(b) A separate permit shall be required for each fishing vessel or independent fishing operation, regardless of whether several vessels or operations are owned or conducted by the same person, and shall be carried aboard each vessel or otherwise be readily available for inspection at all times.~~

~~(c) The fee for the Northwestern Hawaiian Islands fishing permit shall be \$50 and the duplicate license fee shall be \$10.]~~ [Eff 8/12/93; am 1/15/99; am and comp 8/27/21; R] (Auth: HRS §188-37) (Imp: HRS §188-37)

Historical note: §13-74-21 is based substantially upon chapter 13-46. [Eff 5/28/81; am 1/25/82; R 8/12/93]

§13-74-22 Bait license. (a) The department may issue to commercial marine licensees a license to take the following baitfishes for which an open season is declared:

- (1) 'Iao (*Atherinomorus insularum*);
- (2) Marquesan sardine (*Sardinella marquensis*);
- (3) Nehu (*Encrasicholina purpurea*);
- (4) Piha (*Spratelloides delicatulus*);
- (5) "Tabai" (*Mollienesis* spp.);
- (6) Threadfin shad (*Dorosoma petenense*);
- (7) Gold-spot herring (*Herklotsichthys quadrimaculatus*).

(b) Licenses for taking baitfishes other than nehu shall be issued for fishing operations where the fish caught are landed in the State, and where no baitfish caught are sold or transferred except for bait purposes.

(c) Licenses for taking nehu shall be issued only to persons employed on live-bait tuna boats, and only if their principal means of livelihood is derived from tuna fishing and the sale of tuna, where the fish caught are landed in the State, and the nehu is not sold to others.

(d) A separate license shall be required for each fishing vessel or independent fishing operation, regardless of whether several vessels or operations are owned or conducted by the same person, and shall be carried aboard each vessel or otherwise be readily available for inspection at all times.

(e) The fee for the bait license shall be [~~\$50~~ \$100, and the duplicate license fee shall be \$10.

(f) Each person issued a bait license shall, in addition to monthly catch reports pursuant to 13-74-20, submit baitfishing reports to the department. The baitfishing reports shall be submitted monthly in a form and manner provided by the department. The catch reports and baitfishing reports shall be subject to

13-74-2 and sections 189-3 and 189-3.5, HRS, and as
may be otherwise provided by rule or law. [Eff
8/12/93; am 1/15/99; am and comp 8/27/21; am and comp
] (Auth: HRS §§187A-5, 188-45) (Imp:
§§187A-5, 188-45)

Historical note: §13-74-22 is based substantially upon
chapter 13-72. [Eff 5/26/81; am 1/25/82; R 8/12/93]

13-74-23 Commercial marine vessel license. (a)

The department shall, upon receipt of a valid
application and appropriate fee payment, issue a
commercial marine vessel license to any qualified
individual.

(b) A qualified individual is anyone who:

- (1) Possesses a valid commercial marine license;
- (2) Is at least eighteen years old;
- (3) Provides proof of identify; and
- (4) Does not have any unmet child support
obligations pursuant to §189-2, HRS.

(c) Any qualified individual applying for a
commercial marine vessel license shall file an
application on an approved application form that is
available from the department. The application shall
be completed in its entirety. Failure to provide a
completed application or providing false or misleading
information on the application may result in delay or
denial of the application.

(d) A commercial marine vessel license shall be
valid from the date of issuance and shall expire on
the expiration date of the licensee's commercial
marine license. A commercial marine vessel license
shall only be valid for a specific vessel and is
nontransferable. A qualified individual may obtain
and possess more than one commercial marine vessel
license at a time.

(e) The fee for the issuance or renewal of a
commercial marine vessel license shall be:

- (1) \$100 for any vessel less than twenty-two
feet in length that is not used for longline

- fishing;
- (2) \$200 for any vessel twenty-two feet in length or greater that is not used for longline fishing; and
 - (3) \$1,500 for any vessel used for longline fishing, as defined in section 189-2.5, HRS.

The fee for a duplicate license shall be \$10.

