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**HAWAII
ADMINISTRATIVE
RULES
DRAFTING
MANUAL**

SECOND EDITION

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Background to Administrative Rulemaking

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P A R T I

BACKGROUND TO ADMINISTRATIVE RULEMAKING

Chapter 1

INTRODUCTION

Administrative rulemaking is one facet of the administrative process which has been defined as the complex of methods by which agencies carry out their tasks.¹ It has also been characterized as rulemaking when not done by the legislature and adjudication when not done by the courts.² This manual is designed as a guide for those whose functions are primarily related to the former, that is, those who are engaged in formulating, drafting, and processing agency statements of general or particular applicability adopted pursuant to the Hawaii Administrative Procedure Act (HAPA). Therefore, the quasi-judicial aspects of the administrative process, i.e., adjudication of a contested case, are not the direct concerns of the manual.

The manual contains the Hawaii Administrative Rules format mandated by section 91-4.2, Hawaii Revised Statutes. It also presents as background the conceptual framework in which the administrative process has developed and an historical perspective of the situation giving rise to the legislation which authorized the establishment of the Hawaii Administrative Rules format.

Chapter 2

THE ADMINISTRATIVE PROCESS - CONCEPTUAL FOUNDATIONS

Development of the administrative process has traditionally been associated with three philosophical ideas:¹

1. Separation of powers.
2. Nondelegation.
3. The Rule of Law.

It is the thesis of one writer that these ideas have actually been a barrier, rather than an aid, to the development of the administrative process.² Nonetheless, the conceptual foundation of administrative law and the administrative process has been heavily influenced by theories derived from these three principles.

Separation of Powers

In American constitutional philosophy, this idea is as old as the Republic. The United States Supreme Court³ has articulated it thusly:

It is believed to be one of the chief merits of the American system of written constitutional law, that all the powers intrusted to government...are divided into the three grand departments, the executive, the legislative, and the judicial. That the functions appropriate to each of these branches of government shall be vested in a separate body of public servants, and that the perfection of the system requires that the lines which separate and divide these departments shall be broadly and clearly defined. It is also essential to the successful working of this system that the persons intrusted with power in any one of these branches shall not be permitted to encroach upon the powers confided to the others, but that each shall by the law of its creation be limited to the exercise of the powers appropriate to its own department and no other.

While in principle, legislation (the role of the legislative branch of government) and administration (the role of the executive branch of government) are distinct functions, in practical application the line where one ends and the other begins is hard to draw. The determination in the case of questioned authority for the exercise of powers claimed to belong to another branch of government will depend on the facts of a particular situation and turn on the kind and degree of power exercised.

Non-delegation

A logical consequence of the doctrine of the separation of powers is that legislative powers may not be delegated to any other branch of government. In an early United States Supreme Court opinion, Chief Justice Marshall said:⁴

It will not be contended that Congress can delegate to the courts or to any other tribunal, powers which are strictly legislative. But Congress may certainly delegate to others, powers which the legislature may rightfully exercise itself.... The line has not been exactly drawn which separates those important subjects, which must be entirely regulated by the legislature itself, from those of less interest, in which a general provision may be made, and power given to those who are to act under such general provisions to fill up the details.

Because the courts have recognized the impracticability of the legislature's providing for every detail in every instance in their enactment of laws, statutory grants of power legislative in nature (quasi-legislative) or the power to make rules and regulations have been upheld. Delegation of power by the legislature is permissible if the formulation of incidental administrative policy through the adoption of rules is within a prescribed statutory framework. It is generally constitutionally sufficient if in delegating quasi-legislative powers the legislature clearly delineates general policy, the public agency which is to apply it, and standards under which the delegated authority is to operate.⁵

The Rule of Law

The Rule of Law has been described as "that principle of our Western tradition which teaches that ours is a government of laws and not of men..."⁶ It carries with it the notion of equal protection under the law, that is, the supremacy of law over the exercise of arbitrariness or wide discretionary authority by government.⁷

As applied to the administrative process, the Rule of Law requires "...[A]n agency changing its course must supply a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored...."⁸

An authority on administrative law has said that rather than prohibiting any discretion on the part of administrative officials, the Rule of Law should allow the exercise of necessary discretionary power measured by a test of reasonableness and responsibility.⁹

The Modern View

A study of case law indicates that the three principles heretofore discussed, at least in modern times, have been more honored in the breach than in the adherence. However, authorities¹⁰ in administrative law have noted that the theories are not dead, but have been and are evolving into practical and workable tools of constitutional government.

For example, instead of mandating a clear dichotomy of branches of government, the separation of powers theory has become a polar theory. That is, under our system of government, the main legislative power resides in the legislature, the main judicial power resides in the judiciary, and the main executive power resides in the executive. The blending of these powers in any branch is not necessarily unconstitutional, absent specific constitutional language of prohibition and absent any other reason for unconstitutionality.¹¹

The principle of nondelegation now emphasizes a system of checks against arbitrariness. This system of checks requires rules and standards, so far as possible, to provide safeguards against unnecessary discretionary determinations. The emphasis is not so much on preventing delegation as it is to protect private parties from the unnecessary and unfettered exercise of discretionary power by agents of government.¹²

Finally, the modern view of the Rule of Law, as espoused by Davis,¹³ advocates a rein on unnecessary discretionary power and requires preestablishing rules and standards to guide administrative behavior, adhering to a course of consistent treatment in administration, including following precedents and providing reasoned explanations for departures therefrom, openness in actions, and provision for review of administrative actions.¹⁴

Many of the concepts embodied in the modern view of the classical theories associated with the administrative process have been statutorily incorporated into the Hawaii Administrative Procedure Act¹⁵ in such provisions as those providing for public notice and hearing,¹⁶ for public access and publication of rules,¹⁷ and for agency and judicial review.¹⁸

Chapter 3

ADMINISTRATIVE RULEMAKING

Background

The purposes of administrative rulemaking are to implement legislation and to establish operating procedures for state agencies. Generally, a legislative act will provide the skeleton or superstructure for a program. Agencies are required to "fill in the details" and implement the program on a day-to-day basis. Illustratively, the state unemployment insurance law¹ requires, among other things, that a claimant (1) be registered for work; (2) be available for work; (3) not have quit the claimant's last job voluntarily without good cause or have been fired for misconduct. The statute, however, does not spell out in any greater detail what any of those conditions mean. Consequently, the department has to make certain determinations in order to apply the statutory requirements to varying classes of applicants.

The result of this process of "filling in the details" is that the departments are accorded a great deal of discretion in applying the law, particularly where the controlling statute is couched in general terms, e.g., "misconduct". Clearly, agencies should not be allowed to apply differing standards among similarly situated members of the public.

The law which controls administrative rulemaking is chapter 91, Hawaii Revised Statutes, the Hawaii Administrative Procedure Act (HAPA). Briefly, the law requires, among other things, that administrative agencies follow certain specified procedures in order to impose upon the public requirements which affect private rights. For a rule to become binding upon the public, an agency must (1) publish notice of public hearing; (2) hold a hearing in which all persons are allowed to submit data, views, or arguments orally or in writing; (3) have the rule approved by the governor, and filed in the office of the lieutenant governor on a permanent basis for public inspection.

Uniform Rules Format

The HAPA was adopted in 1961. Since that time, the field of administrative rulemaking expanded rapidly, due in great part to the growing consciousness of the power of administrative agencies, and the rising demand for accountability. In a number of instances, federal legislation mandated the adoption of state rules identical to or more stringent than existing federal rules--as a condition for receiving federal dollars. Courts became increasingly more willing to strike down actions taken by agencies which had not followed proper procedures.

Concern that agencies had now become too powerful, that they usurped legislative prerogatives through the rulemaking process or simply that they imposed unreasonable burdens upon the public resulted in a call, at both the state and federal levels, for increased legislative oversight over the agencies through a variety of methods ranging from sunset legislation to the legislative veto of administrative rules.

In Hawaii, the system for adopting rules had worked well for over a decade. In 1961, the governor, by rule, had established a system whereby all rules filed with the lieutenant governor were filed in chronological order with a separate volume for each department. During the period when filings were relatively few, the system worked reasonably well. When through time the number of volumes increased substantially and the active rules remained mixed among the repealed and superseded rules, it got to a point where no one could tell, or do so only with great difficulty, how many rules existed at any given time. This was even true within individual departments where only a few people within a particular office or branch within a division might know if a particular set of rules remained in effect.

Under this situation the legislature in 1979 passed Act 216, which was eventually codified into sections 91-4.1 to 91-5, Hawaii Revised Statutes. Act 216 called for four things:

- (1) That agencies send copies of all adopted, amended, or repealed rules in the Ramseyer format to the legislative auditor. The auditor would then review the rules, and report to the legislature whether any of the rules adopted violated the authorizing legislation;
- (2) That the revisor of statutes adopt a uniform format for all agency rules;
- (3) That all agencies convert all existing rules to the new format by June 21, 1981; and
- (4) That the revisor of statutes compile and publish an index to all agency rules filed with the lieutenant governor.

The "Hawaii Administrative Rules Format" was developed during the latter part of 1979 and released at a seminar on February 18, 1980 attended by over two hundred persons representing a number of administrative agencies. The basic features of the format are as follows:

- (1) An overall numbering system in which all rules of a particular department are assigned a title number. Departmental rules are then divided into

chapters, with chapters divided into sections, with the sections constituting the basic unit of organization. The goal of the system is to bring every rule into a single unified system. Each rule, no matter what the department, will have a unique section number.

- (2) Organizational structure nearly identical to the Hawaii Revised Statutes. Sections are divided into subsections, paragraphs, subparagraphs, and clauses. Stylistic and grammatical requirements (e.g., capitalization, use of words such as "may" or "shall" rather than "should") follow HRS.
- (3) Inclusion of information at the end of each section indicating the effective date, the authority for, and the statutes (or federal rules) being implemented or interpreted by the particular section. This was required by statute to be included in the format. The statute also requires inclusion of the effective date of each rule. The format has extended this requirement to include the effective dates of all amendments, renumberings, and compilations.

The new numbering system has the advantage of completely organizing the entire system of administrative rules on a numerical basis, which has been heretofore impossible. Until the format, each department used its own numbering system, or, in some cases, no numbering system at all. When all rules have been converted to the new system, a collection of the rules, arranged in numerical order, will take on the appearance of a codification--even though the rules have never been and are not now being formally codified. Should the State sometime in the future choose to formally codify its administrative rules, the same can be done without great difficulty.

The uniform Administrative Rules format must be distinguished from the Ramseyer format. The two are separate and distinct. Ramseyer is nothing more than a technique of drafting by which changes to a document are indicated--usually by bracketing the material to be deleted and underscoring the material to be added. The end result of the requirements of the statute and the Administrative Rules format is that all new rules and changes to existing rules must be reproduced twice--once in the Ramseyer format showing the changes being made, to satisfy the requirement for legislative auditor review and once in the uniform format indicating what the rule is in its final form, to show the text of the rule in its current state.

FOOTNOTES

CHAPTER 1

1. DAVIS 1 Administrative Law Treatise 2 (1st ed., 1958).
2. JAFFE Administrative Law, Cases and Materials 2 (1954).

CHAPTER 2

1. DAVIS 1 Administrative Law Treatise 5 (1st ed., 1958).
2. DAVIS Administrative Law and Government 52 (1960).
3. Kilbourn v. Thompson, 103 U.S. 168, 190-191 (1881). For Hawaii cases, see Harris v. Cooper, 14 Haw. 145 (1902); State v. Willburn, 49 Haw. 651 (1949); State v. Abellano, 50 Haw. 384 (1968); State v. Park, 55 Haw. 610 (1974); Life of the Land v. Ariyoshi, 59 Haw. 156 (1978).
4. Wayman v. Southard, 10 Wheat. 1, 15-16, 6 L. Ed. 253 (1825). For Hawaii cases, see Terr. v. Marshall, 13 Haw. 76 (1900); McCandless v. Campbell, 20 Haw. 411 (1911); Terr. v. Fung, 34 Haw. 52 (1936); Fasi v. King, 41 Haw. 461 (1956).
5. See State v. Lee, 51 Haw. 516 (1970); In re Kauai Electric, 60 Haw. 166 (1978).
6. Freund, "The Rule of Law", 1956 Wash. U.L.Q. 314.
7. DAVIS 1 Administrative Law Treatise 97 (2d ed., 1978).
8. Greater Boston Television Corp. v. FCC, 444 F.2d 841, 852 (D.C. Cir.) cert den'd, 403 U.S. 923 (1971).
9. DAVIS, op. cit. 116, 117.
10. DAVIS Administrative Law Treatise (1st ed., 1958; 2d ed., 1978) and Administrative Law and Government, 1966; JAFFE Administrative Law, Cases and Materials, 1954.
11. DAVIS 1 Administrative Law Treatise 78, 79 (2d ed., 1978). And see Kailua Community Council v. City and County of Honolulu et al., 60 Haw. 428 (1979).
12. See Akahane v. Fasi, 58 Haw. 74 (1977).
13. Op. cit. 117.
14. See In re Terminal Transportation Inc., 54 Haw. 134 (1972); Aguiar v. Hawaii Housing Authority, 478 Haw. 44 (1974).
15. Hawaii Rev. Stat., ch. 91.
16. Hawaii Rev. Stat., sec. 91-3.
17. Hawaii Rev. Stat., secs. 91-4 and 91-5.

18. Hawaii Rev. Stat., secs. 91-7, 91-8 and 91-14.

CHAPTER 3

1. Hawaii Rev. Stat., ch. 383.

P A R T I I

HAWAII ADMINISTRATIVE RULES FORMAT

Part II comprises the rules of format to be followed by all state agencies in the compilation and publication of their rules and the distribution thereof under sections 23G-12(7) and 91-4.2, Hawaii Revised Statutes.

HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

Chapter 1	General Provisions
Chapter 2	Basic Form Requirements
Chapter 3	Numbering
Chapter 4	Drafting Requirements
Chapter 5	Amendments, New and Repealed Rules
Chapter 5.5	Compilation
Chapter 6	Ramseyer Format
Chapter 7	Transition
Chapter 8	Filing and Maintenance of Rules
Chapter 9	Printing, Distribution
Chapter 10	Forms and Checklists

SUBTITLE 2 HAWAII REVISED STATUTES

Chapter 15	Supplement Compilation
Chapter 16	Integration of Amendments
Chapter 17	Case Notes and Annotations
Chapter 18	Indexing
Chapter 19	Photocomposition and Printing
Chapter 20	Revision Bill

HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 1

GENERAL PROVISIONS

§00-1-1	Objectives
§00-1-2	Definitions
§00-1-3	Rules in format
§00-1-4	Applicability
§00-1-5	Format versus codification
§00-1-6	Citation of rules
§00-1-7	Filing with legislative agencies
§00-1-8	All rules typed twice

§00-1-1 Objectives. The objectives of the Hawaii administrative rules format are to:

- (1) Implement the requirements of sections 91-4.2 and 91-5, Hawaii Revised Statutes;
- (2) Make available to the public current and historical information concerning administrative rules; and
- (3) Establish a system capable of being maintained and expanded in an organized manner over a period of years, or codified should the need arise. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-1-2 Definitions. Definitions shall be listed in alphabetical order. As used in chapters 00-1 to 00-10:

"Clean format" shall be as defined in "standard format".

"Compilation" means the physical merging of a chapter or larger unit of organization with any amendments or notices of change which are filed

separately from the chapter or larger unit of organization.

"Ramseyer format" means a technique by which changes in existing rules are shown by:

- (1) Bracketing material to be deleted, or, if the material being deleted is a subchapter or larger unit of organization, citing with specificity the material to be deleted; and
- (2) Underscoring material to be added, or, if the material to be added is a subchapter or larger unit of organization, citing with specificity the material to be added.

