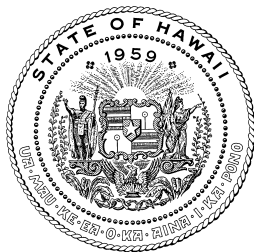


Small Business Regulatory Review Board Meeting

October 20, 2022

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.sbrrb.info@hawaii.gov
Website: sbrrb.hawaii.gov

Tel: 808 798-0737

AGENDA

Thursday, October 20, 2022 ★ 10:00 a.m.

**No. 1 Capitol District Building
250 S. Hotel Street, Conference Room 436
Honolulu, HI 96813**

David Y. Ige
Governor

Mike McCartney
DBEDT 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

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:
No. 1 Capitol District Building, 250 S. Hotel Street
Conference Room 436, 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=cDhqWEEzZGZHYmJLM05tMHU5Mm5HQ109>

**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.sbrrb.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, September 14, 2022.

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 September 15, 2022 Meeting Minutes

III. New Business – Before Public Hearing

- A. Discussion and Action on Proposed Amendments to Hawaii Administrative Rules Title 16 Chapter 115, **Professional Engineers Architects Surveyors and Landscape Architects**, promulgated by Department of Commerce and Consumer Affairs –
Discussion Leader – Taryn Rodighiero

IV. Administrative Matters

- A. Discussion and Action on the following:
 - 1. Board's Draft *2022 Annual Report Summary* for Submission to Hawaii State Legislature, under Section 201M-5(f), Hawaii Revised Statutes (HRS)
 - 2. Board's Draft *2022 201M-7 Periodic Review: Evaluation Report* for Submission to Hawaii State Legislature, under Section 201M-7, HRS
- B. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, Hawaii Administrative Rules:
 - 1. Board's Phase II Website Project
 - 2. Board's Attendance at the September 17, 2022 Hawaii Small Business Fair at Leeward Community College

- V. **Next Meeting:** Thursday, November 17, 2022 at 10:00 a.m., held via Zoom and at 250 S. Hotel Street, Conference Room 436, Honolulu, HI 96813

VI. Adjournment

INDIVIDUALS REQUIRING SPECIAL ASSISTANCE OR AUXILIARY AIDS OR SERVICES (e.g., sign language interpreter, captioner, computer-assisted note taker, wheel chair accessibility, parking designated for the disabled or other accommodation).

Any individual needing an auxiliary aid/service or other accommodation due to a disability may contact the Small Business Regulatory Review Board office at 808-798-0737 and/or jetaime.k.ariola@hawaii.gov as soon as possible, preferably at least three (3) working days prior to the meeting. Requests made less than three working days prior to the meeting cannot be assured. Upon request, this notice is available in alternate formats such as large print or electronic copy.

II. Approval of September 15, 2022 Meeting Minutes

Small Business Regulatory Review Board

MEETING MINUTES - DRAFT

September 15, 2022

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

MEMBERS PRESENT:

- Robert Cundiff, Chair
- Mary Albitz, Vice Chair
- Garth Yamanaka
- William Lydgate
- Taryn Rodighiero
- Sanford Morioka
- Tessa Gomes
- Mark Ritchie

ABSENT MEMBERS:

- Jonathan Shick, 2nd Vice Chair
- Dr. Nancy Atmospera-Walsh
- James (Kimo) Lee

STAFF: DBEDT

Dori Palcovich
Jet'aime Ariola

Office of the Attorney General

Alison Kato

II. **APPROVAL OF August 18, 2022 MINUTES**

Ms. Rodighiero motioned to accept the August 18, 2022 meeting minutes, as amended. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

III. **NEW BUSINESS** – After 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)

Vice Chair Albitz motioned to defer this agenda item to the next meeting. Ms. Rodighiero seconded the motion, and the Board members unanimously agreed.

- B. Discussion and Action on Proposed Amendments to HAR Title 11 Chapter 60.1, Air Pollution Control, promulgated by Department of Health (DOH)

Discussion leader, Vice Chair Albitz, provided a summary of DOH's proposed changes and introduced Mr. Barry Ching, Program Specialist from DOH's Clean Air Branch. Mr. Ching reminded the Board that there are both covered and non-covered source permits; CSP and NSP, respectively. CSP represent the larger emitters of air pollution such as Hawaiian Electric and NSP are associated with the smaller emitters and are representative of the rule changes today.

In January 2022, when the Clean Air Branch first came before this Board, approximately 99 percent of Chapter 60.1 rule changes were approved. Subsequently, EPA Permitting made an additional revision to CSP (permits with federal oversight) whereby approximately 100 facilities will change from CSP to NSP (state only permits). As a result, all NSP facilities will now be subject to a 30-day public hearing period for new permits, changes in permits and for some modifications.

Those CSP facilities that must be converted to an NSP facility would be subject to public noticing but there would be no cost to the businesses as DOH incurs the costs. The overall effect on the NSP is that there may likely be a longer wait and potentially be subject to more public scrutiny.

In response to Chair Cundiff's inquiry regarding outreach to the business community subsequent to the EPA's additional revisions, Mr. Ching reported that members of the Clean Air Rules Team did not have any negative comments; the team includes government agencies, fire departments, Hawaii Farm Bureau, farmers and others.

Vice Chair Albitz motioned to send the rules onto public hearing. Mr. Yamanaka seconded the motion, and the Board members unanimously agreed.

IV. ADMINISTRATIVE MATTERS

A. Update on the Status of the Board's Proposed Phase II Website Project

Chair Cundiff noted that the website changes are continuing to go through the process and is coming along nicely as it is on time and on budget. We expect to make significant progress towards wrapping it up over the next two to three weeks and will plan to invite the representatives from NIC to attend the October meeting to share the website updates.

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

DBEDT and the SBRRB will be attending the Hawaii Small Business Fair at Leeward Community College on Saturday, September 19th. Mr. Ritchie and office assistant Ms. Ariola will be manning the table at the event.

V. NEXT MEETING - Thursday, October 20, 2022 at 10:00 a.m.

VI. ADJOURNMENT – Mr. Ritchie made a motion to adjourn the meeting and Mr. Morioka seconded the motion; the meeting adjourned at 10:34 a.m.

III. New Business

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

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.

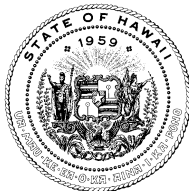
* * *

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>

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



CATHERINE P. AWAKUNI COLÓN
DIRECTOR

AHLANI K. QUIOGUE
LICENSING ADMINISTRATOR

BOARD OF PROFESSIONAL ENGINEERS, ARCHITECTS, SURVEYORS, AND LANDSCAPE ARCHITECTS

STATE OF HAWAII
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
P.O. BOX 3469
HONOLULU, HAWAII 96801
cca.hawaii.gov/pvl

September 29, 2022

MEMORANDUM

TO: Chairperson Robert Cundiff
Small Business Regulatory Review Board
Department of Business, Economic Development & Tourism

FROM: Catherine P. Awakuni Colón, Director
Department of Commerce and Consumer Affairs *cpac*

SUBJECT: Small Business Impact Review of the Proposed Amendments to Chapter 115, Title 16, Hawaii Administrative Rules, Relating to the Professional Engineers, Architects, Surveyors, and Landscape Architects.

Attached for your review is the proposal to amend Title 16, Chapter 115, Hawaii Administrative Rules ("HAR"), the rules of the Professional Engineers, Architects, Surveyors, and Landscape Architects.

I. Proposed Rules

The Professional Engineers, Architects, Surveyors, and Landscape Architects Board ("Board") proposes the following amendments to Hawaii Administrative Rules ("HAR") Chapter 16-115. The reasons for the changes are as follows:

REFERENCES TO HAWAII REVISED STATUTES CHAPTER 464

References to Hawaii Revised Statutes Chapter 464. These amendments are to clarify and implement chapter 464, Hawaii Revised Statutes ("HRS") to the end that the provisions thereunder may be best effectuated, and the public interest most effectively served.

SUBCHAPTER 1 GENERAL PROVISIONS

Section 16-115-2 Definitions. This amendment proposes to add new definitions and to clarify existing definitions on the following:

- The addition of the “A.R.E.” architectural licensure examination;
- The definition of the “AXP” which is the architectural experience program needed to become eligible for the A.R.E. licensure examination;
- The inclusion of disciplines for environmental and fire protection engineering in the Branch examination definition for engineers;
- The description of “digital signatures” to clarify an acceptable digital signature for design professionals; and
- Clarifying that a licensed individual is eligible for lawful experience in responsible charge;

Section 16-115-9(e) Authentication: preparation or supervision of design and observation of construction. This amendment is being proposed to allow for the acceptance of digital signatures on 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.

Section 16-115-10.5 Examination misconduct. This new subsection is being proposed to address any misconduct by an applicant in applying for, taking, or subsequent to the examination, any improper wrongdoing by the applicant.

SUBCHAPTER 2 PROFESSIONAL ENGINEERS

The following sections are being amended to bring these sections to current practice as the examinations have converted to computer-based testing and the test dates have changed from twice a year to year-round. The proposal is to remove the outdated test dates and replace with language requiring that an applicant for examination will need to apply no later than 90 days prior to the examination:

- Section 16-115-31 (b) Examination-fundamentals of engineering: qualifications, application, fees, required documents.
- Section 16-115-33 (b) & (c) Examination-professional engineering: qualifications, application, fees, required documents.
- Section 16-115-35 (b) & (c) Examination-professional engineering (additional branch): qualifications, application, fees, required documents.
- Section 16-115-37 (b) & (c) Re-examination.

Section 16-115-39 (g) Lawful experience. This new subsection is being added to clarify that lawful experience accepted to satisfy the education requirement cannot be credited concurrently with meeting the experience requirement, as adopted in the Model Law of the National Council of Examiners for Engineering and Surveying.

SUBCHAPTER 3 ARCHITECTS

Section 16-115-47 (d)(2)(C) Licensure by endorsement. This subsection is amended to include completion of the AXP architect experience program of NCARB. Previous language only referenced the IDP, which is an outdated experience program from NCARB that has since been updated and replaced with the AXP experience program of NCARB. All references to the IDP will also include the AXP in this proposed draft of Subchapter 3.

Section 16-115-52 Passing Score This proposed amendment clarifies the passing score of the A.R.E. architect licensure examination.

Section 16-115-54 Examination: qualifications, applications, fees, documents required. This subsection is amended to include completion of the AXP architect experience program of NCARB. Previous language only referenced the IDP, which is an outdated experience program from NCARB that has since been updated and replaced with the AXP experience program of NCARB. All references to the IDP will also include the AXP in this proposed draft of Subchapter 3.

Section 16-115-54 (3) Examination: qualifications, applications, fees, documents required. This new subsection clarifies that a person meeting the requirements of §16-115-54(a)(1), with a bachelor's, master's, or higher degree in architecture from an accredited school of architecture, and enrolled in AXP, may register for the ARE directly with the NCARB.

Section 16-115-58 Lawful experience. This subsection is amended to include completion of the AXP architect experience program of NCARB. Previous language only referenced the IDP, which is an outdated experience program from NCARB that has since been updated and replaced with the AXP experience program of NCARB. All references to the IDP will also include the AXP in this proposed draft of Subchapter 3.

Section 16-115-59 Intern Development Program. This subsection is amended to replace the Intern Development Program (IDP) with the Architectural Experience Program (AXP). The IDP has been replaced and outdated. All references to the IDP will be removed and replaced with the AXP to bring the rules up to date and in line with the current program of NCARB.

SUBCHAPTER 4 LAND SURVEYORS

Section 16-115-66 Licensure by endorsement. This subsection is amended to clarify the examination requirements for licensure. Also, clarifies the waiver of the Fundamentals of Surveying ("FS") examination requirement with fifteen years of documented experience in responsible charge.

Section 16-115-69 Examination requirements for licensure. This amendment proposes to clarify the Hawaii state board-produced examination because the name of the examination as referenced in the current rules and the actual title of the land surveying examination administered by the Board is not the same. The amendment will refer to the "Board-produced professional land surveying examination".

Section 16-115-71 Passing Score. This amendment clarifies the requirement of passing the NCEES Fundamentals of land surveying and the Professional land surveying examinations for licensure and removes outdated information regarding state produced licensing examinations.

The following sections are being amended to include acceptance of a “land surveying” degree for a level of education that determines the required amount of lawful experience needed for licensure. Also, the amendment includes the proposal to remove outdated test dates and replace with language requiring that an applicant for examination will need to apply no later than 90 days prior to the examination:

- Section 16-115-73 Examination-fundamentals of land surveying: qualifications, application, fees, required documents.
- Section 16-115-75 Examination-professional land surveying: qualifications, application, fees, required documents.

Section 16-115-77 Re-examination. This amendment proposes to remove outdated test dates and replace with language requiring that an applicant for examination will need to apply no later than 90 days prior to the examination.

Section 16-115-79 Lawful experience. This new subsection is being added to clarify that lawful experience accepted to satisfy the education requirement cannot be credited concurrently with experience requirement, as adopted in the Model Law of the National Council of Examiners for Engineering and Surveying.

SUBCHAPTER 5 LANDSCAPE ARCHITECTS

Section 16-115-87 Licensure by endorsement. This amendment clarifies the requirement of passing the CLARB landscape architectural licensing examination for licensure and removes outdated information regarding state produced licensing examinations.

The following sections are being amended to remove outdated test dates and replace with language requiring that an applicant for examination will need to apply no later than 90 days prior to the examination:

- Section 16-115-94 Examination: qualifications, application, fees, required documents.
- Section 16-115-96 Re-examination.

II. Small Business Impact Statement pursuant to section 201M-2, HRS:

1. The businesses that will be directly affected by, bear the cost of, or directly benefit from the proposed rules?

We do not anticipate any adverse effects on businesses or any additional direct costs for businesses to bear.

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

We do not anticipate any adverse affects.

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

No additional direct or indirect costs are anticipated.

4. The probable monetary costs and benefits to the implementing agency and 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?

Monetary benefits to the department are not anticipated.

5. 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 any other mitigating techniques?

Through the forum of public Board meetings at which the proposed rule amendments were discussed, the availability and distribution of minutes covering those open meetings, the availability and distribution of the proposed rules throughout the process we hope to address any concerns.

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

In addition to the public Board meetings and availability of minutes of those meetings, the public hearing will afford all interested persons the opportunity to comment on the proposed rules.

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

There are no mandated federal, state, or county standards applicable to this area.

III. Other Alternatives in Lieu of Proposed Rules:

There appears to be no other way to implement and clarify the statutory requirements.

Mr. Robert Cundiff
September 29, 2022
Page 6

The proposed rules have been reviewed by the Legislative Reference Bureau and the Department of the Attorney General.

The department submits these proposed rules and the Small Business Impact Statement contained herein, for consideration by the Small Business Regulatory Review Board.

If you have any questions, please contact Lee Ann Teshima, Executive Officer, at (808) 586-2702 or lteshima@dcca.hawaii.gov.

Very truly yours,



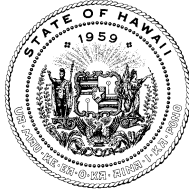
Catherine P. Awakuni Colón
Director

Attachment

cc: Lee Ann Teshima, Executive Officer

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



CATHERINE P. AWAKUNI COLÓN
DIRECTOR

AHLANI K. QUIOGUE
LICENSING ADMINISTRATOR

BOARD OF PROFESSIONAL ENGINEERS, ARCHITECTS, SURVEYORS, AND LANDSCAPE ARCHITECTS

STATE OF HAWAII
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
P.O. BOX 3469
HONOLULU, HAWAII 96801
cca.hawaii.gov/pvl

September 29, 2022

Chairperson Robert Cundiff
Small Business Regulatory Review Board
Department of Business, Economic Development & Tourism
P. O. Box 2359
Honolulu, Hawaii 96804

RE: Small Business Impact Review of the Proposed Amendments to **Title 16, Chapter 115, Hawaii Administrative Rules, Relating to the Professional Engineers, Architects, Surveyors, and Landscape Architects**

Dear Chairperson Cundiff,

Please accept my sincere apologies to you, your Board members and the SBRRB staff for not appearing before you at your September 20, 2022, meeting to discuss and respond to any questions regarding proposed amendments to Title 16, Chapter 115, Relating to the Professional Engineers, Architects, Surveyors, and Landscape Architects.