(f) If a commercial marine vessel license is issued for a longline vessel, the commercial marine vessel licensee shall file an annual report with the department that contains the following information about all crew members who worked aboard the longline vessel during the license period:

- (1) Identity;
- (2) Nationality;
- (3) Arrival date in Hawai'i
- (4) Departure date; and
- (5) Any other information the department may require.

The longline annual report shall be submitted to the department within thirty days of the end of the license period.

(g) If a commercial marine vessel license is issued for a vessel providing charter services for the taking of marine life, the license shall satisfy the commercial marine license requirement for all crew members. The commercial marine vessel license does not exempt charter fishing vessel passengers or customers from the requirement to have a nonresident recreational marine fishing license or any other license required by law. For purposes of this section, a "passenger" is any individual on board a vessel who is not a member of the vessel's crew.

(h) If a vessel for which a commercial marine vessel license is obtained is lost, destroyed, stolen, sold, transferred, or otherwise no longer in the possession or control of the licensee, the licensee shall immediately notify the department, and the license shall be terminated.

(i) The commercial marine vessel license shall be kept aboard the vessel at all times while participating in commercial fishing activities and

shall be made available for inspection upon demand.

(j) Persons issued a commercial marine vessel license shall submit reports of the vessel's fishing activity. Such reports shall be submitted to the department monthly pursuant to section 13-74-2(5); provided that persons taking bottomfish, as defined in chapter 13-94, in the main Hawaiian islands shall, in addition to their monthly reports for species other than bottomfish, submit trip reports of their bottomfishing activity pursuant to section 13-74-2(6). The monthly and trip reports shall be subject to section 13-74-2, sections 189-3 and 189-3.5, HRS, and as may be otherwise provided by law. [Eff and comp
] (Auth: HRS §§189-2, 189-3, 189-3.5)
(Imp: HRS §§189-2, 189-3, 189-)3.5

SUBCHAPTER 4

OTHER LICENSES AND PERMITS

§13-74-40 Mullet pond operator and closed season sales license. (a) The department may issue to any owner or operator of a fish pond a license to lawfully catch young mullet, known as pua, during the closed season, for the purpose of stocking the owner's or operator's pond, and provided that any owner or operator of a fish pond and any dealer may lawfully sell such pond raised mullet during the closed season with such a license granting this privilege.

(b) A separate license shall be required for each fish pond or market operation, regardless of whether several fish pond or market operations from which the mullet are sold are owned or operated by the same person, and shall be readily available for inspection at all times.

(c) The fee for the mullet pond operator and closed season sales license shall be [~~\$50~~] \$100, and the duplicate license fee shall be \$10. [Eff 8/12/93; am 1/15/99; am and comp 8/27/21; am and comp

] (Auth: HRS §188-44) (Imp: HRS
§188-44)

§13-74-41 Kona crab and lobster closed season sales license. (a) The department may issue a license to a commercial marine dealer, or any restaurant, to sell or serve during the closed season, Kona crabs or lobsters lawfully caught during the open season.

(b) Each licensee shall submit a report to the department within five days after the end of each of the closed season months. The report shall list the amount of remaining Kona crab and lobster in the licensee's inventory as of the end of the month.

(c) The fee for the Kona crab and lobster closed season sales license shall be [~~\$50~~] \$100, and the duplicate license fee shall be \$10. [Eff 8/12/93; am 1/15/99; am and comp 8/27/21; am and comp

] (Auth: HRS §188-57) (Imp: HRS
§188-57)

§13-74-42 Special marine animal or product possession and sale license. (a) The department may issue a license to an importer, wholesaler, retailer, or restaurant to possess, sell, or offer for sale, any fish, shellfish, crustacean, or other marine animal, or any product made from such marine animals taken outside of the waters of the State, when such taking, possession, or sale of the same species is restricted if taken within the waters of the State.

(b) Licenses shall require the business' name, address, telephone number, name of applicant, and any other information the department may require.

