

TITLE 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

CHAPTER 1

RULES OF THE COMPTROLLER, DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES RELATING TO RULEMAKING PROCEEDINGS, DECLARATORY RULINGS AND PUBLIC RECORDS AND INFORMATION

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Historical Note: Chapter 1 of Title 3, Administrative Rules, is based substantially upon Rules of the Comptroller, Department of Accounting and General Services Relating to Rulemaking Proceedings, Declaratory Rules and Public Information. [Eff. 12/19/69; MAR 30 1981 R MAR 30 1981]

Sec. 3-1-1 Definitions. As used in these rules, unless the context otherwise specifically requires:

"Comptroller" means the state comptroller of the department of accounting and general services.

"Department" means the department of accounting and general services.

"Person" or "persons" include individual, partnership, corporation, association, or public or private organization of any character other than a state or county board, commission, department, or officer authorized by law to make rules, except those in the legislative or judicial branches. [Eff. Mar 30 1981] (Auth: HRS Sec. 26-38) (Imp: HRS Sec. 91-1)

Sec. 3-1-2 The Department. (a) The principal office of the department is at Honolulu, Hawaii. Unless otherwise specifically provided by law or by direction

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of the department, all communications to the department shall be sent to the Comptroller, Department of Accounting and General Services, 1151 Punchbowl Street, Honolulu, Hawaii 96813.

(b) The offices of the department shall be open from 7:45 a.m. to 4:30 p.m. of each workday except Saturday, unless otherwise provided by statute or executive order.

(c) The comptroller shall have charge of the department's official records and shall be responsible for the maintenance and custody of the files and records of the department, including the minutes of hearings and exhibits, all papers and requests filed in proceedings, the minutes of all actions taken by the department and all its findings, determinations, reports, opinions, rules, regulations and approved forms. All orders and other actions of the department shall be authenticated, signed or otherwise authorized by the comptroller or his duly authorized subordinate.

(d) All documents required to be filed with the department shall be filed in the office of the comptroller within such time limits as prescribed by law or by rules, regulations, or orders of the department. [Eff. Mar 30 1981] (Auth: HRS Secs. 26-38, 91-2) (Imp: HRS Secs. 26-38, 91-2)

Sec. 3-1-3 Public records and information. (a) The term "public records" as used in this section is defined as in Section 92-50, Hawaii Revised Statutes, and shall include all rules, regulations, written statements of policy or interpretation formulated, adopted or used by the department, all final opinions, rulings and orders and any other material on file for public inspection in the department unless accorded confidential treatment pursuant to law.

(b) All public records shall be available for inspection in the department, during established office hours unless public inspection of such records is in violation of any state or federal law; provided that, except where such records are made available for inspection by rule of court, the attorney general may determine which records may be withheld from public inspection when such records pertain to the preparation or defense of any action or proceeding prior to its commencement, to which the State is or may be a party, or when such records do not relate to a matter in violation of law or their confidential treatment is necessary for the protection of the character, reputation or business of any person.

(c) Public records printed or reproduced by the department shall be given to any person requesting the same and paying the cost including the cost of publication and

mailing of reproduction, or in the case of a charge specified by law or by other regulation, such specified charges.

(d) Requests for public information, for permission to inspect official records or for copies of public records shall be made in writing to the comptroller and shall be handled with due regard for the policies and procedures of the respective programs and the dispatch of other public duties. [Eff. MAR 30 1981] (Auth: HRS Sec. 26-38) (Imp: HRS Secs. 91-2, 92-50, 92-51)

Sec. 3-1-4 Petitions for adoption, amendment or repeal of rules and regulations. (a) Any interested person or any agency of the state or county government may petition the comptroller for the adoption, amendment, modification or repeal of any rule or regulation. For the purpose of this section, such petitions shall be considered as part of the rulemaking proceedings.

(b) Such petition for rulemaking shall set forth the text of any proposed rule or regulation or amendment desired or specifying the rule or regulation the repeal of which is desired and stating concisely the nature of his interest in the subject matter and his reasons for seeking the adoption, amendment or repeal of the rule or regulation and shall include any facts, views, arguments and data deemed relevant by the petitioner. The comptroller may also require the petitioner to serve other persons or governmental agencies known to be interested in the proposed rulemaking.

