



EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

OCT 16 2025

ADMINISTRATIVE DIRECTIVE NO. 25-04

TO: All Department and Agency Heads

SUBJECT: Policy and Procedure for the Adoption, Amendment, and Repeal of
Hawai'i Administrative Rules (HAR)

Effective November 1, 2025, this administrative directive establishes the policy and procedure by which State departments and agencies are to request executive approval of the proposed adoption, amendment, or repeal of administrative rules. This administrative directive supersedes Administrative Directive No. 09-01, *Policy and Procedure for the Adoption, Amendment, or Repeal of Administrative Rules*, dated October 29, 2009, and any other policies or procedures for the adoption, amendment, or repeal of administrative rules in operation since then, including the unissued Administrative Directive No. 18-02, *Policy and Procedure for the Adoption, Amendment, or Repeal of Hawai'i Administrative Rules*, dated January 1, 2018.

Legal References

1. Chapter 91, Hawai'i Revised Statutes (HRS), the Hawai'i Administrative Procedure Act, specifically section 91-3, HRS, provides the legal steps for the administrative rules process, including detailed procedures. Note that section 91-3(d), requires that "[t]he adoption, amendment, or repeal of any rule by any state agency shall be subject to the approval of the governor."
2. Chapter 201M, HRS, the Small Business Regulatory Flexibility Act, specifically section 201M-2(b), HRS, requires that "[i]f the proposed rules affect small business, the agency shall consider creative, innovative, or flexible methods or compliance for small business and prepare a small business impact statement to be submitted with the proposed rules to the departmental advisory committee on small business and the [Small Business Regulatory Review] board when the rules are essentially

complete and before the rules are submitted to the governor for approval for public hearing. Chapter 201M does not apply to emergency rulemaking or rules adopted to comply with a federal requirement.

Policy

Submission Platform

All requests to the Office of the Governor regarding Hawai'i Administrative Rules must be submitted through the Hawai'i Administrative Rules Processing Site (HARPS):

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

Communication

For questions on the submission process, reach out to gov.har@hawaii.gov or contact your respective GOV/Policy point-of-contact directly.

1. Prior to Public Hearing

- A. Attorney General.** The department or agency shall obtain approval from the Attorney General “as to form.”
- B. Small Business Regulatory Review Board (SBRRB).** Before submitting any proposed new or amended rules to the Governor for approval for public hearing, the agency shall determine whether the proposed rules affect small business by asking the SBRRB to review the rules, pursuant to section 201M-5, HRS.
 - (1) If the SBRRB determines that a proposed rule will **not** have a significant economic impact on a substantial number of small businesses, the SBRRB shall submit a statement to that effect to the agency that sets forth the reason for its decision, and the agency may proceed with its rulemaking.]
 - (2) If the SBRRB determines that a proposed rule **will** have a significant economic impact on a substantial number of small businesses, the agency shall complete the steps specified in section 201M-2, HRS, including:
 - (a) Preparing a small business impact statement to be submitted with the proposed rules to the SBRRB; and

- (b) Consulting with the administratively attached departmental advisory committee on small business (section 201M-4), if one has been established.

The agency may also consider the SBRRB's suggested changes to the proposed rule to minimize the economic impact, if the SBRRB has provided such comments.

- C. Formatting.** Ensure formatting of rules complies with instructions in the *Hawai'i Administrative Rules Drafting Manual*, 3rd edition, June 2016, Legislative Reference Bureau (LRB), State of Hawai'i. A link to the manual can be found at https://lrb.hawaii.gov/wp-content/uploads/2016_HawaiiAdministrativeRulesDraftingManual.pdf

Note: The LRB has offered and continues to provide the free service of reviewing new rules or changes to existing rules for compliance with the Hawai'i Administrative Rules format.

The *Hawai'i Administrative Rules Drafting Manual*, at pp. 313–322, provides Suggestions for Preparation of Rules, which serve as a practical checklist for many of the essential steps involved in drafting and finalizing administrative rules.

