

**SMALL BUSINESS  
REGULATORY REVIEW  
BOARD**

**Review of Agency Submitted  
Administrative Rules**

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

**December 2003**

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## MESSAGE FROM THE DIRECTOR



On behalf of the Department of Business, Economic Development & Tourism, I extend my sincere thanks and appreciation to members of the Small Business Regulatory Review Board for their continued hard work and dedication. Best wishes for a bright and prosperous new year.

Theodore E. Liu,

Director



## SMALL BUSINESS REGULATORY REVIEW

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### MESSAGE FROM THE CHAIR



As the year 2003 comes to a close and I review the work of the Small Business Regulatory Review Board, I cannot emphasize enough my gratitude to our voluntary board members and Governor Lingle's department Directors for their incredible efforts in completing two years of work in less than six months.

There are still many rules and regulations that contain business impact to be reviewed as well as the steady stream of new rules resulting from new legislative initiatives, so the year 2004 presents us with much more work.

With support of the Department of Business, Economic Development and Tourism and the dedication of our volunteers from the small business community, we are making a difference for Hawaii's business climate and I am proud to be a part of this coordinated effort.

Lynne Woods  
 Chairperson  
 December 2003

## **Overview**

Members of the Small Business Regulatory Review Board are pleased to provide a preliminary review and comments on important administrative rules, pursuant to the Regulatory Flexibility Act (RFA), Chapter 201M-7, HRS, 2002.

### **[201M-7] Periodic review; evaluation.**

- (a) Each agency having rules that affect small business in effect on July 1, 1998 shall submit by June 30 of each odd-numbered year, a list of those rules to the small business regulatory review board. The agency shall also submit a report describing the specific public purpose or interest for adopting the respective rules and any other reasons to justify its continued implementation.
  
- (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 small business regulatory review board shall submit an evaluation report to each regular session of the legislature in even-numbered years.

## Summary

Pursuant to the RFA, Section 201M-7, HRS, in the spring of 2003, the Small Business Regulatory Review Board (Board) requested from each State agency a list of current rules that affect small business and a report describing the specific public purpose or interest for adopting the rules or any other reasons to justify the rules continued implementation. Also requested, as a “good faith” effort, was a list of rules that have received the most complaints or that have resulted in the most citations from small businesses.

Contrary to a May 23, 2003 article in *The Honolulu Advertiser* indicating, “State Agencies won’t make a June 30 deadline to identify all rules affecting small businesses for outside review,” (Appendix A) the Board was pleased that in complying with the RFA, State agencies met the June 30<sup>th</sup> “deadline” by providing all those administrative rules that affect small business. On July 2, 2003, *The Honolulu Advertiser* subsequently reported, “for the first time since the Small Business Regulator Review Board was created in 1998, most state agencies met the deadline to provide a list of new regulations that may affect small businesses,” (Appendix B).” By meeting this deadline, it has helped the Board realign itself more efficiently with its goals for the current fiscal year.

In addition, according to Section 201M-7 (d) of the RFA, 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.” Further, “upon consideration of any report submitted by an agency under this section any public testimony, the Board will submit an evaluation report to each regular session of the legislature in even-numbered years.”

To date, the Board has not found it necessary to solicit testimony from the public regarding any report submitted by the agency at a public meeting.

## **Administrative Rule Review**

Fourteen State agencies provided a total of 345 rules that affect small business (Appendix C). Also provided was the specific purpose for adopting the rule or other reasons that justify continued implementation of the rule (Appendix D). In addition, four agencies submitted a total of 67 rules that have received the most complaints or that have resulted in the most citations (Appendix E).

The following information outlines a portion of the administrative rules reviewed by the Board. As noted, it has been determined that a number of the rules will require a more extensive analysis than could be completed for inclusion in this report. Thus, throughout 2004, the Board will perform a full evaluation of these rules. In addition, the remaining rules not yet reviewed by the Board will be reviewed and evaluated throughout 2004, at which time, a “final” report will be submitted to the Legislature in 2005.

### **Department of Accounting and General Services**

Rules will be reviewed and evaluated.

### **Department of Agriculture**

Rules will be reviewed and evaluated.

### **Department of Budget and Finance**

Rules will be reviewed and evaluated.

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

1. Chapter 15-2, “Hawaii Capital Loan Program”

**Concerns/Issues** – None

**Recommendations** - None

2. Chapter 15-3, “Capital Access Program”

**Concerns/Issues** – No Impact

**Recommendations** - None

3. Chapter 15-4, “Disaster Commercial and Personal Loan Program”

**Concerns/Issues** - None

**Recommendations** – None

4. Chapter 15-5, “Hawaii Innovation Development Program”

**Concerns/Issues** - None

**Recommendations** - None

5. Chapter 15-6, “Enterprise Zones”

**Concerns/Issues** - None

**Recommendations** - None

6. Chapter 15-15, “Land Use Commission Rules”

**Concerns/Issues** – There is business impact.

**Recommendations** – Evaluate rule in full.

7. Chapter 15-32, “High Technology Development Corporation (HTDC)”

**Concerns/Issues** – There is substantial impact on businesses.

**Recommendations** – Evaluate rule in full.

**Department of Commerce and Consumer Affairs Insurance Division**

1. Chapter 16-27, “Hawaii Medical Malpractice Underwriting Plan”

**Concerns/Issues** – This rule may affect small medical businesses.

**Recommendation** – Evaluate rule in full.

2. Chapter 16-23, “Motor Vehicle Insurance Law”

**Concerns/Issues** – Small business licensees may be affected.

**Recommendation** – Evaluate rule in full.

**Division of Financial Institutions**

3. Chapter 16-25, “Application Procedure Relating to Hawaii Financial Institutions”

**Concerns/Issues** – There is a large impact to the financial industry, but rules may be mandated by the federal government.

**Recommendation** – Evaluate rule in full.

4. Chapter 16-26, “Examination and Off-Site Monitoring of Hawaii Financial Institutions”

**Concerns/Issues** – There is impact on financial institutions, but rules may be mandated by the federal government.

**Recommendation** – Evaluate rule in full.

5. Chapter 16-27, “Supervisory and Enforcement Action Relating to Hawaii financial Institution”

**Concerns/Issues** – There is impact on financial institutions, but rules may be mandated by the federal government.

**Recommendation** – Evaluate rule in full.

**Department of Education**

It has been determined that, based upon information provided by the agency, there are no existing rules within the Department of Education that justify recommendation for repeal, amendment or statutory change.



**Department of Health****Sanitation Branch**

1. Chapter 11-11, "Sanitation"

**Concerns/Issues** – There is serious impact on a number of industries.

**Recommendation** – Evaluate rule in full.

2. Chapter 11-12, "Food Service and Food Establishment Sanitation Code"

**Concerns/Issues** – There is large business impact.

**Recommendation** – None

3. Chapter 11-15, "Milk"

**Concerns/Issues** – The rules are necessary.

**Recommendation** – None

4. Chapter 11-17, "Tattoo Artists"

**Concerns/Issues** – The rules are necessary.

**Recommendation** – None

5. Chapter 11-18, "Licensing of Sanitarians"

**Concerns/Issues** – There is impact when opening a business or hiring employees, and during licensing periods.

**Recommendation** – None

6. Chapter 11-22, "Mortuaries, Cemeteries, Embalmers, Undertakers & Mortuary Authorities"

**Concerns/Issues** – None

**Recommendation** – None

**Safe Drinking Water Branch**

7. Chapter 11-19, "Emergency Plan for Safe Drinking Water"

**Concerns/Issues** – None

**Recommendation** – None

8. Chapter 11-20, "Rules Relating to Potable Water Systems"

**Concerns/Issues** – None

**Recommendation** – None

9. Chapter 11-21, "Cross-Connection & Backflow Control"

**Concerns/Issues** – None

**Recommendation** – None

10. Chapter 11-23, "Underground Injection Control"

**Concerns/Issues** – None

**Recommendation** – None

11. Chapter 11-25, "Rules Relating to Certification of Public Water System Operators"

**Concerns/Issues** – None

**Recommendation** – None

**Vector Control Branch**

12. Chapter 11-26, “Vector Control”

**Concerns/Issues** – None

**Recommendation** – None

**Food and Drug Branch**

13. Chapter 11-29, “Food and Food Products”

**Concerns/Issues** – The rules allow for adoption of the U.S. Food & Drug Administration regulations.

**Recommendation** – None

**Department of Human Services**

Rules will be reviewed and evaluated.

**Department of Labor and Industrial Relations**

Rules will be reviewed and evaluated.

**Department of Land and Natural Resources****Division of Conveyances**

1. Chapter 13-16, “Rules Relating to Conveyances”

**Concerns/Issues:** The costs associated with title searches and the fact that the office will only search when it is convenient (when personnel are available) could cause delays for businesses, which generally operate in a more “time is of the essence” manner. Also, timeshare conveyances should be exempt from land court requirements. A concern is the delay in recording transfer documents.

**Recommendations:** Look into streamlining the recording process and exempting timeshares from land court requirements.

**Division of Aquatic Resources**

2. Chapter 13-29, “Kealahou Bay Marine Life Conservation District”

**Concerns/Issues:** Commercial activity is controlled within the Marine Life Conservation Districts (MLCD) by Department of Land and Natural Resources’ (DLNR’s) Division of Boating and Ocean Recreation (DOBOR). The number of permits is limited and access to proposed operators is denied. Upslope from the MLCD development threatens. Potential land use conflicts and drainage issues could have a profound effect on development costs, if allowable at all.

**Recommendations:** None

3. Chapter 13-31, “Molokini Shoal Marine Life Conservation District – Maui”

**Concerns/Issues:** Commercial activity is controlled by DOBOR. The number of permits are limited by the number of available slips from two commercial harbors at Maalaea and Lahaina. Commercial beach operators also may operate at Molokini with proper permitting. Permits may be transferred or “sold” with the proceeds going to the permittee, resulting in a personal gain from use of the State’s limited resources. There is concern regarding future amendments given the relationship with DOBOR controlling the commercial activity within the MLCD, and limiting transfer of a permit.

**Recommendations:** Evaluate rule in full.

4. Chapter 13-34, “Pupukea Marine Life Conservation District”

**Issues/Concerns:** In their small business impact statement, DLNR stated that they did not anticipate any impact on business. On a DLNR website, however, it states that the intention of DOBOR is to limit commercial Scuba Diving activities and Scuba Training that occurs in the MLCD. There is concern regarding DOBOR’s relationship within the MLCD and how they apply the rules.

**Recommendations:** Evaluate rule in full.

5. Chapter 13-50, “Waimea Bay and Waimea Recreational Pier, Kauai”

**Issues/Concerns:** No known concerns or issues that would affect small business operations as no businesses are operating from the facilities within the Marine Fisheries Management Area.

**Recommendations:** None

6. Chapter 13-56, “Kaunakakai Harbor, Molokai”

**Issues/Concerns:** Commercial boating falls under the jurisdiction of DOBOR. This is also Molokai’s port of entry and, therefore, Department of Transportation (DOT) shares jurisdiction along with the two divisions in DLNR. This rule seems to address only the fishing rules relating to the areas that are controlled by DOBOR and DOT.

**Recommendations:** None

**Historic Preservation Division**

7. Chapter 13-300, “Rules of Practice and Procedure Relating to Burial Sites and Human Remains”

**Issues/Concerns:** Substantial delays in the approval process delay public and private projects.

**Recommendations:** Streamlining the system.

**Department of Taxation**

1. Chapter 18-243, “Fuel Tax Law”

**Issues/Concerns:** None

**Recommendations:** None

2. Chapter 18-247, “Conveyance Tax”

**Issues/Concerns:** None

**Recommendations:** None

**Department of Transportation**

Rules will be reviewed and evaluated.

**University of Hawaii**

It has been determined that based on the information provided, there are no existing rules within the University of Hawaii that affect small businesses and would justify recommendation for repeal, amendment or statutory change.

## APPENDICES

- A. Article dated May 23, 2003, “Rule List not ready for review by board,” *The Honolulu Advertiser*
- B. Article dated July 2, 2003, “Deadline largely met for state rule review,” *The Honolulu Advertiser*
- C. Agency Status Report on Administrative Rule Review and Listing of Rules
- D. Administrative Rule Report outlining Purpose of Adoption or Reasons for Continued Implementation
- E. Administrative Rules that have received the Most Complaints or Citations

## **Appendix A**



David Young

05/23/2003 07:49 AM

To: #MGT Team, #Division Heads  
 cc: Dori Palcovich/DBEDT@DBEDT  
 Subject: Coverage of re-energized SBRRB (Sean Hao)



Posted on: Friday, May 23, 2003

## Rule list not ready for review by board

By Sean Hao  
 Advertiser Staff Writer

State agencies won't make a June 30 deadline to identify all rules affecting small businesses for outside review.

That will mark the third time that departments have missed a biennial deadline to provide such a list to the Small Business Regulatory Review Board. The panel was created in 1998 to deter state agencies from adopting regulations that are onerous to small businesses.

The board was hailed as a milestone in business advocacy in Hawai'i, which is commonly criticized as a state unfriendly to business. However, board insiders and others agree that until now the board has been largely ineffective because of a lack of cooperation from state agencies.

That attitude may be changing. The board, comprising business leaders on a volunteer basis, was invited to its first meeting with Cabinet-level officials Wednesday. At the meeting, Gov. Linda Lingle provided assurances that department heads would cooperate with the panel.

### Where to call

• The Small Business Regulatory Review Board can be reached through the state's small-business advocate at 586-2594.

After the meeting, board members said they were optimistic about getting real support from state government.

"This is a huge step forward for the review board," said Denise Walker, a member from the Big Island and interim head of the board.

The effectiveness of the board could be a litmus test for pro-business efforts of Lingle's Republican administration, which took office in December.

Agencies won't make the June 30 deadline mainly because listings for this two-year review cycle were not started during the previous administration, said Ted Liu, director for the Department of Business, Economic Development and Tourism, which oversees the board.

"There's every intention to do the review, but we can't do over a couple of months what takes a couple of years," he said. Liu also said Lingle expects her Cabinet members and their departments not only to cooperate with the board but also to help "meet their legal mandate."

Since the board can't review the lists of all agency rules affecting small businesses, it will instead focus on any that exceed federal requirements, as well as regulations that businesses identify as burdensome.

Board members also will continue to review new rules that have a business impact. So far the board has played a role in altering only a handful of the state's regulations.

The regulatory review board was created by the Hawai'i Small Business Regulatory Flexibility Act, which has been praised by some outside the state as model legislation. According to the law, any new rule or rule change must be reviewed to determine the number of small businesses affected and to what extent.

In addition to reviewing existing, new and changed rules, the flexibility act allows businesses to file protests against rules adopted by state agencies. Despite continued criticism of the state's business climate by business owners, legislators and the administration, there hasn't been a single protest filed by a business against an agency rule since the legislation took effect.

A lack of public awareness and a distrust of government may be reasons for the absence of filed protests. DBEDT said it plans to heighten the board's public profile to attract business participation in the reviews.

The board, at the direction of the past legislative session, was also instructed to develop a small-business bill of rights. But the board meets only once a month and is short three members. Monthly meetings are supplemented by more frequent committee meetings.

"It certainly is a huge load," Woods said. "I think there will be a lot of accomplished in the next year."

Reach Sean Hao at [shao@honoluluadvertiser.com](mailto:shao@honoluluadvertiser.com) or 525-8093.

## **Appendix B**





Posted on: Wednesday, July 2, 2003

## Deadline largely met for state rule review

By Sean Hao  
Advertiser Staff Writer

For the first time since the Small Business Regulatory Review Board was created in 1998, most state agencies met the deadline to provide a list of new regulations that may affect small businesses.

Until now the board had been largely ignored by state agencies.

Most agencies missed deadlines in 1999 and 2001 to review rules for their potential impact on small businesses, according to the Department of Business, Economic Development and Tourism, which oversees the board.

However, during a state Cabinet meeting in May, Gov. Linda Lingle instructed agencies to start cooperating with the board. Most of them met Monday's deadline.

"It's amazing they've got that much agency response, since the agencies haven't responded before," said Michael Hull, Hawai'i regional advocate in the Small Business Administration Office of Advocacy in Phoenix. "Obviously, there's a lot of anti-business regulations in Hawai'i right now, so this is an important process."

The regulatory review board was created by the Hawai'i Small Business Regulatory Flexibility Act, which has been praised by some outside the state as model legislation. Under the law, any new rule or rule change must be reviewed to determine the number of small businesses affected and to what extent.

The board, which comprises business leaders on a volunteer basis, also serves as a conduit for complaints about rules adopted by state agencies, but so far it has played a role in altering only a handful of the state's regulations.

Compiling the list of rules is supposed to ensure that obsolete or unnecessary regulations are regularly updated or removed from the books. A list of all rules takes up 517 pages, according to the Legislative Reference Bureau.

As of late yesterday, the only agencies that had not submitted lists to the board were Human Services, the University of Hawai'i, Human Resources Development, Hawaiian Home Lands, Public Safety, Defense and the attorney general's office. The Department of Business, Economic Development and Tourism said that, generally, these agencies don't have rules affecting small businesses.

So far DBEDT has identified about 170 rules that affect small businesses with 100 or fewer employees, either by requiring payment of fees, purchase of equipment or training among other things. Once completed, the master list, which is expected to include several hundred more rules, will be included in the board's annual report to the Legislature due in December.

Board member Robert Speers said the level of cooperation that the board is receiving from state government is unprecedented.

"We believe this is in fact a new beginning and a good-faith effort on the part of the departments and the governor to take seriously the Small Business Regulatory Review Board," he said.

Reach Sean Hao at [shao@honoluluadvertiser.com](mailto:shao@honoluluadvertiser.com) or 525-8093.

<http://the.honoluluadvertiser.com/article/2003/Jul/02/bz/bz04a.html?print=on>

7/23/2003

## **Appendix C**

<b>Agency</b>	<b>Date Responded by Agency</b>	<b># of Rules</b>	<b>Business Impact Y/N</b>
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES	6-26-03	6	Y
DEPARTMENT OF AGRICULTURE	6-30-03	46	Y
DEPARTMENT OF THE ATTORNEY GENERAL	6-30-03	0	N
DEPARTMENT. OF BUDGET AND FINANCE: FINANCIAL ADMINISTRATION DIVISION	7-01-03	3	Y
PUBLIC UTILITIES COMMISSION	6-16-03	10	Y
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM	6-27-03	13	Y
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS	6-24-03	60	Y
DEPARTMENT OF DEFENSE	6-03-03	0	N
DEPARTMENT OF EDUCATION	6-06-03	3	Y
DEPARTMENT OF HAWAIIAN HOME LANDS	7-15-03	0	N
DEPARTMENT OF HEALTH	6-26-03	60	Y
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT	7-01-03	0	N
DEPARTMENT OF HUMAN SERVICES	7-07-03	14	Y
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS	7-01-03	24	Y
DEPARTMENT OF LAND AND NATURAL RESOURCES	7-01-03	68	Y
DEPARTMENT OF PUBLIC SAFETY	6-30-03	0	N
DEPARTMENT OF TAXATION	7-01-03	10	Y
DEPARTMENT OF TRANSPORTATION	6-13-03	27	Y
UNIVERSITY OF HAWAII	6-30-03	1	Y
	<b>Sub-Total as of 8/06/03</b>	345	

**Hawaii Administration Rules (“HAR”), in effect on July 1, 1998,  
that affect “Small Business”**  
in accordance with Revised Statutes (“HRS”) §201-7M

**I. Department of Accounting and General Services**  
**Archives Division**

1. Chapter 3-20 – “Rules Governing the Public Use of the State Archives and Records Center and Schedule of Fees”

**Survey Division**

2. Chapter 3-40 – “Rules Governing Public Use of the Land Survey Division, Maps, Descriptions, and Records, and Schedule of Fees for Services, Maps, and Other Record Data”

**Stadium Authority Division**

3. Chapter 3-70-10 – “Staffing and Other Charges, Cost of Moving Stands”
4. Chapter 3-70-11 – “Rental Charges; Payment”
5. Chapter 3-70-15 – “Insurance, Indemnification”
6. Chapter 3-70-18.01 – “Sale or Distribution of Articles”

**II. Department of Agriculture**

**Administration**

1. Chapter 4-1 – “Board of Agriculture – Rules of Practice and Procedure”

**Agriculture Loan Division**

2. Chapter 4-8 – “Agricultural Loan Program Rules”
3. Chapter 4-9 – “The Aquaculture Loan Program”

**Division of Animal Industry**

4. Chapter 4-16 – “Cattle, Sheep and Goats”
5. Chapter 4-17 – “Swine”
6. Chapter 4-19 – “Poultry and Birds”
7. Chapter 4-19 – “West Nile Virus - Import Requirements for Birds and Poultry”
8. Chapter 4-20 – “Non-domestic Animals”
9. Chapter 4-21 – “Vaccines, Microorganisms, and Parasites”
10. Chapter 4-22 – “Reporting of Animal Diseases
11. Chapter 4-23 – “Horses”
12. Chapter 4-24 – “Meat Grading”
13. Chapter 4-27 – “Brands”
14. Chapter 4-29 – “Dogs, Cats, and Other Carnivores”

**Division of Marketing and Consumer Services**

15. Chapter 4-41 – “Standards for Fresh Fruits and Vegetables”
16. Chapter 4-42 – “Standards for Hawaii-Grown Flowers and Foliage”
17. Chapter 4-44 – “Standards for Processed Products”
18. Chapter 4-45 – “Feed”
19. Chapter 4-46 – “Standards for Shell Eggs”

- 20. Chapter 4-48 – “Rules for Regulating Dealer in Farm Products”
- 21. Chapter 4-54 – “Industry and Product Promotion Program”
- 22. Chapter 4-60 – “Milk Control Rules”

#### **Division of Plant Industry**

- 23. Chapter 4-66 – “Pesticides”
- 24. Chapter 4-67 – “Seed Rules”
- 25. Chapter 4-68 – “Noxious Weed Rules”
- 26. Chapter 4-69A– “Pests for Control or Eradication”
- 27. Chapter 4-70 – “Plant and Non-Domestic Animal Quarantine Plant Import Rules”
- 28. Chapter 4-71 – “Plant and Non-Domestic Animal Quarantine Non-Domestic Animal Import Rules”
  - List of Conditional Approved Animals
  - List of Restricted Animals - For Research and Exhibition
  - List of Restricted Animals - For Private and Commercial Use
  - List of Prohibited Animals
- 29. Chapter 4-71A– “Plant and Non-Domestic Animal Quarantine Microorganism Import Rules”
- 30. Chapter 4-72 – “Plant and Non-Domestic Animal Quarantine Plant Intrastate Rules”
- 31. Chapter 4-73 – “Plant and Non-Domestic Animal Quarantine Plant Export Rules”

#### **Division of Measurement Standards**

- 32. Chapter 4-86 – “Brake Fluids, Coolants, Petroleum Products, and After-Market Additives”
- 33. Chapter 4-87 – “Voluntary Registration of Service Persons or Service Agencies”
- 34. Chapter 4-89 – “Measure Masters”
- 35. Chapter 4-91 – “Unit Pricing of Consumer Commodities”
- 36. Chapter 4-93 – “Packaging and Labeling”
- 37. Chapter 4-94 – “Method of Sale of Commodities”
- 38. Chapter 4-96 – “Schedule and Fees for Licensing Devices Susceptible of Commercial Usage, and Measuring Devices and Measurement Standards for Testing or Certification”
- 39. Chapter 4-101– “Weighing and Measuring Devices”

#### **Quality Assurance Division**

- 40. Chapter 4-143 – “Standards for Coffee”

#### **Division of Agricultural Resource Management**

- 41. Chapter 4-150 – “Rules Governing Irrigation Water Service to Consumers of the Waimanalo Irrigation System”
- 42. Chapter 4-151– “Rules Governing Irrigation Water Service to Consumers of the Waimea Irrigation System”
- 43. Chapter 4-152 – “Rules Governing Irrigation Water Service to Consumers of the Molokai Irrigation System”
- 44. Chapter 4-153 – “Agricultural Park Program Rules”
- 45. Chapter 4-155 – “Rules Governing Irrigation Water Service to Consumers of

- the Kahuku Agricultural Park Irrigation System”
46. Chapter 4-156 – “Rules Governing Irrigation Water Service to Consumers of the Honokaa-Paauilo Irrigation System”

### **III. Department of the Attorney General**

No administrative rules that affect small business.

