

DEPARTMENT OF TAXATION

Amendments to Chapter 18-231
Hawaii Administrative Rules

April 3, 2016

SUMMARY

1. §§18-231-91-05, 18-231-91-18, 18-231-91-20, and 18-231-91-21 are amended.

§18-231-91-05 Response to cease and desist

citation. (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 18-231-91-08. 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 18-231-91-25(b).

[Eff 11/30/14; am 4/3/16] (Auth: HRS §231-3(9)) (Imp: HRS §231-91)

§18-231-91-18 Intervention. Applications to intervene in a proceeding shall comply with 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)

§18-231-91-20 Motions. (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 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 18-231-91-13(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 18-231-91-13(g).

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

§18-231-91-21 Evidence. (a) The presiding officer shall rule on the admissibility of all evidence. The presiding officer may exercise discretion in the admission or rejection of evidence and the exclusion of immaterial, irrelevant, or unduly repetitious evidence with a view to doing substantial justice.

(h) Exhibits shall be prepared in the same format as that required for the filing of documents under section 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)

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Chapter 18-231, Hawaii Administrative Rules, on the Summary Page dated April 3, 2016, was adopted on April 3, 2016, following public hearing held on January 6, 2016 after public notice was given in the Honolulu Star Advertiser, the Garden Isle, the Maui News, West Hawaii Today, and the Hawaii Tribune-Herald on December 4, 2015.

These amendments to chapter 18-231 shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/

MARIA E. ZIELINSKI
Director of Taxation

APPROVED:

/s/

DAVID Y. IGE
Governor
State of Hawaii

Dated: March 23, 2016

APPROVED AS TO FORM:

/s/

Deputy Attorney General

Filed