(c) Each licensee shall furnish to the department monthly reports that include the following information:

- (1) If licensee is an importer:
 - (A) Species imported, source, quantity, and arrival date;
 - (B) Name and address of buyers, species

- sold, quantity, and date of such sale;
- (2) If licensee is a wholesaler:
 - (A) Source, quantity, and date purchased;
 - (B) Name and address of buyers, species sold, quantity, and date of such sale;
 - (3) If licensee is a retailer or restaurant:
 - (A) Source and date of purchase;
 - (B) Species and quantity sold.
 - (4) And any other such information the department may require.
- (d) The fee for the special marine animal or product possession and sale license shall be [~~\$50~~] \$100, and the duplicate license fee shall be \$10. [Eff 8/12/93; am 1/15/99; am and comp 8/27/21; am and comp] (Auth: HRS §189-6) (Imp: HRS §189-6)

Historical note: §13-74-42 is based substantially upon chapter 13-71. [Eff 5/26/81; R 8/12/93]

§13-74-43 Aquaculture license. (a) After review of a written application, the department may issue to any qualified aquaculturist~~[7]~~ a license to fish for, rear, possess, or sell any ~~[regulated]~~ aquatic life~~[7]~~ whose fishing, possession, or sale is prohibited by closed season, minimum size, or bag limit; provided that the qualified aquaculturist rears or reared the ~~[regulated]~~ aquatic life in an aquaculture facility for commercial purpose. To qualify for a license a qualified ~~[aquaculturists]~~ aquaculturist must satisfy the department that the qualified aquaculturist is able to maintain aquatic life or live rock alive and in good health in an aquaculture facility at all times in accordance with industry-wide standards.

(b) The licensee shall make and issue a receipt whenever a transaction concerning regulated aquatic life occurs. The receipt shall be a written record of the transaction and shall include:

- (1) The transaction date;
- (2) The name and address of the licensee, the

name of the person issuing the receipt, and the name and address of the person to whom the receipt is issued, except that the name and address of the person to whom the receipt is issued are not required if the transaction is with a person who will not resell the regulated aquatic life;

- (3) The name, weight, number or other appropriate measure of quantity, and value of all regulated aquatic life involved in the transaction; and
- (4) Any other information the department may require.

(c) The licensee shall keep all receipts on file and be able to present such receipts for inspection upon demand of any officer authorized to enforce the laws of the State. The receipts shall be kept for not less than twenty-four months after the transaction date or until the regulated aquatic life is no longer in the licensee's possession, whichever is longer. The department may approve the use of documents other than the receipts as written records of the transaction.

(d) The licensee shall submit to the department a summary report on or before July 31st of each year, covering the previous twelve-month period between July 1st to June 30th. The report shall provide an accounting of the regulated aquatic life received, bought, sold, transferred, or exchanged. The accounting shall include the items involved in a transaction, the sum of the weight, number or other appropriate unit of quantity, and value, along with any other information the department may require.

(e) Licensees that rear live rocks shall only use rocks for producing live rocks obtained from legal sources such as quarries or dredging operations [~~and may not fish for~~]. Harvesting, collecting, or otherwise obtaining live rocks from the wild[-] is strictly prohibited.

(f) Unless authorized in writing by the department, licensees shall not:

- (1) Release cultured aquatic life or live rock into state waters;

- (2) Fish for, in state waters, any regulated aquatic life or live rock;
- (3) Fish in areas where fishing is restricted by law; or
- (4) Use gear that the department has declared illegal except for small meshed nets, provided the net is not a small meshed thrownet.

(g) The department may restrict or prohibit the rearing of any aquatic life as authorized by this section, such as those species whose entry into or possession in the State is restricted or prohibited pursuant to the rules of the department of agriculture, those species that the state or federal governments may list as threatened or endangered, or any aquatic life the department may determine to be unsuitable for commercial rearing in the State or otherwise potentially detrimental to living aquatic resources in the State.

(h) The department may require licensees:

- (1) Who fish in the wild for regulated aquatic life to report such catches and to include in the report the species, numbers, size, fishing location, amount of fishing effort, and any other information for the purpose of this license. The regulated aquatic life taken from the wild may only be used for stocking into the aquaculture facility as juveniles or used as adults to provide broodstock material. The licensee may not sell or offer for sale any regulated aquatic life taken from the wild that is less than the minimum size as specified by law;
- (2) To obtain a Conservation District Use Permit pursuant to chapter 13-53, [~~Hawaii~~
~~Administrative Rules~~ (~~]HAR[~~)] and a Right of Entry Permit pursuant to chapter 171, HRS, in addition to any other requirement of law; [~~and~~]
- (3) To provide a list of names of [~~commercial~~
~~marine dealers~~] any person that will buy or obtain any regulated aquatic life that were

reared in the licensee's aquaculture facility. Any changes to the list shall be in writing~~[7]~~; and

- (4) To submit additional monthly reports, trip reports, or other reports as required by the department.

