

DEPARTMENT OF TAXATION

Amendments to Chapter 18-231
Hawaii Administrative Rules

April 3, 2016

1. Section 18-231-91-05, Hawaii Administrative Rules, is amended by amending subsections (a) and (b) to read as follows:

"(a) A respondent must respond to a cease and desist citation within thirty days from the date of its issuance:

- (1) By paying to the special enforcement section the stated amount of the monetary fine, which shall constitute acknowledgement of the violation and a waiver of further rights of review, provided that if the tendered payment is dishonored for any reason not the fault of the department, the respondent will be deemed not to have answered the citation; or
- (2) By appealing the citation by making a written request to the special enforcement section for a contested case hearing in accordance with these rules and Chapter 91, HRS, including but not limited to section ~~[18-231-91-09.]~~ 18-231-91-08. Written requests for contested case hearings may be indicated on the citation itself.

(b) If the respondent fails to respond to the cease and desist citation within thirty days from the date the citation is issued:

- (1) The failure is an acknowledgement that the allegations contained in the citation are true, and that the relief sought in the citation, including any monetary fines, is appropriate; and
- (2) The department may collect any overdue monetary fines and enforce any overdue non-monetary

sanctions as set forth in section [~~18-231-91-26(b).~~] 18-231-91-25(b)." [Eff 11/30/14; am 4/3/16] (Auth: HRS §231-3(9)) (Imp: HRS §231-91)

2. Section 18-231-91-18, Hawaii Administrative Rules, is amended to read as follows:

"§18-231-91-18 Intervention. Applications to intervene in a proceeding shall comply with [~~sections 18-231-91-14~~] section 18-231-91-13 and shall be served on all parties. Applications for intervention will be granted or denied at the discretion of the presiding officer. As a general policy, such applications shall be denied unless the petitioner shows that it has an interest in a question of law or fact involved in the contested matter." [Eff 11/30/14; am 4/3/16] (Auth: HRS §§91-2, 231-3(9)) (Imp: HRS §§91-9, 231-91)

3. Section 18-231-91-20, Hawaii Administrative Rules, is amended by amending subsections (a), (b), and (c) to read as follows:

"(a) All motions other than those made during a hearing shall be made in writing to the presiding officer, shall state the relief sought, and shall be accompanied by an affidavit or memorandum setting forth the grounds upon which they are based. The presiding officer shall set the time for all motions and opposing [~~memorandum,~~] memoranda, if any.

(b) The moving party shall serve a copy of all motions on all other parties at least fourteen calendar days prior to the hearing on the motion. Service shall be in accordance with the rules of service of papers under section [~~18-231-91-14(g).~~] 18-231-91-13(g).

(c) A memorandum in opposition or a counter affidavit shall be served on all parties not later than seven calendar days prior to the hearing. Service shall be in accordance with the rules of service of papers under section [~~18-231-91-14(g).~~] 18-

231-91-13(g)." [Eff 11/30/14; am 4/3/16] (Auth: HRS §§91-2, 231-3(9)) (Imp: HRS §§91-9, 231-91)

4. Section 18-231-91-21, Hawaii Administrative Rules, is amended by amending subsection (a) to read as follows:

"(a) The presiding officer shall rule on the admissibility of all evidence. The presiding officer may exercise discretion in the admission [~~or~~] or rejection of evidence and the exclusion of immaterial, irrelevant, or unduly repetitious evidence with a view to doing substantial justice." [Eff 11/30/14; am 4/3/16] (Auth: HRS §§91-2, 231-3(9)) (Imp: HRS §§91-10, 231-91)

5. Section 18-231-91-21, Hawaii Administrative Rules, is amended by amending subsection (h) to read as follows:

"(h) Exhibits shall be prepared in the same format as that required for the filing of documents under section [~~18-231-91-14,~~] 18-231-91-13, unless otherwise directed or permitted by the presiding officer." [Eff 11/30/14; am 4/3/16] (Auth: HRS §§91-2, 231-3(9)) (Imp: HRS §§91-10, 231-91)

6. Material to be repealed is bracketed and stricken. New material is underscored.

7. These amendments to Chapter 18-231, 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 October 9, 1981, and filed with the Office of the Lieutenant Governor.

/s/Maria E. Zielinski/s/
Director
Department of Taxation

APPROVED AS TO FORM:

/s/
Deputy Attorney General