### **IV. Department of Budget and Finance**

#### **Financial Administration Division**

1. Chapter 6-10 – “Special Purpose of Revenue Bonds for Industrial Enterprises”
2. Chapter 6-12 – “Special Purpose Revenue Bonds for Manufacturing Enterprises”
3. Chapter 6-13 – “Special Purpose Revenue Bonds for Processing Enterprises”

#### Public Utilities Commission

4. Chapter 6-61 – “Rules of Practice and Procedure Before the Commission”
5. Chapter 6-62 – “Motor Carrier Rules and Classification of Property and Passenger Carriers”
6. Chapter 6-63 – “Motor Carrier Tariffs and Schedules”
7. Chapter 6-65 – “Water Carriers”
8. Chapter 6-68 – “Investigation and Enforcement of Laws Governing Public Utilities, Motor Carriers, and Water Carriers”
9. Chapter 6-76.1 – “Shared Tenant Service”
10. Chapter 6-79 – “Aggregator and Operator Service”
11. Chapter 6-80 – “Competition in Telecommunications Services”
12. Chapter 6-81 – “Universal Service Fund”
13. Chapter 6-82 – “Pay Telephone Service”

### **V. Department of Business, Economic Development and Tourism**

1. Chapter 15-2 – “Hawaii Capital Loan Program”
2. Chapter 15-3 – “Capital Access Program”
3. Chapter 15-4 – “Disaster Commercial and Personal Loan Program”
4. Chapter 15-5 – “Hawaii Innovation Development Program”
5. Chapter 15-6 – “Enterprise Zones”

#### **Land Use Commission**

6. Chapter 15-15 – “Land Use Commission Rules”

#### **Hawaii Community Development Authority**

7. Chapter 15-19 – “District-Wide Improvement Program Rules”
8. Chapter 15-20 – “Improvement District Rules”
9. Chapter 15-21 – “Development Program”
10. Chapter 15-22 – “The Mauka Area Rules”
11. Chapter 15-23 – “The Kakaako Community Development District Rules for the Makai Area”
12. Chapter 15-24 – “Relocation Assistance to Displaced Persons”

### **High Technology Development Corporation (HTDC)**

13. Chapter 15-32 – “Hawaii Small Business Innovation Research Grant Program”

## VI. Department of Commerce and Consumer Affairs

### Insurance Division

1. Chapter 16-7 – “Hawaii Medical Malpractice Underwriting Plan”
2. Chapter 16-23 – “Motor Vehicle Insurance Law”
3. Chapter 16-178 – “Administrative Special Mortgage Recording Fee Guidelines”

### Division of Financial Institutions

4. Chapter 16-25 – “Application Procedure Relating to Hawaii Financial Institutions”
5. Chapter 16-26 – “Examination and Off-Site Monitoring of Hawaii Financial Institutions”
6. Chapter 16-27 – “Supervisory and Enforcement Action Relating to Hawaii Financial Institution”
7. Chapter 16-28 – “Escrow Depositories”
8. Chapter 16-31 – “Credit Unions”

### Business Registration Division

9. Chapter 16-36 – “Practice and Procedure of the Business Registration Division”
10. Chapter 16-37 – “Rules Under the Franchise Investment Law”
11. Chapter 16-38 – “Securities”

### Office of the Director

12. Chapter 16-51 – “Fees”
13. Chapter 16-53 – “Fees Relating to Boards and Commissions”

### Professional and Vocational Licensing Division

14. Chapter 16-71 – “Certified Public Accountants and Public Accountants”
15. Chapter 16-72 – “Acupuncture Practitioners”
16. Chapter 16-73 – “Barbers”
17. Chapter 16-74 – “Boxing”
18. Chapter 16-75 – “Cemeteries and Funeral Trusts”
19. Chapter 16-76 – “Chiropractors”
20. Chapter 16-77 – “Contractors”
21. Chapter 16-78 – “Cosmetology”
22. Chapter 16-79 – “Dentists and Dental Hygienists”
23. Chapter 16-80 – “Electricians and Plumbers”
24. Chapter 16-81 – “Elevator Mechanics”
25. Chapter 16-83 – “Hearing Aid Dealers and Fitters”
26. Chapter 16-84 – “Massage Therapy”
27. Chapter 16-85 – “Medical Examiners”
28. Chapter 16-86 – “Motor Vehicle Dealers and Salesmen”
29. Chapter 16-87 – “Motor Vehicle Repair Dealers and Mechanics”
30. Chapter 16-88 – “Naturopaths”
31. Chapter 16-89 – “Nurses”
32. Chapter 16-89B – “Diversion Program”
33. Chapter 16-89C – “Advanced Practice Registered Nurse-Prescriptive Authority”
34. Chapter 16-90 – “Nursing Home Administrators”
35. Chapter 16-91 – “Opticians”

36. Chapter 16-92 – “Optometrists”
37. Chapter 16-93 – “Osteopaths”
38. Chapter 16-94 – “Pest Control Operators”
39. Chapter 16-95 – “Pharmacists and Pharmacies”
40. Chapter 16-96 – “Pilotage”
41. Chapter 16-97 – “Private Detectives and Guards”
42. Chapter 16-98 – “Psychologists”
43. Chapter 16-99 – “Real Estate Brokers and Salespersons”
44. Chapter 16-100 – “Speech Pathologists and Audiologists”
45. Chapter 16-101 – “Veterinarians”
46. Chapter 16-104 – “Uniform Land Sales Practices”
47. Chapter 16-106 – “Timesharing”
48. Chapter 16-107 – “Rules Relating to Horizontal Property Regimes”
49. Chapter 16-108 – “Commercial Employment Agencies”
50. Chapter 16-110 – “Physical Therapy”
51. Chapter 16-112 – “Collection Agencies”
52. Chapter 16-113 – “Electrologists”
53. Chapter 16-114 – “Real Estate Appraisers”
54. Chapter 16-115 – “Professional Engineers, Architects, Surveyors, and Landscape Architects”
55. Chapter 16-116 – “Travel Agencies”
56. Chapter 16-117 – “Activity Providers and Activity Desks”

#### **Office of Consumer Protection**

57. Chapter 16-301 – “Office of Consumer Protection, Public Records and Information, Rule-making Proceedings, and Declaratory Rulings”
58. Chapter 16-302 – “Office of Consumer Protection, Non-adjudicative Procedures”
59. Chapter 16-303 – “Office of Consumer Protection, Unfair or Deceptive Practices in Advertising”
60. Chapter 16-304 – “Office of Consumer Protection, Compensation of Witnesses”

#### **VII. Department of Defense**

No administrative rules that affect small business.

#### **VIII. Department of Education**

1. Chapter 8-27 – “Transportation of Students”
2. Chapter 8-39 – “Use of School Buildings, Facilities, and Grounds”
3. Chapter 8-101 – “Licensing of Private Trade, Vocational, and Technical Schools”

#### **IX. Department of Hawaiian Home Lands**

No administrative rules that affect small business.

#### **X. Department of Health**

##### **Hazard Evaluation and Emergency Response Branch**

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



### **Sanitation Branch**

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

### **Safe Drinking Water Branch**

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

### **Vector Control Branch**

15. Chapter 11-26 – “Vector Control”

### **Food and Drug Branch**

16. Chapter 11-29 – “Food and Food Products”
17. Chapter 11-33 – “Hawaii Drug Formulary of Equivalent Drug Products”
18. Chapter 11-35 – “Shellfish Sanitation”
19. Chapter 11-36 – “Sale of Prophylactics Through Vending Machines”

### **Noise, Radiation and Indoor Air Quality Branch**

20. Chapter 11-39 – “Air Conditioning & Ventilating”
21. Chapter 11-44 – “Radiologic Technology Board Radiologic Technology Rules”
22. Chapter 11-45 – “Radiation Control”
23. Chapter 11-46 – “Community Noise Control”
24. Chapter 11-501 – “Asbestos Requirements”
25. Chapter 11-502 – “Asbestos Containing Materials in Schools”
26. Chapter 11-503 – “Fees for Asbestos Removal”
27. Chapter 11-504 – “Asbestos Abatement Certification Program”

### **Environmental Planning Office**

28. Chapter 11-54 – “Water Quality Standards”

### **Clean Water Branch**

29. Chapter 11-55 – “Water Pollution Control”

### **Wastewater Branch**

30. Chapter 11-61 – “Mandatory Certification of Wastewater Treatment Plants”
31. Chapter 11-62 – “Wastewater Systems”

**Clean Air Branch**

- 32. Chapter 11-59 – “Ambient Air Quality Standards”
- 33. Chapter 11-60.1 – “Air Pollution Control”

**Office of Health Care Assurance Division**

- 34. Chapter 11-89 – “Developmental Disabilities Domiciliary Homes”
- 35. Chapter 11-95 – “Freestanding Surgical Outpatient (FSOF) or Ambulatory Surgical Centers”
- 36. Chapter 11-96 – “Freestanding Adult Day Health Centers”
- 37. Chapter 11-97 – “Home Health Agencies”
- 38. Chapter 11-98 – “Special Treatment Facilities/Therapeutic Living Programs”
- 39. Chapter 11-99 – “Intermediate Care Facilities for the Mentally Retarded”
- 40. Chapter 11-100 – “Adult Residential Care Homes/Expanded ARCH”
- 41. Chapter 11-101 – “Extended Care Adult Residential Care Homes”

**State Laboratories Division**

- 42. Chapter 11-110 – “Clinical Laboratories and Laboratory Personnel”

**Epidemiology Division**

- 43. Chapter 11-156 – “Examinations and Immunizations”

**Disability and Communication Access Board – attached agency**

- 44. Chapter 11-219 – “Parking for Persons with Disabilities”

**Solid and Hazardous Waste Branch**

- 45. Chapter 11-58.1 – “Solid Waste Management Control”
- 46. Chapter 11-68 – “Litter Control”
- 47. Chapter 11-260 – “Hazardous Waste Management General Provisions”
- 48. Chapter 11-261 – “Hazardous Waste Management Identification & Listing of Hazardous Waste”
- 49. Chapter 11-262 – “Hazardous Waste Management Standards Applicable to Generators of Hazardous Waste”
- 50. Chapter 11-263 – “Hazardous Waste Management Standards Applicable to Transporters of Hazardous Waste”
- 51. Chapter 11-264 – “Hazardous Waste Management Standards for Owners & Operators of Hazardous Waste Treatment, Storage, & Disposal Facilities”
- 52. Chapter 11-265 – “Hazardous Waste Management Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, & Disposal Facilities”
- 53. Chapter 11-266 – “Hazardous Waste Management Standards for the Management of Specific Hazardous Wastes & Specific Types of Hazardous Waste Management Facilities”
- 54. Chapter 11-268 – “Hazardous Waste Management Land Disposal Restrictions”
- 55. Chapter 11-270 – “Hazardous Waste Management State Administered Permits: The Hazardous Waste Permit Program”
- 56. Chapter 11-271 – “Hazardous Waste Management Procedures for Decision Making”

- 57. Chapter 11-273 – “Hazardous Waste Management Standards for Universal Waste Management”
- 58. Chapter 11-279 – “Standards for the Management of Used Oil”
- 59. Chapter 11-280 – “Hazardous Waste Management Public Information”
- 60. Chapter 11-281 – “Underground Storage Tanks (USTs)”

#### XI. Department of Human Resources Development

##### **No administrative rules that affect small business.**

#### XII. Department of Human Services

- 1. Chapter 17-402 – “Services to the Blind and Visually Handicapped”
- 2. Chapter 17-891.1 – “Registration of Family Child Care Homes”
- 3. Chapter 17-892.1 – “Licensing of Group Child Care Centers and Group Child Care Homes”
- 4. Chapter 17-893 – “Licensing of Child-Placing Organizations”
- 5. Chapter 17-894 – “Licensing of Child-Caring Institutions”
- 6. Chapter 17-895 – “Licensing of Infant and Toddler Child Care Centers”
- 7. Chapter 17-896 – “Licensing of Before and After School Child Care Facilities”
- 8. Chapter 17-1417 – “Adult Day Care Services”
- 9. Chapter 17-1418 – “Adult Foster Care Services”
- 10. Chapter 17-1419 – “Chore Services for Community Long-Term Care Programs”
- 11. Chapter 17-1424 – “Licensing of Adult Day Care Centers”
- 12. Chapter 17-1739 – “Authorization, Payment, and Claims to the Fee for Service Medical Assistance Program”
- 13. Chapter 17-1739.1 – “Authorization, Payment, and Claims in the Fee for Service Medical Assistance-General Provisions for Reimbursement”
- 14. Chapter 17-1740 – “Reimbursement of Federally Qualified Health Centers”

#### XIII. Department of Labor and Industrial Relations

##### **Employment Insurance Division**

- 1. Chapter 12-5 – “Employment Security”

##### **Disability Compensation Division**

- 2. Chapter 12-10 – “Workers Compensation”
- 3. Chapter 12-11 – “Temporary Disability Insurance”
- 4. Chapter 12-12 – “Prepaid Health Care”
- 5. Chapter 12-15 – “Medical Fee Schedule”

##### **Wage Standard Division**

- 6. Chapter 12-20 – “Wage and Hour”
- 7. Chapter 12-21 – “The Administration and Enforcement of the Payment of Wages and Other Compensation Law”
- 8. Chapter 12-22 – “Wage Determinations and the Administration and Enforcement of Chapter 104, Hawaii Revised Statutes”
- 9. Chapter 12-24 – “Relating to Unlawful Suspension or Discharge Under Part III, Chapter 378, Hawaii Revised Statutes”
- 10. Chapter 12-25 – “Child Labor”
- 11. Chapter 12-26 – “Lie Detector Tests”

**Workforce Development Division**

12. Chapter 12-6 – “Employment and Training fund Program (ETF)”
13. Chapter 12-30 – “Apprenticeship Programs”
14. Chapter 12-31 – “A State Plan for Equal Employment Opportunity in Apprenticeship Programs”
15. Chapter 12-506 – “Plant Closing Notification and Dislocated Worker Allowance”

**Boards**

16. Chapter 12-41 – “Hawaii Labor Relations Board (Employment)”

**State Fire Council**

17. Chapter 12-45.1 – “State Fire Code”

**Civil Rights Commission**

18. Chapter 12-46 – “Civil Rights Commission”
19. Chapter 12-48 – “Hoisting Machine Operators Advisory Board”

**Hawaii Occupational Safety and Health Division**

20. Chapter 12-50, Part I. – “General, Legal, and Administrative Provisions for Occupational Safety and Health”
21. Chapter 12-60, Part II. – “General Safety and Health Requirements”
22. Chapter 12-110, Part III – “Construction Standards”
23. Chapter 12-200, Part VIII – “Health Standards”
24. Chapter 12-220, Part X – “Boilers and Pressure Vessels” and Part XI – “Elevators”

**XIV. Department of Land and Natural Resources****Division of Conveyances**

1. Chapter 13-16 – “Rules Relating to Conveyances”

**Division of Aquatic Resources**

2. Chapter 13-29 – “Kealakekua Bay Marine Life Conservation District, Hawaii”
3. Chapter 13-31 – “Molokini Shoal Marine Life Conservation District, Maui”
4. Chapter 13-32 – “Honolua-Mokuleia Marine Life Conservation District, Maui”
5. Chapter 13-33 – “Lapakahi Marine Life Conservation District, Hawaii”
6. Chapter 13-34 – “Pupukea Marine Life Conservation District, Oahu”
7. Chapter 13-35 – “Wailea Bay Marine Life Conservation District, Hawaii”
8. Chapter 13-36 – “Waikiki Marine Life Conservation District, Oahu”
9. Chapter 13-37 – “Old Kona Airport Marine Life Conservation District, Hawaii”
10. Chapter 13-48 – “Waikiki-Diamond Head Shoreline Fisheries management Area, Oahu”
11. Chapter 13-50 – “Waimea Bay and Waimea Recreational Pier, Kauai”
12. Chapter 13-51 – “Kahului Harbor, Maui”
13. Chapter 13-52 – “Kailua Bay, Hawaii”
14. Chapter 13-54 – “Pauka Bay and Pauka Reef, Hawaii”
15. Chapter 13-55 – “Kawaihae Harbor, Hawaii”
16. Chapter 13-56 – “Kaunakakai Harbor, Molokai”

17. Chapter 13-57 – “Keahou Bay Hawaii”
18. Chapter 13-60 – “Kiholo bay, Hawaii”
19. Chapter 13-61 – “Nuuanu Freshwater Fish Refuge, Oahu”
20. Chapter 13-62 – “Wahiawa Public Fishing Area, Oahu”
21. Chapter 13-64 – “Kokee Public Fishing Area, Kauai”
22. Chapter 13-73 – “Fish Aggregating Devices”
23. Chapter 13-83 – “Shellfishes”
24. Chapter 13-84 – “Samoan Crab”
25. Chapter 13-85 – “Clam”
26. Chapter 13-89 – “Spiny Lobster or Ula”
27. Chapter 13-90 – “Nehu for Family Consumption”
28. Chapter 13-92 – “Opihī”
29. Chapter 13-93 – “Limu”
30. Chapter 13-94 – “Bottomfish Management”
31. Chapter 13-99 – “Introduced Freshwater Fishes”
32. Chapter 13-100 – “O’opu and Hinana”

### **Division of Forestry & Wildlife**

33. Chapter 13-103 – “Alakai Wilderness Preserve, Island of Kauai”
34. Chapter 13-104 – “Activities within Forest Reserves”
35. Chapter 13-105 – “Closed (restricted) Watersheds”
36. Chapter 13-107 – “Threatened and Endangered Plants”
37. Chapter 13-121 – “Hunting”
38. Chapter 13-122 – “Game Bird Hunting, Field Trials and Commercial Shooting Preserves”
39. Chapter 13-123 – “Game Mammal Hunting”
40. Chapter 13-124 – “Indigenous, Endangered, Threatened and Injurious Wildlife, and Introduced Wild Birds”
41. Chapter 13-130 – “Trail and Access Program”
42. Chapter 13-209 – “Activities within Natural Area Reserves”

### **Division of State Parks**

43. Chapter 13-146 – “Hawaii State Park System”

### **Commission on Water Resource Management**

44. Chapter 13-167 – “Rules of Practice and Procedure for the Commission on Water Resource Management”
45. Chapter 13-168 – “Water Use, Wells, and Stream Diversion Works”
46. Chapter 13-169 – “Protection of In stream Uses of Water”
47. Chapter 13-170 – “Hawaii Water Plan”
48. Chapter 13-171 – “Designation and Regulation of Water Management Areas”

### **Land Division**

49. Chapter 13-1 - “Rules of Practice and Procedure”
50. Chapter 13-5 – “Conservation District”
51. Chapter 13-183 – “Rules on Leasing and Drilling of Geothermal Resources”
52. Chapter 13-184 – “Designation and Regulation of Geothermal Resource Sub zones”

- 53. Chapter 13-185 – “Rules of Practice and Procedure for Geothermal and Cable System Development Permitting”
- 54. Chapter 13-190 – “Dams and Reservoirs”
- 55. Chapter 13-219 – “Fees”
- 56. Chapter 13-220 – “Public Auction”
- 57. Chapter 13-221 – “Unencumbered Public Lands”
- 58. Chapter 13-222 – “Shoreline Certifications”
- 59. Chapter 13-223 – “Urban Historic Preservation and Restoration”

#### **Historic Preservation Division**

- 60. Chapter 13-197 – “Hawaii Historic Places Review Board”
- 61. Chapter 13-198 – “Hawaii and National Register of Historic Places Programs”
- 62. Chapter 13-300 – “Rules of Practice and Procedure Relating to Burial Sites and Human Remains”

#### **Division of Boating and Ocean Recreation**

- 63. Chapter 13-230 – “General Provisions”
- 64. Chapter 13-231 – “Operations of Boats, Small Boat Harbors, and Permits”
- 65. Chapter 13-234 – “Fees and Charges”
- 66. Chapter 13-244 – “Rules of the Road, Local, and Special Rules”
- 67. Chapter 13-251 – “Waikiki and Kaanapali Ocean Waters”
- 68. Chapter 13-256 – “Ocean Recreation Management Rules”

#### XV. Department of Public Safety

No administrative rules that affect small business.