(i) ~~[Each aquaculture facility shall have a separate license,]~~ A separate license shall be obtained for each aquaculture facility that rears, possesses, or sells regulated aquatic life, even if one person owns or operates several aquaculture facilities. A copy of the license shall be available for inspection upon the demand of any officer authorized to enforce the laws of the State, including whenever the regulated aquatic life are fished for, delivered, transported, or sold. The license shall be kept at the facility for immediate inspection.

- (j) For purposes of this section:

"Aquaculture facility" means any farm, ranch, hatchery, pond, workplace, or place of business that is designed or intended for the rearing, breeding, or culturing of aquatic life or live rock in a controlled or managed salt, brackish, or freshwater environment.

"Regulated aquatic life" means any aquatic life or live rock whose fishing for, possession, or sale is ~~[regulated during]~~ prohibited by a closed season, ~~[or when regulated by a]~~ minimum size, or bag limit as specified in subtitle 5 or title 12 or administrative rules.

(k) The license fee shall be ~~[\$50.]~~ \$100, and the duplicate license fee shall be \$10. [Eff 8/8/96; comp 8/27/21; am and comp] (Auth: HRS §§187A-3.5, 187A-5, 188-44, 188-68) (Imp: HRS §§187A-3.5, 187A-5, 188-44, 188- 68)

§13-74-44 License to sell reared species. (a)

The department may issue to any person a license to possess, sell, or offer for sale ~~[regulated]~~ any aquatic life~~[7]~~ whose possession or sale is prohibited by a closed season, minimum size, or bag limit;

provided that ~~[a qualified aquaculturist has reared]~~ the ~~[regulated]~~ aquatic life was reared in a licensed aquaculture facility.

(b) The licensee shall keep a receipt issued by the licensed aquaculture facility when receiving or buying the regulated aquatic life.

(c) The licensee shall issue a receipt to the person to whom the regulated aquatic life is sold or transferred. The receipt shall be a written record of the transaction and shall include:

- (1) The transaction date;
- (2) The names and addresses of the licensee, the person issuing the receipt, and the person to whom the receipt is issued, except that the name and address of the person to whom the receipt is issued are not required if the transaction is with a person that will not resell the regulated aquatic life;
- (3) The name, weight, number or other appropriate measure of quantity, and value of all regulated aquatic life involved in the transaction; and
- (4) Any other information the department may require.

(d) The licensee shall keep on file and be able to present for inspection upon demand of any officer authorized to enforce the laws of the State, a copy of all receipts for not less than twenty-four months after the transaction date or until the regulated aquatic life is no longer in the licensee's possession, whichever is longer. The department may approve the use of documents other than the receipts as written records of the transaction.

(e) ~~[Each market outlet that sells or offers for sale the regulated aquatic life shall have a separate license,]~~ A separate license shall be obtained for each market outlet that sells or offers for sale the regulated aquatic life, even if the same person owns or operates several outlets. The license shall be kept at the market outlet for immediate inspection upon demand of any officer authorized to enforce the laws of the State.

(f) The department may require submittal of monthly reports, pursuant to the purposes of this section.

(g) For the purposes of this section:

"Licensed aquaculture facility" means any aquaculture facility licensed pursuant to section 13-74-43.

"Regulated aquatic life" means any aquatic life or live rock whose fishing for, possession, or sale is ~~[regulated during]~~ prohibited by a closed season, ~~[or when regulated by a]~~ minimum size, or bag limit as specified in subtitle 5 of title 12 or administrative rules.