Unfortunately, due to a transition and assignments from one Executive Officer to another, we were unaware that the SBRRB was going to review the proposed amendments at your September 20, 2022, meeting.

I know how much work goes into preparing for a meeting as well as the time the Board members spend on reviewing the agenda items, so I sincerely apologize for any inconvenience.

I understand after speaking with staff that there was some confusion regarding the draft of the proposed amendments that was to be considered. To clarify, the draft that was sent to the SBRRB for consideration at your September 2022 meeting was the same draft that the SBRRB reviewed at your January 2022 meeting, but also included subsequent amendments that were **highlighted**. Unfortunately, we were not present to provide an explanation or respond to your questions.

After the SBRRB approved the proposed amendments in January 2022, the Board of Engineers, Architects, Surveyors and Landscape Architects had additional amendments.

Attached for your review is the additional amendments being proposed to Title 16, Chapter 115, Hawaii Administrative Rules that includes amendments not previously considered by the SBRRB and for which I have **highlighted** to make it easier to review.

Chairperson Robert Cundiff
September 29, 2022
Page 2

Again, my sincere apologies. I will be present at your October 20, 2022, meeting should this matter be placed on your agenda.

If you have any questions, please contact me at (808) 586-2702 or by email at lteshima@dcca.hawaii.gov.

Very truly yours,

Lee Ann Teshima

Lee Ann Teshima
Executive Officer

Attachment

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-115
Hawaii Administrative Rules

M DD, YYYY

1. Chapter 16-115, Hawaii Administrative Rules, entitled "Professional Engineers, Architects, Surveyors, and Landscape Architects", is amended and compiled to read as follows:

"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 Re-examination
- §16-115-39 Lawful experience

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 Re-examination
- §16-115-58 Lawful experience
- §16-115-59 Intern development program

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
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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.

"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.

"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(s), principal(s), officer(s), partner(s), member(s), or manager(s) 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; 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) "I." - Industrial;
 - (F) "M." - Mechanical; and
 - (G) "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 original and a digital signature is acceptable. The use of rubber signature stamps [, or computer-generated] 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) Industrial;
(6) Mechanical; or
(7) 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; 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(s) 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(s) of Lawful Experience completed by supervisors who are licensed professional civil engineers in that jurisdiction; and
- (3) If applicable, Verification(s) 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(s) 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(s) 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; 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 masters 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 [January 10] 90 days prior to [for] the examination [which is regularly conducted once a year in April]. 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(s) 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(s) of Lawful Experience completed by supervisors who are licensed professional civil engineers in that jurisdiction; and
- (3) If applicable, Verification(s) 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(s) 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 masters 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 masters 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 ~~[January 10]~~ 90 days prior to ~~[for]~~ the examination ~~[which is regularly conducted once a year in April]~~.

(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 ~~[July 10]~~ 90 days prior to ~~[for]~~ the examination ~~[which is regularly conducted once a year in October]~~.

(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(s) 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(s) of Lawful Experience completed by supervisors who are licensed professional civil engineers in that jurisdiction; and
- (3) If applicable, Verification(s) 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(s) 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 [January 10] 90 days prior to [for] the examination [which is regularly conducted once a year in April].

(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 [July 10] 90 days prior to [for] the examination [which is regularly conducted once a year in October].

(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(s) 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(s) of Lawful Experience completed by supervisors who are licensed professional civil engineers in that jurisdiction; and
- (3) If applicable, Verification(s) 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(s) 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; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-37 Re-examination. (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 [January 10] 90 days prior to [for] the examination [which is regularly conducted once a year in April].

(c) A person applying to retake the NCEES professional engineering branch examination in the agricultural, industrial, or structural branch shall file an Application for Re-examination no later than [July 10] 90 days prior to [for] the examination [which is regularly conducted once a year in October].

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

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(s) of Lawful Experience completed by supervisors who are licensed professional architects;
- (B) Verification(s) 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(s) 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; 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 examination(s) 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; 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 examination(s). [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)

§16-115-52 Passing score. The passing score shall be:

- (1) A grade of not less than seventy-five or pass for each of the portions of the A.R.E. [~~or~~]
- (2) ~~A grade of pass for similar state-produced licensing examination~~. [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)

§16-115-54 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[**7**] 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(s) of Lawful Experience completed by supervisors who are licensed professional architects; and

(B) Verification(s) of Experience in Responsible Charge completed by licensed professional architects.

(3) **A person meeting the requirements in section 16-115-54(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 Re-examination. (a) A person may retake the failed portion(s) 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 portion(s) of the A.R.E. to the person prior to the date the examination may be retaken.

(c) A person shall schedule the re-examination with the testing agency approved by 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)

§16-115-58 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) ~~[Intern development program]~~ 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; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-59 ~~[Intern development program] Architectural experience program.~~ (a) ~~[Effective June 30, 2000, a]~~

~~An applicant for examination shall be required to fulfill the training requirements of the [IDP] current AXP of NCARB as approved by the board[, or any other similar program satisfactory to the board].~~

~~(b) [An applicant shall acquire seven hundred training units to satisfy the IDP training requirement. One training unit equals eight hours of acceptable experience in the training categories specified below.]~~

~~(c) The training units shall be acquired in the following training settings as approved by the board:~~

~~(1) Experience in architecture as an employee under the supervision of a licensed professional architect in a firm whose practice encompasses the comprehensive practice of architecture;~~

~~(2) Experience in architecture as an employee under the supervision of a licensed professional architect in a firm whose practice does not encompass the comprehensive practice of architecture;~~

- (3) Experience directly related to architecture under the supervision of a licensed professional engineer or licensed professional landscape architect;
- (4) Excluding the experience provided in paragraphs (1) to (3) above, experience in activities involving the design and construction of buildings or structures, (e.g., analysis of existing buildings, planning, programming, design of interior space, review or technical submissions, engaging in building construction activities and the like) under the supervision of a person experienced and licensed in the activity; or
- (5) Teaching or research in a professional degree program accredited by the National Architectural Accreditation Board, Inc.
- (d) The applicant shall be responsible for documenting in detail the training obtained in the categories below. At a minimum, the applicant shall document the projects and dates involved. Applicants may select the NCARB Council Record as their documentation system. The board shall have the discretion to review and approve the documented training.
- (e) The IDP training requirements shall be as follows:
- | | |
|---|---------------------------------|
| (1) Category A: Design and construction documents | Minimum training units required |
| (A) Programming | 10 |
| (B) Site and environmental analysis | 10 |
| (C) Schematic design | 15 |
| (D) Engineering systems coordination | 15 |
| (E) Building cost analysis | 10 |
| (F) Code research | 15 |
| (G) Design development | 40 |
| (H) Construction documents | 135 |
| (I) Specifications and materials research | 15 |
| (J) Document checking and coordination | 10 |
| (K) Additional units in any of the above | 75 |
| (2) Category B: Construction administration | |
| (A) Bidding and contract negotiation | 10 |

(3)	Category C: Management	
	(A) Project management	15
(4)	Category D: Related activities	
	(A) Professional and community service	10
	(B) Teaching, research, post-professional	
(5)	Other elective units from any of	
	the above categories	235
	Total training units	700

(1)		Category A: Design and construction documents	Minimum training units required
	(A)	Programming	10
	(B)	Site and environmental analysis	10
	(C)	Schematic design	15
	(D)	Engineering systems coordination	15
	(E)	Building cost analysis	10
	(F)	Code research	15
	(G)	Design development	40
	(H)	Construction documents	135
	(I)	Specifications and materials research	15
	(J)	Document checking and coordination	10
	(K)	Additional units in any of the above	75
(2)		Category B: Construction administration	
	(A)	Bidding and contract negotiation	10
	(B)	Construction phase office	15
	(C)	Construction phase observation	15
	(D)	Additional units in any of the above	30
(3)		Category C: Management	
	(A)	Project management	15

	(B)	Office management	10
	(C)	Additional units in any of the above	10
(4)		Category D: Related activities	
	(A)	Professional and community service	10
	(B)	Teaching, research, post-professional degree, and other related activities	0
(5)		Other elective units from any of the above categories	235
		Total training units	700

~~]~~
~~(f)]~~ ~~(b)~~ Completion of the ~~[IDP]~~ AXP shall fulfill the lawful experience requirement provided in sections 16-115-54(a)(1) ~~[and (2)]~~ as approved by the board. For sections 16-115-54(a)(2) to (4), time participating in the ~~[IDP]~~ 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, 4648)

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 [~~either~~]:

- (1) Have successfully passed the NCEES fundamentals of land surveying examination [~~and the NCEES professional land surveying examination, or similar state-produced licensing 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 [~~or~~]
- (2) [~~Possess at least fifteen years of experience in responsible charge of land surveying work as approved by the board.~~] Have successfully passed the NCEES professional land surveying examination.

(c) Every person shall be required to pass the board-produced professional land surveying examination [~~on Hawaii land matters and Hawaii land description,~~] 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(s) of Lawful Experience completed by supervisors who are licensed professional land surveyors; and
- (3) If applicable, Verification(s) 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(s) 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; 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 [~~on Hawaii land matters and Hawaii land description~~].

(b) The board reserves the right to modify or supplement the examinations. [Eff 8/29/94; comp 10/26/01; comp 5/23/13; 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 [~~for similar state produced licensing examinations~~]; 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; 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, ~~[or]~~ 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, ~~[or]~~ 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 [January 10] 90 days prior to [for] the examination [which is regularly conducted once a year in April]. 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(s) of Lawful Experience completed by supervisors who are licensed professional land surveyors; and
- (3) If applicable, Verification(s) 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; 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, **[or]** 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 [January 10] 90 days prior to ~~[for]~~ the examination ~~[which is regularly conducted once a year in April]~~. 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(s) of Lawful Experience completed by supervisors who are licensed professional land surveyors; and
- (3) If applicable, Verification(s) 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; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-77 Re-examination. (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 Re-examination no later than [January 10] 90 days prior to [for] the examination [which is regularly conducted once a year in April].

(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; 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; 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 ~~[either]~~:

- (1) Have successfully passed a CLARB landscape architectural licensing examination ~~[or a similar state-produced licensing examination; or]~~.
- (2) ~~[Possess at least fifteen years of experience in responsible charge of landscape architectural work as approved by the board.]~~

(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(s) of Lawful Experience completed by supervisors who are licensed professional landscape architects; and
- (3) If applicable, Verification(s) 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(s) 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; 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, [documents] 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 [March 10] 90 days prior to [for] the examination [which is regularly conducted once a year in June]. 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(s) of Lawful Experience completed by supervisors who are licensed professional landscape architects; and
- (3) If applicable, Verification(s) 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; comp] (Auth: HRS §464-7) (Imp: HRS §§464-7, 464-8)

§16-115-96 Re-examination. (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 Re-examination no later than [March 10] 90 days prior to [for] the examination [which is regularly conducted once a year in June].

(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; 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)

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material except source notes and other notes, 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 16-115, 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 the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on M DD, YYYY, and filed with the Office of the Lieutenant Governor.



Catherine P. Awakuni Colón
Director of Commerce and
Consumer Affairs

APPROVED AS TO FORM:



Deputy Attorney General

IV. Administrative Matters

A. Discussion and Action on the following:

1. Board's Draft *2022 Annual Report Summary* for Submission to Hawaii State Legislature under Section 201M-5(f), Hawaii Revised Statutes (HRS)
2. Board's Draft *2022 201M-7 Periodic Review: Evaluation Report* for Submission to Hawaii Legislature under Section 201M-7, HRS



**HAWAII
SMALL BUSINESS
REGULATORY REVIEW BOARD**
DRAFT

Periodic Review; Evaluation Report

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

2022

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MESSAGE FROM DIRECTOR



As the director of the Department of Business, Economic Development and Tourism, I am pleased to extend my appreciation to the members of the Small Business Regulatory Review Board for their continued hard work and commitment to improve the regulated climate for Hawaii's small business community.

Mahalo!

Michael McCartney
Director



SMALL BUSINESS REGULATORY REVIEW BOARD

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David Y. Ige
Governor

MESSAGE FROM CHAIR

Mike McCartney
DBEDT 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



This Report consists of existing Hawaii Administrative Rules that both the State and County departments have determined to impact small business and the reasons for the rules' continued implementation. It is in accordance with the Board's effort to reduce negative small business impact and to improve rule-making procedures.

The Board began a state-wide rule-review process in 2003 with fourteen departments submitting 345 rules that impact small business and the purpose for their continuation. After modification of many of these rules in 2005, eleven departments provided the Board with 237 rules. Upon the review of each of the 237 rules, the Board recommended a full analysis on 49 of them. This has been narrowed down to 15 rules the Board believes warrant modifications; pages 17 through 25 of this Report provide the Board's recommendations on these final rules.

Board members continue to donate numerous hours of their valuable time, business acumen, and remain committed to the cause of improving the economic climate for small businesses in Hawaii. I congratulate each member for their tireless effort, teamwork and for keeping the Board's mission front and center.

We extend a special Mahalo to Governor Ige, Director McCartney and wish them the best in any future endeavor they undertake. We also extend a Mahalo to all the State and County departments that submitted the requested information to this board.

Robert Cundiff, Chair, SBRRB, 2022

OVERVIEW

Section 201M-7 Periodic review; evaluation, Hawaii Revised Statutes (HRS)

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

Action Taken: In accordance with Section 201M-7(a), HRS, the SBRRB requested and received from State and County agencies the following:

- 1) No later than June 30th of each year, a list of any rules to be amended or repealed, based upon any new, amended, or repealed statute; and
- 2) No later than June 30th of each odd-numbered year, a list of rules adopted during the prior year that affect small business, and a report describing the specific public purpose or interest for adopting the respective rules that affect small business and any other reasons to justify their continued implementation.

Response: The information in this report is a compilation of the responses and justifications received.

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

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

Action Taken: In accordance with Section 201M-7(b), HRS, the SBRRB requested and received from State and County agencies the following:

- 1) A list of rules adopted during the prior year that affect small business, and
- 2) A report describing the specific public purpose or interest for adopting the respective rules that affect small business and any other reasons to justify their continued implementation.

Response: The information in this report is a compilation of the responses to these two requests.

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

Action Taken: In accordance with Section 201M-7(c), HRS, the SBRRB encourages testimony on new and proposed amendments to Hawaii Administrative Rules but did not specifically solicit testimony from the public regarding any report submitted by the Agencies at a public meeting held pursuant to Chapter 92.

Response: The SBRRB receives and reviews testimonies from the public on proposed new and amended Hawaii Administrative Rules submitted by State and County Agencies during monthly board meetings with each testimony handled accordingly.

ADMINISTRATIVE RULE REVIEW MATRIX

State and Counties Departments	Hawaii Administrative Rules Submitted
STATE DEPARTMENTS	
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES	0
DEPARTMENT OF AGRICULTURE	4
DEPARTMENT OF THE ATTORNEY GENERAL	0
DEPARTMENT OF BUDGET AND FINANCE	0
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM	0
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS	37
PUBLIC UTILITIES COMMISSION	0
DEPARTMENT OF DEFENSE	0
DEPARTMENT OF EDUCATION	0
DEPARTMENT OF HAWAIIAN HOME LANDS	1
DEPARTMENT OF HEALTH	4
DEPARTMENT OF HUMAN SERVICES	10
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS	5
DEPARTMENT OF LAND AND NATURAL RESOURCES	4
DEPARTMENT OF PUBLIC SAFETY	0
DEPARTMENT OF TAXATION	2
DEPARTMENT OF TRANSPORTATION	1
UNIVERSITY OF HAWAII	0
COUNTIES	
HAWAII COUNTY	0
MAUI COUNTY	0
KAUAI COUNTY	2
CITY AND COUNTY OF HONOLULU	18

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

Department of Accounting and General Services (DAGS)

DAGS reported that no departmental administrative rules have been adopted during the prior year that affect small business.