The Ramseyer format includes all exceptions to the bracketing and underlining requirement.

"Revisor of statutes" means the director of the office of the legislative reference bureau or a delegated staff member.

"Rule" means each agency statement of general or particular applicability and future effect adopted pursuant to chapter 91, Hawaii Revised Statutes, that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency.

"Section number", unless clearly used in a different context, means those digits separated by hyphens indicating the title, chapter, and section of a rule. Where used in context, the term also means the number of a particular section within a chapter (e.g., the tenth section of chapter 1).

"Standard format" means uniform format for state agency rules prescribed by the revisor of statutes pursuant to section 91-4.1, Hawaii Revised Statutes, the physical requirements of which are set forth in all chapters of this subtitle except chapter 00-6, and which also may be referred to as the "clean format" or the "Hawaii administrative rules format". The term "standard format" is used to distinguish the uniform format for agency rules from the "Ramseyer" format. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-1-3 Rules in format. (a) Except as provided in this section, to serve as a guide to agencies, the administrative rules format has been written in conformance with this subtitle.

(b) This subtitle varies from the requirements of this subtitle to the extent that:

- (1) Page numbers in the lower right corner are for reference within this publication only, and shall not be allowed in rules adopted by agencies;
- (2) The publication is bound and thus cannot readily be stored in a ring binder. Copies of rules printed in the manner of this publication shall be deemed to be unofficial copies; and
- (3) The weight of the paper of this publication is less than 16# bond.
[Eff 2/15/80; and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-1-4 Applicability. The Hawaii administrative rules format shall apply only to rules adopted pursuant to chapter 91, Hawaii Revised Statutes. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-1-5 Format versus codification. The Hawaii administrative rules are not intended to be a codification of state administrative rules. While a collection of all agency rules drafted in the Hawaii administrative rules format may take on the appearance of a codification, the differences between the two approaches in trying to reach the objectives set forth in section 00-1-1 will account for some of the requirements contained in this subtitle. The crucial distinction is that codification of necessity requires a certain amount of centralized control by the agency responsible for codifying the rules.

Under the approach taken in sections 91-4.2 and 91-5, Hawaii Revised Statutes, the revisor of statutes retains no control over the adoption of rules other than the establishment of the format. Full control over the administrative rules process is retained by the respective departments subject to the requirement that rules be published in accordance with the format. Accordingly, technical provisions have been included within the format to ensure that uniformity is retained in all aspects of the publication of rules. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-1-6 Citation of rules. (a) The collection of all state agency rules in the uniform format shall be known as the "Hawaii Administrative Rules".

Except for internal cross references, all administrative rules shall be cited as follows: (title number) - (chapter number) - (number of the section within the chapter), Hawaii administrative rules; e.g., section 3-12-31, Hawaii Administrative Rules. Internal cross references may cite the section number alone; e.g., section 00-1-5. The conversion of all rules to the Hawaii administrative rules format numbering system eliminates the need to refer to the rules of a particular department or agency. Conformance to the requirements of chapter 00-3 results in every rule section in all state agency rules being assigned a number which is unique.

(b) It is imperative that any citation of, or reference to, a particular section number include all applicable components, i.e., title, chapter, and section within the chapter. A mere reference to "section 10" will be of no assistance to a person who has not already been provided the appropriate title and chapter numbers. Any number of chapters in any given title will have a "section 10". Even if the correct chapter number is provided (e.g., "chapter 3, section 10"), this number would still refer to the tenth section of the third chapter of any one of twenty-two titles.

(c) Chapter references may be made by including the title number, and the number of the chapter within the title. For example, "chapter 3 of title 10" shall be referred to as "chapter 10-3".

§00-1-7 Filing with legislative agencies. Copies of all rules adopted, amended, or repealed that are filed with the lieutenant governor shall be filed with the legislative reference bureau and the legislative auditor. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-1-8 All rules typed twice. The effect of the statutory requirements in sections 91-4.1 and 91-5, Hawaii Revised Statutes, is that all new rules, or amendments to or the repeal of existing rules shall be typed twice. One set of rules shall be typed in the "standard" format for submission to the lieutenant governor, legislative auditor, and legislative reference

bureau. The second set shall be typed in the Ramseyer format for submission to the legislative auditor and the legislative reference bureau.

A common misunderstanding is that new rules need not be typed in the Ramseyer format because no changes are being made. This is not true. The Ramseyer format involves not only the bracketing of deleted material and the underscoring of added material. It includes all exceptions to the bracketing and underscoring requirement. [Eff and comp] (Auth: HRS §91-4.1) (Imp: HRS §§91-4.1, 91§5)

HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 2

BASIC FORM REQUIREMENTS

§00-2-1	Applicability
§00-2-1.1	Repealed
§00-2-2	Type or print
§00-2-3	Paper
§00-2-4	Margins
§00-2-4.1	Margins for notes
§00-2-5	Spacing
§00-2-6	Both sides of sheet of paper
§00-2-7	Use of section symbol; in section headings and notes; in text
§00-2-8	Use of brackets

§00-2-1 Applicability. This chapter shall apply to all rules and amendments filed with the office of the lieutenant governor, and all official copies of rules distributed by any agency. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-2-1.1 Repealed [R 5/1/84]

§00-2-2 Type or print. All rules shall be typed or printed in black ink. Character size shall not be larger than ten nor smaller than twelve characters per inch, e.g., "courier" and "legal courier" styles of type are preferred. "Script" type shall not be used. [Eff 2/15/80; comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-2-3 Paper. All paper used for rules shall be white in color and 8-1/2 x 11 inches in size. The weight of the paper shall be not less than 16# bond. [Eff 2/15/80; comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-2-4 Margins. Each full page of rules shall have a margin of one-and-one-half inch on all four sides. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-2-4.1 Margins for notes. Margins for source notes, citations of authority, and lists of sections implemented shall be the same as that of the level of organization which ends the section. Compare margins for notes in sections 00-2-3, 00-3-10, and 00-9-4. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-2-5 Spacing. All rules shall be single spaced within each section and all subsections, paragraphs, subparagraphs, and clauses included thereunder. Rules shall be triple spaced between sections. Information set forth in block style (other than paragraphs, subparagraphs, and clauses), such as examples, shall be separated from the remainder of the material by double spacing. See "Examples" throughout this subtitle. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-2-6 Both sides of sheet of paper. All rules shall be typed or printed on both sides of each sheet of paper; provided that all chapters shall begin on a separate sheet of paper. To prevent "bleeding" of print, typing may be done on single sheets and photocopied on both sides. The applicability of this section with regard to amendments shall be controlled by section 00-5-5. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-2-7 Use of section symbol; in section headings and notes; in text. (a) Use of the section symbol "§" is preferred in section headings and notes

at the end of sections. Where agencies do not have access to typewriters with section symbols, the use of "Sec." shall be acceptable. The symbols "§§" or "Secs." respectively shall be used to indicate more than one section.

Examples:

(Imp: HRS §§248-2, 248-9, 248-10; SLH 1976, Act 14, §3).

OR

(Imp: HRS Secs. 248-2, 248-9, 248-10; SLH 1976, Act 14, Sec. 3).

(b) Within the text proper of a section, the word "section" shall be spelled out. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-2-8 Use of brackets. Brackets shall be used wherever required by this subtitle. Agencies shall not use parentheses as a substitution for brackets. Where agencies do not have access to typewriters with bracket symbols, the use of "slash marks" and hyphens and underscoring shall be an acceptable substitute.

Example: [Eff 2/15/80]

[Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2)
(Imp: HRS §91-4.2)

HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 3

NUMBERING

§00-3-1	Numbering system; overview
§00-3-2	Titles
§00-3-3	Subtitles
§00-3-4	Parts
§00-3-5	Chapters
§00-3-6	Subchapters
§00-3-7	Sections
§00-3-8	Units of organization within a section
§00-3-9	Title and chapter analyses
§00-3-10	Running heads; pagination
§00-3-11	Insertions

§00-3-1 Numbering system; overview. (a) All rules shall be coordinated through a comprehensive numbering system which shall be organized into a series of titles, chapters, and sections.

(b) The numbers identifying each rule section shall consist of three parts. The first number shall indicate the title, the second number the chapter, and the third number the section within the chapter.

(c) The following is an example of how the numbering system might be applied to the rules of a department:

Title 10	Department of Transportation
Subtitle 4	Motor vehicles
Chapter 2	Inspection of motor vehicles
Subchapter 2	Responsibility of station owner
Section 10-2-1	<u>Notification of change of address</u>

In this example, rules concerning the responsibility of the station owner to notify the motor vehicle division of a change of address would be cited as section 10-2-1, Hawaii Administrative Rules. It should be noted that not all units of organization in the example are included in the section number. References to the applicable title, chapter, and section within the chapter provide an adequate number of coordinates to accurately identify the rule section in question.

(d) Agencies are not required to use any units of organization other than titles, chapters, and sections when organizing rules, and shall not use any other units in citing rules. See section 00-1-6.

(e) Each rule section shall be identified by a number followed by a section heading or caption. The section heading, which shall be drafted by the agency adopting the rule section, is a summarization of the section and assists the reader's search for the topic of interest.

(f) The exhibit at the end of this chapter entitled "Example of Form and Style (2/20/80)", is made a part of this section. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-3-2 Titles. (a) Titles are the largest unit of organization. Title numbers shall be assigned at the department level only. Each title shall include all of the rules for a particular department, its subdivisions, and subagencies, and every board and commission to which the department is primarily responsible for providing staff support, including agencies assigned to the department for administrative purposes only.

Rules of boards and commissions shall be included within the departmental title even if the department is considered to be subordinate to the board and even if all rules are officially adopted by the board or commission rather than the department.

(b) Departmental title number assignments shall be as follows:

Title 1	Office of the governor
Title 2	Office of the lieutenant governor
Title 3	Department of accounting and general services
Title 4	Department of agriculture
Title 5	Department of the attorney general

Title 6	Department of budget and finance
Title 7	Department of defense
Title 8	Department of education
Title 9	Office of Hawaiian affairs
Title 10	Department of Hawaiian home lands
Title 11	Department of health
Title 12	Department of labor and industrial relations
Title 13	Department of land and natural resources
Title 14	Department of personnel services
Title 15	Department of planning and economic development
Title 16	Department of commerce and consumer affairs
Title 17	Department of social services and housing
Title 18	Department of taxation
Title 19	Department of transportation
Title 20	University of Hawaii
Title 21	Legislative agencies
Title 22	Judiciary [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-3-3 Subtitles. Titles may be divided into subtitles. Subtitles may reflect administrative units within departments or program or subject areas, under which chapters are organized. Subtitles shall be numbered consecutively. Subtitle numbers shall not be cited as part of the section number. [Eff 2/15/80; comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-3-4 Parts. Subtitles may be divided into one or more parts. Parts may reflect administrative units, or program or subject areas within a subtitle under which chapters are organized. Parts shall be numbered consecutively but the part number shall not be cited as part of the section number. Subtitles need not be divided into parts, but parts shall not be used except as divisions of subtitles. [Eff 2/15/80; comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-3-5 Chapters. (a) Chapters shall constitute the primary divisions within a title. Chapters may

encompass all rules for a particular subject area or program administered by the department.

Example:

worker's compensation, unemployment compensation, and temporary disability insurance might constitute chapters within the title assigned to the department of labor and industrial relations.

(b) Chapters shall be numbered consecutively in Arabic numerals without regard to subtitles and parts. In other words, if chapters 1 to 5 of a given title are organized under subtitle 1, the first chapter under subtitle 2 shall be assigned a number larger than 5, rather than chapter 1. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-3-6 Subchapters. Sections within each chapter may be grouped into more specific categories called subchapters. Subchapters shall be numbered consecutively and subchapter numbers shall not be cited as part of the section number. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-3-7 Sections. (a) Sections are the lowest independent units within the numbering system. Each rule section adopted by an agency shall be numbered as a section or part of a section within a chapter.

(b) Within each chapter, sections shall be numbered consecutively in Arabic numerals without regard to subchapters unless space is reserved for expansion. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-3-8 Units of organization within a section. Each section may be subdivided into subsections, paragraphs, subparagraphs, and clauses. The divisions shall be indicated as follows:

- (1) Subsections shall be indicated by lower case letters in parentheses, as (a), (b), (c);

- (2) Paragraphs shall be indicated by Arabic numerals in parentheses, as (1), (2), (3);
- (3) Subparagraphs shall be indicated by capitalized letters in parentheses, as (A), (B), (C); and
- (4) Clauses shall be indicated by lower case Roman numerals in parentheses, as (i), (ii), (iii), (iv).

Further division of a section shall not be allowed.

The "Example of Form and Style (2/20/80)", at the end of this chapter, is made a part of this section. [Eff 2/15/80; comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-3-9 Title and chapter analyses. (a) Every title shall have a title analysis, listing in numerical order all of the subtitles (if any), parts (if any), and chapters contained in the title. Every chapter shall have a chapter analysis listing in numerical order, all of the subchapters (if any), and the section numbers and headings of all sections contained in the chapter. Title and chapter analyses serve as a table of contents for the particular title or chapter. A title analysis is included at the beginning of this title and a chapter analysis at the beginning of each chapter. [Eff 2/15/80; comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-3-10 Running heads; pagination. (a) The number of the section which begins each page (even though the section itself begins on a previous page) shall be typed or printed in the upper left-hand corner of a left-hand page. The number of the last section appearing on a right-hand page shall be typed or printed in the upper right-hand corner of the right-hand page. These numbers shall be called "running heads".

(b) Page numbers shall run consecutively throughout each chapter. Page numbers shall consist of the chapter number followed by a hyphen and the number of the page within the chapter.

Example:

Chapters 1 and 2 of a title contain five pages each. The pages of chapter 1 would be numbered 1-1, 1-2, 1-3, 1-4, and 1-5, while the pages in chapter 2 would be numbered 2-1, 2-2, 2-3, 2-4, and 2-5.

Page numbers shall be typed or printed in Arabic numerals at the bottom (centered) of each page.

(c) Page numbers shall not be assigned to pages of amendments, or notices of change, but running heads shall be included in the upper right corner; provided that both page numbers and running heads shall be assigned where the addition of a new chapter or larger unit of organization constitute the amendment. See third example, section 00-3-11. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-3-11 Insertions. (a) Subtitles, parts, chapters, subchapters, and sections inserted between consecutive whole numbered items shall take the number of the previous item followed by a decimal point and number. Progressions of numbers shall be in accordance with accepted principles of mathematics.

Examples:

Existing subtitle 2 of title 5 contains chapters 5 to 9 while subtitle 3 contains chapters 10 to 12. A new subtitle containing two new chapters is added between these subtitles. The new subtitle might be numbered "2.1" while the new chapters might be "9.1" and "9.2". The first section of each of these new chapters would then be numbered 5-9.1-1 and 5-9.2-1, respectively.

Chapter 6-15 has several subchapters. Subchapter 3 contains sections 6-15-18 to 6-15-25. Subchapter 4 contains sections 6-15-26 to 6-15-31. A new subchapter containing fifteen sections inserted between these subchapters might be subchapter "3.1". The sections could be numbered 6-15-25.01, 25.02, to 6-15-25.15. It would be incorrect to number the sections 25.1, 25.2...25.5...25.10, 25.11, 25.12...25.15 because in mathematical terms .11, .12,....15 are numerically

smaller than .2, .3, .4, etc., which really stand for .20, .30, .40.

Using this same example, if the agency later needed to insert five new sections between sections 6-15-25.06 and 6-15-25.07, the new sections could be numbered 6-15-25.061, .062, .063, .064, and .065, all of which are numerically larger than .06 but smaller than .07.

[Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

EXAMPLE OF FORM AND STYLE (2/20/80)

TITLE 0

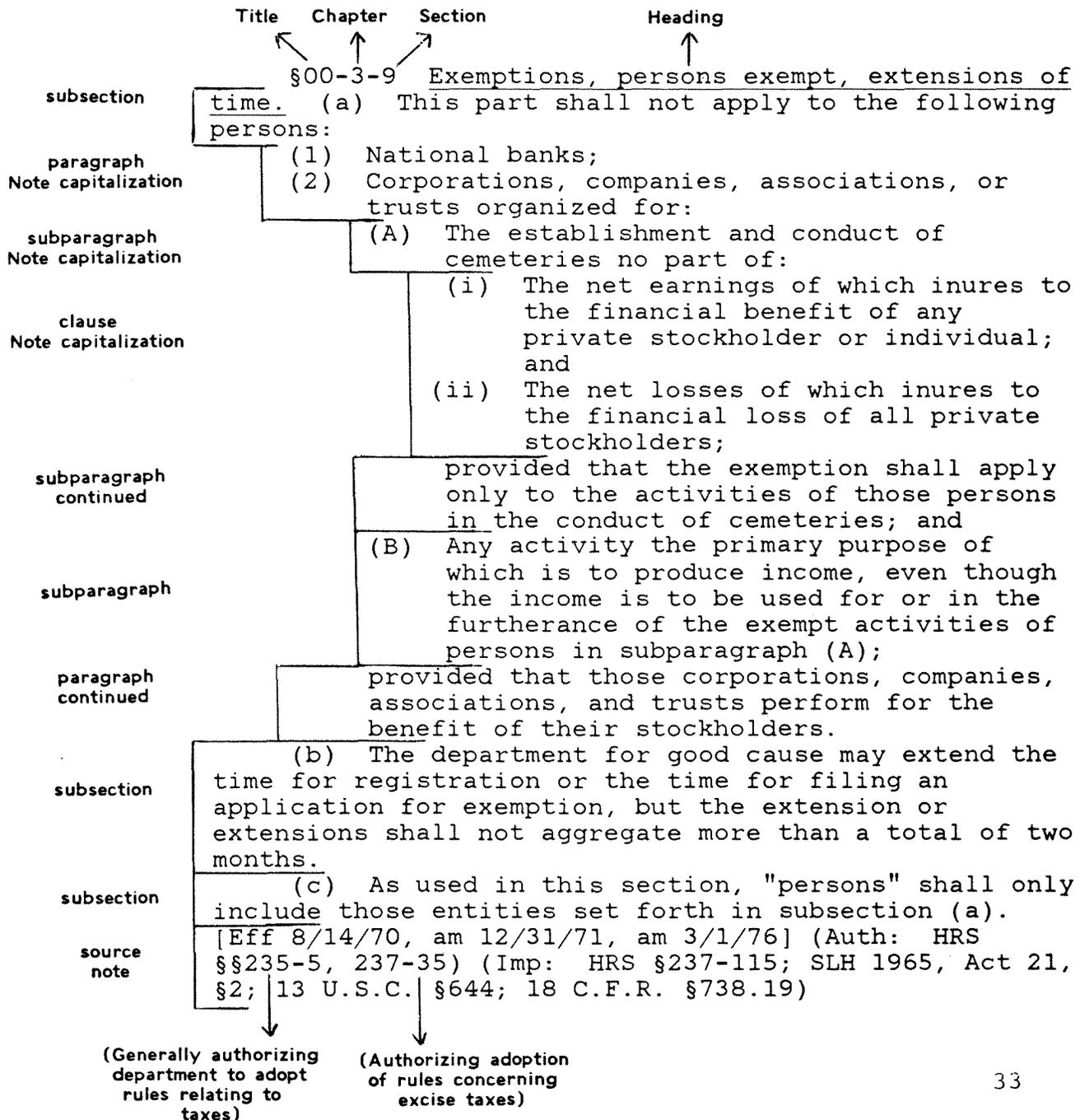
DEPARTMENT OF CORPORATE REVENUE

CHAPTER 3

EXCISE TAXES

Subchapter 2

Exemptions, Licenses



HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 4

DRAFTING REQUIREMENTS

§00-4-1	Section headings
§00-4-2	References to Hawaii Revised Statutes
§00-4-3	Citation of authority
§00-4-4	Sections implemented by rule section
§00-4-5	Source notes
§00-4-6	Incorporation by reference
§00-4-7	Style and grammar
§00-4-8	Repealed rules
§00-4-8.5	Historical notes
§00-4-9	"Reserved" categories

§00-4-1 Section headings. (a) Each section shall have a concise heading following the section number.

(b) Headings shall indicate the substance or subject of the section but need not describe everything contained in the section. The use of terms such as "General" or "Miscellaneous" while not unreasonable as subchapter headings, are not very helpful as section headings.

(c) The section heading shall not be considered part of the rule section, but merely a device to help locate the topic. The heading shall not be treated as part of the first sentence of a section, as illustrated below:

CORRECT

§00-4-5 Source notes. Source notes shall be included in brackets at the end of each section.

INCORRECT

§00-4-5 Source notes shall be included in brackets at the end of each section.

[Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-4-2 References to Hawaii Revised Statutes.

(a) Section 91-4.2, Hawaii Revised Statutes, requires that whenever possible, rules should incorporate applicable sections of the Hawaii Revised Statutes by reference and not print the section in the rule. Statutory provisions have the force and effect of law and need not be reproduced in rules to provide a basis for agency action.

(b) All references to the Revised Laws of Hawaii and the Session Laws of Hawaii (if codified in the Hawaii Revised Statutes) shall be updated to refer to applicable sections of the Hawaii Revised Statutes.

Example:

SLH 1970, Act 105, has been codified as chapter 359G, Hawaii Revised Statutes. All rules adopted pursuant to the Act could refer to SLH 1970, Act 105, had the Act not been codified. Since the Act has been codified, all references to Act 105 should be updated to refer to the appropriate section or sections of chapter 359G, Hawaii Revised Statutes.

(c) In making specific chapter or section references in rules, "Hawaii Revised Statutes" may be abbreviated to "HRS"; e.g., "chapter 91, HRS", or "section 91-4.2, HRS". [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-4-2.1 Federal citations. (a) All citations to federal statutes, whether cited by Public Law (P.L.) or popular name (Title XX of the Social Security Act), shall include appropriate references to the United States Code, if any. This requirement shall apply even though the title of the United States Code cited to has not formally been enacted as law (codified). The only exception to this requirement shall be the federal

Internal Revenue Code of 1954, as amended, which may be cited as such.

(b) All citations to the Federal Register shall include appropriate citations to the Code of Federal Regulations if the federal regulations cited are included therein.

(c) The purpose of this section is to facilitate the ability of persons outside the adopting agency to find the federal statutes or rules referred to. The publications most readily accessible to the public for the purpose of finding federal statutes and rules are the United States Code and the Code of Federal Regulations. The agency adopting the rules is in the best position to determine which particular sections of the United States Code or Code of Federal Regulations are being referenced. The federal Internal Revenue Code of 1954, as amended, is exempted from this section because of its ready availability to the public in that form. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-4-3 Citation of authority. (a) Statutory authority shall not be cited as a numbered rule section. It shall be properly cited at the end of each rule section following the source note, and indicated by "(Auth:)". Citations of authority shall not be referred to as source notes.

(b) Each rule section shall include a list of all state statutes, and, if applicable, federal statutes and federal rules authorizing the adoption of that rule section. The citation shall include statutes granting a department general authority to adopt rules as well as those which authorize or require the adoption of rules concerning the particular subject of the rule section. The citation of authority shall be changed as necessary to reflect changes in the numbers of the authorizing statutes (e.g., due to renumbering by the legislature); provided this may be accomplished by filing a "Notice of Change" with the office of the lieutenant governor pursuant to section 00-5-6.

(c) Except for rules of practice, procedure, and public information adopted pursuant to section 91-2, Hawaii Revised Statutes, citations of authority shall not include references to chapter 91, Hawaii Revised Statutes. Except for the categories of rules listed in this subsection, the Hawaii Administrative Procedure Act (chapter 91, HRS) does not authorize or require the

adoption of specific rules. Rather, it provides general standards and procedures for the adoption of rules.

(d) Appropriate abbreviations of authorities cited in the citations of authority shall be as listed below:

- (1) Citations of the Hawaii Revised Statutes shall be "HRS" followed by the appropriate section number, e.g., HRS §000-10, HRS §§000-10 to 000-12;
- (2) References to the Session Laws of Hawaii shall include the appropriate section number of the Act, e.g., SLH 1979, Act 216, §2. All session law citations shall be changed to the appropriate Hawaii Revised Statutes citation upon availability; provided this may be accomplished by filing a "Notice of Change" pursuant to section 00-5-6;
- (3) Citations to federal statutes shall be made to the appropriate title and section of the United States Code (e.g., 28 U.S.C. §1652), even if not formally enacted as law; provided citations to the Internal Revenue Code of 1954 may be made without reference to the United States Code;
- (4) Federal statutes not included in the United States Code may be cited to the applicable public law, e.g., Pub. L. No. 89-25, §50 (1965). All public law number citations shall be changed to the appropriate United States Code citation upon availability; provided this may be accomplished by filing a "Notice of Change" pursuant to section 00-5-6;
- (5) All federal regulations shall be cited to the Code of Federal Regulations if contained therein, including the appropriate title and section number, e.g., 16 C.F.R. §162.11;
- (6) When federal regulations do not appear in the Code of Federal Regulations, the section number of the rule and the appropriate volume and page of the Federal Register shall be cited (e.g., 22 Fed. Reg. 9641 §1031.5). All citations to the Federal Register shall be updated to appropriate C.F.R. citations upon availability; provided this may be accomplished by filing a "Notice of Change" pursuant to section 00-5-6.

(e) The exhibit at the end of chapter 00-3 entitled "Example of Form and Style (2/20/80)", is made a part of this section. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-4-4 Sections implemented by rule section.

(a) Agencies shall include after the source note and citation of authority a list of all statutes, session laws, public laws, and federal rules being interpreted or implemented by each rule section. The format for citations shall be as provided in section 00-4-3(d). The list of statutes and rules implemented shall be changed as necessary to reflect changes in the numbers of the statutes and rules implemented; provided this may be accomplished by filing a "Notice of Change" with the office of the lieutenant governor pursuant to section 00-5-6.

(b) The sections implementing or interpreting the rule section shall be listed after the citation of authority, and shall be indicated by "(Imp:)".

(c) If the same statute constitutes both the authority for and the statute implemented by a rule section, the statute shall be cited in both lists.

(d) The exhibit at the end of chapter 00-3 entitled "Example of Form and Style (2/20/80)", is made a part of this section. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-4-5 Source notes. (a) Source notes shall be included in brackets at the end of each section. Source notes provide historical information on the section by setting forth:

- (1) The date upon which the section first becomes effective "Eff";
- (2) The dates upon which all subsequent amendments to that section become effective "am";
- (3) Any renumberings "ren"; or
- (4) Compilations "comp";

become effective. For purposes of this section, a section shall be considered amended when any change is made to any part of the section other than the section number. A change of the section number shall be a "renumbering". Consequently, a "ren" in a source note which is not accompanied by an "am" will indicate that

no change was made to the section except its number. A section which is amended and renumbered at the same time shall be indicated by "am and ren". The repeal of a section shall be indicated by a "R".

(b) Source notes shall include references to all changes in section numbers assigned to a rule section after the effective date of this subtitle.

Example:

A source note which reads: [Eff 7/12/51; am 1/9/52; am 10/6/55; am 4/5/66; ren §5-2-21 2/15/80; am 3/1/82; am and ren §5-2-14 7/1/83; ren §5-2-23 9/10/87] would indicate to a reader in the year 1987 or later that section 5-2-23 became effective on 7/12/51 and was: amended on 1/9/52, 10/6/55, and 4/5/66; renumbered on 2/15/80 to section 5-2-21; amended on 3/1/82; amended and renumbered to section 5-2-14 on 7/1/83; and renumbered to its present number on 9/10/87.

(c) The source note for every rule section in effect on February 15, 1980, shall reflect the new section number obtained during the transition as a "ren", unless transition is accomplished by repealing existing rules and adopting new rules.

(d) When preparing rules for adoption or other action, agencies will not be able to include complete source notes unless the effective date of the proposed rules or changes is specified in advance. Where rules are intended to become effective on a date which is not specified, e.g., "10 days after filing with the office of the lieutenant governor", the effective date cannot be known until the rules are actually filed. Consequently, when the effective date of the rules (or amendments or other actions) is not plainly specified, agencies shall leave the last portion of the source notes blank until the day the rules are filed. At that point, the effective date shall be stamped into the final portion of the source note. The blank space shall be one and one-half inches long on a single line.

CORRECT

[Eff 2/15/80; am and ren §5-16-21 11/15/80; am 7/1/81; am and comp 1/5/82; am 6/28/82; ren §5-16-22 8/1/83; comp]

INCORRECT

[Eff 2/15/80; am and ren §5-16-21 11/16/80; am 7/1/81; am and comp 1/5/82; am 6/28/82; ren §5-16-22 8/1/83; comp]

The second example is incorrect because the one and one-half inches of blank space are not on a single line. The first example has one and one-half inches of blank space on the last line.

(e) Source notes shall begin immediately following the last words in the text of any section. The margin for the source note shall be the margin being used for the level of organization at which the section ends. For example, if the last level of organization in the section is a subsection which is not divided into paragraphs, the source note will begin at the end of the text, and return to the left margin. On the other hand, if the section ends in a paragraph, subparagraph, or clause, the source note begins at the end of the text but returns only as far as the blocking on the paragraph, subparagraph, or clause. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-4-6 Incorporation by reference. (a) An agency may incorporate into its own rules, third party standards or codes published by the United States government or private organizations. To do so, the agency shall adopt a specified edition of the third party standards, or incorporate them as they existed on a specified date. An agency adopting rules which are the same as the rules of a federal agency shall incorporate the federal rules as they existed on a specified date. The agency shall not adopt future amendments to the third party standards by attempting to incorporate them in the adopting rules through the use of terms such as "as may be amended" or "as amended".

INCORRECT

The Uniform Building Code, 1967 Edition, published by the International Conference of Building Officials, and all amendments which may be made thereto, is made a part of this chapter.

CORRECT

The Uniform Building Code, 1967 Edition, published by the International Conference of Building Officials is made a part of this chapter.

OR

Title 7, Chapter XXVIII, subpart B of the Code of Federal Regulations, as it existed on February 4, 1984, shall govern the procedures pertaining to meat grading.

The purpose of prohibiting the incorporation of future amendments is a separate issue from the larger question of whether such a method of amendment is illegal as an unconstitutional delegation of authority. The incorporation of future amendments by reference, while convenient, is nonetheless an undesirable practice which can result in uncertainty as to which version of the incorporated material is in force at a particular time. Accordingly, the incorporation of future amendments is prohibited as a matter of format.

(b) Subsection (a) shall not prohibit the adjustment of rates or other items on the basis of indices established by third parties such as the:

- (1) Prime rate;
- (2) Consumer price index (as established by a specified agency); or
- (3) Rate of inflation (as established by a specified agency).

The agency using the index shall provide specific information in the rules regarding where a person may obtain information concerning the index being referred to. The agency adopting the rules shall have all relevant information regarding the index available for distribution.

(c) An agency seeking to reflect amendments made by the publishing body to the incorporated edition may accomplish this by either:

- (1) Amending the rules to incorporate a newer edition; or
- (2) Treating the amendments as exceptions, deletions, or additions pursuant to subsection (d).

(d) Where an agency in the original incorporation or later incorporation of amendments, makes any exception, deletes any provision, or adds any

requirement not contained in third party standards, the exception, deletion, or addition shall be included as part of the rules incorporating the standards by reference.