(h) The fee for the license shall be ~~[waived with the]~~ \$200. The license shall be valid for not longer than two years ~~[from the date of issuance.]~~, and the duplicate license fee shall be \$10. [Eff 8/8/96; am 5/22/00; comp 8/27/21; am and comp

] (Auth: HRS §§187A-3.5, 187A-5)

(Imp: HRS §§187A- 3.5, 187A-5)

§13-74-45 Commercial marine dealer license. (a)

No person shall sell, offer for sale, exchange, or act as an agent in the sale, exchange, or transfer of marine life obtained directly from a commercial marine licensee, unless they possess a valid commercial marine dealer license; provided that a commercial marine licensee who sells or exchanges self-caught marine life at retail and complies with the reporting requirements of section 13-74-2 shall not be required to hold a commercial marine dealer license.

(b) A commercial marine dealer licensee shall not sell or offer for sale, purchase or attempt to purchase, exchange, or act as an agent in the sale, exchange, or transfer of any marine life taken within the jurisdiction of the State for commercial purpose that is obtained from any person who does not have a valid commercial marine license, commercial marine dealer license, or other license or permit authorizing such sale, purchase, exchange, or transfer for

commercial purpose.

(c) Each market outlet where marine life that is obtained directly from a commercial marine licensee is sold for commercial purposes shall have a separate commercial marine dealer license, even if one person owns or operates several market outlets. A copy of the license shall be kept at the market outlet and shall be made available for immediate inspection upon the demand of any officer or agent authorized to enforce the laws of the State.

(d) The fee for a commercial marine dealer license shall be \$100 and the duplicate license fee shall be \$10.

(e) Every holder of a commercial marine dealer license shall comply with the reporting requirements of 13-74-46.

(f) For purposes of this section, "market outlet" means a location where marine life is sold or offered for sale. A market outlet can be a physical location such as a retail market or restaurant or an online location such as a website specifically designed to facilitate the sale of marine life. [Eff and comp] (Auth: HRS §189-10) (Imp: HRS §189-10)

§13-74-46 Commercial marine dealer report. (a) Every commercial marine dealer shall submit to the department a report of all marine life obtained, purchased, transferred, exchanged, or sold during a weekly reporting period, which begin on Sundays and end on the following Saturdays. A report shall be submitted to the department by the Tuesday following the end of each weekly reporting period. Reports shall contain the following information:

- (1) The name, address, and telephone number of the commercial marine dealer;
- (2) The time period for which the report is being submitted;
- (3) The species, numbers, weights, and values of each of the varieties of marine life landed

in the State that the dealer obtained,
purchased, transferred, exchanged, or sold
during the reporting period;

- (4) The name and current license number of the commercial marine licensee from whom the marine life was obtained or purchased; and
- (5) Other information as required on forms provided by, or as directed in writing by, the department.

(b) Reports shall be submitted to the department weekly." [Eff 1/7/18; comp 8/27/21; comp
] (Auth: HRS §189-10) (Imp: HRS
§189-10)

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material is underscored.


3. Additions to update source notes and other notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 13-74, Hawaii Administrative Rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

DAWN N.S. CHANG
Chairperson
Board of Land and Natural
Resources

APPROVED FOR PUBLIC HEARING:

A handwritten signature in black ink, consisting of a stylized 'M' followed by a circular flourish and a horizontal line extending to the right.

Deputy Attorney General

V. ADMINISTRATIVE MATTERS

A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, HRS

1. Review and Update Board's "Discussion Leader Assignments" for the State and County Agencies' Hawaii Administrative Rules
2. Presentations to Industry Associations
3. Staff's Small Business Outreach
4. Director Letters and Meetings with State Agencies and Counties

DISCUSSION LEADER ASSIGNMENTS

(SBRRB / SBRRB / Members / DiscussionLeaderAssignments 2023)

1. Office of the Governor <http://governor.hawaii.gov>

Address: Governor Josh Green, M.D.
Executive Chambers
State Capitol
Honolulu, HI 96813

Phone: (808) 586-0034
Fax: (808) 586-0006

Discussion Leader: Robert Cundiff

Back-up Discussion Leader: Mary Albitz

2. Office of the Lieutenant Governor <http://ltgov.hawaii.gov>

Address: Lieutenant Governor Sylvia Luke
State Capitol, Fifth Floor
Honolulu, HI 96813

