



DEPT. COMM. NO. 43
**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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202210251321AR

November 1, 2022

The Honorable Ronald D. Kouchi,
President and Members
of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the 2022 SBRRB Periodic Review and Evaluation Report, as required by Section 201M-7, Hawaii Revised Statutes. In accordance with Section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at:
<http://dbedt.hawaii.gov/overview/annual-reports-reports-to-the-legislature/>.

With aloha,



Mike McCartney

Enclosure

c: Legislative Reference Bureau

**HAWAII
SMALL BUSINESS
REGULATORY REVIEW BOARD**

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.

With aloha,

Mike 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
Mau'i

Jonathan Shick
2nd Vice Chairperson
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Dr. Nancy
Atmosfera-Walch
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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.

I want to extend my appreciation to Governor Ige for his support of the SBRRB over the past few years and wish him all the best in his future endeavors. I would also like to thank Director Mike McCartney for his complete support and the allocation of resources to assist our efforts in fulfilling the mission of the SBRRB. We would not be able to achieve success without their support. Mahalo!

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.

Acton 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	27
MAUI COUNTY	1
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:

Department of Environmental Management

- 1. Administrative Rule No. 5-3 – Article II (Solid Waste Division) Rule 5 (General Provisions), Section 5-3 (Definitions)**
Justification – Public health and safety. Supports a clean environment. Provides an enforceable definition of an “Unsecured load” to reduce litter.
- 2. Administrative Rule No. 12-3 – Article II (Solid Waste Division), Rule 12 (Solid Waste Fees), Section 12-3 (Fee Schedule), Subsection 1 (Sanitary landfill disposal fees), Paragraph D (Residential credit)**
Justification – Public health and safety. Supports a clean environment. Grants tipping credit to commercial haulers of household generated waste.

Department of Finance

- 3. HRS 103D Rule 4 – Purchase of Materials, Supplies, Equipment and Services**
Justification – Required for compliance with HRS 103D. Promote fair procurement practices.
- 4. HRS 103D Rule 5 – Value Engineering Incentive**
Justification – Required for compliance with HRS 103D. Provide savings for County.
- 5. HRS 286, Part VI Rule 11 – Motor Vehicle Driver Licensing**
Justification – Required for compliance with HRS 286. Provide licensing procedures.
- 6. HRS 287 Rule 12 – Motor Vehicle Responsibility Act**
Justification – Required for compliance with HRS 287. Insure drivers have financial responsibility.
- 7. HRS 286-51 Rule 13 – Motor Vehicle Registrations**
Justification – Required for compliance with HRS 286-51. Provide vehicle registration schedule.
- 8. HRS 286-53 and 249 Rule 14 – License Plates**
Justification – Required for compliance with HRS 286-53 and 249. Provide issuance procedures.
- 9. HRS 249-9.1 and 249-9.2 Rule 15 & 16 – Special License Plates**
Justification – Required for compliance with HRS 249. Provide issuance procedures.
- 10. Hawaii County Code, Chapter 18, Rule 17 – Taxicabs**
Justification – Required for compliance with HCC 18 Public Safety.
- 11. HRS 286-53.5, 53.6 Rule 18 – Registration of Fleet Vehicles**
Justification – Required for compliance with HRS 286-53.5, 53.6
- 12. HRS 289-7 Rule 19 – Licenses for businesses engaged in purchasing or selling used vehicle parts, vehicle salvage, etc.**
Justification – Provide requirements and procedures.

13. **Hawaii County Code 19-60 Rule 30 – Real Property Tax (RPT) Dedicated Agricultural Use**
Justification – Required for compliance with HCC 19-60. Provide requirements and procedures.
14. **Hawaii County Code 19-57 Rule 34 – Real Property Tax (RPT) Non-Dedicated Agricultural Use**
Justification – Required for compliance with HCC 19-57. Provide requirements and procedures.
15. **Hawaii County Code, Chapter 19 Rule 35 – RPT Exemption for Certain Improvements**
Justification – Required for compliance with HCC Chapter 19. Provide requirements and procedures.
16. **Hawaii County Code, Chapter 19 Rule 38 – RPT Designation as Wasteland Development Property**
Justification – Required for compliance with HCC Chapter 19. Provide requirements and procedures.

Mass Transit Agency

17. **Chapter 2, Section 2-78.1 – Interior Advertising on Transit Buses**
Justification – Allows for advertising on the interior of the buses.
18. **Chapter 18, Chapter 2, Section 2-78.1 – Administrative Rules on Shared Ride Taxi Program**
Justification – Program rules for the Hele-On Shared Ride Program
19. **Chapter 18, Chapter 2, Section 2-78.1, Rule 69 – Taxi Cabs Related to the Mass Transit Agency**
Justification – Rules for administering taxicabs
20. **Chapter 2, Section 78 – Mass Transit Agency**
Justification – Administration of the Mass Transit Agency
21. **Chapter 18, Division 2 – Transportation Commission**
Justification – Role and Responsibilities of the Transportation Commission
22. **Chapter 18, Division 5, Section 18-3 – Bus Terminal and Parking**
Justification – Rules of the Council to allow for parking of City and County Buses
23. **Chapter 18, Article 4 – Public Transit System**
Justification – The operation of a island-wide public transit system.

Police

24. **Chapter 4, 4-1 to 4-17, Article 1-9 – Animals**
Justification – None indicated
25. **Chapter 4, 14-1 to 14-6, Article 1, Section 14-3 – Permit Application**
Justification – General Welfare-Permit Application

Office of the Prosecuting Attorney

26. **Hawaii County Charter Article IX, Section 9-3, HRS Chapter 28 – Attorney General HRS §28-1 -Appears for State. Case Notes: Criminal cases, prosecution by county prosecuting officers under authority of attorney general. 16 H. 769, 779-80; 19 H. 162; 26 H. 570.**
Justification – Seek accountability for those who violate criminal laws of the State; provide assistance to those impacted by criminal conduct, and work with the community to help solve crime-related problems.

Department of Water Supply

27. Hawaii County Charter 8-2(b) HRS 54 – Water Systems

Justification – Management, control and operation of the waterworks of the County for the purpose of supplying water to the public and County.

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 conversation 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 Kauai

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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