

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Amendment and Compilation of Chapter 12-52.1
Hawaii Administrative Rules

(Effective Date)

1. Chapter 12-52.1, Hawaii Administrative Rules, entitled "Recording and Reporting Occupational Injuries and Illnesses", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 8

HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION

PART 1

**GENERAL, LEGAL, AND ADMINISTRATIVE PROVISIONS FOR
OCCUPATIONAL SAFETY AND HEALTH**

CHAPTER 52.1

**RECORDING AND REPORTING OCCUPATIONAL INJURIES AND
ILLNESSES**

§12-52.1-1 State amendments to 29 C.F.R. §1904

§12-52.1-2 Incorporation of federal standard

Historical note: Chapter 12-52.1 is based substantially upon chapter 12-52. [Eff 7/12/82; am 5/28/83; am 8/15/87; am 9/30/94; am 2/8/97; am 7/10/97; am 7/6/99; R 12/29/01]

§12-52.1-1 State amendments to 29 [CFR 1904]

C.F.R. §1904. (a) 29 [~~CFR 1904.1(a)(1)~~] C.F.R. §1904.1(a)(1) is amended to read as follows: (a) Basic requirement. (1) If your company had ten (10) or fewer employees at all times during the last calendar year, you do not need to keep OSHA injury and illness records unless HIOSH, OSHA, or the Bureau of Labor and Statistics (BLS) informs you in writing that you must keep records under §1904.37, §1904.41, or §1904.42. However, as required by §1904.39 all employers covered by chapter 396, HRS, Hawaii Occupational Safety and Health Law, must report to HIOSH any workplace incident that results in [a] an employee fatality or the inpatient hospitalization of [three or more employees,] an employee, employee's amputation, employee's loss of an eye, or property damage in excess of \$25,000.

(b) 29 [~~CFR 1904.2(a)(1)~~] C.F.R. §1904.2(a)(1) is amended to read as follows: (a) Basic requirement. (1) If your business establishment is classified in a specific low hazard retail, service, finance, insurance, or real estate industry listed in [~~appendix a~~] Appendix A, titled "Non-Mandatory Appendix A to Subpart B - Partially Exempt Industries", dated March 17, 2017, which is made part of this chapter and located at the end of this chapter, [to this subpart b,] you do not need to keep OSHA injury and illness records unless the government asks you to keep records under §1904.37, §1904.41, or §1904.42. However, all employers must report to HIOSH any workplace incident that results in [a] an employee

fatality or the inpatient hospitalization of [~~three or more employees,~~] an employee, employee's amputation, employee's loss of an eye, or property damage in excess of \$25,000 (see §1904.39(a)[~~as amended in subsection (d)]~~)).

(c) 29 [~~CFR 1904.29(b)(2)~~] C.F.R. §1904.29(b)(2) is amended to read as follows:

(2) What do I need to do to complete an OSHA 301 Incident Report? You must complete an OSHA 301 Incident Report form, or an equivalent form that contains the same information required on the OSHA 301 Incident Report form, for each recordable injury or illness that is required to be entered on the OSHA 300 Log.

(d) 29 [~~CFR 1904.37(e)~~] C.F.R. §1904.37(c) is added to read as follows: (c) If you receive an OSHA occupational injury and illness data collection form or any other type of injury and illness survey authorized by HIOSH, you must respond to the survey or request, and return it to the designated recipient within the specified time limit.

(e) 29 [~~CFR 1904.39(a)~~] C.F.R. §1904.39(a) is amended to read as follows: (a) Basic requirement. Within eight (8) hours after the death of any employee from a work-related incident, and within twenty-four (24) hours of the inpatient hospitalization of [~~three or more employees~~] an employee, employee's amputation, employee's loss of an eye as a result of a work-related incident, or property damage in excess of \$25,000 as a result of a work-related incident, you must orally report the [~~fatality/multiple~~] fatality, inpatient hospitalization, amputation, loss of an eye, or property damage by telephone, (808) 586-9102, or in person at the HIOSH office in Honolulu.

(f) 29 [~~CFR 1904.39(b)(1)~~] C.F.R. §1904.39(b)(1) is amended to read as follows: (b) Implementation. (1) If the HIOSH office is closed, may I report the incident by leaving a message on HIOSH's answering machine, faxing the area office, or sending an e-mail? When the HIOSH office is closed, the (808) 586-9102 telephone number will allow you to leave a phone message. In order for the message to be

considered officially reported, all of the information in 1904.39(b)(2) must be provided on the answering machine message.