Example:

The Uniform Building Code, 1967 Edition, published by the International Conference of Building Officials, is made a part of this chapter, subject to the following amendments:

- (1) §4502 is amended by deleting the third paragraph.
- (2) §4507 is amended to read: "§4507. No doors, either fully opened, or when opening, shall project beyond the property line."
- (3) Table No. 54-C is amended by amending entries in the right-hand column under "Over 50 Sq. Ft." for "Minimum Frame Lap" and "Minimum Glass Frame Lap" to read: "3/8".

(e) The incorporation of maps, forms, or other exhibits shall be accomplished by giving the map, form, or exhibit a title and date, and citing the title and date as a part of the rule section. Titles shall be descriptive, e.g., "Map of the Nuuanu Reservoir Conservation Area" 12/1/79. The incorporating rule section shall state where the map, form, or exhibit is located, e.g., "at the end of this (section); (chapter); (title)". Terms such as "attached" shall not be considered adequately descriptive.

(f) The purpose of requiring dates to be placed on all exhibits and requiring the incorporation of the title and date of the maps, forms, and exhibits into the text of the section is to ensure the inclusion of the correct map, form, or exhibit with the rules. When a map, form, or exhibit is changed, the new item shall carry a date which is later than the date on the item being replaced. All sections which incorporate a map, form, or exhibit which is being changed shall be amended by changing the date of the incorporated item to conform to the date of the new item.

Agencies shall not use the effective date of the new rules or amendments to existing rules as the dates for maps, forms, or exhibits, as the agency, in all likelihood will not know the effective date in advance.

The actual date on the map, form, or exhibit is not important, as long as:

- (1) The date is specific; and
- (2) The date on the map, form, or exhibit matches the date in the incorporating sections.

(g) Maps, forms, and exhibits incorporated by reference into rules shall be on 8-1/2 x 11 inch paper, copied on two sides. If necessary, the incorporated materials shall be photocopied in reduced size to fit onto the 8-1/2 x 11 inch paper, unless doing so will render the materials unreadable or otherwise useless. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-4-7 Style and grammar. Style and grammar requirements shall be as provided in the exhibit entitled "Style, Words, and Grammar", dated 3/3/84, located at the end of this chapter. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-4-8 Repealed rules. When any subtitle, part, chapter, subchapter, or section is repealed, the number shall not be reassigned until the entire title is next compiled. In other words, once a rule section is repealed, the section number assigned to that rule section is completely removed from further use. In the updating or amending pages, the agency shall cite the number followed by the word "Repealed". A source note indicating only the date the repeal became effective shall be included. The exhibit entitled "Example-- Amendments Filed With Lieutenant Governor (3/1/84)", at the end of chapter 00-5 is made a part of this section. [Eff 2/15/80; am 8/1/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-4-8.5 Historical notes. (a) When any section is repealed and another section substantially similar in contents is subsequently adopted, the agency shall include the source note from the earlier repealed section as an "historical note" at the end of the section.

Example:

§14-6-9 Disqualifications. No person shall be a bank examiner who is a director or owner of any interest, or shares of stock in any company or corporation that may be examined. [Eff 7/12/87] (Auth: HRS §401-50) (Imp: HRS §401-39)

Historical note: §14-6-9 is based substantially upon §14-6-4. [Eff 6/10/50; am 6/1/61; 7m 12/2/75; ren §14-6-4 2/15/80; am 3/1/83; R 7/12/87]

(b) Where a subchapter or chapter is repealed and a unit of organization substantially similar in content is subsequently adopted, the requirements of subsection (a) may be modified as follows:

- (1) Historical notes providing the history of the predecessor section need not be placed at the end of each section of the new unit of organization;
- (2) A single historical note may be placed at the beginning of the unit of organization giving the history of the predecessor unit of organization.

Example:

Agency wishes to make extensive changes to chapter 0-5. Agency determines that the changes will be extensive and that it will be easier to simply repeal the existing chapter and adopt a new one. Agency subsequently repeals chapter 0-5 and replaces it with a new chapter 0-8. Many sections of chapter 0-8 (those which did not have to be revised extensively) are substantially restatements of their sectional equivalents in the old chapter 0-5.

In setting forth historical notes, agency need not include a historical note at the end of each section in chapter 0-8 giving the full history of the predecessor section in chapter 0-5. Instead, agency may simply include a single historical note at the beginning of chapter 0-8 to wit:

Historical note: Chapter 0-8 is based substantially upon chapter 0-5. [Eff 7/10/80; am 4/8/81; am 11/3/81; am 6/2/82; am and comp 4/11/83; am 2/2/84; R]

The source note in this example includes each date that any part of chapter 0-5 had been amended. Because the note effectively constitutes a "source note" for the entire chapter, it is necessary to include entries each time in which any part of the chapter was amended, even though that amendment may only consist of an amendment to a single section. The renumbering of a section shall be considered an amendment to the chapter.

(c) No historical note shall be used to cover any unit of organization larger than a chapter. Where an existing set of rules (e.g., a departmental "regulation", "manual", etc.) is converted to more than one chapter in the administrative rules format, each chapter shall contain an historical note referring to the portions of the existing set of rules which went into the particular chapter.

Example:

Agency has a voluminous "Regulation V" consisting of 2 "Parts", Licensing and Safety, regulating trucks. Rather than include the entire Regulation in a single chapter, agency decides to convert each part into a chapter. The historical note for each chapter would contain the historical information of the particular part which was converted into the chapter. Accordingly, the note for chapter 0-1, Licensing, would read:

Historical note: This chapter is based substantially upon Regulation V, Part I, of the Department of Motor Vehicles, State of Hawaii. [Eff 6/1/53; am 9/3/64; am 7/4/65; am 3/2/69; am 5/7/73; am 6/4/77; R]

Meanwhile, the historical note for chapter 0-2 would read:

Historical note: This chapter is based substantially upon Regulation V, Part II, of the Department of Motor Vehicles, State of Hawaii. [Eff 6/1/53; am 11/2/66; am 3/2/69; am 10/4/72; am 2/8/76; am 6/4/77; R]

The different dates in the respective notes indicate amendments to parts I and II were not all made at the same time.

(d) Rules for historical notes during the period of conversion to the administrative rules format shall be as provided in section 00-7-8. [Eff 8/1/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-4-9 "Reserved" categories. The term "reserved" may be used to indicate subtitles, parts, chapters, subchapters, or sections which will be added in the future. The term need not be used for sections at the end of a chapter or subchapter, or for chapters at the end of a title, subtitle, or part. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

STYLE, WORDS, AND GRAMMAR (3/31/84)

In drafting, the drafter should keep in mind that the purpose in setting forth the text of a rule is not to entertain but to inform. Consequently, the style that is to be employed should be direct, simple, clear, well understood, not ambiguous. Avoid unnecessary words, using the same word or phrase in different senses, and using different words in the same sense (synonyms). It is more important for the reader of the rule, who in many instances is a layperson to the subject but who is expected to obey the rule, to fully understand what conduct is expected. The following points are presented as guidelines to assist in achieving this goal. The drafter may deviate from these guidelines if deviation enhances clarity and brevity.

Words and Grammar

- (1) Use the present tense and indicate mood. Use if it is necessary instead of if it shall be necessary; use whoever violates instead of whoever shall violate. Avoid use of the passive voice.
- (2) Use may to express a power or privilege; shall to express a duty, obligation, or prohibition; use the director may instead of the director is hereby authorized; the governor may instead of it shall be lawful for the governor to. Use shall instead of the phrases is hereby authorized and directed, or it is the duty. Use will to express future tense, not as a substitute for shall. Do not use must when meaning shall.
- (3) Avoid couplets. Use void instead of null and void.
- (4) Use the singular instead of the plural.
- (5) Use gender neutral terms. Do not use he or she, his or hers. Instead use the antecedent noun or use the word person or individual or other neutral term.

- (6) Do not use and/or. Use or both, for example, this or that or both or this and that or both.
- (7) Do not use said and do not use such where an article may be used.

Sections and Paragraphs

- (1) All sections should have headings. Headings should be short; use phrases rather than sentences. In a compound heading the several coordinate subjects are separated by semicolons. Subsections, however, should not have headings.
- (2) Divide long and involved sections into shorter sections or subsections. Keep sentences and paragraphs as short as possible but do not sacrifice clarity for brevity.
- (3) References
 - (a) When a section, subsection, etc., is referring to itself, use "this section" etc., rather than the section number.

CORRECT

...shall be as provided in this section.

INCORRECT

...shall be as provided in section 10-3-13.

- (b) When referring to another subsection in the same section, simply refer to that subsection. Do not include the section number.

CORRECT

...as provided in subsection (b).

INCORRECT

...as provided in section 10-5-18(b).

(This would be correct if you were in another section and referring to subsection (b) of section 10-5-18).

- (c) References to other paragraphs in same section.
 - (i) When referring to another paragraph in the same subsection: paragraph (1).
 - (ii) When referring to a paragraph in a different subsection but still within the same section: subsection (a)(1).
- (d) When referring to a paragraph in another section:
 - Section 17-717-31(a)(1)--if there are subsections.
 - Section 17-717-33(1)--if no subsections.
- (e) Same logic as in (c) and (d) for corresponding lower levels of organization:
 - (i) Another clause in same subparagraph: "clause (iii)".
 - (ii) Clause in different subparagraph but within same paragraph: "subparagraph (B)(iii)".
 - (iii) Clause in a different paragraph within same subsection: "paragraph (3)(B)(i)".
 - (iv) Clause in different subsection in same section: "subsection (b)(1)(A)(iv)".
 - (v) Clause in a different section: "section 17-735-14(c)(2)(A)(iii)".
- (f) Do not use the designations (a), (b), etc. to list items. Reserve them to designate complete subsections. When designating a tabulation in a section

that has no subsections, use (1), (2),
etc.

Numbering of Sections and Chapters

- (1) When adding new chapters, sections, etc., be sure those numbers are not already being used by another agency within your title.
- (2) Do not renumber the sections following a repealed section.

Section Headings

- (1) All sections shall have headings.
- (2) Headings shall be reasonably short; use phrases rather than sentences.
- (3) In a compound heading the several coordinate subjects are separated by semicolons.

Tabulation

- (1) Each item in the tabulated enumeration shall be responsive in substance and in form to the introductory language of the enumeration.
- (2) If the sentence of which an enumeration is a part continues beyond the end of the enumeration, the part of the sentence that follows it must be appropriate to each item and must be set apart from the last enumerated item.

Example:

If two or more persons conspire:

- (1) To commit any offense;
- (2) To instigate or incite one or more persons to commit any offense;
- (3) To bring or maintain any suit or proceeding knowing it to be groundless; or

- (4) To cause another or others to be arrested, charged, or indicted for any offense, knowing them to be innocent thereof;

each shall be guilty of conspiracy.

Punctuation

- (1) Punctuate carefully. Recast the sentence if a change in punctuation might change its meaning.
- (2) In a series of three or more items, insert a comma before the conjunction and the final item; e.g., "x, y, or z".

Capitalization

- (1) Use capitals sparingly. Generally, designations of state and county government officers and agencies are not capitalized. References to divisions of the Hawaii Revised Statutes shall not be capitalized.
- (2) Capitalize President of the United States and Federal Social Security Act, other federal or state acts, and departments and officers of the United States government, such as the United States Department of Housing and Urban Development and Secretary of State.
- (3) Do not capitalize state unless it refers to the State of Hawaii or a particular state. Do not capitalize state if it is used as an adjective, except when used in the possessive case and referring to the State of Hawaii or a particular state.

Examples:

All people in the State

state department of transportation

the State's jurisdiction

Reference to Federal Law

- (1) Refer to the Internal Revenue Code of 1954, as amended.
- (2) Except for the Internal Revenue Code, always include references to the United States Code.

Example:

Food Stamp Act of 1977 (7 U.S.C.
§§2011-2027)

Numbers

- (1) Spell out numbers generally. Figures may be used if spelling out the number would require the use of more than four words--1,599,010.
- (2) Leave out figures where they are merely repetition of written words.
- (3) Use Arabic numbers for dates, e.g., January 1, 1983 not first of January, nineteen hundred eighty-three.
- (4) Sums of money: Use figures for 1 cent to 99 cents; the word cent(s) to be spelled out. Use figures for dollars; omit decimal and zeroes from even dollar amounts--\$1, \$1.25, \$1,500.
- (5) Use Arabic numbers for references to sections and acts.
- (6) Use figures if decimals are involved--3.2 liters.

Definitions

- (1) Use means instead of shall mean, shall refer to and means.
- (2) For a legal definition that is exhaustive, use means; for a definition that is partial, use includes.

Never use the ambiguous expression means and includes.

- (3) If a definition applies to only one section, incorporate the definition in that section and not in the general definition section for a chapter.
- (4) Do not place substantive provisions in definition sections. Do not include artificial concepts in definition sections.
- (5) Person is defined by general law. See section 1-19, HRS.
- (6) Definitional sections and subsections shall set forth definitions in alphabetical order to facilitate in finding a definition.
- (7) Do not number definitions.

Provisos; Exceptions; Limitations

- (1) Use provisos only for taking special cases out of a general enactment and providing specially for them. If proviso is used, use ; provided that instead of ; provided however that.
- (2) Use exceptions to restrict application of a rule to a particular case. Use except for exceptions, not provided that.
- (3) Where a rule is applicable to limited situations, state the circumstance in which a principle is to apply before stating the principle itself.

Preferred Language Use

- (1) Leave out of Hawaii or of the State after titles of officers, departments, etc., if not ambiguous.
- (2) County includes city and county. See section 1-22, HRS.
- (3) Use specific section or subsection reference instead of preceding section or following section or hereinabove or hereinbelow or herein.

- (4) Use per cent instead of percent, percentum,
%.
- (5) Leave out inclusive after section to
section. See section 1-26, HRS.
- (6) Use this section, instead of the provisions
of this section.
- (7) Use the most compact identification of
sections or subsections: e.g., chapter 12-85
or section 10-12-85(a)(4), instead of chapter
85 of title 12 or subsection (a)(4) of
section 10-12-85 or subsection 10-12-85(a).

Leave out of chapter 10-12, or of the Hawaii
Administrative Rules, or similar references
which are superfluous when the reference is
in language to be included in the Hawaii
Administrative Rules.

- (8) When referring to a section of the Hawaii
Administrative Rules in a rule, do not cite
Hawaii Administrative Rules. For example,
use section 2-12-85 and not section 2-12-85,
Hawaii Administrative Rules.
- (9) When referring to a section of the Hawaii
Revised Statutes in a rule, cite Hawaii
Revised Statutes since that is a document
extrinsic to the body of the Hawaii
Administrative Rules.
- (10) Use a year instead of per annum.
- (11) Further words and phrases that should be
avoided and certain preferred usages are as
follows:

Do Not Use

absolutely null and void
aforesaid
and/or
are hereby required
at the time

be and the same is hereby
be deemed to be
be subject to forfeiture

Use

void
-
x or y, or both
shall
when

is
is
-

Do Not Use

chairman
constitute and appoint

due to the fact that

following section

for the reason that
forthwith
from July 1

henceforth
hereafter
hereby
herein as provided
hereunder

if he shall have complied
in case
in case of
in cases in which
in order to
in the event that
is applicable
is defined and shall be
construed to mean
is hereby authorized
is hereby authorized and
directed
is hereby authorized and it
shall be his duty
is hereby created
is hereby required
is hereby vested with power and
authority and it shall be its
duty to

journeyman

layman

manhour
man-made
mankind
manpower

member of a partnership

Use

chairperson
appoint

because

section 2 (specific
number

because

-
after June 30

-

-

-

as provided in
under this section

if the person complies
if
where
when
to
if
applies

means
may

shall

shall
there shall be
shall

shall

journey worker, journey
(relevant noun, i.e.,
plumber)

layperson, laymember

work hour
artificial
humanity, people
labor force, human
resources, personnel
partner

Do Not Use

Use

no later than June 30
null and void

before July 1
void

on and after July 1
on his own application

after June 30
at the person's request

per centum
preceding section
prior to
provided, however,
provisions of law

per cent
section 1 (specific number)
before
provided
law

rules and regulations

rules

said
shall be construed to mean
shall mean
sole and exclusive
State of Hawaii
subsequent to
such

the, that, this
means
means
exclusive
State
after
the, that, this

under the provisions of
utilize

under
use

whatsoever

(12) Generally, spelling should follow the first preferred spelling shown in the dictionary. For example, the Hawaii Revised Statutes uses:

- (a) Canceled instead of cancelled.
- (b) Marijuana instead of marihuana.
- (c) Moneys instead of monies.
- (d) Wilful instead of willful.