Department of Agriculture (HDOA)

Under 201M-7(a), the following is a list of rules describing the specific public purpose or interest for adopting the respective rules that affect small business, during the period of July 1, 2019 through June 30, 2021, with reasons for justifying the rules' continued implementation:

1. HAR Title 4 Chapter 161 – Hemp Production Interim Rules

Justification – Required by Act 14, SLH 2020 regarding hemp transportation and buffer zones were adopted September 22, 2020. The rules were adopted to detail hemp transportation reporting requirements, and requirements for hemp growers exempt from the buffer zone requirements of Act 14, SLH 2020. Transportation reporting of hemp, aids law enforcement in ascertaining crop legality and protects legal producers.

2. HAR Title 4 Chapter 20-1 – Interim Rule – Prohibits the Movement of Coffee Plants and Plant Parts due to Coffee Leaf Rust

Justification – Adopted HDOA Plant Quarantine Branch (PQB) which restricted the interisland movement of coffee plants, plant parts, and used coffee harvesting or packing materials from areas in the state that have Coffee Leaf Rust (CLR) to areas in the state that do not have CLR. The interim rule went into effect on November 20, 2020 and included the islands of Maui and Hawaii Island. On March 24, the restrictions were expanded to include the islands of Lanai and Oahu after subsequent detections on those islands.

The purpose of this interim rule is to prevent the further spread of CLR to protect the coffee producing areas on islands that are not known to be infested with CLR. As Kauai and Molokai are not known to be infested, the restrictions will be maintained. PQB is working on implementing a permanent rule to replace the interim rule because it cannot be in effect for more than one year from implementation.

Under Section 201M-7(a), the following outlines a list of rules to be amended or repealed based upon any new, amended or repealed statute:

3. HAR Title 4 Chapter 157 – Rules Governing Irrigation Water Service to Consumers of Hawaii State Department of Agriculture Irrigation Systems

Justification – Will be amended.

4. HAR Title 4 Chapter 161 – Hawaii-Grown Industrial Hemp

Justification – After the passage of Act 14, SLH 2020 HRS Sections 141-42 to 43 Part III. Commercial Hemp Production last year, which repealed the Hawaii Industrial Hemp Pilot

Program (HRS Sections 141-31 to 40), the program's accompanying rules (HAR Chapter 4-161 Hawaii-Grown Industrial Hemp) were repealed as of November 1, 2020.

Department of the Attorney General

The Department of the Attorney General has no plans to amend or repeal any rule based upon any new, amended, or repealed statute.

It has not adopted any rules during the prior year that affect small business and, consequently, there is no report describing the specific public purpose or interest for the adoption of rules last year.

Department of Budget and Finance (B & F)

B & F reported that no departmental administrative rules have been adopted during the prior year that affect small business.

Department of Business, Economic Development, and Tourism

Under Section 201M-7(a), the following outlines a list of rules to be amended or repealed based upon any new, amended or repealed statute:

1. **HAR Title 15 Chapter 120** – Community Based Economic Development Loan and Grant Program
2. **HAR Title 15 Chapter 218** – Kakaako Reserved Housing Rules

Department of Commerce and Consumer Affairs

Under 201M-7(a), the following is a list of rules describing the specific public purpose or interest for adopting the respective rules that affect small business, during the period of July 1, 2019 through June 30, 2021, with reasons for justifying the rules' continued implementation:

Insurance Division

1. **HAR Title 16 Chapter 186 – Corporate Governance Annual Disclosure**
Justification – The annual disclosure statement is a NAIC accreditation requirement that affects domestic insurance companies. The HARs set forth the filing procedures, as well as the required contents of the disclosure statement. The disclosure statement regarding corporate governance practices is confidential and must be submitted annually.
2. **HAR Title 16 Chapter 185 – Annual Audited Financial Reporting**
Justification – Amended HAR §16-185, Annual Audited Financial Reporting. The amendments were made to conform with NAIC's Annual Financial Reporting Model Regulations. The HARs set forth the procedures that require large insurers to maintain an effective internal audit function.

Under Section 201M-7(a), the following outlines a list of rules to be amended or repealed, based upon any new, amended or repealed statute:

Division of Financial Institutions (DFI)

2. HAR Title 16 Chapter 24 – Money Transmitters

Rules are being reviewed for updates needed to conform to HRS Chapter 489D and DFI's current processes. Anticipated areas of amendment include bond and security device requirements, hourly exam fee, and application processes.

3. HAR Title 16 Chapter 25 – Application Procedures Relating to Hawaii Financial Institutions

Rules are being reviewed for updates needed to conform to HRS Chapter 412 and DFI's current processes. Anticipated areas of amendment include deleting outdated references to certain fees, and application processes.

4. HAR Title 16 Chapter 28 – Escrow Depositories

Rules are being reviewed for updates needed to conform to HRS Chapter 449 and DFI's current processes. Anticipated areas of amendment include fidelity bond and E&O provisions, and application processes.

Professional and Vocational Licensing Division

5. HAR Title 16 Chapter 71 - Certified Public Accountants and Public Accountants

The rules are being prepared for final signatures.

6. HAR Title 16 Chapter 72 – Acupuncture Practitioners

The Board is finalizing a draft. The proposed draft would address much of the outdated language and provide conformity with national standards and practices.

**8. HAR Title 16 Chapter 74 - Boxing
Agency's Justification**

The purpose of the rules is to implement licensing and regulation of the boxing industry under the department's regulatory authority. The rules are needed as they facilitate licensing and enforcement. They were established in 1981 and amended in 1991.

The Commission is working on a draft to amend the boxing rules by: (1) updating the rules to conform with current practices in the sport as the rules haven't been amended since 1991; (2) removing unnecessary amateur rules as the Commission has delegated the supervision of amateur boxing to a nationally recognized amateur athletic association as allowed under HRS section 440-30; and (3) making amendments throughout the chapter for clarity and style.

9. HAR Title 16 Chapter 76 – Chiropractors

The Board is exploring language to propose an initial draft to streamline the continuing education review process.

10. HAR Title 16 Chapter 77 – Contractors

The Board is currently working on a draft update the specialty contractor classifications.

11. HAR Title 16 Chapter 79 – Professional Engineers, Architects, Surveyors, and Landscape Architects

The Board is currently working on a draft to propose licensure for the additional branches of Fire Protection engineers and Environmental engineers and clarifying the CE requirements for architects. The draft is currently being reviewed at the Attorney General's office.

12. HAR Title 16 Chapter 81 – Elevator Mechanics

The Board and stakeholders came to an agreement with a final draft.

13. HAR Title 16 Chapter 83 – Hearing Aid Dealers and Fitters

Agency's Justification

The purpose of the rules is to implement licensing and regulation of hearing aid dealers and fitters under the department's regulatory authority. The rules are necessary as they facilitate licensing and enforcement. The rules were established in 1982 and amended in 1994.

A new examination by the International Hearing Society (considered the national examination) has been procured and shall be administered via the University of Hawaii testing centers and therefore the rules must be updated to: (1) incorporate the new examination, specify the examination provider or its successor, and to set forth examination filing and registration procedures in Subchapter S; (2) create a new subchapter 8 to address renewal and restoration requirements; create a new subchapter 6 to set forth and address the scope of practice of a hearing aid dealer and fitter; and (3) make other revisions throughout the chapter to update the rules to address current industry practices in the profession, and for clarity and style.

14. HAR Title 16 Chapter 84 – Massage Therapy

The Board has finalized a draft. Draft includes sanitation rules for massage therapy establishments.

15. HAR Title 16 Chapter 86 – Motor Vehicle Dealers and Salesmen

Agency's Justification

The purpose of the rules is to implement licensing and regulation of motor vehicle dealers and salesmen under the department's regulatory authority; they are necessary as they facilitate licensing and enforcement. The rules were established in 1981 and amended in 1993.

The Board is currently working on a draft with industry stakeholders.

16. HAR Title 16 Chapter 87 – Motor Vehicle Repair Dealers and Mechanics

Agency's Justification

The purpose of the rules is to implement licensing and regulation of motor vehicle repair dealers and mechanics under the department's regulatory authority. The rules are necessary as they facilitate licensing and enforcement. They were established in 1976 and amended in 1989.

The Board is currently working on a draft.

17. HAR Title 16 Chapter 89 – Nurses

The Board is currently working on amending Exhibit A, APRN Exclusionary Formulary, that is attached to and part of HAR Chapter 89.

18. HAR Title 16 Chapter 90 – Nursing Home Administrators

The Board is currently working on updating to delete reference to "Board of Examiners of Nursing Home Administrators ("board") as the Board was repealed in HRS Chapter 457B and is currently a program and not a Board. Last updated in 1988.

19. HAR Title 16 Chapter 92 – Optometrists

The Board is currently finalizing draft.

20. HAR Title 16 Chapter 93 – Osteopaths

The Board repealed this chapter because HRS Chapter 460, its authorizing statutory chapter was repealed by Act 5, SLH 2008. However, this is on hold until HAR Chapter 85 is amended to include references to osteopathic physicians and their specific license requirements.

21. HAR Title 16 Chapter 94 – Pest Control Operators

The Board held a public hearing in September 2020. Final draft to be sent to AG's office for signature.

22. HAR Title 16 Chapter 96 – Pilotage

The Program is currently working on a draft.

23. HAR Title 16 Chapter 97 – Private Detectives and Guards

The Board is currently working on a draft.

24. HAR Title 16 Chapter 98 – Psychologists

The Board has determined an amendment to the rules is needed and is currently identifying sections that need amendments to begin drafting new language. (Preliminary stages)

25. HAR Title 16 Chapter 99 – Real Estate Brokers and Salespersons

The Commission is working to repeal this chapter, and replace it with three separate chapters 99.1, 99.2, and 99.3. This will facilitate the expeditious review of future rule revisions.

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

The Board is currently determining what within the rules would need to be updated (to address updates to national professional standards) before deciding if drafting a rule change is necessary.

27. HAR Title 16 Chapter 101 – Veterinarians

Agency's Justification

The purpose of the rules is to implement licensing and regulation of veterinarians under the department's regulatory authority. The rules are necessary as they facilitate licensing and enforcement. They were established in 1967 and amended in 1986.

Following ASO's review, draft is in DAG's review.

28. HAR Title 16 Chapter 106 – Timesharing

Agency's Justification

The purpose of the rules is to implement licensing and regulation of timesharing under the department's regulatory authority. The rules are necessary as they facilitate licensing and enforcement. They were established in 1980 and amended in 1990.

The Board is currently working on a draft.

29. HAR Title 16 Chapter 110 – Physical Therapy

The Program is currently working on a draft.

30. HAR Title 16 Chapter 114 – Real Estate Appraisers

The Program is currently working on a draft.

31. HAR Title 16 Chapter 115 – Dentists and Dental Hygienists

The Board is currently working on a draft to clarify the anesthesia/sedation privilege and facility permit renewal

32. HAR Title 16 Chapter 116 – Travel Agencies

The Program is working on a draft to propose housekeeping amendments to address branch offices and separate client trust accounts; and to allow a charter tour operator to hold a client trust account in a federally insured financial institution located out of the State. The draft is currently being reviewed at the Attorney General's office.

33. HAR Title 16 Chapter NEW – Mixed Martial Arts

The Program is currently working on a draft.

34. HAR Title 16 Chapter NEW – Midwives

The Board is currently drafting rules for new licensing profession under HRS 457J.

Cable Television Division (CATV)

35. HAR Title 16 Chapter 131 – Hawaii Cable Communications Systems

Rules being reviewed and drafting language to update chapter. Expect to amend HAR § 16-131-70 to conform to HRS § 440G-8.3, which allows DCCA Director to designate public, educational, and governmental access organizations exempt from HRS Chapter 103D.

Insurance Division (INS)

36. HAR Title 16 Chapter 168 – Credit for Reinsurance

The Board will begin drafting amendments in preparation of an anticipated bill to be introduced and adopted during the 2022 Legislative Session. The amendments are made to conform to NAIC's Credit for Reinsurance Model Regulation and expecting to be implemented by Fall 2022.

37. HAR Title 16 Chapter 171 – Miscellaneous Insurance Rules

The Board is currently drafting amendments to Subchapter 3 – Licensing Requirements in preparation of the enactment of SB1096 and SB1098 during the 2021 Legislative Session. The amendments are to provide consistency and efficiency in processing insurance licensing and facilitate the Insurance Division's transition to the electronic processing of insurance licensing fees, registrations and renewals.

Public Utilities Commission

The Public Utilities Commission has reported that it did not have any rules affecting small business. See separate review in this report.

Department of Defense (DoD)

As previously stated, the DoD has reported that it did not have any rules affecting small business.

Department of Hawaiian Home Lands (DHHL)

Under Section 201M-7(a), the following outlines a list of rules to be amended or repealed, based upon any new, amended or repealed statute:

- 1. HAR Title 10 Chapter 5 Subchapter 3 – Contested Case Rules**

DHHL to conform with amended Hawaii Revised Statutes section 91-9, which allows contested case hearings to be held by interactive conference technology.

Under 201M-7(a), the following is a list of rules describing the specific public purpose or interest for adopting the respective rules that affect small business, during the period of July 1, 2019 through June 30, 2021, with reasons for justifying the rules' continued implementation:

DHHL reports that no administrative rules have been adopted during 2020 that affect small business.

Department of Health (DOH)

Under 201M-7(a), the following is a list of rules describing the specific public purpose or interest for adopting the respective rules that affect small business, during the period of July 1, 2019 through June 30, 2021, with reasons for justifying the rules' continued implementation:

- 1. HAR Title 11 Chapter 260.1 to 279.1 -- Solid Hazardous Waste**

Justification – Required by federal law to align with Code of Federal Regulations.

- 2. HAR Title 11 Chapter 20 – Public Water Systems**

Justification – Required by federal law to ensure compliance with drinking water standards of the Federal Safe Drinking Water Act.

- 3. HAR Title 11 Chapters 218 - Communication Access Services for Persons who are Deaf, Hard of Hearing, and Deaf, Blind**

Justification – Guidelines for State agencies to hire communications consultants to permit interaction with government.

- 4. HAR Title 11 Chapter 280.1 – Underground Storage Tanks**

Justification – The primary purpose of the proposed changes is to increase time DOH can perform a regulatory action. No new obligations for UST operators.

Department of Human Services

Under Section 201M-7(a), the following are rules to be amended or repealed based upon any new, amended, or repealed statute as of June 30, 2022:

- 1. HAR Title 17 Chapter 798.2 – Child Care Services**
- 2. HAR Title 17 Chapter 798.3 – Child Care Payments**
- 3. HAR Title 17 Chapter 800 – License Exempt Center-Based**
- 4. HAR Title 17 Chapter 801 – Background Checks**
- 5. HAR Title 17 Chapter 802.2 – Child Care Grant Program**
- 6. HAR Title 17 Chapter 675 – Assets**
- 7. HAR Title 17 Chapter 891.1 – Registration of Family Child Care Homes**

8. **HAR Title 17 Chapter 892** – Licensing of Group Child Care Centers and Group Child Care Homes
9. **HAR Title 17 Chapter 895** – Licensing of Infant and Toddler Child Care Centers
10. **HAR Title 17 Chapter 896** – Licensing of Before and After School Child Care Facilities

Hawai'i Public Housing Authority (HPHA)

HPHA does not have any administrative rules that affect small business.

Department of Land and Natural Resources

In response to the Small Business Regulatory Flexibility Act, Section 201M-7 Hawaii Revised Statutes (HRS), the Department of Land and Natural Resources reports that the following rules with potential to impact small businesses will be amended or repealed based on new statutes:

1. Amend HAR 13-74 to implement Commercial Marine Vessel License (based on HB1016)
2. Amend HAR 13-74 to implement Nonresident Recreational Marine Fishing License (based on HB1023)
3. Adopt new rule to establish Ocean Stewardship User Fee (based on HB1019)

The following rule, which may affect small businesses was adopted during the prior year.