#### XVI. Department of Taxation

- 1. Chapter 18-231 – “Administration of Taxes”
- 2. Chapter 18-235 – “Income Tax Law”
- 3. Chapter 18-237 – “General Excise Tax Law”
- 4. Chapter 18-237D – “Transient Accommodations Tax”
- 5. Chapter 18-238 – “Use Tax Law”
- 6. Chapter 18-241 – “Taxation of Banks and Other Financial Corporations”
- 7. Chapter 18-243 – “Fuel Tax Law”
- 8. Chapter 18-245 – “Cigarette Tax Stamping”
- 9. Chapter 18-247 – “Conveyance Tax”
- 10. Chapter 18-251 – “Rental Motor Vehicle and Tour Vehicle Tax”

#### **XVII. Department of Transportation**

##### **Administration Division**

- 1. Chapter 19-1 – “Practice and Procedure”
- 2. Chapter 19-2 – “Participation in the Federal Minority Business Enterprise Programs”
- 3. Chapter 19-6 – “Service Charge for Delinquent Accounts at the Department of Transportation”
- 4. Chapter 19-20.1 – “Commercial Services at Public Airports”
- 5. Chapter 19-33 – “Control of Hazardous Materials & Waste at Public Airports”
- 6. Chapter 19-34 – “Tour Aircraft Operations at Public Airports”

7. Chapter 19-37 – “Fuel Handling Procedures at Public Airports”
8. Chapter 19-38.1 – “On-Demand Taxi Service at Public Airports”

#### **Harbors Division**

9. Chapter 19-41 – “Rules Relating to General Provision”
10. Chapter 19-42 – “Vessel and Harbor Controls”
11. Chapter 19-43 – “Motor Vehicles”
12. Chapter 19-44 – “Rules Relating to Services and Procedures, Tolls and Fees”

#### **Highways Division**

13. Chapter 19-101 – “Movement of Overweight Vehicles Along and Upon Hana Highway (FAS 360) Between Kailua Village and Hana”
14. Chapter 19-102 – “Fee Schedule for the Issuance of a Permit to work on State Highways”
15. Chapter 19-104 – “The Movement by Permit of Oversize and Overweight Vehicles”
16. Chapter 19-105 – “Accommodation and Installation of Utilities on State Highways and Federal Aid Country Highways”
17. Chapter 19-121 – “Traffic Records”
18. Chapter 19-123 – “Statewide Motorcycle, Moped and Motor Scooter Education Courses and Licensing Skill Test Waiver”
19. Chapter 19-124 – “Protection Devices for Motorcycle and Motor Scooter Operators and Passengers”
20. Chapter 19-128 – “Design, Placement, and Maintenance of Traffic Control Devices”
21. Chapter 19-129 – “Use of Traffic Control Devices at Work Sites on or Adjacent to Public Streets and Highways”
22. Chapter 19-132 – “Approval and Revocation of Approval for the Display, Sale, and use of Vehicle Equipment”
23. Chapter 19-133.2 – “Periodic Inspection of Vehicles”
24. Chapter 19-133.5 – “Suspension or Revocation of an Official Inspection Station or Inspectors Certification”
25. Chapter 19-135 – “Periodic Safety Inspection of Mopeds”
26. Chapter 19-143 – “Pupil Transportation Safety”

#### **Statewide Transportation Planning Office**

27. Chapter 19-150 – “Parking for Disabled Persons”

#### **XVIII. University of Hawaii**

1. Chapter 20-15 – “Rules Governing Agriculture Diagnostic Services User Fees”

## **Appendix D**



**Hawaii Administrative Rules (“HAR”), in effect on July 1, 1998, that affect “Small Business” in accordance with Hawaii Revised Statutes (“HRS”) §201M-7, with the specific public purpose of interest for adopting the respective rules and any other reasons to justify its continued implementation.**

**I. Department of Accounting and General Services**

**Archives Division**

1. Chapter 3-20 – “Rules Governing the Public Use of the State Archives and Records Center and Schedule of Fees”  
Justification – The purpose of the rules is to preserve the integrity and provide security over government records stored at the State Archives and State Records Center. The rules establish uniform procedures and fees for special services (Xerox copies, certifications, translations, etc.) Continued implementation of the rules is needed as fees charged are in direct relation to the cost of services.

**Survey Division**

2. Chapter 3-40 – “Rules Governing Public Use of the Land Survey Division, Maps, Descriptions, and Records, and Schedule of Fees for Services, Maps, and Other Record Data”  
Justification – The purpose of the rules is to prescribe the procedures for the use of public records, maps, and other materials in the custody of the Land Survey Division, Department of Accounting and General Services, and the fees for reproduction and special services. Continued implementation of the rules is needed, as the schedule of fees assessment is to approximate the actual cost to reproduce records.

**Stadium Authority Division**

3. Chapter 3-70-10 – “Staffing and Other Charges, Cost of Moving Stands”  
Justification – This rule establishes ability of the Stadium to charge for out-of-pocket expenses incurred by those who use/rent the Stadium facility. Continued implementation of the rule is needed because of the fee for use; licensees are only charged for direct use of facilities or costs incurred. Otherwise, stadium authority would have to bear those expenses.
4. Chapter 3-70-11 – “Rental Charges; Payment”  
Justification – This rule establishes the schedule of charges for use of stadium in various event categories. Continued implementation of the rule is needed as it allows school-related events to be conducted at no-charge, provides for depositing of revenue into the stadium special fund in compliance with HRS 109-2.
5. Chapter 3-70-15 – “Insurance, Indemnification”  
Justification – This rule establishes minimum insurance coverage, which must be purchased by the licensee and requires licensee to indemnify the state, etc. This rule is needed because it is mandated by the HRS. Further, the state should not be in a position where it assumes liability or provides insurance for licensees.

6. Chapter 3-70-18.01 – “Sale or Distribution of Articles”

Justification – This rule establishes procedures for the sale or distribution of articles within the Stadium. This rule is needed as it ensures that the sale or distribution of articles, goods or services do not conflict with contractual agreement authority has with its food and beverage concessionaire or wishes of its licensee who is renting the facility and hosting the event.

## **II. Department of Agriculture**

### **Administration**

1. Chapter 4-1 – “Board of Agriculture – Rules of Practice and Procedure”

Justification – The rules are necessary because they govern the practice and procedures before the State Board of Agriculture. They provide a framework for public access to information, input into the decision making process, and a vehicle for appeal as set forth in HRS, Chapter 91 and 92.

### **Agriculture Loan Division**

2. Chapter 4-8 – “Agricultural Loan Program Rules”

Justification – These rules were adopted under chapter 155, HRS. The statutes provide the broader guidelines that govern each loan program. The purpose of these rules is to provide more specific details that underlay the statutes.

3. Chapter 4-9 – “The Aquaculture Loan Program”

Justification – These rules were adopted under Chapter 219, HRS. The statutes provide the broader guidelines that govern each loan program. The purpose of these rules is to provide more specific details that underlay the statutes.

### **Division of Animal Industry**

4. Chapter 4-16 – “Cattle, Sheep and Goats”

Justification – These rules were adopted under Chapter 142, HRS, to control the importation of disease and pests that affect livestock and poultry. It also authorizes the department to undertake disease control measures intended to control and eradicate certain diseases of national and local significance. The presence of such diseases cause production wastage, impede or prohibit national or international trade, or present serious public health concerns.

5. Chapter 4-17 – “Swine”

Justification - These rules were adopted under Chapter 142, HRS, to control the importation of disease and pests that affect livestock and poultry. It also authorizes the department to undertake disease control measures intended to control and eradicate certain diseases of national and local significance. The presence of such diseases cause production wastage, impede or prohibit national or international trade, or present serious public health concerns.

6. Chapter 4-19 – “Poultry and Birds”

Justification - These rules were adopted under Chapter 142, HRS, to control the importation of disease and pests that affect livestock and poultry. It also authorizes the department to undertake disease control measures intended to control and eradicate certain diseases of national and local significance. The

presence of such diseases cause production wastage, impede or prohibit national or international trade, or present serious public health concerns.

7. Chapter 4-19 – Subchapter 6 - “West Nile Virus - Import Requirements for Birds and Poultry”  
Justification - These rules were adopted under Chapter 142, HRS, to control the importation of disease and pests that affect livestock and poultry. It also authorizes the department to undertake disease control measures intended to control and eradicate certain diseases of national and local significance. The presence of such diseases cause production wastage, impede or prohibit national or international trade, or present serious public health concerns.
8. Chapter 4-20 – “Non-domestic Animals”  
Justification - These rules were adopted under Chapter 142, HRS, to control the importation of disease and pests that affect livestock and poultry. It also authorizes the department to undertake disease control measures intended to control and eradicate certain diseases of national and local significance. The presence of such diseases cause production wastage, impede or prohibit national or international trade, or present serious public health concerns.
9. Chapter 4-21 – “Vaccines, Microorganisms, and Parasites”  
Justification – This rule has minimal impact on small business. It controls the importation of microorganisms and parasites that are detrimental to livestock and poultry and, in some cases, injurious to men. In addition, importation of vaccines that potentially interfere with the diagnosis or surveillance of regulated disease is controlled.
10. Chapter 4-22 – “Reporting of Animal Diseases”  
Justification – This rule has minimal impact on small business. These rules require the Division of Animal Industry to maintain a list of diseases, which have a significant detrimental affect on livestock and poultry. Practicing veterinarians are required to report such disease to the division when diagnosed.
11. Chapter 4-23 – “Horses”  
Justification - These rules were adopted under Chapter 142, HRS, to control the importation of disease and pests that affect livestock and poultry. It also authorizes the department to undertake disease control measures intended to control and eradicate certain diseases of national and local significance. The presence of such diseases cause production wastage, impede or prohibit national or international trade, or present serious public health concerns.
12. Chapter 4-24 – “Meat Grading”  
Justification – Authority is needed for the meat-grading program under the Quality Assurance Division. This rule will repeal at a later date and replaced with a revised meat-grading rule.

13. Chapter 4-27 – “Brands”

Justification – This rule has minimal impact on small business. The rule requires the Division of Animal Industry to maintain a catalog of all registered livestock brands to register brands every five years.

14. Chapter 4-29 – “Dogs, Cats, and Other Carnivores”

Justification – This rule has minimal impact on small business. The rule minimizes the chances that rabies will be introduced into Hawaii by the movement of dogs, cats, and other carnivores.

**Division of Marketing and Consumer Services**

15. Chapter 4-41 – “Standards for Fresh Fruits and Vegetables”

Justification – This rule was adopted under Chapter 147, HRS, to establish standards for local fresh fruits and vegetables for quality control and common industry communication. The rule sets minimum export requirements and well as advertising requirements. It also allows grade to be optionally, used but product must meet labeled and advertised grade, to prevent misuse of fraud. Minimum export requirements help to maintain quality image of Hawaii products in export markets.

16. Chapter 4-42 – “Standards for Hawaii-Grown Flowers and Foliage”

Justification – This rule as adopted under Chapter 147, HRS, to establish standards for local flowers and foliage for quality control and common industry communication. It sets minimum export requirements. Minimum export requirements help to maintain quality image of Hawaii products in export markets.

17. Chapter 4-44 – “Standards for Processed Products”

Justification – This rule was adopted under Chapter 147, HRS, to establish standards for local processed products for quality control and common industry communication. It sets minimum export requirements. Minimum export requirements helps to maintain quality image of Hawaii products in export markets.

18. Chapter 4-45 – “Feed”

Justification – This rule was adopted under Chapter 144, HRS, to require registration of feed, certification, and fee analysis. Tonnage fees are assessed to cover costs to check feed for adulteration and proper label and label guarantee. Protects local feed users by checking incoming and locally produced feed, especially from suspicious or foreign sites, for adulteration and improper labeling. It prevents adulterated feed from entering the food chain. It assures buyers that label guarantees are accurate, which is especially important when they formulate leading rations.

19. Chapter 4-46 – “Standards for Shell Eggs”

Justification – This rule was adopted under Chapter 147, HRS, to establish standards for local eggs for quality control and common industry communication. It establishes requirements and enforcement for proper grade, size, labeling and

temperature to assure consumer protection. It also establishes requirements for importing of eggs, to assure distinction of imports from local eggs. It protects consumers by minimizing hazards common in eggs such as bacterial contamination and salmonella at retail outlets. It supports the local egg industry by assuring that the mainland eggs are properly marked and distinctive from the higher priced local eggs.

20. Chapter 4-48 – “Rules for Regulating Dealer in Farm Products”

Justification – This rule was adopted under Chapter 145, HRS, to issue licenses to dealer in farm produce, and assure fair treatment and timely payment to producers. It protects producers against dealers if they feel payment or transaction was not fair or timely.

21. Chapter 4-54 – “Industry and Product Promotion Program”

Justification – This rule provides the framework to guide the department in implementing promotional activities and defines the parameters as to the qualifications of applications, the criteria of evaluation, and the obligations of parties involved.

22. Chapter 4-60 – “Milk Control Rules” – This rule was adopted under Chapter 157,

HRS, to ensure a stable supply of reasonably priced milk in the state by establishing production quotas and setting minimum farm prices, to assure fairness to producers and maximum utilization of milk. Milk is highly perishable and must be closely monitored to assure maximum utilization. Producers must be assured fair prices that are competitive and yet allow them to maintain their herds and dairies properly.

### **Division of Plant Industry**

23. Chapter 4-66 – “Pesticides”

Justification – This rule was adopted under Chapter 149A, HRS, to implement a pesticide regulatory program consisting of licensing pesticide products, certifying pesticide applicators competency, and an enforcement program to assure pesticide products are not adulterated or misbranded and that pesticide use is consistent with the labeling. This rule also protects human health and the environment for unreasonable adverse affects from pesticides.

24. Chapter 4-67 – “Seed Rules”

Justification – This rule was adopted under Chapter 150, HRS, to provide “truth in labeling” for customers buying seeds from vendors. It also provides a standard for percent germination. Small businesses must comply with the standards or remove seeds from sale.

25. Chapter 4-68 – “Noxious Weed Rules”

Justification – This rule was adopted under Chapter 152, HRS, to develop and implement control and eradication programs against weeds that are designated as noxious weeds. It regulates the importation and movement of noxious weeks that can be damaging to Hawaii’s livestock, horticulture, aquaculture, forests, conservation areas, public health, and waterways. The rule impacts small

businesses when the noxious weed is also considered a desirable plant, such as an ornamental plant, and available for retail sale.

26. Chapter 4-69A– “Pests for Control or Eradication”

Justification – This rule was adopted under Chapters 141 and 152, HRS, to develop and implement control or eradication programs against insects, mites, plant pathogens, and other arthropod pests that would be difficult for the public to initiate on their own. A recent example is the eradication of the banana bunchy top virus (BBTV) by destroying all banana plants in a given area.

27. Chapter 4-70 – “Plant and Non-Domestic Animal Quarantine Plant Import Rules”

Justification – This rule was adopted to implement the requirements of Chapter 150A, HRS, by restricting or prohibiting the importation of specific plants to minimize the risk of introduction and establishment of insects, diseases, and other pests that would be highly detrimental to Hawaii’s agriculture, horticulture, silviculture, and natural resources.

28. Chapter 4-71 – “Plant and Non-Domestic Animal Quarantine Non-Domestic Animal Import Rules”

Justification – This rule was adopted to implement the requirements of Chapter 150A, HRS, by restricting or prohibiting the importation of specific non-domestic animals that are detrimental or potentially harmful to Hawaii’s animal and public health, agriculture, aquaculture, horticulture, silviculture and natural resources.

29. Chapter 4-71A – “Plant and Non-Domestic Animal Quarantine Microorganism Import Rules”

Justification – This rule was adopted to implement the requirements of Chapter 150A, HRS, by restricting or prohibiting the importation of specific microorganisms that are detrimental or potentially harmful to Hawaii’s animal and public health, agriculture, aquaculture, horticulture, silviculture and natural resources.

30. Chapter 4-72 – “Plant and Non-Domestic Animal Quarantine Plant Intrastate Rules”

Justification – This rule was adopted to implement the requirements of Chapter 150A, HRS, by restricting or prohibiting the inter-island and intra-island transportation of plant pests and their plant or commodity hosts to prevent the spread and establishment of pests that are detrimental or potentially harmful to Hawaii’s animal and public health, agriculture, aquaculture, horticulture, silviculture, and natural resources.

31. Chapter 4-73 – “Plant and Non-Domestic Animal Quarantine Plant Export Rules”

Justification – This rule was adopted to implement the requirements of Chapter 150A, HRS, by aiding the Hawaii nursery industry by providing for export plant and plant products inspectional and disinfestations treatment services that meet the requirements of the state or county of destinations.

## **Division of Measurement Standards**

32. Chapter 4-86 – “Brake Fluids, Coolants, Petroleum Products, and After-Market Additives”  
Justification – This rule was adopted under Chapter 486-37, HRS, to ensure that commodities such as brake fluid, coolant, gasoline, and other additives meet specific physical requirements, and is delivered through devices that can be checked and made to measure accurately.
33. Chapter 4-87 – “Voluntary Registration of Service Persons or Service Agencies”  
This rule was adopted under Chapter 487-37, HRS, to ensure that businesses selling, installing, and calibrating commercial devices register with the State of Hawaii, Measurement Standards Branch. This rule ensures equity in the market place by requiring that all field tool standards be calibrated annually.
34. Chapter 4-89 – “Measure Masters”  
Justification – This rule was adopted under Chapter 480-132, HRS, to ensure that every individual involved in public weighing for a fee is trained, tested, and licensed by the State of Hawaii, Measurement Standards Branch.
35. Chapter 4-91 – “Unit Pricing of Consumer Commodities”  
Justification – This rule was adopted under Chapter 486-30, HRS, to insure that all consumer commodities offered for sale in the state are priced according to specified unit and that price displayed for the consumers information.
36. Chapter 4-93 – “Packaging and Labeling”  
Justification – This rule was adopted under Chapter 486-120, HRS, to ensure that consumer commodities offered for sale in the state are correctly labeled as to their content identification, unit amount, and responsible business. This rule also defines specific identification regarding the Department of Agriculture’s logo, “Island Fresh.”
37. Chapter 4-94 – “Method of Sale of Commodities”  
Justification – This rule was adopted under Chapter 400-110, HRS, to define a fair and consistent method for businesses to offer consumer commodities for sale in the state. This rule also sets the guidelines and requirement for posting the octane rating on retail gasoline dispensers. This ensures that the octane rating is posted and that the gasoline meets or exceeds the posted octane rating.
38. Chapter 4-96 – “Schedule and Fees for Licensing Devices Susceptible of Commercial Usage, and Measuring Devices and Measurement Standards for Testing or Certification”  
This rule was adopted under Chapter 486-37, HRS, to define a schedule of fees for licensing devices susceptible of commercial usage, measuring devices and measurement standards for testing or certification.
39. Chapter 4-101 – “Weighing and Measuring Devices”  
Justification – This rule was adopted under Chapter 406-7, HRS, to ensure that all commercial devices used to weigh and measure consumer commodities in the

state meet National Type Evaluation Protocol. This ensures equity in the market place and a good business environment.

### **Quality Assurance Division**

#### 40. Chapter 4-143 – “Standards for Coffee”

Justification – This rule was adopted under Chapter 147, HRS, to mandate the certification of green coffee beans, to assure quality and origin to buyers. This requirement came about after the Kona Kai scandal in Berkeley, CA in 1996, where foreign coffee was sold as higher priced Kona coffee. The rule requires positive lot identification, and certification provides an extra measure of assurance of origin and quality to buyers.

### **Division of Agricultural Resource Management**

#### 41. Chapter 4-150 – ‘Rules Governing Irrigation Water Service to Consumers of the Waimanalo Irrigation System”

Justification – This rule was authorized pursuant to Chapter 167, HRS. The statute and rules provide the basis for the division’s mission to provide reliable sources of irrigation water and infrastructure.

#### 42. Chapter 4-151– “Rules Governing Irrigation Water Service to Consumers of the Waimea Irrigation System”

Justification - This rule was authorized pursuant to Chapter 167, HRS. The statute and rules provide the basis for the division’s mission to provide reliable sources of irrigation water and infrastructure.

#### 43. Chapter 4-152 – “Rules Governing Irrigation Water Service to Consumers of the Molokai Irrigation System”

Justification - This rule was authorized pursuant to Chapter 167, HRS. The statute and rules provide the basis for the division’s mission to provide reliable sources of irrigation water and infrastructure.

#### 44. Chapter 4-153 – “Agricultural Park Program Rules”

Justification – This rule is authorized pursuant to Chapter 166, HRS. The statute and program rules were developed to address the need for the development and expansion of diversified agriculture on former mono-crop plantations.

#### 45. Chapter 4-155 – “Rules Governing Irrigation Water Service to Consumers of the Kahuku Agricultural Park Irrigation System”

Justification – The statute and rules provide the basis for the division’s mission to provide reliable sources of irrigation water and infrastructure.

#### 46. Chapter 4-156 – “Rules Governing Irrigation Water Service to Consumers of the Honokaa-Paauilo Irrigation System”

Justification - Thus rule was authorized pursuant to Chapter 167, HRS. The statute and rules provide the basis for the division’s mission to provide reliable sources of irrigation water and infrastructure.



### **III. Department of the Attorney General**

No administrative rules that affect small business.

### **IV. Department of Budget and Finance**

#### **Financial Administration Division**

1. Chapter 6-10 – “Special Purpose of Revenue Bonds for Industrial Enterprises”  
Justification – The rules are required by Part V, Chapter 39A, HRS, and ensures that applicable businesses/enterprises meet state and/or federal requirements for tax exemptions granted.
2. Chapter 6-12 - “Special Purpose Revenue Bonds for Manufacturing Enterprises”  
Justification – The rules are required by Part III, Chapter 39A, HRS, relating to special purpose revenue bonds for manufacturing enterprises. The rules ensure that applicable businesses/enterprises meet state and/or federal requirements for tax exemptions granted.
3. Chapter 6-13 - “Special Purpose Revenue Bonds for Processing Enterprises”  
Justification – The rules are required by Part IV, Chapter 39A, HRS, relating to special purpose revenue bonds for processing enterprises. The rules ensure that applicable businesses/enterprises meet state and/or federal requirements for tax exemptions granted.

