DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM

Adoption of Chapter 15-214
Hawaii Administrative Rules

November 5, 2008

Chapter 15-214, Hawaii Administrative Rules, entitled "Kewalo Basin Rules Relating to Services and Procedures, Charges, Tolls and Fees", is adopted.

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HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM

SUBTITLE 4

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

CHAPTER 214

KEWALO BASIN RULES RELATING TO SERVICES AND PROCEDURES, CHARGES, TOLLS AND FEES

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KEWALO BASIN RULES RELATING TO SERVICES AND PROCEDURES, CHARGES, TOLLS AND FEES

SUBCHAPTER 1

GENERAL PROVISIONS

§15-214-1 Fresh water. Fresh water for a vessel's use may be obtained from the municipal water

supply agencies. Water, when furnished by HCDA, shall be furnished at cost plus a water surcharge of twenty-five percent for furnishing the water.
[Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-2 Electricity. When a vessel docked at Kewalo Basin has occasion to use wharf lighting or other electric current furnished by HCDA, the electricity shall be charged to the vessel at the cost to HCDA plus an electricity surcharge of twenty-five per cent for furnishing the electricity.
[Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-3 Telephones. Telephone service may be arranged directly with the Hawaiian Telcom or any local carrier and their assigns. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-4 Mooring and unmooring of vessels. The mooring and unmooring of vessels and the shifting, fastening, or releasing of lines of a vessel shall be arranged for by shipping agents. No such service is provided by HCDA. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-5 Delinquent payments. For all delinquent payments due HCDA, interest shall be charged at the rate of one per cent per month on the unpaid balance, including prior interest charges and delinquent account service charges beginning on the first day payment is delinquent and continuing monthly thereafter until the amount due is paid. Without prejudice to any other remedy available to HCDA, a delinquent account service charge of the greater of 5% of the amount owed or $100 per month shall be assessed on any delinquency. The interest charge and delinquent account service charge shall continue to be

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assessed until the delinquency is paid in full. Payments are considered delinquent when not paid within five calendar days from date due. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-6 Delinquent reports. A delinquent report service charge of $100 shall be assessed against an account for which a report such as, but not limited to, a statement of gross receipts is delinquent. If the delinquency continues, a new delinquent report service charge shall be assessed each month and shall continue to be assessed each month until the report is correctly submitted. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-7 Berthing schedule changes. A vessel may be charged for any and all additional costs which may be incurred by HCDA as a result of a delay or change in the berthing schedule of the vessel or an unscheduled vessel berthing. This charge would include all time charges incurred by HCDA, including overtime, if applicable, plus a fifty-six per cent overhead surcharge, as well as additional expenses and costs incurred. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-8 Damage to Kewalo Basin property. Any person responsible for damage to Kewalo Basin property shall make repairs in accordance with HCDA specifications. If HCDA determines that the repairs are completed improperly, or if the responsible party does not undertake the repairs within a reasonable time, HCDA shall act to repair the damage, and shall assess the responsible party as follows:

(1) The direct labor charges including overtime and cost of materials plus a fifty-six per

cent overhead surcharge if the repairs are made by state employees; and

(2) The costs of all contractors employed (i.e., surveyors, divers, etc.), and all time charges incurred by HCDA, including overtime, if applicable, plus a fifty-six per cent overhead surcharge, all subject to a thirty per cent administrative surcharge.

[Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-9 Key deposit. When a tenant requires access to a space or area secured by a HCDA lock, a key shall be furnished; provided the person deposits the following amount with HCDA prior to receiving the key as security for prompt return of the key when access is no longer required:

(1) Two hundred dollars if the access is required for a period of more than ninety days; or

(2) Five hundred dollars if the access is required for a period of less than ninety days.

The deposit shall be forfeited in the event the key is not returned to HCDA when access is no longer required. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-10 Dishonored check service charge. (a) Without prejudice to any other remedy, any person who issues to HCDA a dishonored check, as defined in section 490:3-506.5, Hawaii Revised Statutes, shall be assessed a $20 dishonored check service charge for each dishonored check.

(b) Payment to, and acceptance by, HCDA of a dishonored check service fee shall not be construed as a waiver of any violation of Title 37, Hawaii Penal Code, Hawaii Revised Statutes, or of these rules.

[Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

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§15-214-11 Permit premium. (a) Whenever permittee, stockholder of permittee or owner of an interest in a corporation or other business which has been issued a permit sells or transfers all or part of the permit or ten per cent or more of the stock or interest in the firm, either as a single transaction or an aggregate of several transactions, to any person who is not a stockholder or owner of record on the effective date of these rules, the seller or person transferring such permit or stock or interest shall pay to HCDA a permit premium fee based on the passenger-carrying capacity of the vessel, and shall be as follows:

(1)	Vessels used for bare boat (demise) and sailing charters carrying six or less passengers	none
(2)	Vessels registered by the State or documented by the U.S. Coast Guard to carry six passengers or less, used for charter fishing or other commercial purpose	none
(3)	Vessels certified by the U.S. Coast Guard to carry seven to twenty-five passengers	none
(4)	Vessels certified by the U.S. Coast Guard to carry twenty-five to forty-nine passengers	none
(5)	Vessels certified by the U.S. Coast Guard to carry fifty to seventy-four passengers	none
(6)	Vessels certified by the U.S. Coast Guard to carry seventy-five to ninety-nine passengers	none
(7)	Vessels certified by the U.S. Coast Guard to carry one hundred to one hundred forty nine passengers	none

(b) When less than one hundred per cent of the interest in the permit or corporation is transferred, the permit premium fee shall be based upon a like percentage of the permit or business transferred. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-214-12 to 15-214-17 (Reserved)

SUBCHAPTER 2

DOCKAGE

§15-214-18 Dockage. Dockage shall commence against a vessel:

(1) When making fast to a wharf, dolphin, or other structure;
(2) When occupying the berth immediately alongside a wharf;
(3) When making fast to a vessel lying alongside a wharf or dolphins; or
(4) When first boat, raft, lighter, etc., reaches wharf and shall continue upon such vessel until it is completely freed from and vacates its mooring or anchoring until last boat, raft, lighter, etc., leaves wharf. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-19 Free dockage. Free dockage shall be accorded as follows:

(1) At discretion of HCDA; or
(2) To government owned or operated vessels paying courtesy, training or official visits, or engaged in dredging or repair of harbor facilities. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-20 Full dockage rate. (a) Dockage shall be assessed against all vessels at the full dockage rates except as otherwise provided. In computing dockage, only halves of days shall be considered and dockage shall be assessed as follows:

(1) Twelve hours or less shall be charged one-half of one full day's dockage; and

(2) Over twelve hours and not more than twenty-four hours shall be charged one full day's dockage.

(b) Full dockage rates for vessels shall be as follows:

Charge Per 24-Hour Day

Overall In Feet				
From	But Less Than	Charge Per Mo. Per Lin. Foot For Vessels with annual permit (1)	Charge Per Mo. Per Lin. Foot For Vessels with annual permit (2)	Charge Per Day For Vessels without annual permit (3)
0	40	$5.61	$10.00	$8.00
40	50	$5.61	$10.00	$11.00
50	65	$5.61	$10.00	$16.00
65	75	$5.61	$10.00	$21.00
75	85	$5.78	$10.30	$32.00
85	100	$5.89	$10.50	$49.50
100	120	$6.06	$10.80	$71.50
120	140	$6.18	$11.00	$97.50
140	160	$6.29	$11.20	$127.00
160	180	$6.46	$11.50	$161.00
180	200	$6.57	$11.70	$199.00
200	225	$6.74	$12.00	$269.00
225	250	$7.07	$12.60	$348.50
250	275	$7.41	$13.20	$438.50

(c) Column (1) of the dockage rate table in subsection (b) shall be used for vessels when assigned dockage permits for slips that have not been renovated. Dockage rate, per month per foot of vessel's overall length or length of berth, whichever is greater. The posted rate shall increase January 1 of each year based upon the annual consumer price index, Honolulu, all items 1982-1984=100. This column also applies to those vessels in section 15-214-35.

(d) Column (2) of the dockage rate table in subsection (b) shall be used for vessels when assigned annual dockage permits for slips on piers B, C, Herringbone or any new or extended pier that have been renovated. Slips will be deemed renovated when, subsequent to the effective date of this chapter, the slip has been improved with repaired or replaced electrical or water; new pump out service; or, dock or catwalks have been repaired or replaced. Dockage rate, per month per foot of vessel's overall length or length of berth, whichever is greater. The posted rate shall increase January 1 of each year based upon the annual consumer price index, Honolulu, all items 1982-1984=100. This column also applies to those vessels in section 15-214-35.

(e) Column (3) of the dockage rate table in subsection (b) shall be used for vessels not assigned annual dockage permits. This column also applies to those vessels described in section 15-214-35.

[Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-21 Movement within a harbor. A vessel subject to dockage charges which shifts directly from one berth to another berth within the harbor shall be assessed dockage based upon the total time at such berths considered together. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-22 Reciprocity with other state harbors. HCDA may enter into a memorandum of understanding with

the department of transportation-harbors division or the department of land and natural resources to provide reciprocal rights for vessels without duplicating fees for moorage when Kewalo Basin is inaccessible. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-214-23 to 15-214-33 (Reserved)

SUBCHAPTER 3

SMALL CRAFT AND OTHER VESSEL FEES

§15-214-34 Excessive water usage service charge. An excessive water usage service charge of $150 per day for each day or fraction of a day shall be charged for waste of fresh water, through the use of water for the prolonged operation of ejectors to pump water out of vessels or permit hoses to run unattended. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-35 Fees for use of facilities for private gain. (a) The charges per vessel per month for utilizing Kewalo Basin property or facilities for private gain other than solely for the taking of fish as a principal source of livelihood, shall be as follows:

(1) Cruise boats possessing a valid mooring permit shall be assessed:
    (A) Two times the appropriate dockage rate indicated in section 15-214-20 (depending on the length of vessel); or
    (B) Two per cent of the vessel's monthly gross receipts, whichever is greatest;
(2) A common carrier, operating a passenger transportation system under the authority of

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a certificate of public convenience and necessity issued by the public utilities commission of the State shall be assessed two times the designated dockage rate as indicated in section 15-214-20 (depending on the length of vessel), or two per cent of the vessel's gross receipts, whichever is greatest;

(3) Charter boats possessing a valid mooring permit shall be assessed two times the designated dockage rate as indicated in section 15-214-20 (depending on the length of vessel), or two per cent of the vessel's monthly gross receipts, whichever is greatest;

(4) Pleasure craft possessing a valid mooring permit shall be assessed two times the designated dockage rate as indicated in section 15-214-20 (depending on the length of vessel);

(5) Vessels possessing a valid commercial permit and which use Kewalo Basin facilities as a pick-up or drop-off site for commercial purposes, shall be assessed $500 per month or five per cent of the vessel's monthly gross receipts, whichever is greater, when dockage is not charged; and

(6) Holders of a valid miscellaneous permit shall be assessed fees as detailed in the permit.

(b) A monthly report showing the gross receipts and charges and the total number of passengers carried during the month by the vessel shall be submitted by the permittee to HCDA within thirty days after the last day of the month being reported and the net charges due shall be remitted along with the report for cruise boats in subsection (a)(1).

(c) A monthly report showing the gross receipts derived during the month by the vessel on a form provided by HCDA shall be submitted by the permittee or passenger common carrier authorized by the public utilities commission to HCDA within thirty days after

the last day of the month being reported and the net charges due will be remitted along with the report. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-36 Annual fees for applications. The following annual fees shall be assessed:

(1) Initial application for regular mooring permit - $250;
(2) Renewal of application for regular mooring permit - $125;
(3) Application for temporary mooring permit - $50; and
(4) Application for transfer in the future to another berth of the same characteristics in the same harbor - $75. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-37 Permit agreements. HCDA may, by permit, or mooring agreement, in accordance with state law, grant the use or possession of harbor facilities. Such permits or agreements shall provide for payments of rentals, fees and charges in accordance with law, in lieu of, and notwithstanding the provisions for, fees and charges specified in these rules. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-38 Fee for placement on the list of approved marine surveyors. A fee of $100 for a term of three years shall be assessed against a person applying to be placed on the list of approved marine surveyors or requesting renewal. The fee is not refundable. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-214-39 to 15-214-49 (Reserved)

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SUBCHAPTER 4

RENTAL OF OFFICE AND STORAGE SPACE

§15-214-50 Office space. HCDA may rent available space for use as offices, warehouse or retail for the convenience of agents or owners of vessels, and others, at a price determined by the value of the facility. Rental of other than wharf area shall be by negotiation for each case except where a rate is set by these rules. Rental of ticket booth space shall be set at $125 per month for ticket booths up to 35 square feet plus $2.00 per square foot for any ticket booths larger than 35 square feet upon the effective date of these rules and shall increase each year based upon the annual consumer price index, Honolulu, all items 1982-1984=100 each year on the anniversary date of the permit following January first. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-51 Storage space. Except as provided otherwise, the rental for storage space upon or near Kewalo Basin shall be per month as follows:

(1) Shed storage per square foot floor area $1.25 psf;
(2) Open storage on paved area per square foot 55 cents psf; and
(3) Open storage on unpaved area per square foot 40 cents psf.