4. **HAR Title 13 Chapter 241 – Numbering of Vessels**
Justification – Align with the requirements of HRS Chapter 200A, regarding vessel titling. Increased fees for titling and registration for businesses that own and operate vessels registered for use in state waters.

Department of Labor and Industrial Relations (DLIR)

Under 201M-7(a), the following is a list of rules describing the specific public purpose or interest for adopting the respective rules that affect small business, during the period of July 1, 2019 through June 30, 2021, with reasons for justifying the rules' continued implementation:

Hawai'i Occupational Safety & Health Division (HIOSH)

1. **HAR Title 12 Chapter 220 – Boiler and Pressure Vessel, General, Administrative, and Legal Provisions**
Justification - DLIR anticipates passage of its Governor's Package Bill (HB1004 HD1 SD2). This measure seeks to augment the capacity of the department to inspect boilers, pressure vessels, elevators and kindred equipment, and amusement rides allowing the department to revoke or suspend the permit to operate for equipment for which the required fees or fines are not submitted to the department after notification.
2. **HAR Title 12 Subtitle 8 Part 11 Chapter 229 – Elevators and Related Systems, General, Administrative, and Legal Provisions**

Justification – DLIR anticipates passage of its Governor’s Package Bill (HB1004 HD1 SD2). This measure seeks to augment the capacity of the department to inspect boilers, pressure vessels, elevators and kindred equipment, and amusement rides allowing the department to revoke or suspend the permit to operate for equipment for which the required fees or fines are not submitted to the department after notification.

Under Section 201M-7(a), the following outlines a list of rules to be amended or repealed, based upon any new, amended or repealed statute:

- 3. HAR Title 12 Chapter 230 – Elevators, Escalators, Dumbwaiters, Moving Walks, and Material Lifts and Dumbwaiters with Automatic Transfer Devices**
- 4. HAR Title 12 Chapter 230.1 – Elevators, Escalators, Dumbwaiters, Moving Walks, and Material Lifts and Dumbwaiters with Automatic Transfer Devices**
- 5. HAR Title 12 Chapter 240 – Elevator Requirements for Handicapped**

These three chapters were amended and adopted 1/31/21 and included fee increases needed to maintain the self-sustaining Boiler and Elevator Inspection operations for public safety.

The Boiler & Elevator Branch funding was converted to a self-sufficient special fund in 2012, whereby the Branch operations are supported by revenues from the fees it charges. Fee increases since 2012 have never accounted for the Branch's full cost to operate and provide its statutory inspection services. The Branch is currently in dire straits financially due to the cumulative operating deficits and this is the initial step to cover full operating costs to ensure the self-sufficiency of the Boiler & Elevator Branch.

Department of Public Safety (DPS)

DPS does not have any information to provide as requested by the SBRRB. DPS follows statutes and rules administered by the DAGS and the State Procurement Office in dealing with small businesses.

Department of Taxation (DoTax)

Under 201M-7(a), the following is a list of rules describing the specific public purpose or interest for adopting the respective rules that affect small business, during the period of July 1, 2019 through June 30, 2021, with reasons for justifying the rules’ continued implementation:

1. HAR Title 18 Chapter 235 - Income Tax Law

Justification - This rule is necessary for the distribution of tax credits for pass-through entities where the statute itself does not specify how the credit should be distributed.

The Department adopted a new administrative rule related to the distribution of income tax credits for partnerships, S corporations, estates, and trusts, which became effective September 18, 2020. The rules added new section 18-235-3-01, HAR.

For income tax credit laws that do not specify how the credit is to be distributed, this rule requires distribution according to Internal Revenue Code (IRC) section 704. Under IRC section 704, distributions are made according to the ratio upon which the partners, S corporation shareholders, or beneficiaries of an estate or trust divide the general profits or losses of the entity.

2. HAR Title 18 Chapter 235 Section 237-17 – Motion Picture, Digital Media and Film Production Income Tax Credit

Justification - The rules provide critical guidance relating to the Film Credit as a whole. Because of the new aggregate cap and verification review requirements, the Film Credit could not be administered without these rules.

DoTax adopted new administrative rules related to the Motion Picture, Digital Media, and Film Production Income Tax Credit (Film Credit) provided under section 237-17, HRS. The rules cover every facet of the Film Credit, including certification. In lieu of describing each rule, DoTax has attached Tax Announcement No. 2019-15 which summarizes the rules.

Department of Transportation (DOT)

Under Section 201M-7(a), the following outlines a list of rules to be amended or repealed, based upon any new, amended or repealed statute:

Harbors Division

1. HAR Title 19 Chapter 44 Subchapter 73 – Rules Relating to Services and Procedures, Charges, Tolls and Fees; Incremental Increases to Wharfage Rates

Justification - The rate increase that will take effect on July 1, 2021 is the higher of 3% or the increase in the Consumer Price Index for the 12-month period ended March 2021 for the Honolulu area, which was 1.8%, as determined by the U.S. Department of Commerce Bureau of Labor Statistics.

On July 1, 2021, the tariff for Wharfage and Pipeline Toll Rates will reflect an increase of 3% applied to the Wharfage and Pipeline Toll Rates that are in effect until June 30, 2022. The new tariff rates for vessel dockage and port entry fees are on the Exhibit to the HAR and available online at <http://hidot.hawaii.gov/harbors/library/admin-rules/>.

The increased rates will be applied as follows:

- Any vessel entering and docking at any of our commercial harbors at or after 12:00 a.m. July 1, 2021 will be charged the fees applicable to the voyage at the July 1, 2021 rates. A representative listing of such fees, but not an all-inclusive listing of these fees, includes fees for wharfage, pipeline tolls, bunkering activity, and fees for the use of pipelines to transport or to load potable water.
- Any vessel entering and docking at any of our commercial harbors no later than 11:59 p.m. on June 30, 2021, will be charged Wharfage and/or Pipeline Toll Rates applicable to the voyage at the rates in effect prior to July 1, 2021. Any charges related to any use of harbor facilities or any services provided on or after July 1, 2021, such as bunkering charges or charges for the use of pipelines to transport or to load potable water, will be assessed at the rates that become effective July 1, 2021.

Revised self-report forms reflecting the new rates that take effect July 1, 2021, must be used, completed, and submitted to report the cargo-related activities and user fees that occur on or after July 1, 2021. These revised self-report forms are available on the Department of Transportation, Harbors Division website at: <http://hidot.hawaii.gov/harbors/doingbusiness/> .

The following is a listing of the revised self-report forms reflecting the new rates that will take effect July 1, 2021:

- Overseas Wharfage Report;
- Overseas Transshipment Wharfage Report (65a);
- Inter-Intra-Island Wharfage Report;
- Inter-Intra-Island Transshipment Wharfage Report 65(b) and 65(c);
- Inter-Intra-Island Transshipment Wharfage Report 65(d);
- Pipeline Toll Report (Private); and
- Pipeline Toll Report (State)

University of Hawaii (UH)

UH confirms that it currently has no administrative rules affecting small business, and that it has not amended or repealed any rules in the past year based upon any new, amended, or repealed statute impacting small business.

However, on January 13, 2020, Governor David Ige approved Hawai'i Administrative Rules Chapter 20-26, entitled "Public and Commercial Activities on Mauna Kea Lands." The rules are authorized by HRS § 304A-1903 to, among other things, promote public safety and welfare by regulating public and commercial activity on lands managed by the University on Maunakea, Island of Hawai'i.

The rules, in part, regulate commercial tour operators, small businesses that have been granted permits to operate commercial tours on Maunakea, revered because of its cultural, historic and environmental significance, and as the world's premier site for astronomy. A major management concern for Maunakea is appropriate control of visitor access that can endanger the resources on the mountain. The rules provide for formal establishment of a permitting process to allow commercial tours to operate while ensuring that impacts to sensitive cultural, natural, and scientific resources are minimized. Therefore, the University believes that the University should continue to implement the rules.

Follow-up on Prior SBRRB Administrative Rule Reviews

The following Hawaii Administrative Rules were previously reviewed by the SBRRB. Current updates, if any, are noted.

Department of Agriculture

Division of Measurement Standards

1. HAR Title 4 Chapter 93 – Packaging and Labeling

Justification - This rule ensures that consumer commodities offered for sale in the State are correctly labeled as to their content identification and unit amount. The rule also defines specific identification regarding the Department of Agriculture's logo, "Island Fresh." The rules were established in 1981 and amended in 1995.

2006 Recommendation - Many products that are represented as Hawaiian-made and Hawaiian-grown are not. Rules need re-analysis and updating.

Response from Agency - A conversation with Mr. William Pierpont, Branch Chief of the Measurement Standards Branch on February 8, 2008 noted that the Review Board's comments that products represented as Hawaiian-made and Hawaiian-grown does not apply. Packaging and labeling requirements are implemented through the National Institute of Standards and Technology Handbook 130, 1993 edition, which are current. Further, the logo "Island Fresh" is completely different than "Hawaiian-made" and "Hawaiian-grown" therefore; no future to amend the rules are expected.

The SBRRB was not in agreement with the Agencies' response and justification. Therefore, a full analysis of this rule with a draft to be provided to the SBRRB by December 2009 is requested. A memorandum will be sent to the Agency outlining this request with a copy sent to the Governor.

Final Commentary - A discussion with DOA in 2018 revealed that the rules are in process of being reviewed and will be updated accordingly; no date for completion was determined.

As of the printing of this 2022 report, there were no changes or updates to the rules.

Division of Plant Industry

2. HAR Title 4 Chapter 73 – Plant and Non-Domestic Animal Quarantine Plant Export Rules

Justification - This rule provides for export plant and plant products inspectional and disinfestation treatment services that meet the requirements of the state or country of destination. Agriculture is an important economic industry to the State of Hawaii.

From the inception of large-scale mono-crop production such as pineapple and sugarcane to the diversification of specialized crops, which include gourmet baby vegetables, exotic cut flowers and tropical fruits, as well as ornamental plants, now include the culture of various aquatic ornamental and food species. This is a far cry from the traditional plant crops grown historically in soil.

Because of this expansion, there has been an increased need to ship plants or plant

products out of the State. Presently, this administrative rule provides for export plant and plant products' inspectional and disinfestations treatment services, which is provided by the Plant Quarantine Branch, which meets the requirements of the State or Country of destination; each State or Country has their own requirements that must be met before plants can enter their state or country.

To implement the requirements, the Branch has the authority to impose nursery inspection fees as well as burrowing nematode testing fees, which may seem to impact small business. The necessary fee helps to defray the operational and travel costs borne to the Branch, which may be hampered by general budgetary constraints.

Without this administrative rule in place, the services provided by the Branch to certify plants going out of the state to other states or countries would not be possible. Programs such as the nursery certification program and the origin inspection program for cut flowers are administered through this rule.

Although the rule imposes many restrictions on nurseries and the flower businesses, these requirements must be met, or the destination state or country will not accept the plants or flowers being shipped or taken to the respective state or country. The rule was established in 1981.

2006 Recommendation - Rule amendments were submitted to the SBRRB in 2006; however, the Branch has subsequently pulled the rules for further analysis. The Branch is in the process of updating this rule; the SBRRB agrees the rule should be reviewed and revised.

Response from Agency - This rule provides an amendment to modify the nursery certification program and establish a compliance agreement program for exporting nurseries. The amendments will update rules based on new science and changing industry needs as well as stricter requirements for certifying nurseries.

The Branch's targeted date for transmitting the draft rules to the Board of Agriculture for review is February 2009 with a public hearing has a projected date of June 2009. The SBRRB was in concurrence and will follow-up with the Agency.

Final Commentary - A discussion with DOA in 2018 revealed that the rules are currently "frozen" in terms of modification however because the statute governing these rules reflect a change in fees, proposed amendments regarding the fees may be brought forth in front of this Board within the next few years.

As of the printing of this 2022 report, there were no changes or updates to the rules.

Division of Animal Industry

3. HAR Title 4 Chapter 16 – Cattle, Sheep, and Goats

Justification - The rules refer to the regulation of cattle, sheep and goats. Proposed will enhance livestock disease management through testing and tracing back to flocks or origin and other housekeeping amendments. Amendments will also update the existing rules to allow Hawaii to remain consistent with the National Scrapie Eradication Program, require additional testing for incoming cattle, and additional permit requirements for incoming livestock as well as qualifications.

A quarantine order put in place for the intrastate movement of sheep and goats has reduced the urgency to amend the rules as the Agency's targeted date for transmitting the draft rules to the Board of Agriculture for review was January 2008.

On February 14, 2008, Dr. James Foppoli, Administrator of Animal Industry Division, indicated that these rules are still in the process of being amended.

2006 Recommendation - The rules are 25 years old; the rules are in process of being updated.

Final Commentary - A discussion with DoAg in 2018 indicated that these rules were under review and in the process of being updating for several years; a completion of the updates is expected in 2020.

As of the printing of this 2022 report, there were no changes or updates to the rules.

4. HAR Title 4 Chapter 17 – Swine

Justification - This rule authorizes DoAg to undertake disease control measures intended to control and eradicate certain disease of local and national economic significance or that may affect public health adversely. Preventing the introduction of diseases reduces the potential for animal losses due to death or poor growth and maintains the general health and welfare of domestic pigs.

The rule is justified due to the importance of disease surveillance, diagnosis and eradication on the economic viability of the swine industry and in protecting public health from infectious disease transmitted from animals to man. General health and welfare of livestock is enhanced through disease control and eradication activities, resulting in a more wholesome product for the Hawaii market and enhanced consumer confidence in Hawaii products. The rules were established in 1981.

On February 14, 2008, Dr. James Foppoli, Administrator of Animal Industry Division, indicated the rules are in process of being amended.

2006 Recommendation - The rules are 25 years old; the rules are in process of being updated.

On February 14, 2008, Dr. James Foppoli, Administrator of Animal Industry Division, indicated that these rules are still in the process of being amended. The Review Board will continue to monitor the status.

Final Commentary - A discussion with DoAg in 2018 indicated that these rules have been under review and in the process of being updated for several years; a completion of the updates is expected in 2020.

As of the printing of this 2022 report, there were no changes or updates to the rules.

5. HAR Title 4 Chapter 23 – Horses

Justification - This rule controls the importation of diseases and pests that affect horses. Preventing the introduction of certain horse diseases and pests into Hawaii is essential to maintain a healthy horse population. In addition, freedom from certain diseases reduces the economic burden for horse owners resulting from illness and death. As

most of horses in Hawaii are pets, there is little impact on small business by these import requirements.

The rules were established in 1949 and last amended in 1981. On February 14, 2008, Dr. James Foppoli, Administrator of Animal Industry Division, indicated that these rules are still in the process of being amended. The Review Board will continue to monitor the status.

2006 Recommendation - The rules are 25 years old; the Agency has indicated that the rules are in process of being updated.

Final Commentary - A discussion with DoAg in 2018 indicated that these rules have been under review and in the process of being updated for several years; a completion of the updates is expected in 2020.

As of the printing of this 2022 report, there were no changes or updates to the rules.

Department of Commerce and Consumer Affairs

6. HAR Title 16 Chapter 75 - Cemeteries and Funeral Trusts

Justification - The purpose of the rules is to implement licensing and regulation of the cemetery and funeral trust industry under the department's regulatory authority. The rules are still needed as they facilitate licensing and enforcement. The rules were established in 1969 and amended in 1991.

2006 Recommendation - This industry has had its share of publicity. Full analysis and update should be performed.

Response from Agency - The SBRRB recommended that a full analysis and update be performed. DCCA plans to amend the rules to: (1) make them consistent with Act 188, SLH 2007; (2) incorporate current practices; and (3) update references to corporations to include limited liability companies. DCCA's targeted date for transmitting the draft rules to the Department of the Attorney General for review is August 2008. The SBRRB is in concurrence with the Agency.

Final Commentary - A discussion with DCCA in 2018 indicated that these rules are, by nature, quite sensitive to change, although changes have been discussed. No date has been determined for final updates.

As of the printing of this 2022 report, there were no changes or updates to the rules.

7. HAR Title 16 Chapter 117 – Activity Providers and Activity Desks

Justification - The rules implement licensing and regulate the activity providers and activity desks under the department's regulatory authority. They are necessary as they facilitate licensing and enforcement; the rules were established in 1995.