#### **Public Utilities Commission**

4. Chapter 6-61 - “Rules of Practice and Procedures Before the Commission”  
Justification – As a quasi-judicial agency and pursuant to HRS Chapter 91, 269, 271, and 271G, these rules are necessary to govern the practice and procedure before the Commission to ensure that all proceedings are just, speedy, and efficient.
5. Chapter 6-62 - “Motor Carrier Rules and Classification of Property and Passenger Carriers”  
Justification – Pursuant to HRS Chapter 271, these rules are necessary to administer, execute, and enforce the intent of the motor carrier laws, particularly the policies set forth under HRS § 271-1.
6. Chapter 6-63 - “Motor Carrier Tariffs and Schedules”  
Justification – As required by HRS Chapter 271, these rules are necessary to govern the form and content of tariffs and schedules of common and contract carriers by motor vehicle; specifically those tariffs and schedules described under HRS §§ 271-20, 271-21, and 271-22.
7. Chapter 6-65 – “Water Carriers”  
Justification – As required by HRS Chapter 271G, these 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.

8. Chapter 6-768.1 – “Investigation and Enforcement of Laws Governing Public Utilities, Motor Carriers, and Water Carriers”  
Justification – As required in various provisions set forth under HRS Chapter 91, 269, 271, and 271G, these rules are necessary to govern violations of the regulatory laws under the Commission’s jurisdiction. It further prescribes procedures for investigating alleged violations or suspected violations of regulatory laws and for issuing citations to and imposing sanctions on any person violating, allegedly violating, or suspected of violating the regulatory laws.
9. Chapter 6-76.1 – “ Shared Tenant Service”  
Justification - Consistent with the intent of HRS § 269-16.9, these rules are necessary to prescribe procedures and standards governing share tenant service in Hawaii. As defined under HAR § 6-76.1-3, “shared tenant service” means telecommunications service provided through centralized or common switching on a resale or shared basis to end users who are occupants or tenants of units in a building or a complex of buildings described in HAR § 6-76.1-21.
10. Chapter 6-79 – “Aggregator and Operator Service”  
Justification – As required under HRS § 269-16.8, these rules are necessary to prescribe procedures and standards governing aggregator and operator services in Hawaii. As defined under HRS § 269-16.8(a), “aggregator” means every person or entity that is not a telecommunications carrier, who in the ordinary course of its business, makes telephones available and aggregates the calls of the public or transient users of its business, including but not limited to a hotel, motel, hospital, or university, that provides operator-assisted services through access to an operator service provider. “Operator service” means a service provided by a telecommunications company to assist a customer to complete a telephone call.”
11. Chapter 6-80 – “Competition in Telecommunications Services”  
Justification – As mandated by Act 225, Session Laws of Hawaii 1995, the Commission’s telecommunications infrastructure docket (Docket No. 7702), and the Federal Telecommunications Act of 1996, these rules are necessary to adopt standards and procedures governing intrastate competition in the State’s telecommunications marketplace.
12. Chapter 6-81 – “Universal Service Fund”  
Justification – As mandated by Act 225, Session Laws of Hawaii 1995, and the Federal Telecommunications Act of 1996, these rules are necessary to adopt standards and procedures governing the implementation of the universal service fund for the state.
13. Chapter 6-82 – “Pay Telephone Service”  
Justification – Consistent with Act 225, Session Laws of Hawaii 1995, and the Federal Telecommunications Act of 1996, these rules are necessary to adopt procedures and standards for pay telephone service that will foster competition in the provisioning of pay telephone service, ensure the payment of fair

compensation to providers of pay telephone service, and protect the interest of users of pay telephones.

## **V. Department of Business, Economic Development and Tourism**

### 1. Chapter 15-2 - "Hawaii Capital Loan Program"

Justification – The state fund that provides monies for this loan program is expected to continue maintaining existing loans until July 1, 2004, when the revolving loan fund will be repealed as a result of budget constraints. The rules provide details outlining implementation of the loan program to Hawaii small business that otherwise might not receive financing. Program yields more than \$1 million annually in income. The rules will remain in effect as existing loans continue to be serviced.

### 2. Chapter 15-3 - "Capital Access Program"

Justification – The state fund that provides monies for this loan program is expected to continue maintaining existing loans until July 1, 2003, when the revolving loan fund will be repealed as a result of budget constraints. To date, this loan program has been inactive and if no other funding source is identified, the rules will likely be repealed.

### 3. Chapter 15-4 - "Disaster Commercial and Personal Loan Program"

Justification – The administrative rules are necessary to assist businesses should a "declared" disaster occur.

### 4. Chapter 15-5 - "Hawaii Innovation Development Program"

Justification – This administrative rule was repealed on July 1, 2003 with repeal of the loan revolving fund.

### 5. Chapter 15-6 - "Enterprise Zones"

Justification – This administrative rule is necessary as it provides details on program implementation and administration that are not included in the statute. The program provides tax incentives to enrolled businesses.

## **Land Use Commission (LUC)**

### 6. Chapter 15-15 - "Land Use Commission Rules"

Justification – While these rules do not target small business specifically, the rules provide an overall framework of land use management whereby all lands in Hawaii are classified in one of four districts. The rules are necessary because the primary role of the Land Use Commission is to ensure that areas of state concern are addressed and considered in the land use decision-making process. Much, if not all of the actions of the Commission, are conducted as a quasi-judicial process. Thus, the Commission's rules are necessary to ensure that the due process rights of parties appearing before the Commission are observed and maintained.

### **High Technology Development Corporation (HTDC)**

7. Chapter 15-32 - "Hawaii Small Business Innovation Research Grant Program"  
Justification – HTDC promotes the federal Small Business Innovation Research (SBIR) program as a means to help Hawaii companies obtain critical early-stage seed financing for their research projects. The rules are necessary in order to continue with the SBIR program due to its success, which has proven to stimulate Hawaii's economic development and create and sustain new jobs. Further, for every state dollar invested in the program, more than 11 dollars in federal funds have been returned.

## **VI. Department of Commerce and Consumer Affairs**

### **Insurance Division**

1. Chapter 16-7 – "Hawaii Medical Malpractice Underwriting Plan"  
Justification – This rule was adopted and is necessary for continued implementation in response to state law requiring a medical malpractice underwriting plan, which a small medical business may be affected.
2. Chapter 16-23 – "Motor Vehicle Insurance Law"  
Justification – This chapter was adopted and is necessary for continued implementation in response to state requirements and to promote effective regulation of the motor vehicle insurance industry. Licensees of small businesses may be affected by this chapter.
3. Chapter 16-178 – "Administrative Special Mortgage Recording Fee Guidelines"  
Justification – This chapter was enacted to further define the parameters of the special mortgage-recording fee of the Hawaii Hurricane Relief Fund (HHRF) enable pursuant to section 431P-16, HRS. This is a fee of .001 on all mortgages other than refinancing mortgages filed with the bureau of conveyances. Since HHRF has been discontinued, the HHRF board has suspended the fee. As long as the fee is suspended there is no impact on small business. However, the Board may implement the fee again if a hurricane or other market problem causes a hurricane property insurance scarcity that requires HHRF to restart. Chapter 16-178, HAR, treats small business equally as against large businesses or individuals. It is beneficial to retain the chapter in the rules because it caps the fee at \$15,000 and provides important clarification on the calculation of the fee and the types of documents to which it applies.

### **Division of Financial Institutions**

4. Chapter 16-25 – "Application Procedure Relating to Hawaii Financial Institutions"  
Justification – This chapter was adopted and is necessary for continued implementation in response to federal and state requirements and to promote effective regulation of the industry.
5. Chapter 16-26 – "Examination and Off-Site Monitoring of Hawaii Financial Institutions"  
Justification – This chapter was adopted and is necessary for continued implementation in response to federal and state requirements and to promote effective regulation of the industry.

6. Chapter 16-27 – “Supervisory and Enforcement Action Relating to Hawaii Financial Institution”  
Justification – This chapter was adopted and is necessary for continued implementation in response to federal and state requirements and to promote effective regulation in the industry.
7. Chapter 16-28 – “Escrow Depositories”  
Justification – This chapter was adopted and is necessary for continued implementation in response to federal and state requirements and to promote effective regulation in the industry.
8. Chapter 16-31 – “Credit Unions”  
Justification – This chapter was adopted and is necessary for continued implementation in response to federal and state requirements and to promote effective regulation in the industry.

### **Business Registration Division**

9. Chapter 16-36 – “Practice and Procedure of the Business Registration Division”  
Justification – These rules are necessary to facilitate the registration of new business entities in Hawaii.
10. Chapter 16-37 – “Rules Under the Franchise Investment Law”  
Justification – These rules are necessary to facilitate the filings of franchise offering circulars in compliance with the statutory information filing requirements for all franchises doing business in Hawaii.
11. Chapter 16-38 – “Securities”  
Justification – These rules are necessary to facilitate licensing of securities dealers and their salespersons, investment advisers and their representatives, to identify the books and records required to be kept by these businesses, and to provide for forms and procedures for registration of securities offerings to raise capital.

### **Office of the Director**

12. Chapter 16-51 – “Fees”  
Justification – This chapter set forth general fees applicable to the entire department (publication, dishonored check and photocopying fees) and also sets forth in Section 16-51-2, HAR, an hourly fee of \$25 for the examination of financial institutions. The hourly fee in this section, which was last amended and compiled in 1991, is obsolete since it implements HRS Section 401-8, which was repealed in 1993 with the enactment of HRS Chapter 412, the Code of financial Institutions which currently provides for an hourly fee of \$40. Affected obsolete HAR sections need either to be repealed or amended to reflect this change.

13. Chapter 16-53 – “Fees Relating to Boards and Commissions”

Justification – The purpose and continued implementation of these rules are to implement licensing and regulation fees of professions under the department’s regulatory authority.

**Professional and Vocational Licensing Division**

14. Chapter 16-71 – “Certified Public Accountants and Public Accountants”

Justification – The purpose of these rules is to implement licensing and regulation of certified public accounts and public accountants under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

15. Chapter 16-72 – “Acupuncture Practitioners”

Justification – The purpose of this chapter is to implement licensing and regulation of acupuncture practitioners are rules under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

16. Chapter 16-73 – “Barbers”

Justification – The purpose of this chapter is to implement licensing and regulation of acupuncture practitioners and rules under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

17. Chapter 16-74 – “Boxing”

Justification – The purpose of these rules is to implement licensing and regulation of the boxing industry under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

18. Chapter 16-75 – “Cemeteries and Funeral Trusts”

Justification – The purpose of this chapter is to implement licensing and regulation of the cemetery and funeral trust industry under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

19. Chapter 16-76 – “Chiropractors”

Justification – The purpose of this chapter is to implement licensing and regulation of chiropractors under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

20. Chapter 16-77 – “Contractors”

Justification – The purpose of this chapter is to implement licensing and regulation of contractors under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

21. Chapter 16-78 – “Cosmetology”

Justification – The purpose of this chapter is to implement licensing and regulation of the cosmetology industry under the department’s regulatory

authority. These rules are still needed because they facilitate licensing and enforcement.

22. Chapter 16-79 – “Dentists and Dental Hygienists”

Justification – The purpose of this chapter is to implement licensing and regulation of dentists and dental hygienists under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

23. Chapter 16-80 – “Electricians and Plumbers”

Justification – The purpose of this chapter is to implement licensing and regulation of electricians and plumbers under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

24. Chapter 16-81 – “Elevator Mechanics”

Justification – The purpose of this chapter is to implement licensing and regulation of elevator mechanics under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

25. Chapter 16-83 – “Hearing Aid Dealers and Fitters”

Justification – The purpose of this chapter is to implement licensing and regulation of hearing aid dealers and fitters under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

26. Chapter 16-84 – “Massage Therapy”

Justification – The purpose of this chapter is to implement licensing and regulation of massage therapists under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

27. Chapter 16-85 – “Medical Examiners”

Justification – The purpose of this chapter is to implement licensing and regulation of medical examiners under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

28. Chapter 16-86 – “Motor Vehicle Dealers and Salesmen”

Justification – The purpose of this chapter is to implement licensing and regulation of motor vehicle dealers and salesmen under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

29. Chapter 16-87 – “Motor Vehicle Repair Dealers and Mechanics”

Justification – The purpose of this chapter is to implement licensing and regulation of motor vehicle repair dealers and mechanics under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

30. Chapter 16-88 – “Naturopaths”

Justification – The purpose of this chapter is to implement licensing and regulation of naturopaths under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

31. Chapter 16-89 – “Nurses”

Justification – The purpose of this chapter is to implement licensing and regulation of nurses under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

32. Chapter 16-89B – “Diversion Program”

Justification – The purpose of this chapter is to implement licensing and regulation of the diversion program under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

33. Chapter 16-89C – “Advanced Practice Registered Nurse-Prescriptive Authority”

Justification – The purpose of this chapter is to implement licensing and regulation of advanced practice registered nurses under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

34. Chapter 16-90 – “Nursing Home Administrators”

Justification – The purpose of this chapter is to implement licensing and regulation of nursing home administrators under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

35. Chapter 16-91 – “Opticians”

Justification – The purpose of this chapter is to implement licensing and regulation of opticians under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

36. Chapter 16-92 – “Optometrists”

Justification – The purpose of this chapter is to implement licensing and regulation of optometrists under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

37. Chapter 16-93 – “Osteopaths”

Justification – The purpose of this chapter is to implement licensing and regulation of osteopaths under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

38. Chapter 16-94 – “Pest Control Operators”

Justification – The purpose of this chapter is to implement licensing and regulation of pest control operators under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.



39. Chapter 16-95 – “Pharmacists and Pharmacies”

Justification – The purpose of this chapter is to implement licensing and regulation of pharmacists and pharmacies under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

40. Chapter 16-96 – “Pilotage”

Justification – The purpose of this chapter is to implement licensing and regulation of the pilotage system under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

41. Chapter 16-97 – “Private Detectives and Guards”

Justification – The purpose of this chapter is to implement licensing and regulation of private detectives and guards under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

42. Chapter 16-98 – “Psychologists”

Justification – The purpose of this chapter is to implement licensing and regulation of psychologists under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

43. Chapter 16-99 – “Real Estate Brokers and Salespersons”

Justification – The purpose of this chapter is to implement licensing and regulation of real estate brokers and salespersons under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

44. Chapter 16-100 – “Speech Pathologists and Audiologists”

Justification – The purpose of this chapter is to implement licensing and regulation of speech pathologists and audiologists under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

45. Chapter 16-101 – “Veterinarians”

Justification – The purpose of this chapter is to implement licensing and regulation of veterinarians under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

46. Chapter 16-104 – “Uniform Land Sales Practices”

Justification – The purpose of this chapter is to implement licensing and regulation of uniform land sales practices under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

47. Chapter 16-106 – “Timesharing”

Justification – The purpose of this chapter is to implement licensing and regulation of timesharing under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

48. Chapter 16-107 – “Rules Relating to Horizontal Property Regimes”

Justification – The purpose of this chapter is to implement licensing and regulation of horizontal property regimes under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

49. Chapter 16-108 – “Commercial Employment Agencies”

Justification – The purpose of this chapter is to implement licensing and regulation of commercial employment agencies under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

50. Chapter 16-110 – “Physical Therapy”

Justification – The purpose of this chapter is to implement licensing and regulation of physical therapists under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

51. Chapter 16-112 – “Collection Agencies”

Justification – The purpose of this chapter is to implement licensing and regulation of collection agencies under the Department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

52. Chapter 16-113 – “Electrologists”

Justification – The purpose of this chapter is to implement licensing and regulation of electrologists under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

53. Chapter 16-114 – “Real Estate Appraisers”

Justification – The purpose of this chapter is to implement licensing and regulation of real estate appraisers under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

54. Chapter 16-115 – “Professional Engineers, Architects, Surveyors, and Landscape Architects”

Justification – The purpose of this chapter is to implement licensing and regulation of professional engineers, architects, surveyors, and landscape architects under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

55. Chapter 16-116 – “Travel Agencies”

Justification – The purpose of this chapter is to implement licensing and regulation of travel agencies under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

56. Chapter 16-117 – “Activity Providers and Activity Desks”

Justification – The purpose of this chapter is to implement licensing and regulation of activity providers and activity desks under the department’s regulatory authority. These rules are still needed because they facilitate licensing and enforcement.

**Office of Consumer Protection**

57. Chapter 16-301 – “Office of Consumer Protection, Public Records and Information, Rule-making Proceedings, and Declaratory Rulings”

Justification – Chapter 301 specifically provides the Director of the Office of Consumer Protection with the discretion to issue declaratory rulings concerning the applicability of any statutory provision enforced by OCP. Any business or consumer subject to the jurisdiction of OCP could be affected by its provisions.

58. Chapter 16-302 – “Office of Consumer Protection, Nonadjudicative Procedures”

Justification – This Chapter effectuates the investigatory functions of the Office of Consumer Protection, such as issuing subpoenas and examining witnesses. Any business under investigation is affected by its provisions.

59. Chapter 16-303 – “Office of Consumer Protection, Unfair or Deceptive Practices in Advertising”

Justification – Chapter 303 protects consumers from unscrupulous individuals and businesses by encouraging the development and perpetuation of fair consumer sales practices. Any business that advertises is subject to its provisions.

60. Chapter 16-304 – “Office of Consumer Protection, Compensation of Witnesses”

Justification – Chapter 304 governs the manner in which the Office of Consumer Protection compensates witnesses. Any business or consumer subject to the jurisdiction of the Office of Consumer Protection may be subject to its provisions.

**VII. Department of Defense**

No administrative rules that affect small business.

**VIII. Department of Education**

1. Chapter 8-27 - “Transportation of Students”

Justification – Because the rules impact small business in that student transportation services are being provided under contracts with various bus transportation companies in the state, the rules are necessary to be continued under the authority of existing §302A-406, HRS, to continue to provide transportation services to eligible public school students.

2. Chapter 8-39 – “Use of School Buildings, Facilities, and Grounds”

Justification – This rule mandates that all public school buildings, facilities, and grounds made available for public and community use when the activities do not interfere with the normal operations of the school. Profit and non-profit organizations may apply for the use of the school buildings, facilities, and

grounds. The rules are necessary to be continued to implement the statutory licensing requirement of the existing §302A-1148, HRS.

3. Chapter 8-101 – “Licensing of Private Trade, Vocational, and Technical Schools”  
Justification - This rule was adopted to implement the licensing requirement of §302A-425, HRS, whereby all private trade, vocational, and technical schools operating within the state must first secure a license from the Department of Education in accordance with law and the administrative rule of the agency. The rules are needed to continue to implement the statutory licensing requirement of the existing §302A-425, HRS.

### **IX. Department of Hawaiian Home Lands**

No administrative rules that affect small business.

### **X. Department of Health**

#### **Hazard Evaluation and Emergency Response Branch**

1. Chapter 11-5 – “Environmentally-Related Illness and Injury Reporting”  
Justification – The rules are necessary as they provide state requirements for health care professionals and laboratory directors to report to the department, the diagnosis of any person afflicted with a designated environmentally related illness or injury as stated through HRS §§321-1, 321-9, and 321-317.
2. Chapter 11-451 – “State Contingency Plan”  
Justification – The rules are necessary as they are federally required.

#### **Sanitation Branch**

3. Chapter 11-10 – “Swimming Pools”  
Justification – The rules are necessary as they set the minimum requirements for the protection of public health in respect to public swimming pools, as stated through HRS §§321-10, and 321-11.
4. Chapter 11-11 – “Sanitation”  
Justification – The rules are necessary as they provide minimum requirements so that public health, human welfare and safety hazards will be minimized. These rules apply to barber shops and beauty parlors, public laundries, livestock, poultry and stables, garbage and swill, vegetables, natural bathing places, minimum sanitary facilities, vector control, burial places, transportation of bodies, public funerals, funeral and sanitation in funeral establishments, and embalming and embalmers, as stated through HRS §321-11.
5. Chapter 11-12 – “Food Service and Food Establishment Sanitation Code”  
Justification – The rules are necessary as they provide minimum requirements for the protection of the life, health, safety, and welfare of the general public, and applies to all food establishments, or portions thereof, used, designed, or intended to be used as a food establishment or food operation within the State, as stated through HRS §321-11.

6. Chapter 11-15 – “Milk”  
Justification – The rules are necessary as they regulate the production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of milk and milk products, the inspection of dairy herds, dairy farms, and milk plants, the issuing and revocation of permits to milk producers, haulers, and distributors, and fixing of penalties, as stated through HRS §321-11.
7. Chapter 11-17 – “Tattoo Artists”  
Justification – The rules are necessary as they set forth minimum requirements for the safety and protection of public health by regulating tattoo artists, as stated through HRS §§321-10, and 321-13.
8. Chapter 11-18 – “Licensing of Sanitarians”  
Justification – The rules are necessary as they ensure no person shall practice as a registered sanitarian in the state or offer the person’s services or engage in employment as a registered sanitarian unless the person is the holder of a current sanitarian license, as stated through HRS §321-10 and 321-13.
9. Chapter 11-22 – “Mortuaries, Cemeteries, Embalmers, Undertakers & Mortuary Authorities”  
Justification – The rules are necessary as they provide minimum standards relating to the practice of embalming to the business of an undertaker, and to the sanitary condition of places where such business or practice is conducted, as stated through HRS §469-2.

### **Safe Drinking Water Branch**

10. Chapter 11-19 – “Emergency Plan for Safe Drinking Water”  
Justification – The rules are necessary as they are federally required.
11. Chapter 11-20 – “Rules Relating to Potable Water Systems”  
Justification – The rules are necessary as they are federally required.
12. Chapter 11-21 – “Cross-Connection & Backflow Control”  
Justification – The rules are necessary as they are federally required.
13. Chapter 11-23 – “Underground Injection Control”  
Justification – The rules are necessary as they are similar to federal rules.
14. Chapter 11-25 – “Rules Relating to Certification of Public Water System Operators”  
Justification – The rules are necessary as they are federally required.

### **Vector Control Branch**

15. Chapter 11-26 – “Vector Control”  
Justification – The rules are necessary as they establish standards for inspection and abatement of vectors, as stated through HRS §§321-9, and 321-10.

## **Food and Drug Branch**

### 16. Chapter 11-29 – “Food and Food Products”

Justification – The rules are necessary as they provide standards for definition, labeling and storage of foods. They also allow for the adoption of the U.S. Food & Drug Administration regulations, as stated through HRS §§321, 321-9, 321-10, 321-11, 328-8, 328-13, 328.19.1, and 328-21.

### 17. Chapter 11-33 – “Hawaii Drug Formulary of Equivalent Drug Products”

Justification – The rules are necessary as they establish and maintain a Hawaii drug formulary of equivalent drug products, as stated through HRS §328-96.