(g) 29 C.F.R. §1904.39(b)(11) is amended to read as follows: (11) How does HIOSH define "amputation"? An amputation is the traumatic loss of a limb or other external body part. Amputations include a part, such as a limb or appendage, which has been severed, cut off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; and amputations of body parts that have since been reattached.

[g](h) 29 [CFR-1904] C.F.R. §1904 Non-Mandatory Appendix A to Subpart B - Partially Exempt Industries is amended for the duration of the HIOSH Strategic Plan. The [establishments that begin with SIC 525 and SIC 80] industries with NAICS codes 4812, 4879, and 4885 have been included in the HIOSH Strategic Plan [before this standard was established] and will continue to be required to maintain the injury and illness log for the duration of HIOSH's Strategic Plan unless the establishment has less than 11 employees. 29 [CFR-1904] C.F.R. §1904 Non-Mandatory Appendix A to Subpart B - Partially Exempt Industries is amended to read as follows: Employers are not required to keep OSHA injury and illness records for any establishment classified in the following [Standard Industrial Classification (SIC)] North American Industry Classification System (NAICS) codes, unless they are asked in writing to do so by [7] OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS. All employers, including those partially exempted by reason of company size or industry classification, must report to OSHA any workplace incident that results in a fatality, [-or-] the inpatient hospitalization, amputation, or loss of an eye of [three or more employees] an employee (see [1904.39] §1904.39).

[Eff 12-29-01; am 4/29/02; am and comp
(Auth: HRS §396-4) (Imp: HRS §396-4)]

§12-52.1-2 Incorporation of federal standard.

Title 29, Part 1904 of the Code of Federal Regulations, [2011] 2016 Edition published as of July 1, [2011,] 2016, by the U.S. Government Printing Office, U.S. Superintendent of Documents, Washington, DC 20402-0001, is made part of this chapter, except as provided in section 12-52.1-1." [Eff 12/29/01; am 1/10/03; am 5/21/04; am 5/5/05; am 2/13/12; am and comp] (Auth: HRS §396-4) (Imp: HRS §396-4)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments are not underscored.

4. These amendments to and compilation of §12-52.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on [Effective Date], and filed with the Office of the Lieutenant Governor.

LINDA CHU TAKAYAMA
Director of Labor and
Industrial Relations

APPROVED AS TO FORM:

Deputy Attorney General

**Non-Mandatory Appendix A to Subpart B -
Partially Exempt Industries**

March 17, 2017

NAICS Code	Industry Description	NAICS Code	Industry Description
4431	Electronics and Appliance Stores	5259	Other Investment Pools and Funds
4461	Health and Personal Care Stores	5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)
4471	Gasoline Stations	5411	Legal Services
4481	Clothing Stores	5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services
4482	Shoe Stores	5413	Architectural, Engineering, and Related Services
4483	Jewelry, Luggage, and Leather Goods Stores	5414	Specialized Design Services
4511	Sporting Goods, Hobby, and Musical Instrument Stores	5415	Computer Systems Design and Related Services
4512	Book, Periodical, and Music Stores	5416	Management, Scientific, and Technical Consulting Services
4531	Florists	5417	Scientific Research and Development Services
4532	Office Supplies, Stationery, and Gift Stores	5418	Advertising and Related Services
5121	Motion Picture and Video Industries	5511	Management of Companies and Enterprises
5122	Sound Recording Industries	5615	Travel Arrangement and Reservation Services
5151	Radio and Television Broadcasting	5616	Investigation and Security Services
5172	Wireless Telecommunications Carriers (except	6111	Elementary and Secondary Schools

	Satellite)		
5179	Other Telecommunications	6112	Junior Colleges
5182	Data Processing, Hosting, and Related Services	6113	Colleges, Universities, and Professional Schools
5191	Other Information Services	6114	Business Schools and Computer and Management Training
5221	Depository Credit Intermediation	6115	Technical and Trade Schools
5222	Nondepository Credit Intermediation	6116	Other Schools and Instruction
5223	Activities Related to Credit Intermediation	6117	Educational Support Services
5231	Securities and Commodity Contracts Intermediation and Brokerage	6211	Offices of Physicians
5232	Securities and Commodity Exchanges	6212	Offices of Dentists
5239	Other Financial Investment Activities	6213	Offices of Other Health Practitioners
5241	Insurance Carriers	6214	Outpatient Care Centers
5242	Agencies, Brokerages, and Other Insurance Related Activities	6215	Medical and Diagnostic Laboratories
5251	Insurance and Employee Benefit Funds		