2006 Recommendation - There is substantial small business impact largely due to fraud in the industry. Full analysis and update should be performed.

Response from Agency - The SBRRB expressed concerns that there is substantial small business impact largely due to fraud in the industry. Consequently, the SBRRB

recommended that a full analysis and update be performed. DCCA has reviewed the rules and determined that no substantive amendments are necessary at this time. DCCA has received an average of 18 complaints a year - there are approximately 325 registered activity desks over the past four years. Note: in 2007, of the current 54 complaints, six are against licensed activity desks and 48 are for unlicensed activity, mostly against one company.

The SBRRB is in concurrence with DCCA. Although DCCA determined there to be no substantive changes in 2008, due to the noted substantial fraud in the industry, it will again, be approached by the SBRRB.

Final Commentary - A discussion with DCCA in 2018 indicated that these rules are not in the process of being amended. They will be reviewed in the near future; at that time, a determination will be made if modifications are warranted.

As of the printing of this 2022 report, there were no changes or updates to the rules.

Department of Health

Medical Division

8. Chapter 11-89 – Services for Developmental Disabilities Domiciliary Homes

Justification - The rules establish minimum requirements for the certification and licensure of developmental disabilities domiciliary homes for adult individuals with developmental disabilities. §333 F-2(c) (4), HRS, requires that developmental disabilities domiciliary establish a continuum of residential alternatives in the community which includes the provision of domiciliary homes for adult individuals with developmental disabilities.

These rules set standards and provides for the regulation of such homes through certification and licensure. This is needed to ensure the health and safety of this vulnerable population. The rules were established in 1992.

2006 Recommendation - Standards have changed, and enforcement of the rules is different since the rules were established in 1992. Therefore, some provisions should be deleted. Reanalysis and update of rules should be performed.

Response from Agency - On March 20, 2008, correspondence from Health Director Fukino, M.D., indicated that Office of Health Care Assurance will continue to keep in mind the SBRRB's recommendations as efforts continue regarding administrative rule analysis and revision.

As the population regarding developmental disabilities domiciliary homes is growing and identified in the community, it is recommended that the Agency address the needs of the population and bring these rules and regulations regarding services to this population current. The SBRRB strongly recommends that these rules are amended with a first draft delivered to this Board by December 2009. A memorandum will be sent to the Agency outlining this request with a copy sent to the Governor.

Final Commentary - As of 2022, DOH's website continues to show the rules are "pending amendment & compilation."

9. Chapter 11-95 – Freestanding Surgical Outpatient Facilities

Justification - The rules establish minimum requirements for the protection of the health, welfare and safety of patients, personnel, and the public in freestanding surgical outpatient facilities; in all instances where other agencies of government have similar regulations, the stricter rules shall apply.

These rules contain state licensure requirements. Such licensure ensures that the federal and medical standards for health facilities are being met. Thus, licensure is a pre-requisite for federal reimbursement. Without licensure, the health and safety of patients, employees and the public will be compromised, and federal reimbursement will not be realized. The rules were established in 1986.

2006 Recommendation - Better defined guidelines and standards are needed, especially with safety standards. The rules are too vague and are 20 years old. Re-analysis and update of rules should be performed.

Response from Agency - On March 20, 2008, correspondence from Health Director Fukino, M.D., indicated that Office of Health Care Assurance will continue to keep in mind the Small Business Regulatory Review Board's recommendations as efforts continue regarding administrative rule analysis and revision.

The SBRRB will monitor these rules for updates from the Agency.

Final Commentary - As of 2022, DOH's website continues show the rules are "pending repeal and replacement by Chapter 92."

10. Chapter 11-96 – Freestanding Adult Day Health Centers

Justification - The rules establish minimum requirements for the protection of health, welfare, and safety of clients and the public in adult day care centers. These rules contain state licensure requirements. Licensures of these settings are critical to ensure provision of care is within current federal and medical standards to ensure the health and safety of patients, employees and the public. The rules were established in 1991.

2006 Recommendation - The Agency has indicated that the rules need revisions; rules are 15 years old. The SBRRB agrees with the Agency that these rules should be reviewed and revised.

Response from Agency - On March 20, 2008, correspondence from Health Director Fukino, M.D., indicated that Office of Health Care Assurance will continue to keep in mind the Small Business Regulatory Review Board's recommendations as efforts continue regarding administrative rule analysis and revision.

These are essential rules and must be clear and separate as well as distinguished from other adult programs because the centers are freestanding; the SBRRB concurs.

Final Commentary - As of 2022, there were no changes or updates to the rules

11. Chapter 11-97 – Home Health Agencies

Justification - These rules outline licensing requirements for Home Health Agencies (HHA) and defines penalty for those who violate this chapter. HHA has the option of being Medicare/Medicaid certified to receive reimbursement, and there is an increasing interest for HHA's that receive private funding, to be licensed, to be reimbursed by

private insurance and/or long-term care insurance. Such licensing not only ensures the health and safety of patients, employees and the public, but also looks toward reducing the abuse and exploitation of the elderly. The rules were established in 1982.

2006 Recommendation - DOH indicated the rules need revisions; rules are 25 years old and exhibit inconsistent standards – standards and accreditation need to be in place. The SBRRB agrees with DOH that these rules should be reviewed and revised.

Response from Agency - On March 20, 2008, correspondence from Health Director Fukino, M.D., indicated that Office of Health Care Assurance will continue to keep in mind the Small Business Regulatory Review Board's recommendations as efforts continue regarding administrative rule analysis and revision.

Currently, procedures are being enforced that are not reflected in the rules. If enforcement is being sought, those procedures should be incorporated in the rules. The SBRRB strongly recommends that these rules are amended with a first draft delivered to the SBRRB by December 2009. A memorandum will be sent to DOH outlining this request with a copy sent to the Governor.

Final Commentary - As of 2022, the proposed rules were reviewed and approved by the SBRRB for submittal to the Governor for adoption.

12. Chapter 11-99 – Intermediate Care Facilities for the Mentally Retarded

Justification - The rules establish minimum requirements for the protection of the health, welfare, and safety of patients, personnel, and the public in small intermediate care facilities for the mentally retarded. In all instances where other agencies of government have similar regulations, the stricter rules shall apply.

The Intermediate Care Facility/Mentally Retarded population is the most vulnerable of the disabled population. These regulations provide for assurance of their safety and welfare. The state licensure regulations are mandatory to provide at least minimal assurance for safety and oversight of such individuals who otherwise are not able to care for themselves. The rules were established in 1985.

2006 Recommendation - Agency has indicated that the rules need revisions; rules are over 20 years old. The SBRRB agrees with DOH that these rules should be reviewed and revised.

Response from Agency - On March 20, 2008, correspondence from Health Director Fukino, M.D., indicated that Office of Health Care Assurance will continue to keep in mind the SBRRB's recommendations as efforts continue regarding administrative rule analysis and revision.

It is very important that these rules are updated because there is a greater population within the community, so the resources are limited to them. The SBRRB strongly recommends that these rules be reviewed and amended with a first draft delivered to the SBRRB by December 2009. A memorandum will be sent to the Agency outlining this request with a copy sent to the Governor.

Final Commentary - As of 2022, there were no changes or updates to the rules.

Environmental Division

Noise, Radiation and Indoor Air Quality Branch

13. Chapter 11-39 – Air Conditioning & Ventilation System

Justification - The rules are required for core public health. The rules implement §321-11 (13), HRS for the public health and safety respecting any place or building where noisome, noxious trades and manufacturing are carried on, or intended to be carried on by seeking to assure adequate and healthful design, construction, installation and operation of comfort air conditioning and ventilating systems; and provide minimum ventilating requirements.

Public health and safety are adversely impacted in the absence of regulating mechanical ventilation systems providing outside air, supply air, return air, and exhaust air. Inappropriate and inadequate ventilation can lead to carbon monoxide poisoning in parking garages, indoor air problems, and other detrimental health effects. The rules were established in 1983.

2006 Recommendation - The rules need updating. Re-analysis and update of rules should be performed.

Response from Agency - HAR Chapter 11-48, the replacement for HAR Chapter 11-39, has been completed and reviewed by the program's assigned deputy attorney general. An informational meeting on the proposed rule was held on February 8, 2008. Over fifty individuals representing mechanical engineering, architecture, state and county government, property managers, were in attendance. The agency is in the process of implementing a small business review committee for the new rule and expected to complete the small business impact statement by the end of October 2008.

Final Commentary - As of 2022, DOH's website continues to show rules are "pending repeal/replacement by Chapter 48."

14. Chapter 11-44 – Radiologic Technology Board and Radiologic Technology Rules

Justification - The purpose of the rules is required for public health and safety. The rules establish minimum state standards of education, training and experience for persons who apply x-rays to human beings for diagnostic purposes or ionizing radiation to human beings for therapeutic purposes, or radiopharmaceuticals to human beings for diagnostic and therapeutic purposes.

Unlicensed and untrained personnel can cause unnecessary exposure of ionizing radiation to medical providers, patients, and the public. Ionizing radiation is a known carcinogen. This rule is necessary to ensure only properly trained and qualified individuals practice radiologic technology. The rules were established in 1989.

2006 Recommendation - These rules need updating. Re-analysis and update of rules should be performed.

Response from Agency - A small business committee was created to review proposed revisions for this rule. The SBRRB reviewed these amended rules in June 2008 and recommended that they proceed to public hearing.

Final Commentary - As of 2022, there were no changes or updates to the rules.

15. Chapter 11-45 – “Radiation Control”

Justification - The rules are required for core public health. The rules set minimum standards for all persons and facilities that receive, possess, use, transfer, own or acquire any source of radiation, all persons who install and service sources of radiation, and all persons who provide radiation services.

Controlling the use of ionizing radiation from x-ray systems and non-NRC radioactive materials is essential in minimizing unnecessary exposure to medical providers, patients, and the public. Ionizing radiation is a known carcinogen. Following the stochastic theory, any amount of ionizing radiation exposure may cause long term effects. The rules were established in 1999.

2006 Recommendation - The rules need updating. Re-analysis and update of rules should be performed.

Response from Agency - This rule is currently being revised to reflect current national standards and the Suggested State Regulations for the Control of Radiation developed by the Conference of Radiation Control Program Directors, Inc. Due to the volume of technical changes, a draft revision is not expected before January 2009.

The SBRRB is in concurrence of the proposed modifications to the rules and will follow-up with the agency.

Final Commentary - As of 2022, DOH’s website continues to show the rules are “pending amendment & compilation.”

Additional Information of the Public Utility Commission

Act 108, Session Laws of Hawaii 2014, transferred the Public Utilities Commission (PUC) from Department of Budget and Finance (B&F) to Department of Commerce and Consumer Affairs (DCCA). The B&F rules are in Title 6, and the DCCA rules are in Title 16.

Under 201M-7(a), the following is a list of rules describing the specific public purpose or interest for adopting the respective rules that affect small business, during the period of July 1, 2019 through June 30, 2021, with reasons for justifying the rules' continued implementation:

16. HAR Title 16 Chapter 601 – Rules of Practice and Procedure before the Public Utilities Commission

Moved from B&F to DCCA - to change the numbers required the simultaneous repeal of the existing chapters at B&F and adoption of new chapters in the DCCA. This was necessary since Act 108, Session Laws of Hawaii 2014, moved the PUC from B&F to DCCA. These rules show an effective date of 01/01/2019.

17. HAR Title 16 Chapter 603 – Motor Carrier Tariffs and Schedules

Agency's Justification

As required by HRS Chapter 271, the rules are necessary to govern the form and content of tariffs and schedules of common and contract carriers by motor vehicles; specifically, those tariffs and schedules described under HRS §§ 271-20, 271-21, and 271-22. They were established in 1994.

2006 Recommendation

Rules are twelve years old; full analysis and update should be performed.

Response from Agency

In response to the SBRRB's request, the Commission solicited proposals for amendments to HAR Chapter 6-62, "Motor Carrier Rules and Classification of Property and Passenger Carriers" and HAR Chapter 6-63, "Motor Carrier Tariffs and Schedules," from motor carrier industry professional organizations. Hawaii Tourism Authority (HTA) proposed a change to 6-62-20, Motor Vehicle Marketing.

Under HTA's recommendation, motor carriers that are subject to State and Federal motor carrier safety regulations would mark their motor vehicles pursuant to the federal rules on marking of commercial motor vehicles. Those that are not subject to the motor carrier safety regulations would have the option to follow the Commission's existing rules on motor vehicle marking. No other comments or recommendations were submitted for the Commission's consideration.

Upon review and analysis of HAR chapters 6-62 and 6-63 and the response from HTA, the Commission has decided that: (a) Suggested revisions to HAR Chapter 6-62 are not required at this time but will be considered in any subsequent rulemaking proceedings; and (b) HAR Chapter 6-63 does not currently require any revisions. Except for HTA, the organizations appear to be satisfied with the existing rules.

With respect to HTA's proposed modification, the recommendation is not substantively critical for effective motor carrier regulation currently. The recommendation, as described above, does not call for a substantial change to the existing section except to

apply the federal rules on marking of commercial motor vehicles to certain motor carriers.

The SBRRB is not in agreement with the Agencies' response and justification. Therefore, a full analysis of this rule with a draft to be provided to the SBRRB by December 2009 is requested. A memorandum will be sent to the Agency outlining this request with a copy sent to the Governor.

Final Commentary

As of 2020, this rule moved from B&F Title 6 to DCCA Title 16. To change the numbers required the simultaneous repeal of the existing chapters in the B&F title and adoption of new chapters in the DCCA title. This was necessary since Act 108, Session Laws of Hawaii 2014, moved the PUC from B&F to DCCA. These rules show an effective date of 01/01/2019.

18. HAR Title 16 Chapter 605 – Water Carriers

Agency's Justification

As required by HRS Chapter 271G, the rules are necessary to govern the following: (1) Form and content of tariffs of water carriers of property and passengers, and the information and data to be submitted for the establishment of new or revised rates, fares, or charge; and (2) Filing of financial and statistical information by water carriers of property and passengers. The rules have not been amended since first promulgated in 1976.

2006 Recommendation

Rules are over 30 years old; full analysis and update should be performed.

Response from Agency to Review Board's Recommendation

The Commission has determined that HAR Chapter 6-65, "Water Carriers" does not require revisions at this time, as they were last revised in 1999. Thus, the assumption noted as a concern that the "rules are over 30 years old" is an incorrect assumption.

The SBRRB is not in agreement with the Agencies' response and justification. Therefore, a full analysis of this rule with a draft to be provided to the SBRRB by December 2009 is requested. A memorandum will be sent to the Agency outlining this request with a copy sent to the Governor.

Final Commentary

As of 2020, moved from B&F Title 6 to DCCA Title 16. To change the numbers required the simultaneous repeal of the existing chapters in the B&F title and adoption of new chapters in the DCCA title. This was necessary since Act 108, Session Laws of Hawaii 2014, moved the PUC from B&F to DCCA. These rules show an effective date of 01/01/2019.

19. HAR Title 16 Chapter 608 – Investigation and Enforcement of Laws Governing Public Utilities, Motor Carries, and Water Carriers

Moved from B&F to DCCA to change the numbers, required the simultaneous repeal of the existing chapters at B&F and adoption of new chapters in the DCCA. This was necessary since Act 108, Session Laws of Hawaii 2014, moved the PUC from B&F to DCCA. These rules show an effective date of 01/01/2019.

Under Section 201M-7(a), the following outlines a list of rules to be amended or repealed, based upon any new, amended or repealed statute:

20. HAR Title 16 Chapter 60 – Standards for Electric and Gas Utility Service

To be repealed; contents moved from Title 6 to Title 16 per Act 108, Session Laws of Hawaii 2014.

21. HAR Title 6 Chapter 62 – Motor Carrier Rules and Classification of Property and Passenger Carriers Agency's Justification

Pursuant to HRS Chapter 271, the rules are necessary to administer, execute, and enforce the intent of the motor carrier laws, particularly the policies set forth under HRS Section 271-1. The rules were established in 1992.