2. Public Hearing Request

To conduct a public hearing, a department or agency must make a request to the Governor by uploading the following items into HARPS:

- A. Proposed Rules, BOTH Standard and Ramseyer.**
- B. SBRRB Impact Statement and Comments (or Statement that there is no Small Business Impact).**
- C. Memo to the Governor.** Please include the following information:
 - (1) Summary of proposed rule or rule change:
 - Why are the rules being adopted, amended, or repealed?
 - What problem do the rules mean to solve?

- (2) Impact of Rules:
 - How do the rules address the problem?
 - Who are the stakeholders, both positive and negative?
 - What are potential problems with the rules?
 - What is the fiscal impact of the rules?
 - What is the economic impact to the State?
- (3) Consequences if the proposed rule or rule change is not made:
 - What are the consequences if the rules are not adopted, amended, or repealed?
- (4) All changes made to existing rules must be listed. (Not applicable for new chapters of rules—that is covered in “(1)” above.)
 - Include a detailed list of all changes, an explanation for why the change is being made, and the corresponding sections.
- (5) If these rules are time sensitive or require an expedited review, please provide an explanation.

BUF Review. The Department of Budget and Finance (BUF) will receive electronic notification upon submittal of a public hearing request and will have an opportunity to submit their comments and concerns through HARPS.

- BUF is required to provide a response on the proposed or amended rule’s fiscal impacts.
- BUF’s comments are reviewed by GOV/Policy before approval for public hearing.

3. Public Hearings

Upon approval of a public hearing request, the department must:

- (1) Ensure the public hearing notice is in accordance with chapter 91-3, HRS;
- (2) Give at least thirty days’ notice of the public hearing date;
- (3) Enter all public hearing dates, times, and locations into HARPS; and
- (4) Provide a public hearing summary (see below).

4. Final Rule

In the Request for Approval of Final Rule, the department or agency shall provide the following in HARPS:

A. Public Hearing Summary

- (1) What recommendations and concerns were brought up by public testifiers?
- (2) Were changes incorporated?
- (3) Why or why not?

B. Final Rule Changes

- (1) Changes in Final Rule:
 - What changes were made in the Final Rule?
 - Why were the changes made?
- (2) Other:
 - Describe how the department or agency has worked with stakeholders to gain support for the rule.
 - Have potential problems been addressed? Do the same problems exist with the Final Rule?
 - Does Office of the Governor staff need to meet with any people or organizations before the Governor signs the Final Rule?

For final rule approval, the following items must be uploaded and completed in HARPS:

- Proposed Rules in Standard and Ramseyer formats;
- SBRRB Impact Statement and Comments;
- BUF review;
- Public hearing information;
- Public hearing summary;
- Final Rule changes;
- Final Rules in Standard and Ramseyer formats; and
- Updated Memorandum to the Governor (see below).

5. Filing of Final Rule

Upon filing of Final Rule through HARPS, the department or agency shall submit the following **hard copies** to the Office of the Governor, Attn: GOV/Policy, State Capitol, Room 415:

- A. Memorandum to the Governor**, initiated by the department or agency head, that sets forth the changes.
 - (1) Include all information required in the memo referenced in section 2.C., incorporating any applicable updates.
 - (2) Wet signature by department or agency heads is preferred; however, department or agency heads may e-sign their documents as long as the signature is clear and is easily identifiable as belonging to the person signing.

- B. Three sets in hard copy of the proposed rules in Standard format.**
 - (1) Each set of the Standard format shall be signed by the department or agency head, and deputy attorney general as to form.
 - (2) Please ensure all adoption dates of rules are filled in on the first and last page.
 - (3) There shall be a blank signature line on each of the three sets of the Final Rules for Governor's signature, a blank date line for Governor, and a blank filing date line to be filled in by the Office of the Lieutenant Governor.

- C. One set in hard copy of the proposed rules in Ramseyer format.**

Note: Please do **not** send Final Rule Approvals to transmit.docs@hawaii.gov.

Mahalo,

A handwritten signature in black ink, appearing to read "Josh Green".

Josh Green, M.D.

Governor, State of Hawai'i