(13) Note on capitalization: University of Hawaii and Office of Hawaiian Affairs are capitalized.

(14) Underscoring:

- (a) Underscore all section headings.

- (b) Underscoring shall not be used for emphasis.
- (c) Underscoring may be used to indicate foreign terms.

HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 5

AMENDMENTS, NEW, AND REPEALED RULES

§00-5-1	Ramseyer format
§00-5-2	"Standard" format
§00-5-2.1	All rules typed twice
§00-5-2.2	Filing deadlines
§00-5-3	Sections or subsections to be set out at length
§00-5-4	Separate sheets of paper; summary and signature pages, order of amendments
§00-5-5	Updated source notes
§00-5-6	Citation of authority; sections imple- mented; notice of change
§00-5-7	Running heads; pagination
§00-5-8	Repealed
§00-5-9	Repealed
§00-5-10	Repealed
§00-5-11	Standard format; examples

Notes. Chapter title am and comp 5/1/81.

Designation "Subchapter 1" and "Subchapter 2" and titles repealed [5/1/84].

§00-5-1 Ramseyer format. Copies of all new rules, or amendments to, or repeal of, existing rules shall be prepared in the Ramseyer format (see chapter 00-5), certified, and filed with the office of the legislative auditor and the legislative reference bureau. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-5-2 "Standard" format. New rules, or amendments to, or the repeal of, existing rules filed

with the office of the lieutenant governor shall not be in the Ramseyer format, but shall be subject to the requirements of chapters 00-1 to 00-4 and this chapter. Examples incorporated by reference into this chapter are for standard format only. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-5-2.1 All rules typed twice. The effect of sections 91-4.1 and 91-4.2, HRS, as amplified by sections 00-5-1 and 00-5-2, taken together, requires that all new rules, or amendments to, or the repeal of existing rules, be typed twice, once each in the Ramseyer and "standard" formats. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-5-2.2 Filing deadlines. One copy of each set of rules in the standard and Ramseyer formats shall be filed with the legislative auditor and the legislative reference bureau not less than ten working days after the agency receives a copy of the rules from the office of the lieutenant governor indicating that the rules have been filed. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-5-3 Sections or subsections to be set out at length. (a) No matter how small the amendment and no matter how lengthy the amended section or subsection, the entire section or subsection shall be set forth; provided that if a section consists solely of definitions, then only the definition being amended need be set forth in its entirety. If only one subsection in a section is being amended, only the subsection amended shall be set forth. Asterisks shall be used to indicate subsections (or other definitions) which are not shown in the standard format. Use of asterisks shall be optional in the Ramseyer format.

Example:

CORRECT

§00-00-00 Heading. ***

(b) Since subsection (b) is the only subsection in section 00-00-00 being amended, only

subsection (b), the section number, and the heading should be set forth.

INCORRECT

§00-00-00 Heading. (a) The drafter is only amending subsection (b) of the section.

(b) Therefore, only subsection (b), the section number, and the heading of this section should be set forth.

(c) Subsections (a) and (c) should not be set forth when only amending subsection (b).

(b) If a section heading is being amended and there is no amendment to the section itself, then only the section number and heading need be set forth.

(c) A section has a subsection if the (a) occurs immediately after the heading of the section and before any substantive language starts.

For example:

§00-00-00 Heading. (a) This section has a subsection since no language appears between the heading and the (a).

For example:

§00-00-00 Heading. The authority shall: (a) This is not a subsection and therefore the section has no subsections. Note the language between the heading of the section and the (a). Note also that the "(a)" is incorrect. Since there is no subsection, the "(a)" should be "(1)".

(d) Where an amendment is made to a map, form, or exhibit, each section incorporating the item shall be amended by incorporating the title and date of the new map, form, or exhibit.

Example:

The "Kaiser-Wilhelm Benefit Plan A" dated 4/16/81 is an exhibit incorporated into the rules of the health care plan for retired teachers. When a new "Benefit Plan A" is issued by Kaiser-Wilhelm on

5/1/83, it will be incorporated to supersede the 4/16/81 plan.

All sections incorporating the exhibit shall be amended to reflect the new date (title of the exhibit does not change). A copy of the new exhibit shall be filed with the amendments.

(e) The exhibits entitled "Example--Amendments Filed With the Lieutenant Governor (Amended Section and Amended Subsection) (3/1/84)", at the end of this chapter are made a part of this section. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-5-4 Separate sheets of paper; summary and signature pages; order of amendments. (a) To facilitate organization and management:

- (1) No sheet of paper (both front and back) shall contain more than one section of new, amended, or repealed rules, except as provided in subsections (b) and (c). Separate sheets of paper shall be used to show changes, additions, or deletions of the titles of chapters, subchapters, etc.;
- (2) Except as provided in subsections (b) and (c), every section added to or deleted from a chapter shall be typed or printed on a separate sheet of paper (both front and back);
- (3) A summary of the effect of each set of amendments shall be included on a separate sheet of paper with an appropriately descriptive title, e.g.:
 - (A) "Amendments to Chapters 16-103, 16-110, and 16-114, Hawaii Administrative Rules";
 - (B) "Adoption of Chapters 18-21 to 18-24, Amendments to Chapters 18-53, 18-57, and 18-61, and Repeal of Chapter 18-47, Hawaii Administrative Rules";
 - (C) "Adoption of Chapter 15-227, Hawaii Administrative Rules"; or
 - (D) "Repeal of Chapter 11-6, Hawaii Administrative Rules".

See "Example--Amendments Filed With the Lieutenant Governor (Summary Page) (3/1/84)",

located at the end of this chapter, which is made a part of this section;

- (4) All signatures necessary for the adoption of rules shall be contained on a separate sheet of paper, which shall be known as the "signature page"; and
- (5) Copies of all summary and signature pages shall be filed with copies of all rules filed with the lieutenant governor, legislative auditor, and legislative reference bureau.

(b) The repeal of a chapter, part, subtitle, or title shall be stated on a separate sheet of paper. The repeal of the chapter or larger unit may be stated rather than listing the repeal of each section on separate pieces of paper. The exhibit entitled "Example--Amendments Filed With the Lieutenant Governor (Repealed Chapter) (3/1/84)", located at the end of this chapter, is made a part of this section.

(c) Where an entire chapter or larger unit of organization is added, the rules contained in that chapter shall be typed on both sides of the paper, and shall not be limited to one section for each sheet of paper.

- (d) The signature page shall state the:
 - (1) Date of adoption by the agency;
 - (2) Date and publication where the notice of public hearing appeared;
 - (3) Date the public hearing was held;
 - (4) Date approved by the governor;
 - (5) Date filed with the office of the lieutenant governor; and
 - (6) Date the rules, amendments, etc. will take effect.

The exhibit entitled "Example--Amendments Filed With the Lieutenant Governor (Signature Page) (3/1/84)", at the end of this chapter is made a part of this section.

(e) Amendments, new sections, and repealed sections shall be arranged in numerical order by section. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-5-5 Updated source notes. (a) Source notes of existing rules shall be updated to include the effective date of the adoption, amendment, repeal, or compilation.

(b) The citation of authority and sections implemented shall be included with each new rule section.

(c) The exhibits entitled "Example--Amendments Filed With the Lieutenant Governor (Amended Section and Amended Subsection) (3/1/84)", at the end of this chapter are made a part of this section. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-5-6 Citation of authority; sections implemented; notice of change. Changes occasionally will be required to the lists of sections authorizing or implemented by rule sections. These changes may be necessitated by the availability of codified citations for previously uncodified provisions (e.g., codification of Session Laws in the Hawaii Revised Statutes), or a renumbering of statutory section numbers by a legislative body.

The updating of the lists of sections authorizing or implemented by rule sections shall not constitute amendments to the rules themselves. The updating shall be accomplished by filing a "Notice of Change" with the office of the lieutenant governor, the office of the legislative auditor, and the legislative reference bureau. The exhibits entitled "Example--Notice of Change (3/1/84)", at the end of this chapter are made a part of this section. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-5-7 Running heads; pagination. All pages showing new sections, amendments, or repealed sections shall have running heads in the upper right-hand corner, but shall not have page numbers. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-5-8 Repealed. [5/1/84]

§00-5-9 Repealed. [5/1/84]

§00-5-10 Repealed. [5/1/84]

§00-5-11 Standard format; examples. For examples of filings of new rules, amendments to existing rules, or the amendment and compilation of existing rules in the standard format, see chapter 00-10. [Eff and comp 5/1/84] (Auth: HRS §91-4.1) (Imp: HRS §91-4.1)

EXAMPLE--AMENDMENTS FILED
WITH THE LIEUTENANT GOVERNOR
(Summary Page) (3/1/84)

Repeal of Chapter 2-3 and Amendments to Chapter 2-5,
Hawaii Administrative Rules
(date of adoption by agency)

SUMMARY

1. Chapter 2-3 is repealed.
2. §§2-5-7 and 2-5-11(c) are amended.
3. A new §2-5-21.5 is added.
4. §2-5-22 is repealed.

[File with Lieutenant Governor, Legislative Auditor, and
Legislative Reference Bureau.]

EXAMPLE--AMENDMENTS FILED
WITH THE LIEUTENANT GOVERNOR
(Repealed Chapter) (3/1/84)

TITLE 2

OFFICE OF THE LIEUTENANT GOVERNOR

CHAPTER 3

PAPER BALLOT VOTING

Repealed

§§2-3-1 to 2-3-10 Repealed. [2/25/80]

[For example as to filing with Legislative Auditor, see item 1 of the Example--Ramseyer Amendments.]

[File with Lieutenant Governor, Legislative Reference Bureau, and Legislative Auditor.]

EXAMPLE--AMENDMENTS FILED
WITH THE LIEUTENANT GOVERNOR
(Amended Section) (3/1/84)

§2-5-7 General county register; restrictions in use. (a) The clerk of each county shall register all the voters in his county in the general county register. The register shall contain the name and address of each voter. Additional information required by section 2-5-15 may be included in the register at the discretion of the clerk. The voter's name shall be maintained alphabetically in the register and be capable of segregation by precinct and representative district. The clerk shall keep the original or photographic copy of the affidavit of the registration required by section 11-15, Hawaii Revised Statutes. The general county register, at all times during business hours, shall be open to public inspection, and shall be a public record.

(b) The affidavits filed under section 11-15, Hawaii Revised Statutes, and the general county register may be copied, and the clerk may release voter lists and tabulating cards or computer tapes containing data furnished in the affidavit, pursuant to ordinances promulgated by the respective county councils.

(c) Voter registration information which is collected and maintained by the clerk of each county may be transmitted to a central file for the purpose of correlating registration data to prevent or detect duplicate voter registrations and for the compilation of election reports. [Eff 7/4/71; am 12/6/74; am 6/3/77; am 2/25/80] (Auth: HRS §000-28) (Imp: HRS §000-7)

[This represents the entire section as amended. Source note is updated to include effective date of this latest amendment. For example as to filing with Legislative Auditor, see item 2 of the Example--Ramseyer Amendments.]

[File with Lieutenant Governor, Legislative Auditor, and Legislative Reference Bureau.]

EXAMPLE-AMENDMENTS FILED
WITH THE LIEUTENANT GOVERNOR
(Amended Subsection) (3/1/84)

§2-5-11 Closing register; list of voters. ***

(c) Immediately upon the closing of the general county register, the clerk shall proceed to prepare a list of all registered voters in each precinct, separately. The list shall contain, in alphabetical order, without designation of the race or age of voters, the names of all voters so registered in each precinct, and the residence of each. The list shall be available for inspection at the office of the county clerk prior to election day. On election day the precinct officials shall post the list at the precinct polling place.

[Eff 7/4/71; am 6/2/74; am 1/14/75; am 6/26/79; am 2/25/80] (Auth: HRS §000-28) (Imp: HRS §000-11)

[Only the subsection amended is reprinted. Source note is updated to include effective date of this latest amendment. Asterisks indicate prior and subsequent subsections have not been included. For example as to filing with Legislative Auditor, see item 3 of the Example--Ramseyer Amendments.]

[File with Lieutenant Governor, Legislative Auditor, and Legislative Reference Bureau.]

EXAMPLE--AMENDMENTS FILED
WITH THE LIEUTENANT GOVERNOR
(New Section) (3/1/84)

§2-5-21.5 Official party ballots. There shall be only one primary or special primary ballot for each party qualifying under section 2-5-61 or 2-5-62. The primary or special primary ballot shall be clearly designated as such, and shall be designated as such, and shall be designated according to party. The names of candidates shall be arranged as provided for in section 2-5-115; provided that in elections using the electronic voting system, the names of all candidates seeking the same office shall be printed on the same side of the ballot card.

The chief election officer, or the county clerk in the case of county elections, shall approve printed samples or proofs of the respective party ballots as to uniformity of size, weight, shape, and thickness prior to final printing of the official ballots. [Eff 2/25/80] (Auth: HRS §000-28) (Imp: HRS §000-30)

[For example as to filing with Legislative Auditor, see item 4 of the Example--Ramseyer Amendments.]

[File with Lieutenant Governor, Legislative Auditor, and Legislative Reference Bureau.]

EXAMPLE--AMENDMENTS FILED
WITH THE LIEUTENANT GOVERNOR
(Repealed Section) (3/1/84)

§2-5-22 REPEALED. [R 2/25/80]

[Includes repeal date.]

[For example as to filing with Legislative Auditor, see item 5 of
the Example--Ramseyer Amendments.]

[File with Lieutenant Governor, Legislative Auditor, and
Legislative Reference Bureau.]

EXAMPLE--AMENDMENTS FILED
WITH THE LIEUTENANT GOVERNOR
(Signature Page) (3/1/84)

The repeal of chapter 2-3, and amendments to chapter 2-5, Hawaii Administrative Rules, on the Summary Page dated _____ were adopted on (Date--should be same as Summary Page) following a public hearing held on _____, after public notice was given in (Name of Newspaper) on (Date).

The repeal and amendments shall take effect ten days after filing with the Office of the Lieutenant Governor (or specified date).

GEORGE R. ARIYOSHI
GOVERNOR
STATE OF HAWAII

Dated:

APPROVED AS TO FORM:

Deputy Attorney General

Filed

[File with Lieutenant Governor, Legislative Auditor, and Legislative Reference Bureau.]

[References to "repeal", "amendments", etc. will vary according to filing.]

[If effective date is being specified, agency must make proper arrangements with governor's office to insure that rules are filed more than 10 but less than 30 days prior to effective date.]

EXAMPLE--NOTICE OF CHANGE
(Authorization)
(3/1/84)

Notice of Change
10/10/82

The citation of authority for §2-5-14, Hawaii
Administrative Rules, is changed to read as follows:

(Auth: HRS §000-29)

[Assume that HRS §000-28 constituted the original statutory
authority for §2-5-14 and that HRS §000-28 was subsequently
renumbered by the legislature to HRS §000-29.]

[Filed with Lieutenant Governor, Legislative Auditor, and
Legislative Reference Bureau.]