2006 Recommendation

Since the rules have been established, there have been many changes to the industry. Full analysis and update should be performed.

Response from Agency

In response to the SBRRB's request, the Commission solicited proposals for amendments to HAR Chapter 6-62, "Motor Carrier Rules and Classification of Property and Passenger Carriers," and HAR Chapter 6-63, "Motor Carrier Tariffs and Schedules" from motor carrier industry professional organizations. Hawaii Tourism Authority (HTA) proposed a change to 6-62-20, Motor Vehicle Marking.

Under HTA's recommendation, motor carriers that are subject to State and Federal motor carrier safety regulations would mark their motor vehicles pursuant to the federal rules on marking of commercial motor vehicles. Those that are not subject to the motor carrier safety regulations would have the option to follow the Commission's existing rules on motor vehicle marking. No other comments or recommendations were submitted for the Commission's consideration.

Upon review and analysis of HAR chapters 6-62 and 6-63 and the response from HTA, the Commission has decided that: (a) Suggested revisions to HAR Chapter 6-62 are not required at this time but will be considered in any subsequent rulemaking proceedings; and (b) HAR Chapter 6-63 does not currently require any revisions. Except for HTA, the organizations appear to be satisfied with the existing rules.

With respect to HTA's proposed modification, the recommendation is not substantively critical for effective motor carrier regulation. The recommendation, as described above, does not call for a substantial change to the existing section except to apply the federal rules on marking of commercial motor vehicles to certain motor carriers.

The SBRRB is not in agreement with the Agencies' response and justification. Thus, a full analysis of this rule with a draft to be provided to the SBRRB by December 2009 is requested. A memorandum will be sent to the Agency outlining this request with a copy sent to the Governor.

Final Commentary

As of 2020, contents moved from Title 6 to Title 16 per Act 108, Session Laws of Hawaii 2014.

- 22. HAR Title 6 Chapter 73 – Installation, Operation, and Maintenance of Overhead and Underground Electrical Supply and Communication Lines**
To be repealed; contents moved from Title 6 to Title 16 per Act 108, Session Laws of Hawaii 2014.
- 23. HAR Title 6 Chapter 74 – Standards for Small Power Production and Co-generation**
To be repealed; contents moved from Title 6 to Title 16 per Act 108, Session Laws of Hawaii 2014.
- 24. HAR Title 6 Chapter 76 – Shared Tenant Service**
To be repealed; contents moved from Title 6 to Title 16 per Act 108, Session Laws of Hawaii 2014.
- 25. HAR Title 6 Chapter 77 – Transportation of Natural and Other Gas by Pipeline: Minimum Safety Standards**
To be repealed; superseded by statute (and Federal letter taking over). See Session Laws of Hawaii 2009, Act 25.
- 26. HAR Title 6 Chapter 79 – Aggregator and Operator Service**
To be repealed; contents moved from Title 6 to Title 16 per Act 108, Session Laws of Hawaii 2014.
- 27. HAR Title 6 Chapter 80 – Competition in Telecommunications Services**
To be repealed; contents moved from Title 6 to Title 16 per Act 108, Session Laws of Hawaii 2014.
- 28. HAR Title 6 Chapter 81 – Universal Service Fund**
To be repealed; contents moved from Title 6 to Title 16 per Act 108, Session Laws of Hawaii 2014.
- 29. HAR Title 6 Chapter 82 – Pay Telephone Service**
To be repealed; contents moved from Title 6 to Title 16 per Act 108, Session Laws of Hawaii 2014.
- 30. HAR Title 6 Chapter 83 - Hawaii One Call Center Subsurface Installation Damage Prevention Program**
To be repealed; contents moved from Title 6 to Title 16 per Act 108, Session Laws of Hawaii 2014.
- 31. HAR Title 16 Chapter 602 - Rules and Regulations to be Observed by Motor Carriers**
From Title 6-62, with changes. PUC is working on a draft which, among other things, is expected to: simplify insurance form requirements, update insurance coverage amounts, allow flexibility in vehicle marking requirements, clarify seating capacity definition, and make motor carrier fee language consistent with HRS 271-36.
- 32. HAR Title 16 Chapter 610 – Water Service**
This will be a new chapter. Rules are under development.
- 33. HAR Title 16 Chapter 630 – Wastewater Service**

This will be a new chapter. Rules are under development.

34. HAR Title 16 Chapter 660 – Standard for Electric and Gas Utility Service

From Title 6-60. Rules will be reviewed for conformity with current codes, standards, and other requirements.

35. HAR Title 16 Chapter 673 – Installation, Operation, and Maintenance of Overhead and Underground Electrical Supply and Communication Lines

From Title 6-73. Rules will be reviewed for conformity with current codes, standards, and other requirements.

36. HAR Title 16 Chapter 674 – Standards for Small Power Production and Co-generation* (*Pursuant to HRS§ 91-3(f), the Commission proposes to repeal HAR §6-74-7.)

From Title 6-74. Rules will be reviewed for conformity with current codes, standards, and other requirements.

37. HAR Title 16 Chapter 676 – Shared Tenant Service

From Title 6-76. Rules will be reviewed for conformity with current codes, standards, and other requirements.

38. HAR Title 16 Chapter 679 – Aggregator and Operator Service

From Title 6-79. Rules will be reviewed for conformity with current codes, standards, and other requirements.

39. HAR 16 Chapter 680 – Competition in Telecommunications Services

From Title 6-80. Rules will be reviewed for conformity with current codes, standards, and other requirements.

40. HAR 16 Chapter 681 – Universal Service Fund

From Title 6-81. Rules will be reviewed for conformity with current codes, standards, and other requirements.

41. HAR 16 Chapter 682 – Pay Telephone Service

From Title 6-82. Rules will be reviewed for conformity with current codes, standards, and other requirements.

42. HAR 16 Chapter 683 – Hawaii One Call Center Subsurface Installation Damage Prevention Program

From Title 6-83. Rules will be reviewed for conformity with current codes, standards, and other requirements.

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

Hawaii County

Under 201M-7(a), the following is a list of rules describing the specific public purpose or interest for adopting the respective rules that affect small business, during the period of July 1, 2019 through June 30, 2021, with reasons for justifying the rules' continued implementation:

Office of Research and Development

Under the Office of Research and Development, there were no rules that were adopted or any to be repealed or amended during this period of time.

Rules are expected by Oct. 11th

City and County of Honolulu

Under 201M-7(a), the following is a list of rules describing the specific public purpose or interest for adopting the respective rules that affect small business, during the period of July 1, 2019 through June 30, 2021, with reasons for justifying the rules' continued implementation:

Budget and Fiscal Services Administration (BFS), Real Property Assessment Division

1. **Agricultural Land Dedication Assessment – Title 4; Subtitle 5; Chapter 11; Sections 1-13**
Justification – These rules are intended to implement the provisions of Section 8-7.3, Revised Ordinances of Honolulu, relating to the dedication of land for ranching or other agricultural uses. Agreement of the rules.
2. **Tax Moratorium on Building – Rehabilitation Projects – Title 5; Subtitle 5; Chapter 12; Sections 1-7**
Justification – These rules are intended to clarify and implement Section 8-7.1(g), of the Revised Ordinances of Honolulu, which provides that the assessed valuation of certain building shall not be increased if the increase is due to improvements on buildings undertaken or made by the owner-occupant pursuant to the requirements of any urban redevelopment, rehabilitation or conservation project under the provisions of Part II of Chapter 53, Hawaii Revised Statutes; the property tax moratorium being for a period of seven (7) years as prescribed in section 4-12-6 of these regulations.
3. **Wasteland Development Classification Property Assessment – Title 4; Subtitle 5; Chapter 13; Sections 1-9**
Justification – These rules are intended to clarify and implement the provisions of Sections 8-8.1 to 8-8.8, Revised Ordinances of Honolulu, relating to the development of land classified as wasteland development property.
4. **Urban District Open Space Land Dedication – Title; Subtitle 5; Chapter 14; Sections 1-9**

Justification – These rules are intended to clarify and implement the provisions of Section 8-10.13, Revised Ordinances of Honolulu, which exempts from real property taxation, such portions of land in urban districts which are dedicated for landscaping, open spaces, public recreation or other similar uses and are approved by the director for such use or uses.

5. Low and Moderate – Income Rental Housing Exemptions – Title 4; Subtitle 5; Chapter 15; Sections 1-9

Justification – These rules are intended to clarify and implement the provisions of Sections 8-10.20 and 8-10.21, Revised Ordinances of Honolulu, which exempt low and moderate-income rental housing projects developed, owned, and operated by a nonprofit or limited distribution mortgagor or by a qualified entity from taxation.

6. Historic Residential Property Dedications – Title 4; Subtitle 5; Chapter 16; Sections 1-11

Justification – These rules are intended to implement the exemption provisions of Section 8-10.22, Revised Ordinances of Honolulu 1990, as amended, (hereinafter referred to as “ROH”) relating to the dedication of historic residential properties. [Eff. SEP 25 2011] (Auth: ROH § 8-10.22, RCH § 4-105)(Imp. ROH§ 8-1 0.22)

7. Assignment of Real Property Tax Appeal Cases – Title 4; Subtitle 5; Chapter 17; Sections 1-4

Justification – These rules are promulgated in compliance with Subsection 8-12.7(b), Revised Ordinances of Honolulu, and are intended to govern the assignment of real property tax appeal cases to the Boards of Review. In assigning appeal cases, the primary goal is to minimize delays in the appeal process and to reduce the backlog of appeal cases.

8. Assessment Notice and Assessment List – Title 4; Subtitle 5; Chapter 18; Sections 1-6

Justification – These rules are intended to establish the procedures relating to the preparation of the Notice of Assessment and the Assessment List under Section 8-2.1 and Section 8-2.2, respectively, Revised Ordinances of Honolulu 1978 (1983 Edition).

9. Valuation of OFF-BASE Military Housing Projects – Subtitle 5; Chapter 21, Sections 1-7

Justification –The purpose of this chapter is to implement and clarify the provisions of Section 8-10.18 Lessees of Exempt Real Property, Revised Ordinances of Honolulu 1990, as amended (“ROH”), pertaining to the assessment of exempt real property by establishing the methodology that shall be used to determine the fair market value of military housing projects situated on federal property lease to a private person that are located outside of a military base and are subject to the Nation Defense Authorization Act for Fiscal Year 2006, P.L. 104-106, Title XXVIII, Subtitle Military Housing Privatization Initiative (codified at 10 U.S.C Sections 2871-2885, as amended.

10. Classification of Condominiums – Subtitle 5; Chapter 130; Sections 1-4

Justification – The purpose of this chapter is to implement and clarify the provisions of Section 8-7.1(c)(3)(A), Revised Ordinances of Honolulu (“ROH”), relating to the classification of condominium units upon consideration of the unit’s actual use and the effect on classification of a condominium unit which is used by occupants in a manner

similar to a short-term use by transient hotel guests, or which qualifies for a home exemption. [Eff SEP 2 9 2007] {Auth: ROH §8-7.1, RCH 4-105} (Imp. ROH §8-7.1)

Department of Parks and Recreation (DPR)

11. Recreation Child Care Programs – Title 19, Chapter 14

Justification – To establish guidelines and procedures for recreation of childcare programs conducted by on behalf of DPR to ensure that recreation child care programs are designed and conducted to promote the physical, emotional, and social well-being and development of children.

13. Cultural Sites Program – Title 19, Chapter 19

Justification – To identify and designate cultural sites in public parks, and to encourage the long-range preservation of significant cultural sites that illustrate or commemorate the cultural history of the city and County of Honolulu.

14. Rules and Regulations Governing Park Closure – Title 19, Chapter 8

Justification – These rules establish the process for closing parks at night for the following purposes: (1) To promote park purposes and to ensure the public's health, safety and welfare in the usage of its parks; (2) To prevent costly damage to parks and recreation facilities; (3) To prevent disturbances to nearby residents; (4) To ensure that parks and recreation facilities are safe environments for all park users.

15. Rules and Regulations Governing Recreation Stops – Title 19, Chapter 17

Justification – To regulate the use of beach parks for recreational stops by commercial tour companies.

Department of Environmental Services (ENV), Division of Refuse Collection and Disposal

16. Ordinance 19-30, Section 41-27.2, Ban on use of Polystyrene Foam Containers

Justification – Amended Administrative Rules and Regulations for ENV to comply with Ordinance 19-30. The proposed amendments and rules update the applicability to administer and enforce Chapter 41, Revised Ordinances of Honolulu.

These rules authorize ENV to deny or grant exemptions for food vendors complying with Ordinance 19-30, Section 41-27.3 upon application and the provision of sufficient evidence that there are no reasonable alternatives available to the food vendor to comply, or compliance with the restrictions of Section 41-27.2, would cause significant hardship for the food vendor.

The rules also authorize ENV to grant or deny an "Industry Exemption" upon application and the provision of sufficient evidence that compliance with Section 41-27.2 would cause hardship to the food service industry.

17. Ordinance 19-30, Section 41-27.3, Exemptions

Justification – These rules authorize ENV to deny or grant exemptions for food vendors complying with Ordinance 19-30, Section 41-27.3 upon application and the provision of sufficient evidence that there are no reasonable alternatives available to the food vendor to comply, or compliance with the restrictions of Section 41-27.2, would cause significant hardship for the food vendor.

18. Ordinance 19-30, Section 41-27.4, Violation-Penalty

Justification – ENV may grant an exemption to businesses that sell restricted service ware and food ware under Section 41-27.4 upon application, and the provision of sufficient evidence that there are no reasonable alternatives available to the business to comply or compliance with the prohibition would cause significant hardship for the business.

County of Maui

Under 201M-7(a), the following is a list of rules describing the specific public purpose or interest for adopting the respective rules that affect small business, during the period of July 1, 2019 through June 30, 2021, with reasons for justifying the rules' continued implementation:

Department of Parks and Recreation

1. Maui County Code 13.04A.240; 13.04A.420– Parks and Recreational Facilities

Justification – Rules of Practice and Procedure for the Operation of Concessions in Parks and Recreation Facilities. These rules regulate the approval and operation of concessions in, on, or over County parks and other properties under the control of Department of Parks and Recreation.

County of Kaua'i

Under 201M-7(a), the following is a list of rules describing the specific public purpose or interest for adopting the respective rules that affect small business, during the period of July 1, 2019 through June 30, 2021, with reasons for justifying the rules' continued implementation:

Department of Finance – Real Property Division

2. Section 5A-11.4 of the Kauai County Code – Home and Related Exemption Rules

Justification – The rules related to a new ordinance passed in the fall of 2020 that tightened up the restrictions to qualify for a homeowner's exemption. The intent was to make it more difficult to qualify for the home exemption to be more uniform with the other Hawaii counties.

Department of Parks and Recreation

3. Rules and Regulations Governing Commercial Boating Activities at County Beach Parks, Part IV, Sections 30 to 36

Justification – The rule amendments moderately extend the allowable hours of operation, amend compliance and enforcement of provisions to allow for incremental fines rather than automatic permit revocation, and clarify the scope of commercial activity that may be carried out at the County's Weke Road Boat Ramp.



Department of Business, Economic Development & Tourism
Small Business Regulatory Review Board

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HAWAII SMALL BUSINESS REGULATORY REVIEW BOARD ANNUAL REPORT SUMMARY

Results for Calendar Year 2022

DRAFT

**Recommendations and Review of
Hawaii Administrative Rules, Legislation
and
Requests from Small Business Owners for Review
of Any Rule Adopted by a State Agency**

**In Compliance with
Chapter 201M, Hawaii Revised Statutes**

HAWAII SMALL BUSINESS REGULATORY REVIEW BOARD

ANNUAL REPORT SUMMARY 2022

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SECTION I



SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)
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David Y. Ige
Governor

MESSAGE FROM THE CHAIR

Mike McCartney
DBEDT 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

Garth Yamanaka
Hawai'i

William Lydgate
Hawai'i

James (Kimo) Lee
Hawai'i

Taryn Rodighiero
Kaua'i

Sanford Morioka
O'ahu

Mark Ritchie
Director, DBEDT
Voting Ex Officio



Robert Cundiff, Chair, 2022

I am happy to announce that 2022 has improved after two highly unusual years due to the COVID-19 pandemic. As a result, we have continued our efforts to ensure that Hawaii's regulatory review process does not lose momentum in driving a strong small business friendly regulatory environment.