### 18. Chapter 11-35 – “Shellfish Sanitation”

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

### 19. Chapter 11-36 – “Sale of Prophylactics Through Vending Machines”

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

## **Noise, Radiation and Indoor Air Quality Branch**

### 20. Chapter 11-39 – “Air Conditioning & Ventilating”

Justification – The rules are necessary as they seek to assure the adequate and healthful design, construction, installation, and operation of comfort air conditioning and ventilating systems, as stated through HRS §§321-9, and 321-11.

### 21. Chapter 11-44 – “Radiologic Technology Board Radiologic Technology Rules”

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

### 22. Chapter 11-45 – “Radiation Control”

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

### 23. Chapter 11-46 – “Community Noise Control”

Justification – The rules are necessary as they define maximum permissible sound levels, and provide for prevention, control, and abatement of noise pollution in the state, to establish noise quality standards to protect public health and welfare, and to prevent the significant degradation of the environment and quality of life, as stated through HRS §§342F-3, and 342F-31.

## 24. Chapter 11-501 – “Asbestos Requirements”

Justification – The rules are necessary as they are federally required.

## 25. Chapter 11-502 – “Asbestos Containing Materials in Schools”

Justification – The rules are necessary as they are federally required.

## 26. Chapter 11-503 – “Fees for Asbestos Removal”

Justification – The rules are necessary as they are federally required.

## 27. Chapter 11-504 – “Asbestos Abatement Certification Program”

Justification – The rules are necessary as they are federally required.

**Environmental Planning Office**

## 28. Chapter 11-54 – “Water Quality Standards”

Justification – The rules are necessary as they are federally required.

**Clean Water Branch**

## 29. Chapter 11-55 – “Water Pollution Control”

Justification – The rules are necessary as they are federally required.

**Wastewater Branch**

## 30. Chapter 11-61 – “Mandatory Certification of Wastewater Treatment Plants”

Justification – The rules are necessary as they are federally required.

## 31. Chapter 11-62 – “Wastewater Systems”

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

**Clean Air Branch**

## 32. Chapter 11-59 – “Ambient Air Quality Standards”

Justification – The rules are necessary as they are federally required.

## 33. Chapter 11-60.1 – “Air Pollution Control”

Justification – The rules are necessary as they are federally required.

**Office of Health Care Assurance**

## 34. Chapter 11-89 – “Developmental Disabilities Domiciliary Homes”

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

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

35. Chapter 11-95 – “Freestanding Surgical Outpatient Facility (FSOF) or Ambulatory Surgical Centers”

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

36. Chapter 11-96 – “Freestanding Adult Day Health Centers”

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

37. Chapter 11-97 – “Home Health Agencies”

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

38. Chapter 11-98 – “Special Treatment Facilities/Therapeutic Living Programs”

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

39. Chapter 11-99 – “Intermediate Care Facilities for the Mentally Retarded”

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

40. Chapter 11-100 – “Adult Residential Care Homes”

Justification – The rules are developed to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rules are necessary because they look at the care being provided,



staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

41. Chapter 11-101 – “Extended Care Adult Residential Care Homes”  
Justification – The expanded Adult Residential Care Home (ARCH) can provide care and services to nursing home level individuals thereby providing options and alternatives to larger institutional settings. The rules are necessary to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rules are also necessary because they look at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

### **State Laboratories Division**

42. Chapter 11-110 – “Clinical Laboratories and Laboratory Personnel”  
Justification – The rules are required by statute HRS §§321-11, 321-13, 321-14, and 321-15. The rules are developed to ensure the health, safety, and welfare of all individuals receiving care and services from the various agencies and/or facilities. The rules are necessary because they look at the care being provided, staffing and qualifications of such, physical structure to ensure compliance with county building, fire, and zoning requirements, as well as sanitation requirements.

### **Epidemiology**

43. Chapter 11-156 – “Examinations and Immunizations”  
Justification - The rules require health care providers, including but not limited to, physicians and laboratories, to report cases of HIV and AIDS to the HIV/AIDS Surveillance Program of the STD/AIDS Prevention Branch.

### **Disability and Communication Access – attached agency**

44. Chapter 11-219 – “Parking for Persons with Disabilities”  
Justification – These rules contain requirements for signage and design of accessible parking stalls reserved for persons with disabilities. These requirements are consistent with the Americans with Disabilities Act requirements for design. They include specific wording on the signage, and the requirements ensure that parking tickets, which are issued to persons who are illegally parking in the stalls, are upheld in court. Appropriate sign and notice to motorists is critical to having valid tickets.

### **Solid and Hazardous Waste Branch**

45. Chapter 11-58.1 – “Solid Waste Management Control”  
Justification – The rules are necessary as they establish minimum standards governing design, construction, installation, operation, and maintenance of solid waste disposal, recycling, reclamation, and transfer systems, as stated through HRS §§321-11, 342G-3, 342G-13, 342H-2, 342H-3, 342H-18, and 342N-3.

46. Chapter 11-68 – “Litter Control”

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

47. Chapter 11-260 – “Hazardous Waste Management General Provisions”

Justification – The rules are necessary as they are federally required.

48. Chapter 11-261 – “Hazardous Waste Management Identification & Listing of Hazardous Waste”

Justification – The rules are necessary as they are federally required.

49. Chapter 11-262 – “Hazardous Waste Management Standards Applicable to Generators of Hazardous Waste”

Justification – The rules are necessary as they are federally required.

50. Chapter 11-263 – “Hazardous Waste Management Standards Applicable to Transporters of Hazardous Waste”

Justification – The rules are necessary as they are federally required.

51. Chapter 11-264 – “Hazardous Waste Management Standards for Owners & Operators of Hazardous Waste Treatment, Storage, & Disposal Facilities”

Justification – The rules are necessary as they are federally required.

52. Chapter 11-265 – “Hazardous Waste Management Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, & Disposal Facilities”

Justification – The rules are necessary as they are federally required.

53. Chapter 11-266 – “Hazardous Waste Management Standards for the Management of Specific Hazardous Wastes & Specific Types of Hazardous Waste Management Facilities”

Justification – The rules are necessary as they are federally required.

54. Chapter 11-268 – “Hazardous Waste Management Land Disposal Restrictions”

Justification – The rules are necessary as they are federally required.

55. Chapter 11-270 – “Hazardous Waste Management State Administered Permits: The Hazardous Waste Permit Program”

Justification – The rules are necessary as they are federally required.

56. Chapter 11-271 – “Hazardous Waste Management Procedures for Decision Making”

Justification – The rules are necessary as they are federally required.

57. Chapter 11-273 – “Hazardous Waste Management Standards for Universal Waste Management”  
Justification – The rules are necessary as they are federally required.
58. Chapter 11-279 – “Standards for the Management of Used Oil”  
Justification – The rules are necessary as they are similar to federal rules.
59. Chapter 11-280 – “Hazardous Waste Management Public Information”  
Justification – The rules are necessary as they are federally required.
60. Chapter 11-281 – “Underground Storage Tanks (USTs)”  
Justification – The rules are necessary as they are federally required.

## **XI. Department of Human Resources Development**

No administrative rules that affect small business.

## **XII. Department of Human Services**

1. Chapter 17-402 – “Services to the Blind and Visually Handicapped”  
Justification - The purpose for adopting this rule is to implement the authorizing statute. The statute that underlies this rule is still in existence.
2. Chapter 17-891.1 – “Registration of Family Child Care Homes”  
Justification - The purpose for adopting this rule is to implement the authorizing statute. The statute that underlies this rule is still in existence.
3. Chapter 17-892.1 – “Licensing of Group Child Care Centers and Group Child Care Homes”  
Justification - The purpose for adopting this rule is to implement the authorizing statute. The statute that underlies this rule is still in existence.
4. Chapter 17-893 – “Licensing of Child-Placing Organizations”  
Justification - The purpose for adopting this rule is to implement the authorizing statute. The statute that underlies this rule is still in existence.
5. Chapter 17-894 – “Licensing of Child-Caring Institutions”  
Justification - The purpose for adopting this rule is to implement the authorizing statute. The statute that underlies this rule is still in existence.
6. Chapter 17-895 – “Licensing of Infant and Toddler Child Care Centers”  
Justification - The purpose for adopting this rule is to implement the authorizing statute. The statute that underlies this rule is still in existence.
7. Chapter 17-896 – “Licensing of Before and After School Child Care Facilities”  
Justification - The purpose for adopting this rule is to implement the authorizing statute. The statute that underlies this rule is still in existence.

8. Chapter 17-1417 – “Adult Day Care Services”  
Justification - The purpose for adopting this rule is to implement the authorizing statute. The statute that underlies this rule is still in existence.
9. Chapter 17-1418 – “Adult Foster Care Services”  
Justification - The purpose for adopting this rule is to implement the authorizing statute. The statute that underlies this rule is still in existence.
10. Chapter 17-1419 – “Chore Services for Community Long-Term Care Programs”  
Justification - The purpose for adopting this rule is to implement the authorizing statute. The statute that underlies this rule is still in existence.
11. Chapter 17-1424 – “Licensing of Adult Day Care Centers”  
Justification - The purpose for adopting this rule is to implement the authorizing statute. The statute that underlies this rule is still in existence.
12. Chapter 17-1739 – “Authorizing, Payment, and Claims to the Fee for Service Medical Assistance Program”  
Justification - The purpose for adopting this rule is to implement the authorizing statute. The statute that underlies this rule is still in existence.
13. Chapter 17-1739.1– “Authorization, Payment and Claims in the Fee for Service Medical Assistance-General Provisions for Reimbursement”  
Justification - The purpose for adopting this rule is to implement the authorizing statute. The statute that underlies this rule is still in existence.
14. Chapter 17-1740 – “Reimbursement of Federally Qualified Health Centers”  
Justification - The purpose for adopting this rule is to implement the authorizing statute. The statute that underlies this rule is still in existence.

### **XIII. Department of Labor and Industrial Relations**

#### **Unemployment Insurance Division**

1. Chapter 12-5 – “Employment Security”  
Justification – The rule is needed to comply with Federal Unemployment Tax (Sections 3302, 3303, 3304, 3305, 3306, 3309, and Social Security Act (Sections 301–304, and Sections 901–908). The State Unemployment Insurance program is founded on a federal-state cooperative system, which permits federal offset credits for employers on their FUTA taxes, provided the state is in compliance with federal Unemployment Insurance statutes. Employers can receive a credit of up to 5.4% from the 6.2% FUTA tax for each employee on their payroll (savings of \$56 per employee per year.)

The State Unemployment Insurance program is 100% federally funded. Should Hawaii be found in non-compliance with Social Security Act provisions, federal administrative grants to operate the unemployment program in this State would be terminated. All Unemployment Insurance offices would be shut down, precluding unemployed workers from filing claims for unemployment insurance compensation, although employers would still be required to pay the full 6.2%

FUTA tax. To continue the unemployment insurance program, State general funds would have to be appropriated for that purpose – approximately \$12 - \$15 million annually.

#### Chapter 12-5-93 - "Benefits Appeals"

Justification – Requirement of this rule, in part, provides that the director of labor and industrial relations shall adopt reasonable regulations governing the manner of filing appeals and the conduct of hearings and appeals. Additionally, the rules regarding benefit appeals is an important service to the public because of valuable information it provides to individuals and all businesses about a process they generally are not familiar with. The rules apply equally to all appeal participants. Continued implementation is necessary to continue this public service and comply with HRS 383-39.

### **Disability Compensation Division**

#### 2. Chapter 12-10 - "Workers' Compensation"

##### 12-10-23 - Computation of average weekly wages

Justification – This rule provides procedures for computation of an injured employee's average weekly wages in situations that are not provided for by section 386-51, HRS. Continued implementation is necessary for computation of an injured employee's average weekly wages in situations that are not provided for by section 386-51, HRS. It reduces disagreements on computation of average weekly wages and enables employers/carriers to begin timely payment to temporary total disability benefit payments.

#### 3. 12-10-25 – "Travel reimbursement"

Justification – This rule requires the injured worker to use public conveyance whenever possible to obtain medical treatment. It allows workers to be reimbursed for mileage if the injured worker is unable to use public conveyances because of a physical condition, the nature of the injury, or geographical location. This rule is necessary because it clarifies under what conditions an injured employee may use public conveyance or receive mileage reimbursement when traveling to receive medical treatment pursuant to section 386-21, HRS.

#### 4. 12-10-26 – "Filing of notice of intent to terminate temporary total disability benefits"

Justification - Clarifies that the employer's written notice to terminate temporary total disability benefits shall be by regular mail. Also allows the employer to terminate temporary total disability benefits if the employee has already returned to work. A written notice need not be mailed and temporary total disability benefits may be automatically stopped as of the date prior to the return-to-work date.

#### 5. 12-10-28 – "Subsequent injuries, which would increase disabilities under section 386-33, HRS"

Justification – this rule is necessary for computation of employer's 104 weeks or 32 weeks of disability of preexisting disability to determine credit for 104 or 32 weeks for disabilities covered by section 386-32 (a) HRS. The rule clarifies that

in cases that involve an offset for prior awards, the entire permanent partial disability award will first be offset by the amount awarded for the prior compensable injury. The employer will then be liable for 104 weeks and the special compensation fund will be liable for the balance.

6. 12-10-31 – “Liability of third person”

Justification – This rule provides procedures which allow any party in interest to notify the director in writing that any action has been filed, arbitration commenced, or claim has been made to recover damages pursuant to section 386-8, HRS. It provides a time limit by which a final copy of the claim-dispositive document, release, settlement, court order, waiver, dismissal, arbitration award, or judgment should be filed with the director. It also provides that the director hold a hearing to determine whether or not the employer has an obligation to make further compensation payments including reimbursements and credits against sums recovered from a third party. The rule is necessary because it clarifies when and under what conditions an interested party shall notify the director of third party action and file a final documentation of the third party action.

7. 12-10-61 – “Filing of report”

Justification – This rule provides procedures for filing of reports required to be filed by chapter 386, HRS. Requires all reports be filed at the office of the Disability Compensation Division Department of Labor and Industrial Relations, Honolulu, Hawaii, except that reports of injuries occurring in all political subdivisions, except the City and County of Honolulu, shall be filed at the district office of the department in the county in which the injury occurred. It requires all reports to be filed to be the original, written in ink or typewritten, and be signed in ink. It provides computation for determining the period of time to file reports prescribed by chapter 386, HRS. Provides for electronic submissions of reports. Reduces paperwork and improves efficiency and responsiveness in the workers’ compensation system.

8. 12-10-65 – “Deposition”

Justification – The rule defines what materials are subject to the discovery and subpoena process in an industrial injury claim. The rule is necessary because it allows the director to order the taking of relevant testimony by deposition or by other means of discovery any material, not privileged, which is relevant to the subject matter involved in the pending action. Expedites the adjudication process as more materials relevant to an industrial injury claim can be brought forth and examined.

9. 12-10-66 – “Subpoenas”

Justification – This rule is necessary because it allows the director to order the taking of relevant testimony by deposition or by other means of discovery any material, not privileged, which is relevant to the subject matter involved in the pending action. The rule also expedites the adjudication process as more materials relevant to an industrial injury claim can be brought forth and examined.

10. 12-10-69 – “Attorney’s Fees”

Justification – This rule is necessary because it provides timely submission of fee requests, which reduce the need to constantly review a case file to determine a fair fee. It also allows for expedited and accurate payment of benefits awarded by decision or stipulation and settlement to claimant.

11. 12-10-70 – “Penalties and fines”

Justification – This rule is necessary because it clarifies that penalties and fines should be paid into the special compensation fund.

12. 12-10-73 – “Compensability denied or not accepted”

Justification – Clarifies that a decision may be issued without a hearing if no hearing is requested.

13. 12-10-75 – “Medical examination orders and reports”

Justification – This rule is important because it clarifies that a medical examination order may be issued by the director, upon review of the case file and without necessity of hearing, and upon finding that the examination will assist in the expedient disposition of the case or in determining the need for or sufficiency of medical care or rehabilitation.

14. 12-10-91 – “Security for payment of worker’s compensation benefits”

Justification – This rule is necessary because it assures the statutory integrity of the “one policy per employer liability” provision of section 386-124, HRS.

15. 12-10-92 – “Notice of insurance”

Justification - This rule is necessary because it implements section 386-122, HRS, which requires the employer file with the director in a form prescribed by the director a notice of the employer’s insurance together with a statement of benefits provided by the policy of insurance.

### **Temporary Disability Insurance**

16. Chapter 12-11 – “Temporary Disability Insurance”

12-11-3 – “Financial solvency”

Justification – There are approximately 600 employers with approved self-insured temporary disability insurance plans. This rule is required to enable the department to review self-insured employers’ financial solvency to ensure payment of disability benefits.

17. 12-11-16 – “Existing and new plans”

Justification – This rule is necessary to ensure that an employer’s self-insured plan provides cash benefits as favorable as the statutory plan.

18. 12-11-24 – “Notices and reports required with respect to plans”  
Justification – This rule is necessary to require carriers and self-insured employers to continue to file all material modifications so that plans on file with DLIR are updated for effective enforcement of employers’ compliance with the temporary disability insurance law.
19. 12-11-35 – “Claim for disability benefits”  
Justification - This rule is necessary in that it helps clarify the steps and the specific time requirements for filing a temporary disability insurance claim.
20. 12-11-36 – “Responsibility of employer to provide benefits”  
Justification – This rule is necessary because it will effectively prevent an employer from avoiding paying disability benefits by simply terminating the employee who just filed a temporary disability insurance claim.
19. 12-11-38 – “Concurrent employment”  
Justification – This rule is important because it clarifies how the eligibility is determined for an employee who has concurrent employments. If a disabled employee had two jobs and qualified for temporary disability insurance benefits, that employee is entitled to disability benefits from both employments.
20. 12-11-40 – “Claim for reimbursement out of workers’ compensation benefits”  
Justification – This rule will enable the disabled employee to receive disability benefits under the temporary disability insurance law in a timely manner while the workers’ compensation claim is being adjudicated.
21. 12-11-41 – “Denial of claim”  
Justification – This rule is necessary because it ensures that temporary disability insurance claims denied by carriers or employers are proper, and that the disabled employees are afforded the due process in appealing the denials, if they so desire.
22. 12-11-46 – “Average weekly wage”  
Justification - This rule is necessary because it provides additional guidelines in determining the average weekly wage in situations not addressed in §392-7, HRS. These guidelines will provide a uniform and less controversial methodology in computing the average weekly wages thus resulting in timely disbursement of disability benefits.
23. 12-11-49 – “Failure to provide coverage”  
Justification – This rule is necessary because it authorizes the department’s director to order the portion of withholdings not exceeding 0.5% of the employees’ weekly wages be deposited into the temporary disability insurance special fund, and the balance be refunded to the employees.
24. 12-11-50 – “Deductions greater than authorized”  
Justification – This rule is necessary because it authorizes the department’s director to order the excessive employee withholdings to be deposited into the



temporary disability insurance special fund, if the employees, to whom the refunds are due, cannot be located for a period of two years.

25. 12-11-56 – “Posting of notice of coverage”

Justification – This rule is important because it facilitates the overall enforcement of the temporary disability insurance law in that all the employees are properly informed of the availability of temporary disability insurance.

26. 12-11-66 – “Posting of notice of coverage”

Justification – This rule is important because it facilitates the overall enforcement of the temporary disability insurance law in that all the employees are properly informed of the availability of temporary disability insurance.

27. 12-11-67 – “Application”

Justification – This rule is important because instead of purchasing an insured plan from one of the authorized temporary disability insurance carriers, this rule allows the employers another alternative to comply with the temporary disability insurance law by applying for temporary disability insurance self-insurance.

28. 12-11-68 – “Agreement”

Justification - This rule is important because it establishes standards for self-insurance mutually agreed upon between the DLIR and the employer applicants. It also requires a local claims office for claims processing.

29. 12-11-69 – “Requirements for self-insurance”

Justification - This rule is important because it establishes an alternative for employers to qualify financially for temporary disability insurance self-insurance.

30. 12-11-70 – “Amount of securities or bond”

Justification – This rule is important because it establishes the amount of the employer security deposit requirement to satisfy the financial requirement for temporary disability insurance self-insurance.

31. 12-11-72 – “Termination of self-insurer’s status and withdrawal of security deposit”

Justification – This rule is necessary to ensure maintenance of the security deposit for self-insurance until all temporary disability insurance benefits are paid.

32. 12-11-73 – “Self-insurance deposit credit”

Justification - This rule is necessary because it allows the employer to post a lower aggregate amount of security deposit for self-assurance under both temporary disability insurance and workers’ compensation laws.

33. 12-11-75 – “Revocation of self-insurance status”

Justification - This rule is necessary because it ensures that all self-insured employer will comply with the provisions of the temporary disability insurance law after the self-insured plans have been approved by the Director of DLIR.

34. 12-11-76 – “Employee contributions towards the cost of coverage by a self-insurer”  
Justification – This rule is necessary because it ensures that an employer will not overcharge the employees with a self-insured temporary disability insurance plan approved by the DLIR.
35. 12-11-77 – “Limitation of fund”  
Justification – This rule is necessary because it ensures that no excessive buildup is allowed in the fund accounts that the employers set up for disability benefits.
36. 12-11-85 – “Periodic reports”  
Justification – This rule is necessary because the annual reports received by DLIR are processed and summary reports are generated, which are provided to carriers, upon request, for further analysis. Employers with possible excessive employee withholdings or questionable insurance coverage are so indicated in the reports; accounts with such error messages are investigated, and compliance enforced is necessary.
37. Chapter 12-12 – “Prepaid Health Care”  
12-12-1 – “Definition “Seasonal employment” and “Seasonal period(s)”  
Justification – This rule is necessary because employers are given relief for providing health care coverage to employees who work during seasonal periods only.
38. 12-12-2 – “Determination of seasonal pursuit and seasonal period”  
Justification – This rule is necessary because employers are given relief for providing health care coverage to employees who work during seasonal periods only.
39. 12-12-6 – “Employee already disabled”  
Justification – This rule is necessary because it ensures that disabled employees are continuously covered under a health care plan should the employer elect to change their plans.
40. 12-12-12 – “More than one plan”  
Justification – This rule is necessary because employers who offer more than one plan can do so without the penalty of having to pay the added cost of the more expensive plan.
41. 12-12-17 – “Employer’s obligation”  
Justification – This rule is necessary because it protects both the employer and employees through ongoing communication.
42. 12-12-18 – “Supplemental coverage to required health care benefits”  
Justification – This rule is necessary because employers can offer richer plans and not be responsible for the added cost if employees are given the opportunity

to opt out, thus, reducing employer's cost. However, the opposite can also happen, whereby an employer's cost can increase if health care contractors sell the basic medical plan and supplemental riders as a package and do not make this opt-out provision available.