Phone: **Oahu/** (808) 586-0255
Maui/ 984-2400 ext. 60255
Hawaii/ 974-4000 ext. 60255
Kauai/ 274-3141 ext. 60255
Molokai/Lanai/ 1(800) 468-4644 ext. 60255
Fax: (808) 586-0231

Discussion Leader: Mary Albitz

Back-up Discussion Leader: Garth Yamanaka

3. Department of Accounting & General Services <http://ags.hawaii.gov>

Address: Keith Regan, Comptroller
Kalanimoku Building
1151 Punchbowl Street
Honolulu, HI 96813

Phone: (808) 586-0400
Fax: (808) 586-0775
Email: dags@hawaii.gov

Discussion Leader: Mark Ritchie

Back-up Discussion Leader: Mary Albitz

4. Department of Agriculture <http://hdoa.hawaii.gov>

Address: Sharon Hurd, Chairperson
Board of Agriculture
1428 South King Street
Honolulu, HI 96814

Phone: (808) 973-9550
Fax: (808) 973-9613
Email: hdoa.info@hawaii.gov

Discussion Leader: Will Lydgate

Back-up Discussion Leader: James Kimo Lee

5. Department of the Attorney General <http://ag.hawaii.gov>

Address: Anne Lopez, Attorney General
Hale Auhau
425 Queen Street
Honolulu, HI 96813

Phone: (808) 586-1282
Fax: (808) 586-1239

Discussion Leader: Will Lydgate

Back-up Discussion Leader: Robert Cundiff

6. Department of Budget & Finance <http://budget.hawaii.gov>

Address: Luis Salaveria, Director Phone: (808) 586-1518
P.O. Box 150 Fax: (808) 586-1976
Honolulu, HI 96810 Email: HI.BudgetandFinance@hawaii.gov

Discussion Leader: Mark Ritchie
Back-up Discussion Leader: Garth Yamanaka

7. Public Utilities Commission..... <http://puc.hawaii.gov>

Address: Leo R. Asuncion, Jr., Chair Phone: (808) 586-2020
Kekuanaoa Building Fax: (808) 586-2066
465 South King Street, Room 103 Email: puc@hawaii.gov
Honolulu, HI 96813

Discussion Leader: Tessa Gomes
Back-up Discussion Leader: Jonathan Shick

8. Department of Business, Eco Dev. & Tourism..... <http://dbedt.hawaii.gov>

Address: James Tokioka, Interim Director Phone: (808) 586-2355
P.O. Box 2359 Fax: (808) 586-2377
Honolulu, HI 96804 Email: dbedt.director@hawaii.gov

Discussion Leader: Robert Cundiff
Back-up Discussion Leader: Will Lydgate

9. Department of Commerce & Consumer Affairs..... <http://cca.hawaii.gov>

Address: Nadine Ando, Director Phone: (808) 586-2850
335 Merchant Street Fax: (808) 586-2856
Honolulu, HI 96813 Email: dcca@dcca.hawaii.gov

Discussion Leader: Tessa Gomes
Back-up Discussion Leader: Taryn Rodighiero

10. Department of Defense..... <http://dod.hawaii.gov>

Address: Major General Kenneth Hara, Phone: (808) 733-4246
Office of the Adjutant General Fax: (808) 733-4499
3949 Diamond Head Road
Honolulu, HI 96816

Discussion Leader: Jonathan Shick
Back-up Discussion Leader: Mark Ritchie

11. Department of Education..... <http://hawaiipublicschools.org>

Address: Keith Hayashi, Superintendent
1390 Miller Street
Honolulu, HI 96813

Phone: (808) 586-3230
Fax: (808) 586-3314
Email: doe_info@hawaiidoe.org

Discussion Leader: Taryn Rodighiero
Back-up Discussion Leader: Nancy Atmospera-Walch