While we have successfully adjusted to virtual monthly meetings that are open to the public, in 2022 the State of Hawaii's Sunshine Law has been modified by allowing for open board meetings that are accessible to the public, a positive sign for our members.

This year, we welcomed two new members to our team, Ms. Tessa Gomes, and Mr. Sanford Morioka, both from Oahu. In addition, members William Lydgate, James (Kimo) Lee, and Jonathan Shick were re-appointed to the SBRRB. We now are operating with a complete board.

On behalf of all the board members, I extend a big Mahalo to our out-going Governor David Ige, DBEDT's Director Mike McCartney and Deputy Director Susan Hirai for their continued support of this Board. We wish them well in their future endeavors. We also send out a big Mahalo to the State Legislature for its continued support of this Board, and to the State and County agencies that come before us discussing both proposed and amended regulations, before and after public hearing, that have a potential to negatively impact small business.

OVERVIEW

The Small Business Regulatory Review Board is pleased to provide the Annual Report Summary for the period covering January through December 2022. Pursuant to the Hawaii Small Business Regulatory Flexibility Act, Chapter 201M, Hawaii Revised Statutes, the annual summary is based on the following:

201M-5 Small business regulatory review board; powers.

(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 or the legislature regarding its review of any proposed new or amended rules.

ANNUAL SUMMARY

SMALL BUSINESS REGULATORY FLEXIBILITY ACT

The Small Business Regulatory Review Board was established on July 1, 1998, with the passage of the Small Business Regulatory Flexibility Act, pursuant to Act 168; subsequently the role of the Board was codified in Chapter 201M, Hawaii Revised Statutes (HRS), as amended.

(Appendix 1)

Statutorily, the Board is comprised of eleven members, ten current or former owners or officers of businesses from across the State, and the Director of Business, Economic Development, and Tourism (DBEDT), or the Director's designated representative who serves as an "ex officio" voting member. The Board is administratively attached to DBEDT and has responsibility for providing recommendations to State agencies on new and amended administrative rules that directly impact small business. 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.

Members volunteer their time performing outreach activities to small business organizations, such as the local Chambers of Commerce, and testifying on legislation. Statutorily, the Board may also solicit testimony from the public regarding any reports submitted to the Board by State departments.

As an effective means of administrative rule review, each board member is assigned to one or more State departments as a "discussion leader" and each neighbor island member is assigned to his or her own respective island. Members are responsible for the initial review of the

administrative rules of these departments and counties prior to consideration by the full Board.

As of December 2022, we are very happy to announce that the Board is operating at full capacity with 11 members.

ADMINISTRATIVE RULE REVIEW

Over the past two years, the Board reviewed a lower than usual number of Hawaii Administrative Rules (HAR) largely as a result of COVID-19. From January through December, a total of 9 rules, before and after public hearing, were reviewed from State and County Agencies.

Since its inception, the Board reviewed a total of 983 sets of proposed new and amended HAR. (Appendix 2)

Department / County	Chapter / Section Number	Title	Proceed to Public Hearing (Pre-Public Hearing)	Proceed to Adoption (Post Public Hearing)	Other Recommendation(s)
<i>Department of Accounting and General Services - Title 3</i>	40	Rules Governing Public Use of the Land Survey Division Maps, Descriptions, and Records, and Schedule of Fees for Services, Maps, and Other Record Data		X	
<i>Department of Commerce and Consumer Affairs – Title 16</i>	73	Barbers		X	
	78	Cosmetology		X	
	115	Professional Engineers, Architects, Surveyors and Landscape Architects	X / X - ?		

	116	Travel Agencies	X		
<i>Department of Health – Title 11</i>	94.2	Nursing Facilities	X	X	
	97.1	Home Health Agencies	X	X	
	103.1	Licensure and Certification Fees for Health Care Facilities and Agencies	X	X	
	Chapter 55	Water Pollution Control			
		a. Appendix A – Standard General Permit Conditions	X		
		b. Appendix D – NPDES General Permit Authorizing Discharges of Treated Effluent from Leaking Underground Storage Tank Remedial Activities	X		
		c. Appendix H – NPDES General Permit Authorizing Discharges of Treated Process Wastewater Associated with Petroleum Bulk Stations and Terminals	X		
		d. Appendix I – NPDES General	X		

		Permit Authorizing Discharges of Treated Process Water Associated with Well Drilling Activities e. Appendix M – NPDES General Permit Authorizing Point Source Discharges from the Application of Pesticides	X		
	Chapter 60.1	Air Pollution Control	X		
<i>Department of Labor & Industrial Relations – Title 12</i>	Chapter 43	Rules of Practice and Procedure Before the Hawaii Labor Relations Board	X	X	
<i>Department of Land & Natural Resources – Title 13</i>	Chapter 256	Ocean Recreation Management Rules and Areas	X		

LEGISLATIVE ACTIVITY

Since its inception, the Board has supported legislation by submitting testimony on bills of interest to small business. See “Legislative Review” at the end of the report for legislation the Board followed in 2022.

SMALL BUSINESS IMPACT STATEMENT *and* GOVERNOR’S ADMINISTRATIVE DIRECTIVE (AD) NO. 18-02

AD 18-02 was issued in 2018 to update the policy and procedures by which State departments and agencies request Governor’s approval for a public hearing of any proposed adoption, amendment, or repeal of administrative rules developed under Chapter 91, HRS. (Appendix 3).

Under Section 201M-2, HRS, State agencies wanting to adopt new or modified administrative rules that have an impact on small business are required to submit to the Board a small business impact statement showing the economic impact on those businesses.

CHAIRPERSON / BOARD MEMBERS

Under Section 201M-5 (c), “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.” The following elections were held at the June 2022 meeting:

- Chair – Robert Cundiff
- Vice Chair – Mary Albitz
- Second Vice Chair – Jonathan Shick

The Board member nomination process, under Section 201M-5, HRS, states, “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.”

In addition, nominations shall be solicited from small business organizations, state and county chambers of commerce and other interested business and trade organizations. Except for the ex officio member, all members are 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.”

At the end of December 2022, the Board was comprised of the following members:

- 1) Mary Albitz, Island Art Party, County of Maui
- 2) Dr. Nancy Atmospera-Walch, Advantage Health Care Provider, Inc., and AIM Health Institute, City and County of Honolulu
- 3) Robert Cundiff, Business/Management Consultant with Lokama Group, City and County of Honolulu
- 4) James (Kimo) Lee, W. H. Shipman, Ltd., Hawaii County
- 5) William Lydgate, Steelgrass Farm, County of Kauai
- 6) Taryn Rodighiero, County of Kauai

- 7) Jonathan Shick, Pono Consulting Group, LLD., City and County of Honolulu
- 8) Garth Yamanaka, Yamanaka Enterprises, Inc., Hawaii County
- 9) Sanford Morioka, Edward Enterprises, Inc., City and County of Honolulu
- 10) Tessa Gomes, Fred and Kate Events, City and County of Honolulu
- 11) Mark Ritchie, Business Support Program Manager, Business Development & Support Division, DBEDT, Voting Ex Officio Member

ACTIVITIES AND PROJECTS

The following activities and projects were accomplished in 2022:

- **Hawaii Small Business Fair** – On September 17th, the SBRRB Office Assistant attended Hawaii Small Business Fair at Leeward Community College for outreach purposes.

- **Website** – The Board is happy to announce the launch of its new, improved website. Through the professional direction and expertise of NIC Hawaii, the Board can now boast a high level, updated, user-friendly website that includes a redesigned homepage and department level filtering to meeting, agendas and reports. Go to <https://sbrrb.hawaii.gov>

- **e-Newsletter** – The Board continues to send out monthly e-Newsletters to small business organizations, chambers of commerce, trade organizations and State legislators;

- **Facebook, Twitter, Instagram** – In 2022, the Board regularly sent out notices on Facebook, Twitter and Instagram to enhance its outreach efforts. As of the end of 2022, the Board can proudly boast 29 ? Friends on Facebook, has 104 ? followings on Twitter, and 30 ? followers on Instagram.

- **Articles, Press Releases**

- 1) On April 1, 2022, the *Pacific Business News* printed the following article, which featured this Board's Vice Chair, Ms. Mary Albitz company Island Art Party, "Work's a 'party' for this business."
- 2) In June 2022, DBEDT submitted a press release announcing the recent election of new board officers, Robert Cundiff, Chair; Mary Albitz, Vice Chair; and Jonathan Shick, Second Vice Chair.
- 3) In August 2022, the *Pacific Business News* printed the following article, which featured one of the Board's newest member, Ms. Tessa Gomes, "How Hawaii's wedding industry has rebounded post-Covid restrictions."
- 4) On October 4, 2022, DBEDT submitted a press release announcing the launching of the Board's new and improved website, "Small Business Regulatory Review Board Website Enhancements." Go to <https://sbrrb/hawaii.gov>.

REQUESTS FROM SMALL BUSINESS FOR REVIEW
OF ANY RULE ADOPTED BY A STATE AGENCY

Under Section 201M-5, HRS, in 2022, one request that did not apply to Section 201M-5, HRS, from a property owner of a legal vacation rental on Maui approached the SBRRB regarding Maui County's 3% County TAT was submitted. The SBRRB thanked the business owner for the request and referred the individual to the Mayor of County of Maui indicating that the SBRRB's purview is to review Hawaii Administrative Rules and not County ordinances.

SECTION II

LEGISLATIVE REVIEW

Testimony was submitted on the following measures during the 2022 legislative session.

1. GM 725 – Submitting for consideration and confirmation to the Small Business

Regulatory Review Board Gubernatorial Nominee, James Lee, for a term to expire 6-30-2024

Background: This measure was submitted for consideration of Mr. James Lee to the Small Business Regulatory Review Board for a term to expire June 30, 2024.

Recommendation: The Board strongly supported the measure.

Result: On April 1, 2022, the Senate’s “advise and consent” was confirmed.

2. GM 726 – Submitting for consideration and confirmation to the Small Business

Regulatory Review Board Gubernatorial Nominee, Sanford Morioka, for a term to expire 6-30-2023

Background: This measure was submitted for consideration of Mr. Sanford Morioka to the Small Business Regulatory Review Board for a term to expire June 30, 2023.

Recommendation: The Board strongly supported the measure.

Result: On April 1, 2022, the Senate’s “advise and consent” was confirmed.

3. GM 730 – Submitting for consideration and confirmation to the Small Business

Regulatory Review Board Gubernatorial Nominee, William Lydgate, for a term to expire 6-30-2026

Background: This measure was submitted for consideration of Mr. William Lydgate to the Small Business Regulatory Review Board for a term to expire June 30, 2026.

Recommendation: The Board strongly supported the measure.

Result: On April 1, 2022, the Senate’s “advise and consent” was confirmed.

4. GM 823 – Submitting for consideration and confirmation to the Small Business Regulatory Review Board Gubernatorial Nominee, Jonathan Shick, for a term to expire 6-30-2026

Background: This measure was submitted for consideration of Mr. Jonathan Shick to the Small Business Regulatory Review Board for a term to expire June 30, 2026.

Recommendation: The Board strongly supported the measure.

Result: On April 18, 2022, the Senate’s “advise and consent” was confirmed.

5. GM 862& GM863 – Submitting for consideration and confirmation to the Small Business Regulatory Review Board Gubernatorial Nominee, Tessa Gomes, for terms to expire 6-30-2022 and 6-30-2026, respectively

Background: This measure was submitted for consideration of Ms. Gomes to the Small Business Regulatory Review Board for terms to expire June 30, 2022 and June 30, 2026.

Recommendation: The Board strongly supported the measure.

Result: On April 18, 2022, the Senate’s “advise and consent” was confirmed.

Appendix

1. Chapter 201M, Hawaii Revised Statutes
2. Administrative Rules Reviewed Matrix
3. Administrative Directive No. 18-02

1. Chapter 201M, Hawaii Revised Statutes

CHAPTER 201M

SMALL BUSINESS REGULATORY FLEXIBILITY ACT

Section

- 201M-1 Definitions
- 201M-2 Determination of small business impact; small business impact statement
- 201M-3 Small business statement after public hearing
- 201M-4 Advisory committee on small business; consultation process for proposed rules
- 201M-5 Small business regulatory review board; powers
- 201M-6 Petition for regulatory review
- 201M-7 Periodic review; evaluation report
- 201M-8 Waiver or reduction of penalties
- 201M-9 Executive order

§201M-1 Definitions. As used in this chapter, unless the context clearly requires otherwise:

"Advisory committee" means an advisory committee on small business as established in section 201M-4.

"Affected small businesses" or "affects small business" means any potential or actual requirement imposed upon a small business through an agency's proposed or adopted rule 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.

"Agency" means each state or county board, commission, department, or officer authorized by law to make rules, except those in the legislative or judicial branches.

"Board" means the small business regulatory review board.

"Rule" shall have the same meaning as in section 91-1.

"Small business" means 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. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §§2, 5; am L 2007, c 217, §2]

§201M-2 Determination of small business impact; small business impact statement. (a) Prior to submitting proposed rules for adoption, amendment, or repeal under section 91-3, the agency shall determine whether the proposed rules affect small business, and if so, the availability and practicability of less

restrictive alternatives that could be implemented. This section shall not apply to emergency rulemaking.

(b) If the proposed rules affect small business, the agency shall consider creative, innovative, or flexible methods of compliance for small businesses and prepare a small business impact statement to be submitted with the proposed rules to the departmental advisory committee on small business and the board when the rules are essentially complete and before the rules are submitted to the governor for approval for public hearing. The statement shall provide a reasonable determination of the following:

- (1) The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules;
- (2) Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected;
- (3) 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;
- (4) The probable monetary costs and benefits to the implementing agency and 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;
- (5) 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 any other mitigating techniques;
- (6) How the agency involved small business in the development of the proposed rules; and
- (7) 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.

(c) When a proposed rule includes provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, the agency shall, in

addition to the information required by subsection (b), include in the small business impact statement information comparing the costs and benefits of the standard set by the proposed rule to the costs and benefits of the standard under the comparable or related federal, state or county law. The agency shall also include an explanation of its decision to impose the higher standard. The agency's comparison and justification shall include:

- (1) A description of the public purposes to be served by imposing the standard under the proposed rule;
- (2) The text of the related federal, state, or county law, including information about the purposes and applicability of the law;
- (3) A comparison between the proposed rule and the related federal, state, or county law, including a comparison of their purposes and of the standards and their application and administration;
- (4) A comparison of the monetary costs and benefits to the implementing agency and other agencies directly affected, of imposing the proposed standard, with the costs and benefits of imposing or deferring to the related federal, state or county standard, as well as a description of the manner in which any additional fees derived from imposition of the proposed standard are to be used; and
- (5) A comparison of the adverse effects on small businesses of the standard imposed by the proposed rule, with the adverse effects on small business of the related federal, state, or county standard.

(d) This chapter shall not apply to proposed rules adopted by an agency to implement a statute or ordinance that does not require an agency to interpret or describe the requirements of the statute or ordinance, such as federally-mandated regulations that afford the agency no discretion to consider less restrictive alternatives. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2007, c 217, §3; am L 2008, c230, §3]

§201M-3 Small business statement after public hearing. (a) For any proposed rule that affects small business, the agency shall also submit a small business statement to the small business regulatory review board and the departmental advisory committee on small business after the public hearing is held. This section shall not apply to emergency rules. The small business statement required by this section shall provide the following information:

- (1) A description of how opinions or comments from affected small business were solicited, a summary of the public and small business comments, and a summary of the agency's response to those comments;
- (2) The number of persons who:
 - (A) Attended the public hearing;
 - (B) Testified at the hearing; and
 - (C) Submitted written comments; and
- (3) If there was a request to change the proposed rule at the hearing in a way that affected small business, a statement of the reasons for adopting the proposed rule, the reason why a requested change was not made, and the problems or negative result the change would provide if adopted.