43. 12-12-24 – “Self-insurer”

Justification – This rule is necessary because employers are free to design and offer their own health care plan. If they are financially able to defray or reimburse the expenses of health care under an approved self-insured plan, they can decrease their cost by not having to pay premiums for an insured plan.

44. 12-12-28 – “Cancellation of contract”

Justification – This rule is necessary because it protects both the employer and employees by not allowing the health care contractor to cancel a policy without cause or prior notification.

45. 12-12-29 – “Refusal to insure”

Justification – This rule is necessary because it protects both the employer and employees by not allowing health care contractors to refuse coverage for reasons other than non-payment of premium.

46. 12-12-41 – “Withholding by employers”

Justification - This rule is necessary to ensure that withholding of employee wages for premium cost allocation is transmitted to health care contractors for the mandated coverage.

47. 12-12-42 – “Deductions greater than authorized”

Justification - This rule is necessary to ensure that employers are aware of the consequences of deducting more than what is allowed under the law. Also, any excess not returned to employees are deposited into the premium supplementation fund.

48. 12-12-46 – “Experience rating”

Justification - This rule is necessary to ensure that both employers and employees share any refunds awarded by the health care contractors.

49. 12-12-62 – “Principal and secondary employer”

Justification – This rule is necessary because it clarifies which employer is responsible in situations where employee is eligible for coverage under both employers and eliminates dual coverage.

50. 12-12-63 – “Other employer reports”

Justification – This rule is necessary as filing of waiver forms (Form HC-5) protects employers because this notification allows the employer to not provide the mandatory coverage to those employees who are covered elsewhere.

51. 12-12-64 – “Posting of notice of coverage”  
Justification – This rule is necessary because employees are made aware of the eligibility requirement for coverage under the Posting of Notice Coverage Act.
52. 12-12-70 – “Entitlement to premium supplementation”  
Justification – This rule is necessary because it provides monetary assistance to those employers who are having a difficult time paying the premiums for the required employee health care coverage.
53. 12-12-71 – “Claim for premium supplementation”  
Justification – This rule is necessary because it provides monetary assistance to those employers who are having a difficult time paying the premiums for the required employee health care coverage.
54. Chapter 12-14 – “Rehabilitation”  
12-14-5 – “Criteria for an approved vocational rehabilitation plan”  
Justification – This criteria is essential to enabling the injured worker to return to suitable gainful employment as quickly as possible, in the most effective manner. It insures the injured worker will have a reasonable chance of success in obtaining and maintaining employment and in the shortest time possible. This will shorten the time the injured worker remains in a vocational rehabilitation plan and receives temporary total disability benefits. It also gives the employer the opportunity to object to any plan they believe does not meet the specified criteria.
55. 12-14-10 – “Vocational rehabilitation plan, revision, or modification considered approved, if, no action is taken by the director on objections”  
Justification – This rule is necessary because it allows the employer the opportunity to object, within a specified timeframe, to the injured workers plan, or modification to an existing plan, which is a limited change, but not to direction, or revision to a plan, which is a change to the plan that may include a change of goal or changes to the process to achieve the goal. If the employer does not object within the specified time period, the plan will be automatically approved.
56. 12-14-23 – “Responsibility”  
Justification – This rule is necessary because it allows the injured workers the opportunity to select his/her own vocational rehabilitation counselor to assist in their return to work efforts. The injured worker is allowed, in accordance with section 386-25, to choose his or her own vocational rehabilitation counselor. The employer is also given the opportunity to file objections to any injured workers they do not believe is eligible for vocational rehabilitation services in the first place.
57. 12-14-38 – “Entitlement to rehabilitation payments”  
Justification – This rule is necessary as it insures proper payment of temporary total disability benefits while enrolled in a vocational rehabilitation program.
58. 12-14-39 – “Entitlement to living expenses; advance lump-sum payment”

Justification – This rule is necessary because it facilitates the injured worker's immediate participation in a program or an extended evaluation that requires payment be made in advance of the start of the program. For example, many training programs require payment to be made in advance of the start date.

59. 12-14-40 – “Allowable living expenses”

Justification – This rule is necessary because it facilitates injured workers immediate participation in programs that requires payment is made in advance of the start of the program. It also clarifies training programs, which require payment to be made of the start date. Examples include the cost of tuition, books, and transportation.

60. 12-14-48 – “Reconsideration and hearing”

Justification – This rule is necessary because it allows injured worker and employer to object and resolve vocational rehabilitation issues expeditiously. However, if the unit is unable to resolve the issues or if either party does not agree with the rehabilitation unit's reconsideration determination, they may request a hearing.

61. Chapter 12-15 – “Medical Fee Schedule”

12-15-14 – “Sanctions and fines”

Justification – This rule is necessary because it provides for sanctions against health care providers who violate health care provider standards of conduct under section 386-27, HRS.

62. 12-15-15 – “Filing complaints”

Justification – This rule is necessary because it establishes procedures to file complaints against health care providers who allegedly violate rules relating to guidelines on frequency of treatment and reasonable utilization of health care services, and to enforce health care and services, and to enforce health care provider standards of conduct to prevent abuse in treatment and violations of the workers' compensation statutes and rules.

63. 12-15-32 – “Physicians”

Justification – This rule is necessary because it provides basic standards of treatment frequency to prevent excess treatment of injured workers by physicians. This section specifies the number of initial treatments allowed without prior authorization, gives guidelines for submitted treatment plans to request treatment in excess of the guidelines, procedures for employers to object to treatment plans, and limitations for psychiatric evaluation or psychological testing and physical medicine treatments.

64. 12-15-34 – “Providers of service other than physicians”

Justification – This rule is necessary because it provides basic standards of treatment frequency to prevent excess treatment of injured workers by physical therapists, occupational therapists, massage therapists, acupuncturists, and other providers of service other than physicians. This section specifies the number of initial treatments allowed without prior authorization, gives guidelines

for submitting treatment plans to request treatment in excess of the guidelines, procedures for employers to object to treatment plans, and limitations for physical medicine treatments.

65. 12-15-36 – “Assistants to providers of service”

Justification – This rule is necessary because it provides basic guidelines for utilization of assistants by providers of service and methods of reimbursement for services rendered. This section also requires that services performed by assistants be identified on the bill for services to prevent problems of over-billing.

66. 12-15-40 – “Concurrent medical treatment”

Justification – This rule is necessary because it provides guidelines for services by more than one qualified health care provider. This section provides guidelines for requesting concurrent care, and procedures for denying and requesting a review of denial of concurrent care.

67. 12-15-42 – “Consultations”

Justification – This rule is necessary because it provides guidelines for requesting an opinion or advice from another physician. This section also provides procedures for requesting consultations, denying consultation requests, and requesting a review of denial of consultation.

68. 12-15-50 – “Emergency Treatment”

Justification – This rule is necessary because it provides guidelines for payment by employer/insurance carrier of emergency treatment by unqualified health care providers in life-threatening situations. It also requires the transfer of care to a duly qualified physician at the earliest reasonable and practicable time.

69. 12-15-51 – “Surgery”

Justification – This rule is necessary because it provides guidelines for requesting an elective surgical procedure, to deny the request for elective surgery, to request a review of denial of surgery, and to provide guidelines for fees for surgical procedures.

70. 12-15-52 – “Anesthesia services”

Justification – This rule is necessary because it provides guidelines for payment of anesthesia services to include the actual time spent administering the anesthesia and anesthesia for dental services for treatment of the injured worker.

71. 12-15-53 – “Hospital services”

Justification – This rule is necessary because it provides guidelines for payment for hospitalization for treatment of the injured worker to prevent over-billing and to help control the spiraling costs of health care. The injured employee shall have free choice of a licensed hospital on the island where the injury occurred. Hospital charges shall be limited to the lowest room charge for the nature of the injury at the hospital where confined. All hospital charges shall be itemized when a bill is submitted. This allows the insurance adjuster to delete or adjust items in excess of the medical fee schedule.

## 72. 12-15-54 – “Radiology services”

Justification – This rule is necessary because it provides guidelines for taking x-rays and payment for x-rays for treatment of the injured worker. Certain types of x-rays are allowed without authorization during the 120 days following initial treatment. Diagnostic tests and x-rays shall be taken, reported, and marked for identification and orientation in accordance with the accepted standard of radiological practice. X-rays shall be taken with machines with a current certification by the department of health. Fees shall include both the technical and professional components.

## 73. 12-15-55 – “Drugs, supplies, and materials”

Justification – This rule is necessary because it provides guidelines for payment of prescriptive drugs, supplies, and materials for the injured employee to prevent overpricing and abuse of the statutes and rules of workers’ compensation.

## 74. 12-15-90 – “Workers’ compensation medical fee schedule”

Justification – This rule is necessary because it provides guidelines for payment to providers of service and to hospitals for treatment of the injured employee to prevent overpricing and abuse of the statutes and rules of workers’ compensation.

## 75. 12-15-94 – “Payment by employer”

Justification – This rule is necessary because it provides requirements for payment of health care services by employer/insurance carrier to ensure timely and allowable payment to all providers of service for treatment of the injured employee.

### **Wage Standards Division**

## 76. Chapter 12-20 – “Wage and Hour”

Justification – This rule is necessary as it relates to minimum wage and overtime; includes procedures for the employment of student workers, student learners, handicapped clients in sheltered workshops at special minimum rates and defines individuals excluded from the requirements of the law.

## 77. Chapter 12-21 – “The Administration and Enforcement of the Payment of Wages and Other Compensation Law”

Justification – This rule is necessary as it relates to paydays, exceptions to semimonthly paydays, and illegal deductions. It also defines individuals excluded from the services of the department.

## 78. Chapter 12-22 – “Wage Determinations and the Administration and Enforcement of Chapter 104, Hawaii Revised Statutes”

Justification – This rule is necessary as it relates to prevailing wages and hours on state and county public works construction projects. It also clarifies terms used in the statute and prescribes methodology to be used by the department in determining prevailing wages.

79. Chapter 12-24 – “Relating to Unlawful Suspension or Discharge Under Part III, Chapter 378, Hawaii Revised Statutes”  
Justification – This rule is necessary as it relates to unlawful termination due to a work-related injury. It also includes procedures for filing and hearing of complaints.
80. Chapter 12-25 – “Child Labor”  
Justification – This rule is necessary as it relates to the employment of minors under eighteen years old. It also identifies hazardous occupations and includes procedures for minors engaged in pineapple, coffee harvesting, and theatrical employment.
81. Chapter 12-26 – “Lie Detector Tests”  
Justification – This rule is necessary as it relates to the use of lie detector tests as a condition of employment.

### **Workforce Development Division**

82. Chapter 12-6 – “Employment and Training Fund Program (ETF)”  
Justification – The rules are necessary to implement Act 68 (Session Laws of Hawaii 1991) codified as Chapter 383-128, HRS. The department is the authorized agency to oversee the ETF program. Pursuant to Chapter 91, HRS, the department adopted on May 4, 1992, a set of administrative rules, which provides ETF with a framework to carry out its legislative intent and to establish basic operating procedures for the program.
83. Chapter 12-30 – “Apprenticeship Programs”  
Justification – The rules are necessary as they set forth safeguards regarding the welfare of apprentices, and extend the application of such standards by prescribing rules concerning the registration of acceptable apprenticeship programs as required by section 372-5 HRS. The rules are based on Federal requirements for registered apprenticeship programs, and apply only to those entities requesting to be apprenticeship program sponsors.
84. Chapter 12-31 – “A State Plan for Equal Employment Opportunity in Apprenticeship Programs”  
Justification – The state’s authority to register apprenticeship programs on behalf of the Secretary of U.S. Department of Labor requires, in part, that the state have acceptable apprenticeship laws and regulations. The rules prescribe the guidelines for prohibiting discriminatory practices and implementing affirmative action in apprenticeship programs. The rules are based on federal requirements for equal opportunity in registered apprenticeship program and apply only to those entities requesting to the apprenticeship program sponsors.
85. Chapter 12-506 – “Plant Closing Notification and Dislocated Worker Allowance”  
Justification – The purpose of this chapter is to implement Act 377, SLH 1987, which amended Chapter 394B, HRS, relating to dislocated workers. Chapter 394B, HRS, protects employees from the effects of unexpected and sudden layoffs or terminations which result from closings, partial closings, or relocations due



to the sale, transfer, merger, and other business takeover or transaction of business interests.

## **Boards**

### 86. Chapter 12-41 – “Hawaii Labor Relations Board (Employment)”

Justification – The Hawaii Labor Relations Board administers the Hawaii Employment Relations Board Rules of Practice and Procedure, of HAR Title 12, which affects small business insofar as the company employs organized workers. These rules, promulgated pursuant to HRS Chapter 377, Hawaii Employment Relations Act, are necessary because they provide procedures for unfair labor practice proceedings, the determination of collective bargaining units, the selection of exclusive representatives, declaratory rulings, and rule making. The rules are similar to the Hawaii Rules of Civil Procedure for the circuit courts or procedural rules promulgated by the National Labor Relations Board setting forth filing requirements and procedures governing hearings and other proceedings.

## **State Fire Council**

### 87. Chapter 12-45.1 – “State Fire Code”

Justification – The purpose of this chapter is to adopt the state fire code as required by section 132, Hawaii Revised Statutes. This chapter amends certain provisions of the 1997 edition of the Uniform Fire Code. The code and the rules set forth minimum requirements relative to the protection of persons and property from fire loss. The rules are necessary for the protection of persons and property from fire loss.

## **Civil Rights Commission**

### 88. Chapter 12-46 – “Hawaii Civil Rights Commission” (HCRC)

Justification – The 1988 Legislature in Act 219, Session L. 1988, established the HCRC to provide a uniform procedure for the enforcement of the state’s laws dealing with employment, housing and public accommodations discrimination. The civil rights law authorized the HCRC to adopt rules in accordance with HRS Chapter 91. Pursuant to HRS Chapter 378, Part I, the HCRC has jurisdiction over employers of one or more employees.

### 89. Chapter 12-48 – “Hoisting Machine Operators Advisory Board”

Justification – The Occupational Safety and Health Division adopted these rules to be in compliance with §396-19, HRS. The purpose of these rules is to promulgate safety and health standards, which meet the state laws in providing safe and healthful work places for Hawaii’s workers and to promulgate standards for the safe operation and use of hoisting machines. The rules make it easier for employers to comply with the state’s occupational safety and health standards for the safety and benefit of the workers, employers, and the public.

## **Hawaii Occupational Safety and Health Division**

### 90. Chapter 12-50, Part I – “General, Legal, and Administrative Provisions for Occupational Safety and Health”

### 91. Chapter 12-60, Part II – “General Safety and Health Requirements”

### 92. Chapter 12-110, Part III – “Construction Standards”

93. Chapter 12-200, Part VIII – “Health Standards”

94. Chapter 12-220, Part X – “Boilers and Pressure Vessels” and Part XI – “Elevators”

Justification – Almost all of the rules that HIOSH has affect small business. The only ones that do not are the shipyard, long shoring and maritime rules that only apply to public sector employees. HIOSH has separated the standards into three groups to distinguish between which standards are an identical adoption of the federal standard, standards that are unique to Hawaii, and the Boiler and Elevator standards.

All of the HIOSH Standards have origins dating back to 1974 when the program was first created following the 1972 Act that created the division. Since 1974, the standards have undergone amendments aimed at bringing the standards more up-to-date with the technology of the industries that are covered by the standards and amendments that had to be implemented due to federal rule changes. HIOSH must continue to implement the federal rule changes as part of the OSHA requirement to be “as effective as” the federal program which is a requirement for a state plan.

In order for a state plan to be “as effective as” the federal program, the state must at the minimum adopt the identical standard that the federal program releases as a final rule. The state has made minor revisions in some cases to conform to prior state industrial safety rules or for clarity. Most of the updates are federally initiated since OSHA has staff dedicated specifically for the development and review of standards that includes its impact to employees and employers. The OSHA program develops and implements standards according to research data that identifies high hazard industries as well as what types of injuries are being suffered by employees.

#### **XIV. Department of Land and Natural Resources**

##### **Division of Conveyances**

1. Chapter 13-16 – “Rules Relating to Conveyances”

Justification – The rules were promulgated to facilitate the recording process and clarify sections of the statutes for the benefit of the general public. The rules are necessary and useful in expanding and addressing recording concerns in a practical manner as the law intended.

##### **Division of Aquatic Resources**

2. Chapter 13-29 – “Kealakekua Bay Marine Life Conservation District, Hawaii”

Justification – This HAR set aside Kealakekua Bay for protecting and conserving its marine resources. Aquatic resources of the Bay (fishes, coral reefs) are protected from lake or damage, and serve as a haven for marine life (from fishing). Non-consumptive activities (fish and reef viewing) have benefited significantly by this rule as well as the site serving as a source of replenishment for fish stocks that are harvested in adjacent areas. These demonstrated benefits justify its continuance.

3. Chapter 13-31 – “Molokini Shoal Marine Life Conservation District, Maui”  
Justification – This HAR set aside for protecting and conserving its marine resources. Aquatic resources of the Bay (fishes, coral reefs) are protected from lake or damage, and serve as a haven for marine life (from fishing). Non-consumptive activities (fish and reef viewing) have benefited significantly by this rule as well as the site serving as a source of replenishment for fish stocks that are harvested in adjacent areas. These demonstrated benefits justify its continuance.
4. Chapter 13-32 – “Honolua-Mokuleia Marine Life Conservation District, Maui”  
Justification – This HAR set aside for protecting and conserving its marine resources. Aquatic resources of the Bay (fishes, coral reefs) are protected from lake or damage, and serve as a haven for marine life (from fishing). Non-consumptive activities (fish and reef viewing) have benefited significantly by this rule as well as the site serving as a source of replenishment for fish stocks that are harvested in adjacent areas. These demonstrated benefits justify its continuance.
5. Chapter 13-33 – “Lapakahi Marine Life Conservation District, Hawaii”  
Justification – This HAR set-aside for protecting and conserving its marine resources. Aquatic resources of the Bay (fishes, coral reefs) are protected from lake or damage, and serve as a haven for marine life (from fishing). Non-consumptive activities (fish and reef viewing) have benefited significantly by this rule as well as the site serving as a source of replenishment for fish stocks that are harvested in adjacent areas. These demonstrated benefits justify its continuance.
6. Chapter 13-34 – “Pupukea Marine Life Conservation District, Oahu”  
Justification – This HAR set aside for protecting and conserving its marine resources. Aquatic resources of the Bay (fishes, coral reefs) are protected from lake or damage, and serve as a haven for marine life (from fishing). Non-consumptive activities (fish and reef viewing) have benefited significantly by this rule as well as the site serving as a source of replenishment for fish stocks that are harvested in adjacent areas. These demonstrated benefits justify its continuance.
7. Chapter 13-35 – “Wailea Bay Marine Life Conservation District, Hawaii”  
Justification – This HAR set aside for protecting and conserving its marine resources. Aquatic resources of the Bay (fishes, coral reefs) are protected from lake or damage, and serve as a haven for marine life (from fishing). Non-consumptive activities (fish and reef viewing) have benefited significantly by this rule as well as the site serving as a source of replenishment for fish stocks that are harvested in adjacent areas. These demonstrated benefits justify its continuance.
8. Chapter 13-36 – “Waikiki Marine Life Conservation District, Oahu”  
Justification – This HAR set aside for protecting and conserving its marine resources. Aquatic resources of the Bay (fishes, coral reefs) are protected from

lake or damage, and serve as a haven for marine life (from fishing). Non-consumptive activities (fish and reef viewing) have benefited significantly by this rule as well as the site serving as a source of replenishment for fish stocks that are harvested in adjacent areas. These demonstrated benefits justify its continuance.

9. Chapter 13-37 – “Old Kona Airport Marine Life Conservation District, Hawaii”  
Justification – This HAR set aside a portion of this shoreline’s near shore waters for protecting and conserving its marine resources.
10. Chapter 13-48 – “Waikiki-Diamond Head Shoreline Fisheries Management Area, Oahu”  
Justification – This HAR set aside a portion of this shoreline’s nearshore waters for the purpose of protecting fish stocks (by area closure) and opening the area to limited forms of fishing. This strategy has resulted in at least higher levels of fish abundance and increased opportunities for the public to enjoy recreational fishing. Since recreational fishing is a significant pastime, and this managed area enhances this activity, its continuance is justified.
11. Chapter 13-50 – “Waimea Bay and Waimea Recreational Pier, Kauai”  
Justification – This HAR set aside a portion of the Bay and its pier for the purpose of limiting forms and amount of fishing effort. This strategy affords the fishing public more opportunities to enjoy recreational fishing, a significant pastime. As such, its continuance is justified.
12. Chapter 13-51 – “Kahului Harbor, Maui”  
Justification - This HAR set aside areas that are popular fishing spots, and have provisions designed to reduce conflicts in fishing gear usage. By applying this strategy, the fishing public has benefited from a more enjoyable experience in fishing and opportunities to fish. Moreover, the same strategy results in sustained fish populations, enabling this favorite pastime to be enjoyed. As such, its continuance is justified.
13. Chapter 13-52 – “Kailua Bay, Hawaii”  
Justification - These HAR set aside areas that are popular fishing spots, and have provisions designed to reduce conflicts in fishing gear usage. By applying this strategy, the fishing public has benefited from a more enjoyable experience in fishing and opportunities to fish. Moreover, the same strategy results in sustained fish populations, enabling this favorite pastime to be enjoyed. As such, its continuance is justified.
14. Chapter 13-54 – “Pauka Bay and Pauka Reef, Hawaii”  
Justification - This HAR set aside areas that are popular fishing spots, and have provisions designed to reduce conflicts in fishing gear usage. By applying this strategy, the fishing public has benefited from a more enjoyable experience in fishing and opportunities to fish. Moreover, the same strategy results in sustained fish populations, enabling this favorite pastime to be enjoyed. As such, its continuance is justified.

15. Chapter 13-55 – “Kawaihae Harbor, Hawaii”

Justification - This HAR set aside areas that are popular fishing spots, and have provisions designed to reduce conflicts in fishing gear usage. By applying this strategy, the fishing public has benefited from a more enjoyable experience in fishing and opportunities to fish. Moreover, the same strategy results in sustained fish populations, enabling this favorite pastime to be enjoyed. As such, its continuance is justified.