12. Department of Hawaiian Home Lands..... <http://dhhl.hawaii.gov>

Address: Kali Watson, Chairperson
P.O. Box 1879
Honolulu, HI 96805

Phone: (808) 620-9501
Fax: (808) 620-9529
Email: dhhl.hawaii@gmail.com

Discussion Leader: James Kimo Lee
Back-up Discussion Leader: Garth Yamanaka

13. Department of Health..... <http://health.hawaii.gov>

Address: Dr. Kenneth Fink, MD, Director
1250 Punchbowl Street
Honolulu, HI 96813

Phone: (808) 586-4410
Fax: (808) 586-4368
Email: webmail@doh.hawaii.gov

Discussion Leader: Sanford Morioka
Back-up Discussion Leader: Mary Albitz

14. Department of Human Resources Development..... <http://hrd.hawaii.gov>

Address: Brenna Hashimoto, Director
235 South Beretania Street, Suite 1400
Honolulu, HI 96813

Phone: (808) 587-1100
Fax: (808) 587-1106
Email: dhrd@hawaii.gov

Discussion Leader: Sanford Morioka
Back-up Discussion Leader: Nancy Atmospera-Walch

15. Department of Human Services..... <http://humanservices.hawaii.gov>

Address: Cathy Betts, Director
P.O. Box 339
Honolulu, HI 96809-0339

Phone: (808) 586-4993
Fax: (808) 586-4890
Email: dhs@dhs.hawaii.gov

Discussion Leader: Nancy Atmospera-Walch
Back-up Discussion Leader: Sanford Morioka

16. Department of Labor & Industrial Relations..... <http://labor.hawaii.gov>

Address: Jade Butay, Director
830 Punchbowl Street
Honolulu, HI 96813

Phone: (808) 586-8844
Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

Discussion Leader: Mary Albitz
Back-up Discussion Leader: Tessa Gomes

17. Department of Land and Natural Resources..... <http://dlnr.hawaii.gov>

Address: Dawn Chang, Chairperson
Kalanimoku Building
1151 Punchbowl Street
Honolulu, HI 96813

Phone: (808) 587-0401
Fax: (808) 587-0390
E-mail: dlnr@hawaii.gov

Discussion Leader: Taryn Rodighiero
Back-up Discussion Leader: Jonathan Shick

18. Department of Public Safety..... <http://dps.hawaii.gov>

Address: Tommy Johnson, Director
919 Ala Moana Boulevard, 4th Floor
Honolulu, HI 96814

Phone: (808) 587-1288
Fax: (808) 587-1282
Email: psd.office.of.the.director@hawaii.gov

Discussion Leader: Jonathan Shick
Back-up Discussion Leader: William Lydgate

19. Department of Taxation..... <http://tax.Hawaii.gov>

Address: Gary Suganuma, Interim Director
P.O. Box 259
Honolulu, HI 96809-0259

Phone: (808) 587-1540
Fax: (808) 587-1560
Email: Tax.Directors.Office@hawaii.gov

Discussion Leader: Garth Yamanaka
Back-up Discussion Leader: Will Lydgate

20. Department of Transportation..... <http://hidot.hawaii.gov>

Address: Ed Sniffen, Director
Aliiaimoku Building
869 Punchbowl Street, Room 509
Honolulu, HI 96813

Phone: (808) 587-2150
Fax: (808) 587-2167

Discussion Leader: James Kimo Lee
Back-up Discussion Leader: Sanford Morioka

21. University of Hawaii..... <http://www.hawaii.edu>

Address: David Lassner, President
Bachman Hall, Room 202
2444 Dole Street
Honolulu, HI 96822

Phone: (808) 956-7651
Email: david@hawaii.edu

Address: Lee Putnam, Chair, Board of Regents
Bachman Hall, Room 209
2444 Dole Street
Honolulu, HI 96822

Phone: (808) 956-8213
Fax: (808) 956-5156
Email: bor@hawaii.edu

Discussion Leader: Nancy Atmospera-Walch
Back-up Discussion Leader: Mark Ritchie

22. City and County of Honolulu..... <http://www.honolulu.gov/>

Address: **Rick Blangiardi, Mayor**
530 South King Street, Room 300
Honolulu, HI 96813

Phone: (808) 768-4141

Discussion Leader: Jonathan Shick
Back-up Discussion Leader: Tessa Gomes

23. County of Maui..... <https://www.mauicounty.gov/>

Address: **Richard T. Bissen, Jr., Mayor**
200 S. High St.
Kalana O Maui Bldg 9th Fl.
Wailuku, HI 96793