[One section on a sheet of paper]

EXAMPLE--NOTICE OF CHANGE
(Authorization)
(3/1/84)

NOTICE OF CHANGE
10/10/82

The citation of authority for §13-15-8, Hawaii
Administrative Rules, is changed to read as follows:

(Auth: HRS §187-2)

[One section on a sheet of paper]

EXAMPLE--NOTICE OF CHANGE
(Authorization)
(3/1/84)

NOTICE OF CHANGE
10/10/82

The citation of authority for §13-15-9, Hawaii
Administrative Rules, is changed to read as follows:

(Auth: HRS §187-2)

[One section on a sheet of paper]

EXAMPLE--NOTICE OF CHANGE
(Implementation)
(3/1/84)

Notice of Change
10/10/82

The list of sections implemented by §2-5-14,
Hawaii Administrative Rules, is changed to read as
follows:

(Imp: HRS §§000-24, 000-24.1)

[Assume the original list of sections implemented had read "(Imp:
HRS §000-24; SLH 1981, Act 35, §2)" and that the new codified
citation (HRS §000-24.1) had become available to replace the
session law citation.]

[File with Lieutenant Governor, Legislative Auditor, and
Legislative Reference Bureau.]

[One section on a sheet of paper]

EXAMPLE--NOTICE OF CHANGE
(Implementation)
(3/1/84)

NOTICE OF CHANGE
9/2/81

The list of sections implemented by §13-88-2,
Hawaii Administrative Rules, is changed to read as
follows:

(Imp: HRS §187-20)

[One section on a sheet of paper]

EXAMPLE--NOTICE OF CHANGE
(Implementation)
(3/1/84)

NOTICE OF CHANGE
9/2/81

The list of sections implemented by §13-90-2,
Hawaii Administrative Rules, is changed to read as
follows:

(Imp: HRS §187-20)

[One section on a sheet of paper]

EXAMPLE--NOTICE OF CHANGE
(Authorization and Implementation)
(3/1/84)

NOTICE OF CHANGE
10/10/82

The citation of authority for and list of sections implemented by §2-5-14, Hawaii Administrative Rules, are changed to read as follows:

(Auth: HRS §000-29) (Imp: HRS §§000-24, 000-24.1)

[Changes to citations of authority for and the list of sections implemented by the same rule may be combined into a single notice.]

[File with Lieutenant Governor, Legislative Auditor, and Legislative Reference Bureau.]

[One section on a sheet of paper]

EXAMPLE--NOTICE OF CHANGE
(Authorization and Implementation)
(3/1/84)

NOTICE OF CHANGE
9/2/81

The citation of authority for and list of sections implemented by §13-83-3, Hawaii Administrative Rules, are changed to read as follows:

(Auth: HRS §187-2) (Imp: HRS §187-20)

[One section on a sheet of paper]

EXAMPLE--NOTICE OF CHANGE
(Authorization and Implementation)
(3/1/84)

NOTICE OF CHANGE
9/2/81

The citation of authority for and list of sections implemented by §13-83-1, Hawaii Administrative Rules, are changed to read as follows:

(Auth: HRS §187-2) (Imp: HRS §187-2)

[One section on a sheet of paper]

HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 5.5

COMPILATION

- §00-5.5-1 Statutory requirements
- §00-5.5-2 Periodic compilations below title level
- §00-5.5-3 Compilation of title
- §00-5.5-4 Elimination of historical notes for sections
- §00-5.5-5 Compilation of title; tables of sections affected
- §00-5.5-6 Examples of simultaneous amendment and compilation of chapter

Historical note. This chapter is based substantially upon subchapter 2 of chapter 00-5, consisting of sections 00-5-8 to 00-5-10. [Eff 2/15/80; R 5/1/84]

§00-5.5-1 Statutory requirements. Agency rules shall be compiled pursuant to the requirements of section 91-5, Hawaii Revised Statutes. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-5.5-2 Periodic compilations below title level. (a) Units of organization below the title level may be compiled separately on the basis of need as determined by the agency. The minimum level of compilation shall be at the chapter level. Agencies may find it easier to periodically compile chapters or other larger units of organization rather than wait to compile the entire title at one time.

(b) In order to eliminate unnecessary typing and other filing problems, it is recommended that agencies compile chapters or other units of organization at the same time that amendments are being made.

(c) The result of the compilation of a unit of organization below the title level shall be an updated version of the unit of organization showing in final typed form, all sections as amended, the inclusion of all added material, and the elimination of all deleted material. The compilation shall also reflect notices of change filed prior to the compilation. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.2, 91-5)

§00-5.5-3 Compilation of title. The compilation of an entire title shall include all of the elements required for the compilation of lower units of organization under section 00-5.5-2. In addition, in compiling the title, the agency shall renumber subtitles, parts, chapters, subchapters, and sections to eliminate decimal-numbered units of organization. All references to repealed sections shall be deleted. The compilation of a title is probably most easily accomplished by repealing all existing rules and adopting new rules. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.2, 91-5)

§00-5.5-4 Elimination of historical notes for sections. When a title is compiled, historical notes for individual sections within chapters shall be eliminated. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-5.5-5 Compilation of title; tables of sections affected. Every time an agency compiles an entire title, the agency shall prepare a table of sections affected listing the old and new section numbers of all rules compiled. The purpose of the table of sections affected is to provide an easy method of finding sections which have been renumbered. The table of sections affected shall be on sheets of paper separate from the rules themselves. [Eff and comp 5/1/84] (Auth: HRS §91-4.1) (Imp: HRS §§91-4.2, 91-5)

§00-5.5-6 Examples of simultaneous amendment and compilation of chapter. For examples of chapters in the standard and Ramseyer formats which have been simultaneously amended and compiled, see chapter 00-10.

[Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.1)

HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 6

RAMSEYER FORMAT

Subchapter 1 General Provisions

- §00-6-1 Applicability
- §00-6-2 Title; outline structure
- §00-6-2.1 Prefatory language required
- §00-6-3 Sequence
- §00-6-4 Punctuation

Subchapter 2 Amendments to Existing Rules

- §00-6-5 Section or subsection to be set out at length
- §00-6-6 Section headings
- §00-6-7 Sections; definitions

Subchapter 3 New Material

- §00-6-8 New subchapters or larger organization units
- §00-6-9 New sections
- §00-6-10 New subsections
- §00-6-11 New paragraphs, subparagraphs, and clauses
- §00-6-12 New definitions
- §00-6-13 Agencies to assign numbers

Subchapter 4 Repeal

- §00-6-14 Repeal of subchapters or larger organizational units
- §00-6-15 Repeal of sections

- §00-6-16 Repeal of subsections
- §00-6-17 Repeal of paragraphs, subparagraphs, and clauses
- §00-6-18 Repeal of definitions
- §00-6-19 Extensive deletions and insertions

Subchapter 5 Other Amendments

- §00-6-20 Amendments to maps, forms, and exhibits
- §00-6-21 Source notes; sections authorizing and implemented

Subchapter 6 Other Provisions

- §00-6-22 Statement of effect of bracketing and underscoring
- §00-6-23 Effective date
- §00-6-24 Ramseyer format; examples

SUBCHAPTER 1

GENERAL PROVISIONS

§00-6-1 Applicability. This chapter shall apply only to the preparation of copies of new rules and the repeal or amendment of existing rules filed with the office of the legislative auditor and the legislative reference bureau. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-6-2 Title; outline structure. (a) Each set of rules submitted to the legislative auditor and the legislative reference bureau shall be entitled in the same manner as summary pages pursuant to section 00-5-4(a)(3).

(b) Each unit of organization (subsection, section, chapter, etc.) being amended shall be listed, and specific amendments indicated by underscoring new material and bracketing material to be deleted. Amendments shall be listed in numerical order by section.

(c) The exhibit at the end of this chapter entitled "Example--Ramseyer Amendments (3/1/84)", located at the end of this chapter, is made a part of

this section. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-6-2.1 Prefatory language required. Rules typed in the Ramseyer format shall include prefatory language explaining the action being taken with regard to a particular unit of organization. Examples of appropriate prefatory language shall include but not be limited to the following:

- (1) "Chapter 00-85, Hawaii Administrative Rules, is adopted to read as follows:"
- (2) "Section 00-85-16, Hawaii Administrative Rules, is adopted to read as follows:"
- (3) "Section 00-85-16, Hawaii Administrative Rules, is amended to read as follows:"
- (4) "Section 00-85-16, Hawaii Administrative Rules, is amended by amending subsection (a) to read as follows:"
- (5) "Section 00-85-16, Hawaii Administrative Rules, is amended by amending subsections (c) and (d) to read as follows:"
- (6) "Chapter 00-85, Hawaii Administrative Rules, is amended and compiled to read as follows:"
- (7) "Chapter 00-85, Hawaii Administrative Rules, is repealed."
- (8) "Section 00-85-16, Hawaii Administrative Rules, is repealed." [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-6-3 Sequence. (a) If the amendment deletes matter and adds new or different matter, follow the grammatical arrangements of the existing unit of organization and of the proposed amendment.

Example:

Section 13-3-14, Hawaii Administrative Rules, is amended to read as follows:

"§13-3-14 Residence lots, requirements. In the disposition of lots for residence purposes:

- (1) No person shall purchase or lease, directly or indirectly through an agent, nominee, third person, or otherwise, any interest in more than one lot.

- [(2) No person and no unmarried minor child, whose spouse or parent purchases or leases a lot, shall be eligible to purchase any lot.
- (3)] (2) The board of land and natural resources shall require the lessee or purchaser to construct a dwelling of such size and value [and within such time] as shall be prescribed by the board[.] within three years following the date of purchase or lease. The board, upon application of the purchaser or lessee, may extend the three-year period from time to time for good cause.
- [(4)] (3) The board shall establish such additional restrictions, requirements, or conditions in accordance with the powers granted to it in section 171-6(6), Hawaii Revised Statutes."

(b) If the amendment proposes to replace an existing word or figure with a new word or figure, the matter to be deleted is set forth first in brackets and the new matter, underscored, is set forth immediately after.

Example:

Section 3-5-5, Hawaii Administrative Rules, is amended to read as follows:

"§3-5-5 Bond authorization. The director of finance, with the approval of the governor, may issue from time to time general obligation bonds pursuant to chapter 39, part I, Hawaii Revised Statutes, not exceeding [\$500,000] \$15,000,000 for the granting of loans pursuant to the purposes of this part."

[Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2)
(Imp: HRS §§91-4.1, 91-4.2)

§00-6-4 Punctuation. (a) An amendment that changes punctuation or spelling in existing rules is indicated by appropriate bracketing and underscoring.

(b) Always bracket out punctuation before inserting new material. Do not insert new material between existing language and punctuation.

CORRECT

Always bracket out punctuation before inserting new material[.], do not insert new material otherwise.

INCORRECT

Always bracket out punctuation before inserting new material, do not insert new material otherwise.

CORRECT

This one, that[,] one, and the other thing.

INCORRECT

This one, that one, and the other thing.

(c) Do not insert punctuation before brackets.

CORRECT

The fact that the period at the end of language being deleted, is three pages away is no excuse for doing it the wrong way[, therefore, please use this example no matter where the period occurs, not the following example].

INCORRECT

The fact that the period at the end of language being deleted, is three pages away is no excuse for doing it the wrong way. [, therefore, please use the other example no matter where the period occurs, not this example.]

(d) When renumbering paragraphs, use the following method:

[(2) Bracket out the number with the material which is being deleted, and

- (3)] (2) Reinsert the number when reaching the remaining material.

Do not use this method:

- (2) [Do not leave the number hanging before deleted material, and
(3)] Then try and match it up with the remaining material.

(e) If a portion of a word is being changed, such as changing its capitalization, the entire word is replaced, first enclosed in brackets as it appears in the existing rules; then amended correctly and underscored. See second example under section 00-6-18. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

SUBCHAPTER 2

AMENDMENTS TO EXISTING RULES

§00-6-5 Section or subsection to be set out at length. (a) The rules controlling the setting out of sections or subsections at length shall be as provided in section 00-5-3 and this section.

(b) Subsections (or units of organization within a subsection) shall be amended by setting forth the entire subsection.

Example:

Section 16-18-5, Hawaii Administrative Rules, is amended by amending subsection (g) to read as follows:

"(g) The board may[, whenever it believes the public interest will be best served] serve suitable notices or warnings, in writing, rather than resorting to prosecution for minor [voilations.] violations."

Example:

Section 19-68-17, Hawaii Administrative Rules, is amended by amending subsection (a) to read as follows:

"(a) The following vehicles shall be certified as provided in subsection (e) once every six months:

- (1) Motor vehicles ten years of age or older, except antique motor vehicles as defined in section 249-1,
- (2) Ambulances,
- (3) Trucks, truck-tractors, semitrailers, or pole trailers having a gross vehicle weight rating of more than 10,000 pounds,
- (4) Buses,
- (5) Rental or U-drive motor vehicles,
- (6) Taxi cabs."

(c) Contiguous subsections within the same section may be amended together.

Example:

1. Section 00-10-5, Hawaii Administrative Rules, is amended by amending subsections (b) and (c) to read as follows:

"(b) The quick brown [fox] aardvark jumped over the lazy clowns.

(c) Now is the time for all good [men] individuals to come to deface the party."

(d) Subsections within the same section which are not contiguous shall be amended separately.

Example:

1. Section 00-10-9, Hawaii Administrative Rules, is amended by amending subsection (a) to read as follows:

"(a) We went eyeball to eyeball and the other [guy] person blinked."

2. Section 00-10-9, Hawaii Administrative Rules, is amended by amending subsection (c) to read as follows:

"(c) [These rules represent] This chapter is an example of America's [gross] grossest national product."

[Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2).
(Imp: HRS §§91-4.1, 91-4.2)

§00-6-6 Section headings. Section headings shall be underscored once to indicate that they are underscored normally, and to set them apart from the body of the section. Since headings are normally underscored once, additions to headings shall be double underscored. This is the only instance in which double underscoring may be used. Deletions in section headings shall be bracketed and shall not be underscored at all.

Example:

Section 18-20-11, Hawaii Administrative Rules is amended by amending the title to read:

"§18-20-11 Amortization of certified
[pollution control facilities.] environmental
improvement equipment."

[Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2)
(Imp: HRS §§91-4.1, 91-4.2)

§00-6-7 Sections; definitions. (a) Sections shall be amended as follows:

Example:

Section 15-7-4, Hawaii Administrative Rules, is amended to read as follows:

"§15-7-4 Qualifications for loans. To qualify for a loan under this part an applicant [must:] shall:

- (1) Be of legal age and have at least one person who will occupy the premises with [him] the applicant and who is related to [him] the applicant by blood or marriage and solely dependent upon [him] the applicant for support. A husband and wife, who are both employed, shall jointly qualify for a loan;

- (2) Be a resident of the State for not less than one year immediately preceding the application for the loan;
- (3) Have a gross annual income not in excess of [\$7,000] \$15,000 including the gross income of [his] the applicant's spouse; and
- (4) Have such other qualifications as may be established by the director of finance."

Example:

Section 2-4-6, Hawaii Administrative Rules, is amended to read as follows:

"§2-4-6 Transfers; name changes; initiated by clerk. (a) The clerks shall use all reliable and pertinent information to keep the general register up to date. The county clerks may request information from, but are not limited to, the following sources:

- (1) The office of the lieutenant governor for any change of name;
- (2) Courts for any changes of name, divorces, separations, or other changes affecting voter status;
- (3) The department of health for marriages, deaths, or other changes affecting voter status;
- (4) Utility companies concerning commencement of changes of service;
- (5) Residential apartments, cooperative apartments, and condominiums as to changes of occupancy.

In requesting such information the clerk shall give reasonable notice and time for furnishing the information.