16. Chapter 13-56 – “Kaunakakai Harbor, Molokai”

Justification - This HAR set aside areas that are popular fishing spots, and have provisions designed to reduce conflicts in fishing gear usage. By applying this strategy, the fishing public has benefited from a more enjoyable experience in fishing and opportunities to fish. Moreover, the same strategy results in sustained fish populations, enabling this favorite pastime to be enjoyed. As such, its continuance is justified.

17. Chapter 13-57 – “Keahou Bay Hawaii”

Justification - This HAR set aside areas that are popular fishing spots, and have provisions designed to reduce conflicts in fishing gear usage. By applying this strategy, the fishing public has benefited from a more enjoyable experience in fishing and opportunities to fish. Moreover, the same strategy results in sustained fish populations, enabling this favorite pastime to be enjoyed. As such, its continuance is justified.

18. Chapter 13-60 – “Kiholo bay, Hawaii”

Justification - This HAR set aside areas that are popular fishing spots, and have provisions designed to reduce conflicts in fishing gear usage. By applying this strategy, the fishing public has benefited from a more enjoyable experience in fishing and opportunities to fish. Moreover, the same strategy results in sustained fish populations, enabling this favorite pastime to be enjoyed. As such, its continuance is justified.

19. Chapter 13-61 – “Nuuanu Freshwater Fish Refuge, Oahu”

Justification – This HAR establishes freshwater areas for recreational fishing, provide for fishing restrictions to conserve game fish stocks, and are stock enhanced so as to provide a quality recreational fishing experience. Freshwater fishing is very popular in all three locations. The rules in place enhance the experience. As such, its continuance is justified.

20. Chapter 13-62 – “Wahiawa Public Fishing Area, Oahu”

Justification – This HAR establishes freshwater areas for recreational fishing, provide for fishing restrictions to conserve game fish stocks, and are stock enhanced so as to provide a quality recreational fishing experience. Freshwater fishing is very popular in all three locations. The rules in place enhance the experience. As such, its continuance is justified.

21. Chapter 13-64 – “Kokee Public Fishing Area, Kauai”

Justification – This HAR establishes freshwater areas for recreational fishing, provide for fishing restrictions to conserve game fish stocks, and are stock enhanced so as to provide a quality recreational fishing experience. Freshwater fishing is very popular in all three locations. The rules in place enhance the experience. As such, its continuance is justified.

22. Chapter 13-73 – “Fish Aggregating Devices”

Justification – This HAR establishes protective measures for these devices, which are placed in the open sea to attract open water game fishes. Protection is needed to ensure maximum longevity (on site, on station) for these devices, as they are expensive to deploy. Fish Aggregating Devices are very popular with the boating public; as such, its continuance is justified.

23. Chapter 13-83 – “Shellfishes”

Justification – This HAR establishes protective measures such as minimum size for take, closed seasons, bag (or catch) limits for identified marine animals and plants and various freshwater fish species, both introduced game fish and native fish. Protection measures ensure that species are conserved to be enjoyed by the public. The rules provide an overall enhancement of regulated fish populations as part of the public trust responsibility of government, and as such these protective measures’ continuance is justified.

24. Chapter 13-84 – “Samoaan Crab”

Justification – This HAR establishes protective measures such as minimum size for take, closed seasons, bag (or catch) limits for identified marine animals and plants and various freshwater fish species, both introduced game fish and native fish. Protection measures ensure that species are conserved to be enjoyed by the public. The rules provide an overall enhancement of regulated fish populations as part of the public trust responsibility of government, and as such these protective measures’ continuance is justified.

25. Chapter 13-85 – “Clam”

Justification – This HAR establishes protective measures such as minimum size for take, closed seasons, bag (or catch) limits for identified marine animals and plants and various freshwater fish species, both introduced game fish and native fish. Protection measures ensure that species are conserved to be enjoyed by the public. The rules provide an overall enhancement of regulated fish populations as part of the public trust responsibility of government, and as such these protective measures’ continuance is justified.

26. Chapter 13-89 – “Spiny Lobster or Ula”

Justification – This HAR establishes protective measures such as minimum size for take, closed seasons, bag (or catch) limits for identified marine animals and plants and various freshwater fish species, both introduced game fish and native fish. Protection measures ensure that species are conserved to be enjoyed by the public. The rules provide an overall enhancement of regulated fish

populations as part of the public trust responsibility of government, and as such these protective measures' continuance is justified.

27. Chapter 13-90 – “Nehu for Family Consumption”

Justification – This HAR establishes protective measures such as minimum size for take, closed seasons, bag (or catch) limits for identified marine animals and plants and various freshwater fish species, both introduced game fish and native fish. Protection measures ensure that species are conserved to be enjoyed by the public. The rules provide an overall enhancement of regulated fish populations as part of the public trust responsibility of government, and as such these protective measures' continuance is justified.

28. Chapter 13-92 – “Opihi”

Justification – This HAR establishes protective measures such as minimum size for take, closed seasons, bag (or catch) limits for identified marine animals and plants and various freshwater fish species, both introduced game fish and native fish. Protection measures ensure that species are conserved to be enjoyed by the public. The rules provide an overall enhancement of regulated fish populations as part of the public trust responsibility of government, and as such these protective measures' continuance is justified.

29. Chapter 13-93 – “Limu”

Justification – This HAR establishes protective measures such as minimum size for take, closed seasons, bag (or catch) limits for identified marine animals and plants and various freshwater fish species, both introduced game fish and native fish. Protection measures ensure that species are conserved to be enjoyed by the public. The rules provide an overall enhancement of regulated fish populations as part of the public trust responsibility of government, and as such these protective measures' continuance is justified.

30. Chapter 13-94 – “Bottomfish Management”

Justification – These HAR establish protective measures such as minimum size for take, closed seasons, bag (or catch) limits for identified marine animals and plants and various freshwater fish species, both introduced game fish and native fish. This chapter additionally includes closed areas to protect bottom fish stocks from harvest. Protective measures ensure that species are conserved to be enjoyed by the public. The rules provide an overall enhancement of regulated fish populations as part of the public trust responsibility of government, and as such these protective measures' continuance is justified.

31. Chapter 13-99 – “Introduced Freshwater Fishes”

Justification – This HAR establishes protective measures such as minimum size for take, closed seasons, bag (or catch) limits for identified marine animals and plants and various freshwater fish species, both introduced game fish and native fish. Protection measures ensure that species are conserved to be enjoyed by the public. The rules provide an overall enhancement of regulated fish populations as part of the public trust responsibility of government, and as such these protective measures' continuance is justified.

32. Chapter 13-100 – “O’opu and Hinana”

Justification – This HAR establishes protective measures such as minimum size for take, closed seasons, bag (or catch) limits for identified marine animals and plants and various freshwater fish species, both introduced game fish and native fish. Protection measures ensure that species are conserved to be enjoyed by the public. The rules provide an overall enhancement of regulated fish populations as part of the public trust responsibility of government, and as such these protective measures’ continuance is justified.

**Division of Forestry & Wildlife**

33. Chapter 13-103 – “Alakai Wilderness Preserve, Island of Kauai”

Justification – Permits are needed for commercial use. The major rationale for permits for commercial use is to ensure that natural resources and public uses are not damaged by unrestricted commercial activities.

34. Chapter 13-104 – “Activities within forest reserves”

Justification – Permits are needed for commercial use. The major rationale for permits for commercial use is to ensure that natural resources and public uses are not damaged by unrestricted commercial activities.

35. Chapter 13-105 – “Closed (restricted) watersheds”

Justification – Permits are needed for commercial use and some recreational use. The major rationale for permits for commercial use is to ensure that natural resources and public uses are not damaged by unrestricted commercial activities.

36. Chapter 13-107 – “Threatened and endangered plants”

Justification – Permits are needed for commercial use. The major rationale for permits for commercial use is to ensure that natural resources and public uses are not damaged by unrestricted commercial activities.

37. Chapter 13-121 – “Hunting”

Justification – Licenses are needed for hunting on public and private land. Control and licensing of hunting is to assure that non-native species are not allowed to build up to damaging levels or spread to new areas.

38. Chapter 13-122 – “Game bird hunting, field trails and commercial shooting preserves”

Justification – Permits are needed for shooting preserves on private lands. The major rationale for permits for commercial use is to ensure that natural resources and public uses are not damaged by unrestricted commercial activities.

39. Chapter 13-123 – “Game mammal hunting”

Justification – Licenses are needed for hunting on public and private land. The major rationale for permits for commercial use is to ensure that natural resources and public uses are not damaged by unrestricted commercial activities. Control



and licensing of hunting is to assure that non-native species are not allowed to build up to damaging levels or spread to new areas.

40. Chapter 13-124 – “Indigenous, endangered, threatened and injurious wildlife, and introduced wild birds”

Justification – Permits are needed to transport or export injurious wildlife. The major rationale for permits for commercial use is to ensure that natural resources and public uses are not damaged by unrestricted commercial activities. Controlling transport of injured wildlife is to prevent the spread of invasive species.

41. Chapter 13-130 – “Trail and access program”

Justification – Permits are needed for commercial use. The major rationale for permits for commercial use is to ensure that natural resources and public uses are not damaged by unrestricted commercial activities.

42. Chapter 13-209 – “Activities within Natural Area Reserves”

Justification – Permits are needed for commercial use. The major rationale for permits for commercial use is to ensure that natural resources and public uses are not damaged by unrestricted commercial activities.

### **Division of State Parks**

43. Chapter 13-146 – “Hawaii State Park System”

Justification – The purpose of this chapter is to govern the use and protection of the historical and natural resources and insure the safety of the part visitors in the State Parks. As the rules regulate uses and activities within the parks, businesses, which use or would like to use park resources, are affected by the park rules. Examples of these companies are outdoor recreation companies such as kayak and hiking tour companies, ocean recreation companies conducting scuba diving from park areas, tour companies, and various vendors of food and souvenirs who want to conduct business in the parks.

### **Commission on Water Resource Management**

44. Chapter 13-167 – “Rules of Practice and Procedure for the Commission on Water Resource Management”

Justification – This rule is needed as it governs practice and procedure before the commission on water resource management of the state under chapter 91, HRS, the Constitution and water laws of the state, the Constitution and laws of the United States, and such other related acts as may now or hereinafter be administered by the commission. These rules shall be construed to secure the just, speedy, and inexpensive determination of every proceeding.

45. Chapter 13-168 – “Water Use, Wells, and Stream Diversion Works”

Justification – This rule is needed to carry out the intent of the State Water Code to assure maximum beneficial use of ground and surface waters of the state by establishing rules for reporting and gathering meaningful data on all water uses and sources. The rules in this chapter provide for the declaration and certification of all existing uses of surface and ground water; the registration of all

existing wells and existing stream diversion works; the reporting of current uses of surface and ground water; the permitting of wells; the permitting of pump installations and repairs; and the permitting of stream diversion works.

46. Chapter 13-169 – “Protection of Instream Uses of Water”

Justification – This rule is necessary to provide for the establishment of a statewide program to protect, enhance and reestablish, where practical, beneficial instream uses of water, including the development and establishment of standards for instream flows and the creation of a permit system to regulate the alteration of stream channels.

47. Chapter 13-170 – “Hawaii Water Plan”

Justification – This rule is necessary as it provides for the establishment of the Hawaii Water Plan, which serves as the guide for developing and implementing a program of comprehensive water resource planning to address the problems of supply and conservation of water.

48. Chapter 13-171 – “Designation and Regulation of Water Management”

Justification - This rule is necessary as it provides for the designation and regulation of hydrologic areas where water resources are being threatened by existing or proposed withdrawals or diversions of water, water quality problems, or serious disputes. It shall be the duty of the commission to designate areas for the purpose of establishing administrative control over the withdrawals and diversions of ground and surface water in threatened areas to ensure the most beneficial use, development, or management of the water resources in the interest of the people of the state.

### **Land Division**

49. Chapter 13-1 - “Rules of Practice and Procedure”

Justification – This rule governs practice and procedure before the Land Board, including contested case hearings.

50. Chapter 13-5 – “Conservation District”

Justification – This rule regulates land use in Conservation District.

51. Chapter 13-183 – “Rules on Leasing and Drilling of Geothermal Resources”

Justification – The purpose of this rule is to provide for the leasing of geothermal resources on state or reserved lands and the regulation of all drilling of geothermal resources in Hawaii. This rule is necessary as it protects natural mineral resources and energy sources, and promotes development and utilization of these resources in a manner consistent with conservation and in furtherance of the self-sufficiency of the state. In addition, this rule was promulgated to protect the public’s health and safety for the development of geothermal resources and dam safety.

52. Chapter 13-184 – “Designation and Regulation of Geothermal Resource Subzones”

The purpose of this chapter is to establish guidelines and procedures for the designation and regulation of geothermal resource subzones for the exploration, discovery, development, and production of geothermal resources for electrical energy production and distribution within conservation, agricultural, rural and urban districts. This rule is necessary as it protects natural mineral resources and energy sources, and promotes development and utilization of these resources in a manner consistent with conservation and in furtherance of the self-sufficiency of the state.

53. Chapter 13-185 – “Rules of Practice and Procedure for Geothermal and Cable System Development Permitting”

Justification – The purpose of this chapter is to establish guidelines and procedures for consolidated geothermal and cable system development permitting to coordinate and streamline federal, state and county land use, planning and environmental requirements. This rule is necessary as it protects natural mineral resources and energy sources, and promotes development and utilization of these resources in a manner consistent with conservation and in furtherance of the self-sufficiency of the state. In addition, this rule was promulgated to protect the public’s health and safety for the development of geothermal resources and dam safety.

54. Chapter 13-190 – “Dams and Reservoirs”

Justification – The purpose of this chapter is to establish rules to govern the design, construction, operation, maintenance, enlargement, alteration, repair, and removal of dams, reservoirs, and appurtenant works in the state. This rule is necessary as it was promulgated to protect the public’s health and safety for the development of geothermal resources and dam safety.

55. Chapter 13-219 – “Fees”

Justification – This rule establishes fees for processing of public documents and records. These fees are charged for private purposes and the rules are needed in order to recoup some of the costs associated with processing of documents.

56. Chapter 13-220 – “Public Auction”

Justification – This rule gives public notice of public auctions. The rule is needed to recover advertising costs.

57. Chapter 13-221 – “Unencumbered Public Lands”

Justification – This rule controls public activities and public land. The rule is needed to regulate and control activities on the unencumbered lands.

58. Chapter 13-222 – “Shoreline Certifications”

Justification – This rule standardizes the application for shoreline certifications. The rule is needed for guidelines and criteria by which they administer fair and consistent implementation of shoreline determinations.

59. Chapter 13-223 – “Urban Historic Preservation and Restoration”

Justification – This rule is necessary as it identifies historic property on public lands in urban areas to lease them under 171-36.2, HRS.

### **Historic Preservation Division**

#### **60. Chapter 13-197 – “Hawaii Historic Places Review Board”**

Justification – This rule is needed as it establishes practices and procedures for administering Hawaii Historic Places Review Board records and correspondence, adopting and amending the Board’s administrative rules, considering and issuing declaratory rulings, and conducting contested case hearings.

The Hawaii Historic Places Review Board is a Governor appointed board charged with determining which historic properties merit listing on the Hawaii Register of Historic Places and should be recommended for inclusion in the National Register of Historic Places. The board is responsible for maintaining the Hawaii Register and participates in development of the state’s historic preservation plan. Historic properties on the Register are eligible for certain tax exemptions, tax incentive programs, and rehabilitation grants. Private owners must give the department 90 days notice of any actions that alter or destroy a registered property. The Hawaii state constitution and legislature have recognized the value of conserving and developing historic and cultural properties in Hawaii. Maintaining this register of historic properties is one means of fulfilling this mandate.

#### **61. Chapter 13-198 – “Hawaii and National Register of Historic Places Programs”**

Justification – This rule establishes procedures by which the Review Board determines whether historic properties merit placement on the Hawaii Register of Historic Places and should be recommended for the National Register.

The Hawaii Historic Places Review Board is a Governor appointed board charged with determining which historic properties merit listing on the Hawaii Register of Historic Places and should be recommended for inclusion in the National Register of Historic Places. The board is responsible for maintaining the Hawaii Register and participates in development of the state’s historic preservation plan. Historic properties on the Register are eligible for certain tax exemptions, tax incentive programs, and rehabilitation grants. Private owners must give the department 90 days notice of any actions that alter or destroy a registered property. The Hawaii state constitution and legislature have recognized the value of conserving and developing historic and cultural properties in Hawaii. Maintaining this register of historic properties is one means of fulfilling this mandate.

#### **62. Chapter 13-300 – “Rules of Practice and Procedure Relating to Burial Sites and Human Remains”**

Justification – This rule governs the practices and procedures by which burial sites and human remains over 50 years old are treated. These rules support the legislature’s finding that native Hawaiian and other burial sites are especially vulnerable to disturbance and are often not afforded the dignity or freedom from disturbance they warrant under the law.

The rules are needed as they establish procedures by which five island burial councils are organized and operate and by which they determine if previously identified native Hawaiian burials are preserved in place or are relocated. Also established are procedures by which the Department treats non-Hawaiian burial sites and all human remains discovered inadvertently in natural settings and within development contexts. Other issues addressed include jurisdictional matters, recognition of lineal and cultural descendants, disclosure of records, amendment of rules, sale of human remains or burial goods and their removal from the State, and administrative appeals.

### **Division of Boating and Ocean Recreation**

#### 63. Chapter 13-230 – “General Provisions”

Justification – This rule provides the definitions of terms used in subsequent chapters and sections. The rule is necessary because anyone reading the rules would need to know the definitions contained in the subsequent sections and chapters.

#### 64. Chapter 13-231 – “Operations of Boats, Small Boat Harbors, and Permits”

Justification – This rule provides the definition of commercial vessels. The bulk of rules that affect small businesses are contained within this chapter. The chapter provides rules on what type of activities are considered commercial, where the commercial vessels may be moored, how many commercial permits may be issued by harbor and small boat ramp, and the limits on the number of berths that commercial permittees may have. Additionally, this rule covers the sale and transferability of commercial as well as the right of the division to conduct audits of commercial permit holders.

#### 65. Chapter 13-234 – “Fees and Charges”

Justification – This rule provides the fee structure for commercial activities. This includes the fees for the use of small harbors and ramps and includes the fees assessed to cruise ship operators. Without these rules, the department would not be able to generate fees for the program costs.

#### 66. Chapter 13-244 – “Rules of the Road, Local, and Special Rules”

Justification – This chapter defines Ocean Recreation Management Areas and its uses for the Waikiki, Kaanapali, and Maunaloa Bay. This rule is necessary because it defines areas for specific use, and is used to maintain the health, safety and welfare of the public.

#### 67. Chapter 13-251 – “Waikiki and Kaanapali Ocean Waters”

Justification – This chapter outlines specific rules for commercial operators in the Waikiki and Kaanapali ocean waters. This rule is necessary because it defines areas for specific use and is used to maintain the health, safety and welfare of the public.

#### 68. Chapter 13-256 – “Ocean Recreation Management Rules”

Justification – This rule provides the definition of Ocean Recreation Management Rules within areas statewide, and specifies commercial activities that are permissible in each area. This rule is necessary because it defines areas for specific use and is used to maintain the health, safety and welfare of the public.

#### **XV. Department of Public Safety**

No administrative rules that affect small business.

#### **XVI. Department of Taxation**

1. Chapter 18-231 - “Administration of Taxes”

Justification – These rules are necessary to expand upon the duties and powers granted to the Department of Taxation under chapter 231 in order to administer the state tax laws.

2. Chapter 18-235 - “Income Tax Law”

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

3. Chapter 18-237 - “General Excise Tax Law”

Justification – These rules are necessary to expand upon the provisions contained in Chapter 237, of which, the essential purpose is to levy and assess and collect annually privilege taxes against persons on account of their business and other activities in the State measured by the application of rates against values of products, gross proceeds of sales, or gross income.

4. Chapter 18-237D - “Transient Accommodations Tax”

Justification – The purpose of this rule is to expand upon the provisions contained in Chapter 237D, of which, the essential purpose is to levy and assess and collect each month a tax of 7.25 percent on the gross rental or gross rental proceeds derived from furnishing transient accommodations.

5. Chapter 18-238 - “Use Tax Law”

Justification – The purpose of this rule is to expand upon the provisions contained in Chapter 238, of which, the essential purpose is to levy an excise tax on the use in this state of tangible personal property which is imported, or purchased from an unlicensed seller, for use in this state, or on the value of services or contracting that are performed by an unlicensed seller at a point outside the state and imported or purchased for use in this state.

6. Chapter 18-241 - “Taxation of Banks and Other Financial Corporations”

Justification – The purpose of this rule is to expand upon the provisions contained in Chapter 241, of which, the essential purpose is to levy a franchise tax on every national banking association, every building and loan association, every financial services loan company, financial corporation, small business

investment company, trust company, mortgage loan company, financial holding company, development company, and subsidiary located or doing business in the state.

7. Chapter 18-243- "Fuel Tax Law"

Justification – The purpose of this rule is to expand upon the provisions contained in Chapter 243, of which, the essential purpose is to impose a state environmental response tax on each barrel or fractional part of barrel of petroleum product sold by a distributor to any retail dealer or end user, other than a refiner, of petroleum product; every distributor also pays a license tax for each gallon of liquid fuel refined, manufactured, produced, or compounded by the distributor and sold or used by the distributor in the state or imported by the distributor, or acquired by the distributor from persons who are not licensed distributors, and sold or used by the distributor in the state.

8. Chapter 18-245 - "Cigarette Tax Stamping"

Justification – The purpose of this rule is to expand upon the provisions contained in Chapter 245, of which, the essential purpose is for every wholesaler or dealer to pay for the privilege of conducting business and other activities in the state an excise tax for each cigarette sold, used, or possessed by a wholesaler or dealer, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer; and to impose an excise tax on the wholesale price or each article or item of tobacco products sold by the wholesaler or dealer, whether or not sold at wholesale, or if not sold then at the same rate upon the use by the wholesaler or dealer.

9. Chapter 18-247 - "Conveyance Tax"

Justification – The purpose of this rule is to expand upon the provisions contained in Chapter 247, of which, the essential purpose is to impose and levy and collect a tax on all transfers or conveyances of realty or any interest therein, by way of deeds, leases, subleases, assignments of lease, agreements of sale, assignments of agreement of sale, instruments, writings, and any other document, whereby any lands, interests in land, tenements, or other realty sold should be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, lessee or lessees, sub-lessee or sub-lessees, assignee or assignees, or any other person or persons, by the person's or their direction.