(c) Upon filing, such petitions for the rulemaking shall be given a docket number and will become matters of public record upon filing. The comptroller shall within thirty days following the filing of the petition either deny the petition in writing or initiate proceedings for the adoption, amendment or repeal of the rule or regulation as provided by law. No public hearing, oral arguments, or other form of proceedings will be held directly on any such petition. If the comptroller determines that the petition does not disclose sufficient reasons to justify the commencement of public rulemaking proceedings, or if the petition for rulemaking fails in material respect to comply with the requirements of these rules, the comptroller shall deny the petition and the petitioner shall be so notified. The provisions of this section shall not prevent the comptroller, on an independent motion, from acting on any matter disclosed in any petition. [Eff. MAR 30 1981] (Auth: HRS Sec. 26-38) (Imp: HRS Sec. 91-6)

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Sec. 3-1-5 Conduct of public hearing on proposed adoption, amendment or repeal of rule or regulation.

(a) Each public hearing on proposed adoption, amendment or repeal of a rule or regulation shall be presided over by the comptroller or by his duly authorized representative. The hearing shall be conducted in such a way to afford interested persons a reasonable opportunity to be heard on matters relevant to the issues involved and to obtain a clear and orderly record. The presiding officer shall have authority to administer oaths or affirmations and to take all other actions necessary to assure the orderly conduct of the hearing.

(b) Each hearing shall be held at the time and place set in the notice of hearing. The hearing may be continued by the presiding officer to a later time or date or to a different place without notice other than the announcement made at the hearing.

(c) At the commencement of the hearing, the presiding officer shall read the notice of hearing and shall then outline briefly the procedure to be followed. Evidence shall then be received with respect to the matters specified in the notice of hearing in such order as the presiding officer shall prescribe.

(d) All interested persons shall be given reasonable opportunity to offer evidence with respect to the matters specified in the notice of hearing. Every witness shall, before proceeding to testify, state his name, address and whom he represents at the hearing, and shall give such other information respecting his appearance as the presiding officer may request. Every witness shall be subject to questioning by the presiding officer or by any other authorized representative of the department, but cross-examination by private persons shall not be permitted without the presiding officer's permission.

(e) Unless otherwise specifically ordered by the presiding officer, testimony given at the hearing shall not be reported verbatim. [Eff. MAR 30 1981] (Auth: HRS Secs. 26-38, 91-2) (Imp: HRS Sec. 91-3)

Sec. 3-1-6 Petition for declaratory rulings. (a) On petition of an interested person, the comptroller may issue a declaratory order as to the applicability of any statutory provision administered by the department or of any rule or regulation or order of the comptroller. Petitions for the issuance shall state clearly and concisely the controversy or uncertainty, shall cite the statutory authority involved, shall include a complete statement of the facts and the reasons prompting the petition, together with full disclosure of petitioner's interest.

(b) Upon receipt of the petition, the comptroller may require the petitioner to file additional data or memoranda in support of the position taken by the petitioner.

(c) The comptroller may, without notice or hearing, dismiss a petition for declaratory ruling for want of a substantial question or for material failure to comply with the requirements of this section.

(d) Although no hearing need be granted to the petitioner or to any interested person in the usual course of disposition of a petition for a declaratory ruling, the comptroller may order a hearing on the disposition of the petition if petitioner submits a written request therefor stating in detail why a hearing is necessary for a fair consideration of the need for a declaratory ruling on the matter stated in the petition.

(e) Notwithstanding any other provisions of this section, the comptroller may, upon request or an independent motion but without notice or hearing, issue a declaratory order to terminate a controversy or to remove uncertainty. [Eff. MAR 30 1981] (Auth: HRS Secs. 26-38, 91-8) (Imp: HRS Sec. 91-8)

Chapter 1, Title 3, Administrative Rules, were adopted on MAR 19 1981 following a public hearing held on February 13, 1981, after public notice was given in the Honolulu Star Bulletin and Honolulu Advertiser on January 22, 1981.

3. These rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

/S/ _____
HIDEO MURAKAMI
Comptroller

APPROVED:

/S/ _____
GEORGE R. ARIYOSHI
GOVERNOR
STATE OF HAWAII

Dated: March 19, 1981

APPROVED AS TO FORM:

/S/ _____
Deputy Attorney General

Lt. GOVERNOR'S OFFICE
1981 MAR 19 PM 4:29

REC'D BY

Filed

Notice of Change
02/09/96

The list of sections implemented by §3-1-3, Hawaii
Administrative Rules, is changed to read as follows:

(Imp: HRS Sec. 91-2)