(b) If the clerk has evidence indicating that a voter's registration should be transferred, then not later than 4:30 p.m. on the [ninetieth] one hundred twentieth day prior to the primary the clerk shall notify the person by first-class mail and not later than 4:30 p.m. on the third day thereafter publish in a newspaper of general circulation notice of intent to transfer registration. Notice by mail shall be sent to the address shown on the current voter list and any alleged new address. The notification shall include:

- (1) Any evidence that the clerk may have indicating why a transfer or change should be made;
- (2) The residence, precinct, and district of the voter according to current registration lists;
- (3) The alleged new address, precinct, and district;
- (4) A reply form which shall contain a space for the voter's agreement or objection to the transfer and the reasons for the objection;
- (5) Notice that unless the completed form is returned not later than 4:30 p.m. on the fifteenth day after mailing the voter shall be subject to challenge at the polls under the terms of section 2-4-7 on the basis of not being registered in the precinct where [he] the voter resides.

If no response is received by the clerk by 4:30 p.m. on the fifteenth day after mailing, a second notification shall be made not later than 4:30 p.m. on the [sixtieth] ninetieth day prior to the primary, by telephone or personal contact. A record shall be maintained of all the phone calls or attempted personal contacts noting the date, time, person calling, person called, and reply received.

(c) If, on the basis of the evidence available the clerk has good reason to believe that the voter does actually reside at some address other than the one carried on the registration list, the clerk shall transfer the voter to [such] that new address. A list of those transferred, and the precinct to which they moved, [will] shall be available at the old precinct on election day. A voter may contest [such] the transfer on or before election day by presenting evidence that [he] the voter actually resides at the old address which, if found valid by the clerk or the board of registration, shall entitle the voter to be returned to the old voting list by executive order.

A list of all voters with questionable addresses who fail to respond to notification attempts of the clerk, but who have not been transferred, shall be posted at the precinct in which [he] the voter is registered on election day and shall be made available to the public not later

than 4:30 p.m. on the forty-fifth day prior to the primary election."

(b) Sections consisting solely of definitions are the only sections which may be amended without reprinting the entire section. Only the definition amended need be reproduced. The amendment shall specifically state the definition or definitions to be amended. Failure to state the particular definition effectively repeals the remainder of the section. In the "Incorrect" example, section 13-1-2, as amended, would consist solely of the definition of "real property".

Example:

Section 17-17-1, Hawaii Administrative Rules, is amended by amending the definition of "developer" to read:

""Developer" means a developer of moderate-income housing under section 202, 207, 213, 221(d)(3), [221(d)(5), or] 221(d)(4), 231, or 236 of the National Housing Act (12 U.S.C. §§1708, 1713, 17151(d)(3), 17151(d)(4), 1715v, or 1715z-1) or a public agency, limited dividend corporation, or a private nonprofit corporation as defined in section 221(d)(3) which conforms to the standards of those sections but which is not a mortgagor under those sections or any other private mortgagor under the National Housing Act (12 U.S.C. §1701 et seq.) for low- or moderate-income family housing, regulated or supervised under federal or state laws or by political subdivisions of the State, or agencies thereof, as to rents, charges, capital structure, rate of return, and methods of operation, from the time of issuance of the building permit for the project."

Example:

Section 13-1-2, Hawaii Administrative Rules, is amended by amending the definition of "real property" to read:

""Real property" includes [buildings, structures,] real estate, lands, tenements, leaseholds, interest in real estate cooperatives,

condominiums, and hereditaments, corporeal and incorporeal, or any interest therein."

INCORRECT

Section 13-1-2, Hawaii Administrative Rules, is amended to read:

""Real property" includes [buildings, structures,] real estate, lands, tenements, leaseholds, interest in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein."

[Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2)
(Imp: HRS §§91-4.1, 91-4.2)

SUBCHAPTER 3

NEW MATERIAL

§00-6-8 New subchapters or larger organizational units. Material adopting a new title, subtitle, part, chapter, or subchapter shall set forth the text in its entirety, but need not be underscored. [Eff 2/15/80; comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-6-9 New sections. The addition of a new section to an existing chapter does not require the chapter to be set forth at length. However, the new section, or sections, shall be set forth in their entirety and underscored.

Example:

Chapter 18-10, Hawaii Administrative Rules, is amended by adding a new section to read as follows:

"§18-10-6 Exemption of certain shipbuilding and ship repair business. There shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the gross proceeds arising from shipbuilding and ship repairs rendered to surface vessels federally owned or engaged in interstate or international trade."

[Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2)
 (Imp: HRS §§91-4.1, 91-4.2)

§00-6-10 New subsections. The addition of a new subsection, to an existing section requires the section to be set forth in its entirety.

Example:

Section 2-3-3, Hawaii Administrative Rules, is amended to read as follows:

"§2-3-3 Request for mailing ballot. (a) Any registered voter entitled to vote under this chapter may request a mailing ballot in person or in writing from the county clerk not earlier than on the sixtieth day and not later than 4:30 p.m. on the seventh day prior to the election. The request for a mailing ballot shall include any information which will facilitate the location of [his] the voter's voting precinct, the establishment of [his] the voter's right to a mailing ballot, and the address to which [he] the voter wishes [his] the voter's ballot forwarded. In any event, not later than 4:30 p.m. on the seventh working day subsequent to the closing of registration for each election, the clerk may mail a request form for a mailing ballot to each registered voter in remote areas who has not already made such a request. The request form shall be accompanied by:

- (1) A stamped, self-addressed envelope; and
- (2) Instructions regarding the manner of completing and returning the request form.

(b) A request made prior to any primary or special primary election by an eligible voter shall be deemed to be made with respect to both the primary and general elections or to both the special primary and special general elections.

(c) Any voter requesting a mailing ballot for a primary or special primary election who has not voted in a primary or special primary election since 1956 shall state the voter's selection of party ballot, nonpartisan ballot, or of only the official board of education ballot in the voter's request."

[Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2)
(Imp: HRS §§91-4.1, 91-4.2)

§00-6-11 New paragraphs, subparagraphs, and clauses. The addition of new paragraphs, subparagraphs, and clauses shall require the section or subsection to be set forth in its entirety pursuant to the requirements of sections 00-6-5 and 00-5-3. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-6-12 New definitions. The addition of a new definition to a section comprised only of definitions requires only the new definition to be set forth. However, if the addition of the new definition will require other amendments in the section, the definition section shall be set forth in its entirety.

Example:

Section 18-1-1, Hawaii Administrative Rules, is amended by adding a new definition to read as follows:

"Uniformed services of the United States" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, and all regular and reserve components thereof, including the National Guard. The term "uniformed services of the United States" applies only to persons who are deemed members thereof under the laws of the United States relating to pay and allowances. Service as a member of the uniformed services includes inactive duty training."

OR

Example:

Section 4-1-1, Administrative Rules, is amended to read as follows:

"§4-1-1 Definitions. As used in this chapter:

- (1) "Board" means the board of agriculture.

- (2) "Committee" means the advisory committee on agricultural products.
- [(2)] (3) "Qualified agriculturalist" means a person, or association of persons, actively engaged in a farm, agricultural produce processing, or agricultural product development activity."

The second example indicates the unnecessary problems caused by numbering definitions. Had the definitions been left unnumbered, only the new definition would have to have been set forth, and not the entire section. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-6-13 Agencies to assign numbers. Because the Hawaii Administrative Rules are not codified, no central authority exists to assign numbers to new units of organization as the revisor of statutes does for the Hawaii Revised Statutes. Accordingly, language to the effect that a chapter is amended by adding a new section "to be appropriately designated" is incorrect. New subtitles, parts, chapters, subchapters, or sections shall be numbered by the agency adopting the rules. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

SUBCHAPTER 4

REPEAL

§00-6-14 Repeal of subchapters or larger organizational units. The repeal of a title, subtitle, part, chapter, or subchapter need not set forth in full the title, subtitle, part, chapter, or subchapter to be repealed. The exhibit at the end of this chapter entitled "Example--Ramseyer Amendments (3/1/84)", is made a part of this section. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-6-15 Repeal of sections. An amendment to repeal a section shall set forth the section in its entirety in brackets.

Example:

Section 19-1-10, Hawaii Administrative Rules,
is repealed.

["§19-1-10 Penalty. Any person convicted of
a misdemeanor under this chapter shall be fined not
more than \$500 or imprisoned not more than six
months, or both."]

[Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2)
(Imp: HRS §§91-4.1, 91-4.2)

§00-6-16 Repeal of subsections. An amendment to
delete a subsection shall set forth the section in its
entirety.

Example:

Section 4-4-16, Hawaii Administrative Rules,
is amended to read as follows:

"§4-4-16 Coloration of certain pesticides.

(a) Pesticides known as standard lead arsenate,
basic lead arsenate, calcium arsenate, magnesium
arsenate, zinc arsenate, zinc arsenite, sodium
fluoride, sodium fluosilicate, or barium
fluosilicate shall be distinctly colored as
specified by rules.

(b) The chairperson, after hearing, may
require the coloration of other pesticides that the
chairperson determines to be necessary to protect
the health and environment.

[(c) The chairperson may exempt the
coloration requirements for certain uses that the
chairperson determines not to have substantial
adverse effect on the environment.]"

[Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2)
(Imp: HRS §§91-4.1, 91-4.2)

§00-6-17 Repeal of paragraphs, subparagraphs, and
clauses. Amendments to repeal paragraphs,
subparagraphs, and clauses shall require the section or
subsection to be set forth in its entirety pursuant to
sections 00-6-5 and 00-5-3. [Eff 2/15/80; am and comp

5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-6-18 Repeal of definitions. An amendment to delete a definition in a section comprised only of definitions requires only the definition to be deleted to be set forth. However, if the deletion of the definition will require other amendments in the section, the section shall be set forth in its entirety.

Example:

Section 18-1-1, Hawaii Administrative Rules, is amended by deleting the definition "trade or business".

[""Trade or business" includes the performance of the functions of a public office."]

OR

Example:

Section 13-3-1, Hawaii Administrative Rules, is amended to read as follows:

"§13-3-1 Definitions. As used in this part:

- (1) "Agency" means the planning department of each county.
- (2) "Shoreline" means the upper reaches of the wash of waves, other than storm or tidal waves, usually evidenced by the edge of vegetation growth, the upper line of debris left by the wash of waves.
- (3) "Shoreline setback" means all of the land area between the shoreline and the shoreline setback line.
- [(4) "Shoreline setback area" means all the land area seaward of the shoreline setback line.
- (5)] (4) "Shoreline setback line" means that line established by the [State] state land use commission or the county running inland from and parallel to the shoreline at a horizontal plane."

[Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2)
(Imp: HRS §§91-4.1, 91-4.2)

§00-6-19 Extensive deletions and insertions. If an amendment proposes so many deletions and insertions in an existing section or subsection of the Hawaii Administrative Rules as to make reading the section difficult, the entire section or subsection may be bracketed and the new matter set out underscored in its entirety. Section 00-4-8 shall apply with respect to numbering. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

SUBCHAPTER 5

OTHER AMENDMENTS

§00-6-20 Amendments to maps, forms, and exhibits. Changes in the title and date of any map, form, or exhibit shall be indicated in the incorporating sections by the appropriate brackets and underscoring.

Example:

The map entitled "Conservation District #X-2" dated 7/1/79 is changed to read: "King Kamehameha I Conservation District" with a slight change in boundaries. The new map was drawn on 10/1/82.

In the above example, the title of the map describing Conservation District X-2 shall be changed on the map, the date 10/1/82 (or another definite date) shall be added, and all sections in which the map is incorporated by reference shall be amended separately to include the new title and date of the new map. [Eff 2/15/80; and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-6-21 Source notes; sections authorizing and implemented. (a) Additions to source notes reflecting amendments, renumberings, and repeals need not be underscored. However, complete source notes shall be included at the end of each section. The requirements of section 00-4-5 shall apply.

(b) Changes of sections authorizing or being implemented by rule sections shall be indicated by "Notice of Change" pursuant to section 00-5-6. The exhibit entitled "Example--Notice of Change (3/1/84)", at the end of chapter 00-5 is made a part of this section. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

SUBCHAPTER 6

OTHER PROVISIONS

§00-6-22 Statement of effect of bracketing and underscoring. Each set of amendments shall be followed by one of the following appropriate sections:

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

OR

Material, except source notes, to be repealed is bracketed.

OR

New material is underscored.

The exhibit at the end of this chapter entitled "Example--Ramseyer Amendments (3/1/84)", is made a part of this section. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-6-23 Effective date. Each set of amendments shall include a statement as to the effective date of the new rules, amendments to existing rules, or repeal of existing rules.

Example:

These amendments to chapter _____, Hawaii Administrative Rules, shall take effect on _____.

OR

These amendments to chapter _____, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

Example:

The adoption of chapter _____, amendments to chapters _____ and _____, and repeal of chapter _____, Hawaii Administrative Rules, shall take effect on _____.

OR

The adoption of chapter _____, amendments to chapters _____ and _____, and repeal of chapter _____, Hawaii Administrative Rules, shall take effect ten days after filing with the office of the lieutenant governor.

The exhibit at the end of this chapter entitled "Example--Ramseyer Amendments (3/1/84)", is made a part of this section. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-6-24 Ramseyer format; examples. For examples of filings of new rules, amendments to existing rules, or the amendment and compilation of existing rules in the Ramseyer format, see chapter 00-10. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

EXAMPLE--RAMSEYER AMENDMENTS
(3/1/84)

Repeal of Chapter 2-3 and Amendments to Chapter 2-5,
Hawaii Administrative Rules

1. Chapter 2-3 is repealed.

2. Section 2-5-7, Hawaii Administrative Rules, is amended to read as follows:

"§2-5-7 General county register; restrictions in use. (a) The clerk of each county shall register all the voters in the clerk's county in the general county register. The register shall contain the name[,] and address[, and primary ballot selection data essential for election purposes.] of each voter. Additional information required by section 2-5-15 may be included in the register at the discretion of the clerk. The voter's name shall be maintained alphabetically in the register and be capable of segregation by precinct and representative district. The clerk shall keep the original or photographic copy of the affidavit of registration required by section 11-15, Hawaii Revised Statutes. The general county register [shall], at all times during business hours, shall be open to public inspection, and shall be a public record.

[(b) In all primary and special primary elections held in 1970 and subsequently the clerk shall include in the general county register information to show the primary or special primary ballot selected by each of the voters at the next preceding primary or special primary election, or the registered change of primary or special primary ballot selection by any voter. Newly registered voters, those who have failed to select a partisan or nonpartisan primary or special primary ballot since the 1968 primary which shall include those who voted in a separate ballot for the board of education only, those who voted for a disqualified party, and those who registered after having their names removed from the register shall have no such information recorded.

(c)] (b) The affidavits filed under section 11-15, Hawaii Revised Statutes, and the general county register may be copied, and the clerk may release voter lists and tabulating cards or computer tapes containing data furnished in the affidavit, pursuant to ordinances

[promulgated] enacted by the respective county councils.

[(d)] (c) Voter registration information which is collected and maintained by the clerk of each county may be transmitted to a central file for the purpose of correlating registration data to prevent or detect duplicate voter registrations and for the compilation of election reports." [Eff 7/4/71; am 12/6/74; am 6/3/77] (Auth: HRS §000-28) (Imp: HRS §000-7)

3. Section 2-5-11, Hawaii Administrative Rules, is amended by amending subsection (c) to read as follows:

"(c) Immediately upon the closing of the general county register, the clerk shall proceed to prepare a list of all registered voters in each precinct, separately. The list shall contain, in alphabetical order, without designation of the race or age of voters, the names of all voters so registered in each precinct, and the residence of each. [In primary and special primary elections the list shall include the party affiliation or nonpartisanship of the voter, if so contained in the general county register.] The list shall be available for inspection at the office of the county clerk prior to election day. On election day the precinct officials shall post the list at the precinct polling place." [Eff 7/4/71; am 6/2/74; am 1/14/75; am 6/26/79] (Auth: HRS §000-280 (Imp: HRS §000-11)

[Note that unlike standard format, section numbers, headings, and asterisks are not included. If the agency feels that including the section number, heading, and asterisks will be helpful for informational purposes, such as during public hearings, they may be included. This variation is allowed for rules only. It is not allowed for bills submitted to the Legislature.]