A minimum charge of $150 per month shall be levied. For periods of less than fifteen days, the charge will be for a full fifteen days. Areas to be utilized for long periods or under special conditions are to be covered by permits or thirty day revocable permits. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-52 Utilities for rentals. Tenants shall arrange directly with utility companies for water, electricity, and telephone hook-up services. For rentals where utility meters are shared, a flat utility rate based on the rental permit shall be assessed. HCDA shall charge tenants who are not assessed a utility rate the cost of utility services, plus a utilities surcharge of twenty-five per cent. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-53 Charges during a state of emergency. HCDA may waive or reduce payment of charges such as dockage, port entry, cargo storage, or mooring whenever a state of emergency is declared by the governor of the State and HCDA determines that waiver of charges is consistent with the provision of humanitarian relief to disaster-stricken areas of the State. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-214-54 to 15-214-60 (Reserved)

SUBCHAPTER 5

RENTAL OF PARKING STALLS

§15-214-61 Rates. The charges for parking stalls shall be as follows:

	Kewalo Basin
Reserved Parking, Covered	$200 per month
Reserved Parking, Uncovered	$150 per month
Unreserved Parking, Uncovered	$100 per month

The harbormaster may issue special permits to agents and others who have occasional need to drive private vehicles and park on wharves or other harbor property at the rate of $15 per day per vehicle. The harbormaster may designate parking stalls to be inclusive of the rental provided in a revocable permit. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-62 Parking meter operating hours and rates. Parking meters shall be in operation twenty-four hours a day, seven days a week, including Saturdays, Sundays, and holidays. Parking or standing a vehicle in a designated space in a parking meter zone shall be lawful upon deposit of the proper payment as indicated on the parking meter or on posted signs in the area. HCDA may issue parking passes to permittees at those rates provided in section 15-214-61 [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§15-214-63 Ground transportation. In accordance with section 15-213-8, the charge per year for a permit to operate a motor carrier within Kewalo Basin shall be as follows:

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		Kewalo Basin
(1)	Motor coaches capable of carrying 54 or more passengers	$192
(2)	Motor coaches capable of carrying less than 54 passengers	$167
(3)	Mini buses capable of carrying a maximum of 25 passengers	$84
(4)	Vans, limousines, stretchouts, stationwagons, capable of carrying 8 to 17 passengers	$59
(5)	Sedans, station wagons, vans, capable of carrying 1 to 7 passengers	$48
(6)	Taxicabs	By permit only

HCDA may enter into a memorandum of understanding with the department of transportation-harbors division to provide reciprocal rights for motor carriers without duplicating fees. In addition to the foregoing, applicants must demonstrate the following insurance coverage:

	Property Damage Liability Coverage Per occurrence	Bodily Liability Coverage Per occurrence
(1) Vehicles capable of carrying 1-7 passengers	$100,000	$1,000,000
(2) Vehicles capable of carrying 8-17 passengers	$150,000	$2,000,000
(3) Vehicles capable of carrying more than 17 passengers	$300,000	$4,000,000

Taxicab permits shall be placed on the top left side of the dashboard of the vehicle in use and are transferable between vehicles owned by the holder of the permit and covered under an insurance policy recorded with HCDA. All other permits shall be placed on the right hand side of the rear bumper or as near thereto as the configuration of the vehicle allows. When an original vehicle for which a permit was issued is taken out of service before the annual expiration date of the permit, a replacement vehicle may utilize the remaining time on the original permit, provided that the original permit is returned or there is sufficient evidence of it being destroyed or removed so as not to be reusable, there is proof of insurance coverage, and a permit renewal fee of $100 is paid for a replacement sticker for the remaining time on the permit. No permit shall be issued for a period longer than one year at a time. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

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§15-214-64 Charges for enclosure or obstruction of parking meter stalls incidental to construction. (a) Before any person, other than any governmental shall enclose, obstruct, or cause to be enclosed or obstructed any parking stall or portion thereof, incidental to erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting or demolishing any building or structure, or for any other reasons, a permit shall be obtained from HCDA and HCDA shall be paid a sum calculated at the rate of $15 for each such parking meter stall for each day or fraction of a day, during which each stall shall be enclosed or obstructed.

(b) No permit to enclose or obstruct a parking stall shall be issued to any person until the person shall have made a deposit of the sum as required by subsection (a) based on the estimated number of days during which the parking stall shall be so enclosed or obstructed. The person shall notify HCDA immediately upon termination of the enclosure or obstruction. [Eff DEC 0 3 2008] (Auth: HRS §206E-4) (Imp: HRS §206E-4)

§§15-214-65 to 15-214-71 (Reserved)

Chapter 15-214, Hawaii Administrative Rules, on the Summary Page dated November 5, 2008, was adopted on November 5, 2008, following a public hearing held on August 1, 2007, after public notice was given in the Honolulu Star-Bulletin, Hawaii Tribune-Herald, West Hawaii Today, The Maui News, and The Garden Isle on July 2, 2007.

The adoption of Chapter 15-214 shall take effect ten days after filing with the Office of the Lieutenant Governor.

ANTHONY J. H. CHING
Executive Director
Hawaii Community Development Authority

THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism

APPROVED AS TO FORM:

Deputy Attorney General

LINDA LINGLE
Governor
State of Hawaii

Date: NOV 24 2008

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LIEUTENANT GOVERNOR'S OFFICE

Filed

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