(b) If the small business regulatory review board finds that a statement provided pursuant to subsection (a) (3):

- (1) Indicates inconsistency with any of the agency's determinations under section 201M-2(b); or
- (2) Does not address the concerns of public input, the board with good cause may request a written response from the agency explaining the rationale used to deny the public concerns within ten working days of receipt of the small business statement after public hearing. The agency shall respond in writing to the board's concerns within ten working days.

(c) The written response from an agency required in subsection (b), at a minimum, shall:

- (1) Specifically address each issue and concern raised in the board's request for a written response; and
- (2) Affirmatively state that the agency has considered all written and oral testimony received at the agency's public hearing and has addressed all issues or concerns raised in the written or oral testimony. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2012, c 241, §2]

[§201M-4] Advisory committee on small business; consultation process for proposed rules. (a) There may be established within and administratively attached to every department of the State or county whose rules affect small business activities, an advisory committee on small business. The advisory committee shall consist of three or more odd number of members appointed by the department and may advise more than one department. The department shall have the authority to appoint members to the advisory committee and to fill any vacancies. The members shall serve on a volunteer basis and have experience or knowledge of the effect of

regulation by those departments on the formation, operation, or expansion of a small business. No person shall serve on the small business regulatory review board and an advisory committee on small business concurrently. The advisory committees shall not be subject to the requirements of chapter 91.

(b) When the agency is proposing rules that affect small business, the agency may consult with the administratively attached departmental advisory committee on small business regarding any matter related to the proposed rules prior to complying with the rulemaking requirements provided in chapter 91. Each agency shall develop its own internal management procedures for soliciting comments during the drafting of proposed rules from affected small businesses. The agency may develop creative procedures for the solicitation of comments from affected small businesses during the drafting or development of proposed rules.

(c) If necessary, any group or members of affected small businesses may also be consulted by the agency to formulate the relevant language, develop criteria, and provide any other expertise to ensure that the proposed rules will be drafted in a manner that will protect the public health, welfare, and safety without placing an undue and significant burden upon small business. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5]

§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 members of the board;
- (6) The appointments shall reflect representation of a variety of businesses in the State;
- (6) No more than two members shall be representative from the same type of business; and
- (8) There shall be at least one representative from each county. For 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]

§201M-6 Petition for regulatory review. (a) In addition to the basis for filing a petition provided in section 91-6, any affected small business may file a written petition with the agency that has adopted the rules objecting to all or part of any rule affecting small business on any of the following grounds:

- (1) The actual effect on small business was not reflected in, or significantly exceeded, the small business impact statement submitted prior to the adoption of the rules;
- (2) The small business impact statement did not consider new or significant economic information that reveals an undue impact on small business;
- (3) These impacts were not previously considered at the public hearing on the rules;
- (4) The rules create an undue barrier to the formation, operation, and expansion of small businesses in a manner that significantly outweighs its benefit to the public;
- (5) The rules duplicate, overlap, or conflict with rules adopted by another agency or violate the substantive authority under which the rules were adopted; or
- (6) The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.

(b) Upon submission of the petition, the agency shall forward a copy of the petition to the board, as notification of a petition filed under this chapter. The agency shall promptly consider the petition and may seek advice and counsel regarding the petition from the appropriate departmental advisory committee on small business. Within sixty days after the submission of the petition, the agency shall determine whether the impact statement or the public hearing addressed the actual and significant impact on small business. The agency shall submit a written response of the agency's determination to the small business review board within sixty days after receipt of the petition. If the agency determines that the petition merits

the adoption, amendment, or repeal of a rule, it may initiate proceedings in accordance with section 91-3.

(c) If the agency determines that the petition does not merit the adoption, amendment, or repeal of any rule, any affected small business may seek a review of the decision by the board. The board shall promptly convene a meeting pursuant to chapter 92 for the purpose of soliciting testimony that will assist in its determination whether to recommend that the agency initiate proceedings in accordance with section 91-3. The board may base its recommendation on any of the following reasons:

- (1) The actual effect on small business was not reflected in, or significantly exceeded, the impact statement submitted prior to the adoption of the rules;
- (2) The impact statement did not consider new or significant economic information that reveals an undue impact on small business;
- (3) These impacts were not previously considered at the public hearing on the rules;
- (4) The rules create an undue barrier to the formation, operation, and expansion of small businesses in the State in a manner that significantly outweighs its benefit to the public;
- (5) The rules duplicate, overlap, or conflict with rules adopted by another agency or violate the substantive authority under which the rules were adopted; or
- (6) The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.

(d) If the board recommends that an agency initiate rulemaking proceedings for any reason provided in subsection (c), it shall submit to the legislature an evaluation report and the agency's response as provided in subsection (b). The legislature may subsequently take any action in response to the evaluation report and the agency's response as it finds appropriate.

(e) If the board does not recommend that an agency initiate rulemaking proceedings, the board shall notify the small business of its decision and inform the small business that the small business may submit a complaint to the ombudsman pursuant to chapter 96 regarding the decision of the agency or board.

(f) Nothing in this section shall entitle an affected small business to a contested case hearing under chapter 91. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2007, c 217, §5]

§201M-7 Periodic review; evaluation report. (a) Each agency having rules that affect small business shall submit to the board by June 30 of each odd-numbered year, a list of those rules and a report describing the specific public purpose or interest for adopting the respective rules that affect small business and any other reasons to justify continue implementation of the rules; provided that, by June 30 of each year, each agency shall submit to the board a list of any rules to be amended or repealed, based upon any new, amended, or repealed statute that impacts small business.

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

(c) The board may solicit testimony from the public regarding any report submitted by the agency under this section at a public meeting held pursuant to chapter 92. Upon consideration of any report submitted by an agency under this section and any public testimony, the board shall submit an evaluation report to the legislature each even-numbered year. The evaluation report shall include an assessment as to whether the public interest significantly outweighs a rule's effect on small business and any legislative proposal to eliminate or reduce the effect on small business. The legislature may take any action in response to the report as it finds appropriate. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2007, c 217, §6; am L 2012, c 241, §4]

§201M-8 Waiver or reduction of penalties. (a) Except where a penalty or fine is assessed pursuant to a program approved, authorized, or delegated under a federal law, any agency authorized to assess civil penalties or fines upon a small business shall waive or reduce any penalty or fine as allowed by federal or state law for a violation of any statute, ordinance, or rules by a small business under the following conditions:

- (1) The small business corrects the violation within a minimum of thirty days after receipt of a notice of violation or citation; and
 - (2) The violation was unintentional or the result of excusable neglect; or
 - (3) The violation was the result of an excusable misunderstanding of an agency's interpretation of a rule.
- (b) Subsection (a) shall not apply:
- (1) When a small business fails to exercise good faith in complying with the statute or rules;
 - (2) When a violation involves willful or criminal conduct;
 - (3) When a violation results in serious health and safety impacts;
 - (4) To violations of chapters 6E, 180, 180C, 181, 182, 183, 183C, 183D, 186, 187A, 188, 188F, 189, 190, 190D, 195, 195D, 195F, 205, 205A, 340A, 340E, 341, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, and 342P;
 - (5) To violations of sections 200-9(b) and (c), 200-24(4), 200-37, and 200-38; or
 - (6) To violations of administrative rules promulgated pursuant to section 200-4(6); except for rules pertaining to matters listed in section 200-4(6)(A), (B), (C), and (D).
- (c) An agency may adopt rules to implement the requirements of this section. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5; am L 2004, c 206, §1]

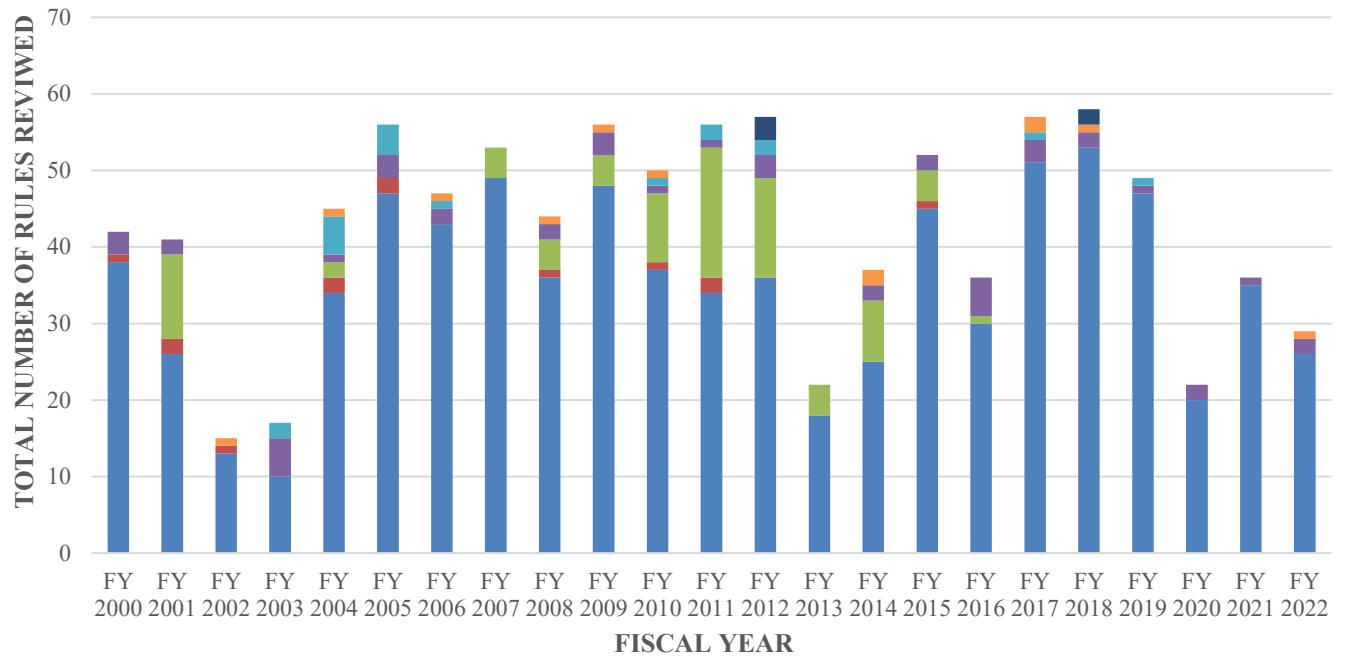
[\$201M-9] Executive order. The governor may execute any executive order, memorandum, or directive necessary to implement any provision of this chapter. [L 1998, c 168, pt of §2, §5; am L 2002, c 202, §5]

2. Administrative Rule Review

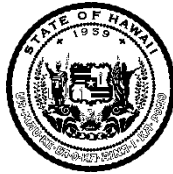
Administrative Rule Review

	Month/Year	Support	Oppose	No Comment/ No Action	Support W/ Rec. & Comments	Support w/ Reservations	Support/ Oppose	Pending/ Deferred
FY 2022	FY 2000 to FY 2021	783	13	81	45	21	11	0
	Jul-21	6						
	Aug-21	0			1			
	Sep-21	1						
	Oct-21	9			1	1		
	Dec-21	4					1	
	Jan-22	3						
	Feb-22	1						
	Mar-22	2						
	Apr-22	NA						
FY 2023	May-22	NA						
	Jun-22	3						
	Jul-22	NA						
	Aug-22	10						
	Sep-22	2						
	Oct-22	1 - ?						
	Nov-22							
	Dec-22							
	SUPPORTED YTD 2021	51-?						
	SUPPORTED FYE 2000 thru YE 2021	787-?						
	GRAND TOTAL	969-?	13	81	47	21	12	0

Administrative Rule Review Matrix



3. Administrative Directive No. 18-02



EXECUTIVE CHAMBERS
HONOLULU

DAVID IGE
GOVERNOR

January 1, 2018

ADMINISTRATIVE DIRECTIVE NO. 18-02

To: Department Directors

Subject: Policy and Procedure for the Adoption, Amendment, or Repeal of
Hawaii Administrative Rules

This administrative directive updates the policy and procedure by which departments or agencies shall request executive approval of any proposed adoption, amendment, or repeal of administrative rules. It replaces Administrative Directive No. 09-01, Policy and Procedure for the Adoption, Amendment, or Repeal of Administrative Rules, dated October 29, 2009.

Legal References:

1. Hawaii Revised Statutes Chapter 91
2. Hawaii Revised Statutes Chapter 201M, the "Hawaii Small Business Regulatory Flexibility Act," requires that if a proposed rule "affects small business," the department or agency shall submit a "small business impact statement" and a "small business statement" to the Small Business Regulatory Review Board. Chapter 201M does not apply to emergency rulemaking or rules adopted to comply with a federal requirement.

Policy:

1. All requests regarding Hawaii Administrative Rules must be submitted through Hawaii Administrative Rules Processing Site (HARPS).

<https://hawaiioint.sharepoint.com/sites/gov/adminrules/>

Prior to all submittals, the department must obtain the Attorney General's approval "as to form".

2. Small Business Regulatory Flexibility Act

In accordance with Chapter 201M, the department must complete the following steps before submitting a request to conduct public hearing if the proposed rule affects small business:

- a. Complete Small Business Impact Statement
 - i. See HRS Section 201M-2
- b. Submit Small Business Impact Statement and proposed rules to the Small Business Regulatory Review Board

3. Public Hearing Approval

In the request to conduct public hearing, the department will provide response to the following:

- a. Summary of changes
 - i. Why is this section of Hawaii Administrative Rules being amended?
 - ii. What problem is the rule change meant to solve?
 - iii. List all changes that are being made.
- b. Impact of changes
 - i. How does this rule change address the problem?
 - ii. Who are the stakeholders? Positive and negative.
 - iii. What are the potential problems with the rule change?
 - iv. What is the fiscal impact?
 - v. What is the economic impact to the State?
- c. Consequences if changes are not made
 - i. What are the consequences if the rule change does not get adopted, amended or repealed?

4. Public Hearings

Upon approval of public hearing request, the department must enter all public hearing dates, times, and locations into HARPS.

- a. The department must be considerate of all parties being affected and schedule public hearings to allow for adequate feedback.
- b. The department must accept written testimony from all parties who are unable to attend the public hearing.
- c. The department will be responsible for transcribing the testimony from the public hearing into a public hearing summary document that will be required upon submittal of Final Rule.

5. Final Rule

In the request for approval of Final Rule, the department will provide response to the following:

- a. Changes in Final Rule
 - i. What changes were made in the Final Rule?
 - ii. Why were these changes made?
- b. Other
 - i. Describe how the department has worked with stakeholders to gain support for the rule?
 - ii. Have potential problems been addressed? Do the same problems exist with the Final Rule?
 - iii. Does the Office of the Governor staff need to meet with any people/organizations before the Governor signs this Final Rule?

6. Filing of Final Rule

Upon approval of Final Rule through HARPS, the Department will send 3 hard copies to Office of the Governor. When approved, these copies will be filed with the Office of the Lieutenant Governor. Rule will take effect 10 days after filing.

7. Department of Budget and Finance (BUF) and Department of Business, Economic Development and Tourism (BED)

BUF and BED will receive electronic notification upon submittal of public hearing request. Both departments will have the ability to submit comments and concerns through HARPS. Response will be due 10 business days after Final Rule is submitted. Comments will be optional unless the following applies:

- a. BUF will be required to provide response if the proposed rule has fees or other fiscal impacts.
- b. BED will be required to provide response if the proposed rule has economic impact or affects small business.



Department of Business, Economic Development & Tourism
Small Business Regulatory Review Board

***No. 1 Capitol District Building
250 South Hotel Street, 5th Floor
Honolulu, Hawaii 96813***

Telephone: (808) 798-0737

Website: sbrrb.hawaii.gov

Email: DBEDT.sbrrb.info@hawaii.gov

IV. Administrative Matters

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

1. Board's Phase II Website Project -
Presentation

2. Board's Attendance at the September 17, 2022 Hawaii Small Business Fair at Leeward Community College – *No Attachments*