

SMALL BUSINESS IMPACT STATEMENT

Agency: Hawaii Community Development Authority
Chapter and Title: Chapters 211, 212, 213 and 214 Title 15
Contact: Richard Kuitunen, 587-8177

A. Description:

Proposed new rules to Kakaako Community Development District Makai Area Plan and Rules, Chapters 211, 212, 213 and 214 Title 15, Hawaii Administrative Rules (HAR), Relating to Kewalo Basin use in the Makai Area.

B. Information on Proposed Rule Change:

1. *Exact Changes and Reason for Changes:*

The Hawaii Community Development Authority (“HCDA”) proposes to promulgate the Kewalo Basin Rules to regulate the usage of Kewalo Basin when administration of the Basin is relinquished by Department of Transportation, Harbors Division (DOT) on or about September 1, 2007.

2. *Nature of Proposed Changes:*

- a. Is the proposed rule authorized by a federal or state law or statute that does not require an agency, to interpret or describe the requirements of the law or statute?

Yes No

- b. Is the proposed rule an emergency regulation?

Yes No

However, without promulgation of the rules, there will be no governing documentation for operation of Kewalo Basin as

of September 1, 2007 (intended DOT transfer date) and all Basin operations could cease.

c. Will the proposed rule affect small business because it:

1) will apply to for-profit enterprise consisting of fewer than 200 full-time or part-time employees?

Yes No

2) will cause a direct and significant economic burden upon a small business?

Yes No

In regulating usage of the Basin, the effect will decidedly be direct. However, basic dockage rate increases fees based upon 50% of the Hawaii CPI Index increase from 1996 to 2006 (1996 was last time DOT increased basic rate).

3) is directly related to the formation, operation, or expansion of a small business?

Yes No

Operations will be regulated by the rules.

3. *Departmental Impact:*

Yes No

(If yes, describe long and short-range impacts, estimated in dollar amounts or personnel, due to enforcement, administration, execution, or implementation of the proposed rule that may result in a savings or shortfall under the current program budget.)

The management of Kewalo Basin is proposed to be outsourced in a public-private partnership. However, should HCDA be required to manage Kewalo Basin itself, there will be impact on the department as to funding and personnel.

4. *Impact on General Public?*

Yes No

(If yes, describe long- and short-range impacts due to the enforcement, implementation, or execution of the proposed rule.)

5. *Impact on State economy?*

Yes No

(If yes, describe long and short-range impacts)

In the long-term, the proposed amendments will have beneficial impacts by providing regulation, capital improvements and greater utilization of the Basin will add to the State's economic base and create new business opportunities.

In general, an overall growth in the economic activity of the area is anticipated to provide increased revenue to State-financed redevelopment activities in Kakaako.

6. *Final result anticipated from the proposed rule change.*

The rules will help to facilitate the live, work, play and learn vision of HCDA. The rules will also help perpetuate the commercial, residential, visitor and educational experience afforded by Hawaii's waterfront environment.

7. *Other alternatives explored to carry out the statutory purpose other than rule-making:*

None, no other legal means to carry out administration of the Basin as the legislature transferred ownership to HCDA in 1990 and DOT is relinquishing management control.

Small Business Impact Statement:

8. *Is there a new or increased fee or fine?*

Yes No

(If yes, provide the following information)

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

DOT rules were last amended and compiled in 1996. Land values, operating costs and return on investment have changed since that time.

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

Proposed base dockage rate increased approximately 12% from current DOT rates (in place since 1996).

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

Basin currently has deferred maintenance, under utilization, inefficient usage and lack of direction (i.e. strategic plan).

- d. Administrative cost to implement or enforce the proposed rule.

Undetermined.

- e. Amount agency expects to collect annually from change in fee or fine.

Undetermined.

- f. Will fee revert to general fund? If not, specify where and how monies will be allocated.

Funds generated will go into the HCDA revolving fund for operation and improvements in the Basin.

- g. Criteria used to determine amount of fee or fine.

Proposed base dockage rates increased over current by CPI. With annual adjustments based upon CPI. Provision for greater fee for slips located in renovated docks once they are renovated.

9. *Will the proposed rule affect small business?*

Yes No

If yes, provide the following information:

- a. Describe the type(s) of small business that will be directly or adversely affected by, bear the costs of, or directly benefit from the proposed rule.

All users (current and future) will bear the costs and directly benefit from improvements anticipated to the Basin, including: greater amenities and services; improved facilities; greater usage; more customer traffic; more convenient services; and, responsive management.

- b. Description of any increase in direct costs, in estimated dollar amounts, to small business, such as fees or fines, or other direct costs associated with compliance.

As proposed rules incorporate most all thresholds and required reporting as DOT current rules, no additional compliance costs are envisioned.

- c. Description of any increase in indirect costs, in estimated dollar amounts to small business, such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss or other costs associated with compliance.

None.

- d. Description of how small business was involved in the development of the proposed rules.

Three harbor users represented other users on the Advisory Task Force. All users had been provided with a survey form to share their input in the process. Tenant wide meeting and public meeting were held to discuss concerns. Multiple meetings with tenant organization representing majority of tenants. Multiple meetings with advisory group on transition. All meeting minutes, drafts of rules and notices posted on HCDA website in addition to e-mail blast to all recipients on e-mail list.

- e. Method considered or used to reduce the impact on small business such as:

- Simplification,

Rules promulgated in plain English. Rules eliminated DOT contradictory provisions with help from DOT representatives.

- Consolidation,

NA.

- Varying schedule for fees or fines,

Two tiered basic dockage rate for existing slips and improved slips that will have enhanced utility.

- Modified compliance or reporting requirements, or

NA.

- Other alternative or less stringent measures proposed by affected businesses and, if proposed, why those proposals were not adopted.

NA.

- f. If the proposed rule is more stringent than those mandated by governing federal or state law or statute, explain how and why the proposed rule is more stringent.

NA.

10. *Was the departmental advisory committee on small business or other small business or organizations consulted during the drafting of the proposed rule, and were the committee's recommendations, if any, incorporated into the proposed rule?*

Yes, they are represented through Task Force, Kewalo Advisory Group. Kewalo Ocean Activities and survey of users.

11. *Did the Small Business Regulatory Review Board or a small business make any recommendation to the department or agency regarding the need for any rule change that may be related to the proposed rule?*

Yes No