10. Chapter 18-251 - "Rental Motor Vehicle and Tour Vehicle Tax"

Justification – The purpose of this rule is to expand upon the provisions contained in Chapter 251, of which, the essential purpose is to levy and assess and collect each month a rental motor vehicle surcharge tax on a rental motor vehicle that is rented or leased; and also to levy and assess and collect each month a tour vehicle surcharge tax determined by the seating capacity of the tour vehicle.

## **XVII. Department of Transportation**

### **Administration Division**

1. Chapter 19-1 - "Practice and Procedure"  
Justification – This rule affects all individuals or businesses that may appeal the department's decisions/actions. The rule is necessary to carry out the purposes and policies of HRS 91.
2. Chapter 19-2 - "Participation in the Federal Minority Business Enterprise Programs"  
Justification – This rule benefits small businesses because federally funded contracts will be awarded, and it provides construction and consultant related work. The rule is required to allow the department to continue to receive federal financial aid for construction and consulting contracts required for the improvement and maintenance of our airports, harbors and highways.
3. Chapter 19-6 - "Service Charge for Delinquent Accounts at the Department of Transportation"  
Justification – This rule is necessary because it assesses penalty on all delinquent accounts, including small business, and establishes a \$25 service charge for delinquent accounts.
4. Chapter 19-20.1 - "Commercial Services at Public Airports"  
Justification – This rule states businesses are required to pay a fee to conduct business at public airports. The rule is necessary because airports are responsible and accountable to the public to provide safe, reliable, timely and convenient service at public airports for all air travelers. Airports are required by federal law to maintain a fee and rental structure that will make our statewide airport system as self-sustaining as possible. Airports rely on the user fees from businesses to help airports operate and maintain the public airports. All for-profit businesses that use airport facilities are expected to contribute their fair share to making the statewide airport system self-sustaining.
5. Chapter 19-33 - "Control of Hazardous Materials & Waste at Public Airports"  
Justification – This rule is necessary because it states businesses are required to comply with federal regulations governing fuel handling at public airports.
6. Chapter 19-34 - "Tour Aircraft Operations at Public Airports"  
Justification – The purpose of this rule is to establish safe and orderly aircraft fueling operations at public airports. The rule is necessary because businesses are required to pay a fee to conduct business at public airports. Further, airports are responsible and accountable to the public to provide safe, reliable, timely and convenient service at public airports for all air travelers. Airports are required by federal law to maintain a fee and rental structure that will make our statewide airport system as self-sustaining as possible. Airports rely on the user fees from businesses to help airports operate and maintain the public airports. All for-profit businesses that use airport facilities are expected to contribute their fair share to making the statewide airport system self-sustaining.



7. Chapter 19-37 - "Fuel Handling Procedures at Public Airports"  
Justification – The purpose of this rule is to establish safe and orderly aircraft fueling operations at public airports in the State. This rule is necessary because businesses are required to comply with federal regulations governing fuel handling at public airports.
8. Chapter 19-38.1 - "On-Demand Taxi Service at Public Airports"  
Justification – The purpose of this rule is to regulate the open-access taxi system at public airports and to ensure safe, orderly and reliable taxi service for the traveling public. The rule is necessary because businesses are required to pay a fee to conduct business at public airports.

### **Harbors Division**

9. Chapter 19-41 - "Rules Relating to General Provision"  
Justification – This rule establishes the department's authority and requires harbor users' compliance with established rules and regulations with penalties for non-compliance, which could result in significant costs to small businesses operating within commercial harbors. The rule is necessary because it establishes the scope of the department's authority; provides definitions of terms; designates positions of authority; sets general terms of implied agreements between the department and harbor users; requires reports; indemnifies the department from operators' claims; sets standards for operators' property and facilities; designates storage sites and special areas; requires written requests and complaints; cites HRS 266 as basis for enforcement and penalties; permits sever-ability of rules; and repeals prior rules.
10. Chapter 19-42 - "Vessel and Harbor Controls"  
Justification – This rule requires deposits to guarantee payment for charges incurred by vessels, interest payments, performance bonds, repairs of damages to state property, suspension of operations, permits, insurance coverage, minimum gross receipts, vessel removal and impoundment, sale of vessels, salvage, and charges for cleaning wharves, which could result in significant costs to small businesses operating in commercial harbors. This is necessary because it rules governing vessel and harbor control, addressing: Subchapter 1 – General Provisions; Subchapter 2 – Small Craft and Smaller Commercial Vessels; Subchapter 3 – Waterways; Subchapter 4 – Safety, Cleanliness, and Use of Facilities; Subchapter 5 – Welding and Burning Operations on Piers and Wharves and Aboard Vessels; Subchapter 6 – Private Installation or Construction.
11. Chapter 19-43 - "Motor Vehicles"  
Justification – This rule authorizes the collection of parking fees and charges, towing and impounding of vehicles, and permits for operating vehicles, which could result in significant economic impacts to small businesses operating in commercial harbors. This rule is necessary because it governs the applicability of statutes, traffic codes and ordinances; jurisdiction of harbormaster over vehicles; licensing, safety inspection and insurance; operation of vehicles; traffic controls; parking fees and charges; removal of vehicles; ground transportation;

admittance into cargo storage areas; speed limits; emergency type vehicles; vehicles classified as cargo; parking stalls; reserved parking stalls; tow zone or tow-away zone; authority to remove illegally parked cars; parking prohibitions; curb markings; traffic lane markings; parking zones; restricted or special parking; parking meter zone; designation of parking meter stalls; placement of parking meters; method of parking; meter operating hours; operations of parking meters; reserved parking zone; parking time limits; parking by permit; violations.

12. Chapter 19-44 - "Rules Relating to Services and Procedures, Tolls and Fees"  
 Justification – This rule establishes the rates and authorizes the collection of fees for fresh water, electricity, telephone services, delinquent payments, delinquent reports, labor and equipment charges, berthing schedule changes, damages to state property, key deposit, dishonored check service charge, state container freight station surcharge, dockage, and offshore dockage, movement within a harbor, use of breasting buoys or breasting dolphins, vessels under repair, vessels anchoring or mooring to buoys or dolphins in state harbors, small craft mooring and other fees, advance payments for small craft mooring, advance payment required, fee for berth reservation for small craft absent for extended periods, mooring fees for small craft assigned temporary moorings or occupying without permission, excessive water usage service charge, fees for use of facilities for private gain, lease agreements, fees for placement on the list of approved marine surveyors, rental of office space, rental of storage space, storage of stevedoring and other equipment, payment and reporting of storage, utilities for rentals, charges during a state of emergency, rental rates of parking stalls, parking meter operating hours and rates, ground transportation, charges for enclosure or obstruction of parking meter stalls incidental to construction, wharfage payment, wharfage guarantee, wharfage report, wharfage computation, transshipment of cargo, wharfage rates, free time computation, cargo storage assignment, free time allowances, loading and unloading cargo into and out of shipping devices, computation of demurrage, demurrage rates, payment of demurrage, demurrage cargo report, vessels subject to port entry fees, and port entry fee schedule, which could result in economic burdens to small businesses operating within commercial harbors.

The rule is necessary because it addresses the general provisions; dockage; small craft and other vessel fees; rental of office and storage space; rental of parking stalls; wharfage; free time and penalties; demurrage; and port entry fees.

### **Highways Division**

13. Chapter 19-101 - "Movement of Overweight Vehicles Along and Upon Hana Highway (FAS 360) Between Kailua Village and Hana"  
 Justification – This rule protects the highway facilities from overweight vehicles that could damage the highway by issuing a permit that is a cost item.
14. Chapter 19-102 - "Fee Schedule for the Issuance of a Permit to work on State Highways"  
 Justification – This rule is necessary to recover the costs associated with processing permits, to assure work on the highway is done in accordance with

state and federal rules and regulations, and to minimize disruption to existing traffic.

15. Chapter 19-104 - "The Movement by Permit of Oversize and Overweight Vehicles"

Justification – This rule is necessary to protect the highway facilities from overweight vehicles that could damage the highway by issuing a permit that is a cost item.

16. Chapter 19-105 - "Accommodation and Installation of Utilities on State Highways and Federal Aid Country Highways"

Justification – This rule is necessary to be in compliance with state and federal regulations; permit is issued to do work which is a cost item.

17. Chapter 19-121 - "Traffic Records"

Justification – *The impact of this rule on small business is questionable; DBEDT and SBRRB may need to determine, as it depends on what part of the rule is amended.* Currently, a \$70,000 bond requirement is part of this rule. Because of the ever increasing number of traffic accidents occurring on the public highways each year, it is deemed in the public interest that a statewide, interrelated traffic records system shall be established. The system shall be designed to assure that appropriate data on traffic accidents, drivers, motor vehicles, and roadways are available to provide: (1) a reliable indication of the magnitude and nature of the highway traffic accident problem; (2) a reliable means for identifying short-term changes and long-term trends in the magnitude and nature of traffic accidents; and (3) a valid basis for the following items. The detection of high or potentially high accident locations and causes, the detection of health, behavioral, and related factors contributing to accident causes, the design of accident, fatality, and injury countermeasures, the development of means for evaluating the cost effectiveness of these measures, and the planning and implementation of selected enforcement and other operational programs.

18. Chapter 19-123 - "Statewide Motorcycle, Moped and Motor Scooter Education Courses and Licensing Skill Test Waiver"

Justification – *The impact of this rule on small business is questionable; DBEDT and SBRRB may need to determine, as it depends on what part of the rule is amended.* It may be a cost item to some to be in compliance with the rule. The purpose of this chapter is to establish statewide motorcycle, moped, and motor scooter education courses for persons seeking to comply with HRS §§286-108, 286-107 or 43:10G-104.

19. Chapter 19-124 - "Protection Devices for Motorcycle and Motor Scooter Operators and Passengers"

*The impact of this rule on small business is questionable; DBEDT and SBRRB may need to determine, as safety requirements are cost items to those who have to be in compliance with the rule.*

The operation of motorcycles and motor scooters has been found to result in a high incidence of disabling personal injuries and deaths. The effects of these injuries and deaths extended beyond the person injured or killed and the person's family, to generally affect the health and welfare of the people of the state. The disabling personal injuries and deaths have an economic impact on the people of the state to the extent that they may result in a requirement for the furnishing of medical rehabilitative, welfare aid or assistance. The prevention or reduction in the severity of injuries resulting from the most common types of motorcycle accidents by the use of protective helmets and goggles, safety glasses, face shields, or other eye and face protection devices, is deemed to be in the public's interest.

20. Chapter 19-128 - "Design, Placement, and Maintenance of Traffic Control Devices"

Justification – *The impact of this rule on small business is questionable. DBEDT and SBRRB may need to determine, as it depends on what part of the rule is amended.* For example, spacing of cones and types of work zone safety (signage) requirements. The proper design, installation, placement, and coordination of traffic control devices on public streets and highways can contribute substantially, not only to the efficient movement of traffic, but also to the development of a safer environment on streets and highways.

21. Chapter 19-129 - "Use of Traffic Control Devices at Work Sites on or Adjacent to Public Streets and Highways"

Justification – *The impact of this rule on small business is questionable; DBEDT and SBRRB may need to determine, as it depends on what part of the rule is amended.* Cost items to sub-contractors are to be in compliance with this HAR. This rule is necessary because construction maintenance, engineering survey, and any other work being conducted on, adjacent to, above, below, or near streets and highways that may temporarily obstruct any portion of the roadway, constitutes major hazards to motorists and pedestrians to workmen at the site. Therefore, traffic devices shall be used by all persons who perform construction, maintenance, engineering survey, any other work on, adjacent to, above, or below, any street or highway in the state.

22. Chapter 19-132 - "Approval and Revocation of Approval for the Display, Sale, and use of Vehicle Equipment"

Justification – This rule affects automobile parts stores, which are typically small businesses, because they restrict items that can be sold for use on motor vehicles. Although the restrictions eliminate potential profit that could be derived from the sale of unapproved equipment items, the restrictions also eliminate potential for crashes caused by the use of unsafe equipment items. The rule needs to be continued because it ensures that certain motor vehicle equipment is certified as being safe for use on motor vehicles that are used on public roads. In 2002, there were over a million motor vehicles in Hawaii. All these vehicles need to be repaired at one time or another. When equipment items are replaced, it is important that the replacement items have the same safety characteristics as the original items.

### 23. Chapter 19-133.2 - "Periodic Inspection of Vehicles"

Justification – This rule affects small businesses because the inspection stations are typically gas stations or motor vehicle repair shops. The cost for a car inspection is \$14.75; the motorcycle inspection fee is \$8.75. All but \$1.50 of the fee is income to the inspection station. In 2002, there were 908,404 motor vehicles statewide and 20,427 motorcycles.

This rule needs to be continued because it controls the Periodic Motor Vehicle Inspection (PMVI) process. The purpose of the mandatory inspection program is to ensure that motor vehicles are maintained in reasonably safe operating conditions. This will lessen the probability of a crash being caused by mechanical failure. The rules inform inspectors how to inspect vehicles and provide criteria for passing or failing a vehicle. The rules guide inspectors through the inspection process and provide documentation should the inspector be questioned regarding the criteria used during the inspection. The rules assist motor vehicle owners who bring their vehicles to stations for inspections by allowing them to know what to expect and how to prepare for the inspection. In the event of a disagreement regarding how an item was inspected, both the inspector and vehicle owner can refer to the rules and settle the disagreement. Chapter 19-133.5 provides penalties and criteria for the various penalties.

### 24. Chapter 19-133.5 - "Suspension or Revocation of an Official Inspection Station or Inspectors Certification"

This rule affects small businesses because most inspection stations are gas stations, motor vehicle repair shops or motor vehicle sales dealers. Since conducting inspections can significantly increase income for a station, a suspension or revocation can result in an adverse financial impact.

This rule needs to be continued because it provides penalties for inspectors and inspection stations that conduct inappropriate inspections. The threat of a penalty ensures that inspections are done properly. Proper inspections should improve highway safety by reducing the probability of a crash being caused by mechanical failure. This rule is the complement of Chapter 19-133.2, which controls the Periodic Motor Vehicle Inspection (PMVI) process; it informs inspectors how to inspect vehicles and provide criteria for passing or failing a vehicle, and provides inspection criteria to guide inspectors through the inspection process as well as provide documentation should he or she be questioned regarding the criteria used during the inspection. The rules assist motor vehicle owners who bring their vehicles to stations for inspections by allowing them to know what to expect and how to prepare for the inspection. In the event of a disagreement regarding how an item was inspected, both the inspector and vehicle owner can refer to the rules and settle the disagreement. The rule provides penalties and criteria for the various penalties for inappropriate inspections or associated activities.

### 25. Chapter 19-135 - "Periodic Safety Inspection of Mopeds"

Justification - This rule affects small businesses because private inspection stations conduct the inspections for a fee (\$8.75), and the stations often are moped dealers or gas stations; moped inspections provide ancillary income of about \$7.25 per moped inspected. (There are approximately 15,000 mopeds registered statewide.)

26. Chapter 19-143 - "Pupil Transportation Safety"

Justification – This rule affects small businesses, as it may be a cost item to school bus equipment compliance. The purpose of the rule is to provide safe transportation of students by setting safety requirements relating to school bus equipment, design, construction, and identification, driver training and qualifications operations, loading and unloading, and maintenance and inspection.

**Statewide Transportation Planning Office**

27. Chapter 19-150 - "Parking for Disabled Persons"

Justification – This rule states that small businesses must comply with the HAR. The rule is necessary to establish a uniform parking system to enhance access for the safety of persons with disabilities.

**XVIII. University of Hawaii**

1. Chapter 20-15 - "Rules Governing Agriculture Diagnostic Services User Fees"

Justification – The agriculture diagnostic service fees include fees for services including tissue analysis, nutrient solution analysis, feed and forage analysis, pesticide residue analysis, and pathogen analysis, among others. These services were at one time, requested by farmers, ranchers, homeowners and the general public. The fees are to recover the University's expenses in performing such services. The rules may affect commercial diagnostic services. The University is prohibited from competing against the private sector. However, currently there is a demand for such services from the community and no one, aside from the University, can meet that need.

## **Appendix E**

**Hawaii Administrative Rules (“HAR”), in effect on July 1, 1998, that have received the most complaints or that have resulted in the most citations.**

**I. Department of Accounting and General Services**

None submitted.

**II. Department of Agriculture**

1. Chapter 4-8 – “Agricultural Loan program Rules”
2. Chapter 4-9 – “The Agricultural Loan Program”
3. Chapter 4-16 – “Cattle, Sheep, and Goats”
4. Chapter 4-17 – “Swine”
5. Chapter 4-19 – “Poultry and Birds”
6. Chapter 4-29 – “Dog, Cast and Other Carnivores”
7. Chapter 4-68 – “Noxious Weed Rules”
8. Chapter 4-69A – “Pests for Control or Eradication”

**III. Department of the Attorney General**

No administrative rules that affect small business.

**IV. Department of Budget and Finance**

**Financial Administration Division**

None submitted.

**Public Utilities Commission**

1. Chapter 6-62 – “Motor Carrier Rules and Classification of Property and Passenger Carriers”
2. Chapter 6-63 – “Motor Carrier Tariffs and Schedules”

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

None submitted.

**VI. Department of Commerce and Consumer Affairs**

None submitted.

**VII. Department of Defense**

No administrative rules that affect small business.

**VIII. Department of Education**

None submitted.

**IX. Department of Hawaiian Home Lands**

No administrative rules that affect small business.

**X. Department of Health**

**Sanitation Branch**

1. Chapter 11-12 – “Food Service and Food Establishment Sanitation Code”



**Vector Control Branch**

2. Chapter 11-26 – “Vector Control”

**Food and Drug Branch**

3. Chapter 11-29 – “Food & Food Products”

**Noise, Radiation and Indoor Air Quality Branch**

4. Chapter 11-39 – “Air Conditioning & Ventilating”
5. Chapter 11-46 – “Community Noise Control”
6. Chapter 11-501 – “Asbestos Requirements”

**Clean Water Branch**

7. Chapter 11-55 – “Water Pollution Control”

**Clean Air Branch**

8. Chapter 11-60.1 – “Air Pollution Control”

**Wastewater Branch**

9. Chapter 11-62 – “Wastewater Systems”

**Office of Health Care Assurance**

10. Chapter 11-99 – “Intermediate Care Facilities for the Mentally Retarded”
11. Chapter 11-100 – “Adult Residential Care Homes”
12. Chapter 11-101 – “Extended Care Adult Residential Homes”

**Epidemiology**

13. Chapter 11-156 – “Examinations and Immunizations”

**Solid and Hazardous Waste Branch**

14. Chapter 11-58.1 – “Solid Waste Management Control”
15. Chapter 11-260 – “Hazardous Waste Management General Provisions”
16. Chapter 11-264 – “Hazardous Waste Management Standards for Owners & Operators of Hazardous Waste Treatment, Storage, & Disposal Facilities”
17. Chapter 11-279 – “Standards for the Management of Used Oil”
18. Chapter 11-281 – “Underground Storage Tanks (USTs)”

**XI. Department of Human Resources Development**

No administrative rules that affect small business.

**XII. Department of Human Services**

None submitted.

**XIII. Department of Labor and Industrial Relations****Unemployment Insurance Division**

1. Chapter 12-5-93(e)(21) – “Benefits appeals”

### **Disability Compensation Division**

2. Chapter 12-10-65 – “Deposition”
3. Chapter 12-10-73 – “Compensability denied or not accepted”
4. Chapter 12-12-6 – “Employee already disabled”
5. Chapter 12-14-10 – “Vocational rehabilitation plan, revision, or modification considered approved if no action is taken by the director on objections”
6. Chapter 12-14-23 – “Responsibility”
7. Chapter 12-15-14 – “Sanctions and fines”
8. Chapter 12-15-15 – “Filing complaints”
9. Chapter 12-15-32 – “Physicians”
10. Chapter 12-15-36 – “Assistants to providers of service”
11. Chapter 12-15-40 – “Concurrent medical treatment”
12. Chapter 12-15-42 – “Consultations”
13. Chapter 12-15-51 – “Surgery”
14. Chapter 12-15-90 – “Workers’ compensation medical fee schedule”
15. Chapter 12-15-94 – “Payment by employer”

### **Workforce Development Division**

16. Chapter 12- Subtitle 2 -6 – “Employment and Training Fund Program (ETF)”

### **State Fire Council**

17. Chapter 12-45.1 – “State Fire Code”

### **Civil Rights Commission**

18. Chapter 12-46 – “Hawaii Civil Rights Commission”

### **Hawaii Occupational Safety and Health Division**

#### **Part 2 – General Industry Standards**

19. Chapter 12-63.1 – “Fire Protection”
20. Chapter 12-64.1 – “Personal Protective Equipment”
21. Chapter 12-67.2 – “General Environmental Controls”
22. Chapter 12-71.1 – “Means of Egress”
23. Chapter 12-72.1 – “Walking-Working Surfaces”
24. Chapter 12-73.1 – “Materials Handling and Storage”
25. Chapter 12-80.1 – “Machinery and Machine Guarding”
26. Chapter 12-89.1 – “Electrical”

#### **Part 3 – Construction Standards**

27. Chapter 12-113.1 – “Fire Prevention and Protection”
28. Chapter 12-114.2 – “Personal Protective and Life Saving Equipment”
29. Chapter 12-115.1 – “Housekeeping”
30. Chapter 12-121.2 – “Fall Protection”
31. Chapter 12-127.1 – “Tools, Hand and Power”
32. Chapter 12-129.1 – “Motor Vehicles, Mechanized Equipment, and Marine Operations”
33. Chapter 12-130.1 – “Scaffolds”
34. Chapter 12-141.1 – “Electrical”

**Part 8 – Health Standards**

- 35. Chapter 12-203.1 – “Hazard Communication”
- 36. Chapter 12-205.1 – “Bloodborne Pathogens”

**Part 10 – Boilers and Pressure Vessels**

- 37. Chapter 12-220 – “General, Administrative and Legal Provisions”

**Part 11 – Elevators**

- 38. Chapter 12-230 – “Elevators, Dumbwaiters, Escalators, and Moving Walks”

**XIV. Department of Land and Natural Resources**

None submitted.

**XV. Department of Public Safety**

No administrative rules that affect small business.

**XVI. Department of Taxation**

None submitted.

**XVII. Department of Transportation**

None submitted.

**XVIII. University of Hawaii**

None submitted.