Phone: (808) 270-7855

Discussion Leader: Mary Albitz
Back-up Discussion Leader: James Kimo Lee

24. County of Hawai'i..... <https://www.hawaiicounty.gov/>

Address: **Mitch Roth, Mayor**

Phone: (808) 961-8211

East Hawai'i
25 Aupuni Street
Hilo, HI 96720

West Hawai'i
74-5044 Ane Keohokalole Highway
Bldg C
Kailua-Kona, HI 96740

Phone: (808) 323-4444

Discussion Leader: Garth Yamanaka
Back-up Discussion Leader: James Kimo Lee

25. County of Kaua'i.....<https://www.kauai.gov/Mayor>

Address: **Derek S.K. Kawakami, Mayor**
4444 Rice St., Suite 235
Lihue, HI 96766

Phone: (808) 241-4900
Email:mayor@kauai.gov

Discussion Leader: William Lydgate
Back-up Discussion Leader: Taryn Rodighiero

VI. ELECTION OF BOARD MEMBERS

A. Discussion and Action on the following:

1. Chairperson, pursuant to Section 201M-5(c),
HRS
2. Vice Chair
3. Second Vice Chair

§201M-5 Small business regulatory review board; powers. (a)

There shall be established within the department of business, economic development, and tourism, for administrative purposes, a small business regulatory review board to review any proposed new or amended rule. If the board determines that a proposed rule will not have a significant economic impact on a substantial number of small businesses, the board shall submit a statement to that effect to the agency that sets forth the reason for the board's decision. If the board determines that the proposed rule will have a significant economic impact on a substantial number of small businesses, the board may submit to the agency suggested changes in the proposed rule to minimize the economic impact of the proposed rule, or may recommend the withdrawal of the proposed rule. The board may also consider any request from small business owners for review of any rule proposed, amended, or adopted by a state agency and to make recommendations to the agency or the legislature regarding the need for a rule change or legislation. For requests regarding county rules, the board may make recommendations to the county council or the mayor for appropriate action.

(b) The board shall consist of eleven members, who shall be appointed by the governor pursuant to section 26-34; provided that:

- (1) Three members shall be appointed from a list of nominees submitted by the president of the senate;
- (2) Three members shall be appointed from a list of nominees submitted by the speaker of the house of representatives;
- (3) Two members shall be appointed from a list of nominees submitted by the board;
- (4) Two members shall be appointed by the governor;
- (5) The director of business, economic development, and tourism, or the director's designated representative, shall serve as an ex officio, voting member of the board;
- (6) The appointments shall reflect representation of a variety of businesses in the State;
- (7) No more than two members shall be representatives from the same type of business; and
- (8) There shall be at least one representative from each county.

For the purposes of paragraphs (1) and (2), nominations shall be solicited from small business organizations, state and county chambers of commerce, and other interested business organizations.

(c) Except for the ex officio member, all members of the board shall be either a current or former owner or officer of a business and shall not be an officer or employee of the federal, state, or county government. A

majority of the board shall elect the chairperson. The chairperson shall serve a term of not more than one year, unless removed earlier by a two-thirds vote of all members to which the board is entitled.

(d) A majority of all the members to which the board is entitled shall constitute a quorum to do business, and the concurrence of a majority of all the members to which the board is entitled shall be necessary to make any action of the board valid.

(e) In addition to any other powers provided by this chapter, the board may:

- (1) Adopt any rules necessary to implement this chapter;
- (2) Organize and hold conferences on problems affecting small business; and
- (3) Do any and all things necessary to effectuate the purposes of this chapter.

(f) The board shall submit an annual report to the legislature twenty days prior to each regular session detailing any requests from small business owners for review of any rule adopted by a state agency, and any recommendations made by the board to an agency or the legislature regarding the need for a rule change or legislation. The report shall also contain a summary of the comments made by the board to agencies regarding its review of proposed new or amended rules. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §§3, 5; am L 2007, c 217, §4; am L 2012, c 241, §3; am L 2017, c 174, §3; am L 2018, c 18, §5; am L 2019, c 247, §1]

[Previous](#)

[Vol04_Ch0201-0257](#)

[Next](#)