4. Chapter 2-5, Hawaii Administrative Rules, is amended by adding a new section 2-5-21.5 to read as follows:

"§2-5-21.5 Official party ballots. There shall be only one primary or special primary ballot for each party qualifying under section 2-5-61 or 2-5-62. The primary or special primary ballot shall be clearly designated as such, and shall also be designated

according to party. The names of candidates shall be arranged as provided for in section 2-5-115; provided that in elections using the electronic voting system, the names of all candidates seeking the same office shall be printed on the same side of the ballot card.

The chief election officer, or the county clerk in the case of county elections, shall approve printed samples or proofs of the respective party ballots as to uniformity of size, weight, shape, and thickness prior to final printing of the official ballots." [Eff

] (Auth: HRS §000-28) (Imp: HRS §000-30)

5. Section 2-5-22, Hawaii Administrative Rules, is repealed.

["§2-5-22 Official nonpartisan ballots. There shall be only one primary or special primary ballot containing the names of all nonpartisan candidates to be voted for and the offices for which they are candidates. The ballot shall be clearly designated as the nonpartisan primary or special primary ballot and shall conform in all other respects to the requirements relative to official party ballots." [Eff 7/4/71; am 6/6/73; am 12/29/77; R]

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

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

8. The repeal of chapter 2-3, and amendments to chapter 2-5, 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 (date on summary page) and filed with the Office of the Lieutenant Governor.

Director

APPROVED AS TO FORM:

Deputy Attorney General

[File with Legislative Auditor and Legislative Reference Bureau.]

HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 7

TRANSITION

- §00-7-1 Conversion to new format considered amendments
- §00-7-2 Repealed
- §00-7-3 Repealed
- §00-7-4 Repealed
- §00-7-5 Table of disposition
- §00-7-6 Conversion deadline
- §00-7-7 Repealed
- §00-7-8 Historical notes during transition
- §00-7-9 Conversion to Hawaii administrative rules format; examples

§00-7-1 Conversion to new format considered amendments. All changes made to existing rules to comply with the requirements of the Hawaii administrative rules format shall be considered amendments subject to the requirements of chapter 91, Hawaii Revised Statutes, and this title. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-7-2 Repealed. [R 5/1/84]

§00-7-3 Repealed. [R 5/1/84]

§00-7-4 Repealed. [R 5/1/84]

§00-7-5 Table of disposition. Every agency converting rules to the Hawaii administrative rules format shall file a table of disposition with the legislative auditor and the legislative reference bureau. The table shall list all of the identifying numbers of existing rules and indicate what section numbers those rules will have after conversion to the Hawaii administrative rules format. The table shall be filed as soon as the agency knows what new section numbers have been assigned to existing rules. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-7-6 Conversion deadline. All rules in existence on February 15, 1980 and all amendments thereto shall be amended to comply with this title by June 21, 1981. This shall include the holding of all applicable public hearings, the retyping of rules in both the standard and Ramseyer formats and the filing of rules with the lieutenant governor, legislative auditor, and legislative reference bureau. [Eff 2/15/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-7-7 Repealed. [R 5/1/84]

§00-7-8 Historical notes during transition. (a) Where an agency converts existing rules to the Hawaii administrative rules format by repealing existing rules and adopting new rules, the rules regarding historical notes set forth in section 00-4-8.5 shall apply. All references to the repealed rules shall be to the official title of the rules in the old format.

Example:

The department of creative anachronism determines that its departmental rules of practice and procedure would be more readily converted to the administrative rules format by repealing the existing rules and adopting the new rules. The department cannot use Hawaii administrative rules title and chapter numbers (i.e., chapter ___ of title ___) in the historical notes because the rules being repealed (the existing rules of the

department) have not yet been converted to the new format. Accordingly, the historical note at the beginning of the chapter (assuming the rules of practice and procedure will be organized into a complete chapter) would read as follows:

Historical note: Chapter 0-1 is based substantially upon Regulation I, Rules of Practice and Procedure, Department of Creative Anachronism. [Eff 7/1/61; am 6/5/69; am 7/3/72; am 8/6/77; R]

[Eff 8/1/80; am and comp 5/1/84] (Auth: HRS §91-4.2)
(Imp: HRS §§91-4.1, 91-4.2)

§00-7-9 Conversion to Hawaii administrative rules format; examples. For examples in the standard and Ramseyer formats of rules converted to the Hawaii administrative rules format, see chapter 00-10. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 8

FILING AND MAINTENANCE OF RULES

- §00-8-1 County rules
- §00-8-2 Filing; number of copies
- §00-8-3 Date of filing by agency
- §00-8-4 Recordation of filing; recordation
number
- §00-8-5 Placing effective date in source notes
- §00-8-6 Return to agencies
- §00-8-7 Return copies; filing with legislative
auditor and legislative reference
bureau
- §00-8-8 Filing of summary and signature pages;
lieutenant governor
- §00-8-9 Filing of main body of active rules
- §00-8-10 Filing of amendments, new and repealed
sections, and notices of change;
lieutenant governor
- §00-8-11 Filing pages of inactive rules;
lieutenant governor
- §00-8-12 Preservation of rules
- §00-8-13 Storage and maintenance of rules by agencies
- §00-8-14 Indexes and finding aids

§00-8-1 County rules. County rules are not subject to the requirements of the Hawaii administrative rules format. County rules may continue to be filed and maintained pursuant to the requirements of the "Rules and Regulations Governing the Filing of Rules and Regulations by State and County Officers in the Office of the Lieutenant Governor as Required by Law" unless a county chooses to comply with the requirements of this title, in which case, the rules of that county may be converted as provided in chapter

00-7, and filed and maintained pursuant to this chapter. [Eff 6/20/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-8-2 Filing; number of copies. Each agency shall submit three copies of each set of rules to be filed in the standard format to the office of the lieutenant governor. [Eff 6/20/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-8-3 Date of filing by agency. The lieutenant governor shall indicate the date received on the signature page of every set of rules filed in a manner deemed appropriate by the lieutenant governor. [Eff 6/20/80; comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-8-4 Recordation of filing; recordation number. (a) The lieutenant governor shall maintain a list of all sets of rules filed in the order of filing. This list shall include at a minimum, but need not be limited to, the title and chapters of rules being added, amended, repealed, or compiled, or for which notices of change have been filed, the date of filing, recordation number, and the number of pages (exclusive of summary and signature pages) of rules filed. The type of paper and folders or binders used for the list shall be at the discretion of the lieutenant governor.

(b) Each set of rules entered on to the list shall be assigned a recordation number in order of filing. The purpose of the recordation number is to provide a clear reference between each page of rules and the specific signature page which accompanied it at the time of filing. Recordation numbers shall run consecutively, and shall be entered into the list and upon at least the first and last pages of each chapter of rules to be placed in the main body of active rules, and each amendment page.

(c) Copies of the list indicating all rules filed during the previous calendar month shall be sent by the lieutenant governor to the ombudsman, legislative auditor, and legislative reference bureau on the first working day of each month. [Eff 6/20/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-8-5 Placing effective date in source notes.

(a) The lieutenant governor or a designated employee, upon the original copy of each set of rules filed, shall place the effective date of the rules, amendment, or repeal, at the end of each source note and, if any, each historical note.

(b) If an agency specifies an effective date, the lieutenant governor's office shall determine whether the specified date is allowable under existing law. If the specified date cannot be used (e.g., if the rules are filed less than ten or more than thirty days before the specified effective date), the lieutenant governor's office shall substitute the correct effective date.

(c) The lieutenant governor or a designated employee, upon each copy of rules to be returned to agencies under section 00-8-6, shall place the effective date of the rules at the end of the first source note and historical note only. [Eff 6/20/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-8-6 Return to agencies. The lieutenant governor shall retain one copy of the rules filed, send one copy to the office of the ombudsman, and return one copy to the agency which has filed the rules. [Eff 6/20/80; comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-8-7 Return copies; filing with legislative auditor and legislative reference bureau. (a) Upon receiving the return copy of rules filed with the lieutenant governor, the adopting agency shall place the effective date of the rules into each source note and, if any, each historical note, of the remaining sections of the return copy and each section of rules typed in the Ramseyer format.

(b) The adopting agency shall file copies of rules in the standard and Ramseyer formats with the legislative auditor and legislative reference bureau not later than ten working days after receipt of the return copies from the lieutenant governor.

(c) Copies of rules with original signatures need not be filed with either the legislative auditor or legislative reference bureau.

(d) Copies of rules sent to the legislative auditor and legislative reference bureau shall be directed to the attention of the "Administrative Rules Project" in each office. [Eff 6/20/80; comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-8-8 Filing of summary and signature pages; lieutenant governor. The summary and signature pages shall be separated from the remainder of rules filed, and kept together. Summary and signature pages shall be filed numerically by recordation number. The office of the lieutenant governor may maintain separate folders or binders for the summary and signature pages of each title or file the pages of more than one title in a single binder. [Eff 6/20/80] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-8-9 Filing of main body of active rules; lieutenant governor. The rules filed pursuant to the conversion of existing rules to the Hawaii administrative rules format, and all replacement or added chapters shall constitute the main body of active rules. These chapters shall be filed in numerical order. The number of agency titles stored in each folder or binder shall be at the discretion of the lieutenant governor. [Eff 6/20/80; comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-8-10 Filing of amendments, new and repealed sections, and notices of change; lieutenant governor.
(a) All amendments to rules, new and repealed sections, and notices of change shall be filed in numerical order by section in volumes separate from the main body of active rules. These amendment volumes shall serve as a supplement to the main body of active rules. The number of titles of rules stored in each folder or binder of amendment volumes shall be at the discretion of the lieutenant governor.

(b) Whenever a new chapter or larger unit of organization of rules is filed, those rules shall be placed in the main volume of active rules. Similarly, compiled chapters or larger units of organization shall be filed with the main body of active rules. [Eff 6/20/80; am and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-8-11 Filing pages of inactive rules;
lieutenant governor. (a) Pages of rules contained in the main body of active rules or amendment volumes may be rendered inactive by any of the following actions:

- (1) Repeal of an entire chapter or larger unit of organization in the main body of active rules;
- (2) Amendment or repeal of a rule section set forth on an amendment page prior to compilation thus requiring removal of the original amendment page and replacement with a new one;
- (3) Subsequent compilation in which rules from the main body of active rules and the amendment volumes are merged into a single set of rules (chapter or larger unit of organization). The pages for this single set thus replace the original set of rules in the main body of active rules and all amendment pages and notices of change in the amendment volume.

(b) All pages rendered inactive shall be removed from the main body of active rules and amendment volumes. The inactive status of the removed pages shall be indicated upon each page by any method deemed appropriate by the lieutenant governor.

(c) All inactive pages of rules shall be filed in numerical order in volumes separate from the main body of active rules and volumes of amendment pages. Inactive pages of amendments shall be filed behind the chapter from the main body of active rules which those amendments supplemented.

(d) Inactive pages of a title which have accumulated over the course of more than one calendar year may be stored in a single volume or binder; provided that pages rendered inactive during each calendar year are segregated by index dividers or other means deemed appropriate by the lieutenant governor from pages rendered inactive during other calendar years. The period of accumulation of inactive pages contained within each folder or binder shall be indicated on the outside of the folder or binder.

Example:

On July 1, 1981, chapter 00-7 is repealed. All pages containing sections of chapter 00-7 must be transferred from the main body of active rules to

the volume of inactive rules. This is also true of all pages in the amendment volumes containing amendments to sections of chapter 00-7. The pages in the main body are replaced by a single page indicating the repeal of chapter 00-7. The inactive status of the pages from the main body and amendment volumes then are stamped or otherwise indicated on each of the now inactive pages. Pages from the main body then are placed in the inactive volume followed by the amendment pages in numerical order of sections amended. The single sheet indicating the repeal of chapter 00-7 (see exhibit entitled "Example--Amendments Filed With the Lieutenant Governor (Repealed Chapter) (3/1/84)" located at the end of chapter 00-5, shall be filed in the main body.

On August 1, 1981, the rules and amendments to chapter 00-8 are compiled into a single body. The pages of chapter 00-8 in the main body and amendment volumes are removed and their inactive status indicated in the same manner as the chapter 00-7 pages. In this case, however, the new set of compiled rules are inserted into the main volume of active rules. In the volumes of inactive rules, the pages of the original chapter 00-8 from the main body are placed behind the amendment pages from chapter 00-7. Amendment pages from chapter 00-8 follow the pages from the main body.

Assuming the changes in this example constitute the only changes to rules in title 00, and assuming the lieutenant governor decides to maintain pages of rules rendered inactive in each calendar year in separate volumes, then the volume containing the inactive pages from chapters 00-7 and 00-8 would be entitled:

Title 00
Legislative Reference Bureau
Pages Rendered Inactive 1981

[Eff 6/20/80; am and comp 5/1/84] (Auth: HRS §91-4.2)
(Imp: HRS §91-4.2)

§00-8-12 Preservation of rules. The lieutenant governor shall take all steps necessary to prevent the deterioration of rules maintained on file. [Eff

HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 9

PRINTING, DISTRIBUTION

- §00-9-1 Purpose
- §00-9-2 Official and unofficial copies of rules
- §00-9-3 Official copies available for distribution;
cost
- §00-9-4 Official copies; requirements
- §00-9-5 Copies in unofficial size

Historical note. This chapter is based substantially upon section 00-2-1.1. [Eff 4/1/81; R 5/1/84]

§00-9-1 Purpose. The purpose of this chapter is to establish a single standard for the printing and distribution of agency rules to the end that a person may be able to easily collect copies of the rules of all state agencies and store them in a single set of binders or folders. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-9-2 Official and unofficial copies of rules.
(a) Any rule which an agency considers to be "official" copies of its rules shall comply with the requirements of this chapter. Any copies of rules which fail to comply with this chapter in any respect shall be considered "unofficial" copies and shall be labeled as such.

(b) Unofficial copies of rules shall be indicated by having the word "UNOFFICIAL" displayed on the front cover of the rules, or on the first page if there is no cover, in lettering which shall be not less than one

inch in height. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-9-3 Official copies available for distribution; cost. Regardless of whether an agency chooses to use official or unofficial copies of rules as its primary distribution, official copies of rules shall be available for distribution at a cost which does not exceed that of the unofficial copies of rules. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-9-4 Official copies; requirements. All copies of rules shall meet the following requirements in order to be considered official copies:

- (1) Be in the standard format on 8-1/2 x 11 inch paper which are exact replicas of the rules on file at the office of the lieutenant governor;
- (2) Be distributed in units of organization consisting of not less than a complete chapter; provided this paragraph shall not prohibit the distribution of copies of specific pages upon request;
- (3) Have all new, amended, and repealed sections and notices of change which have not yet been compiled into the main chapter located at the end of the rules being distributed on single sheets of paper;
- (4) Contain copies of rules only and shall not include other material such as statutes or other informational matter;
- (5) Not have hard covers, binding, or any other feature which would limit the ability of a person to punch holes in the pages of rules and store them in a ring binder; and
- (6) Shall not have been retyped or typeset in any way after filing with the office of the lieutenant governor. The purpose of this paragraph is to prevent the development of errors due to retyping or other inconsistencies between the copies of rules on file at the lieutenant governor's office and those being distributed. The easiest method of complying with this requirement is:

- (A) Distributing photocopies of the rules on file with the lieutenant governor; or
- (B) Using the same computer tape or other magnetic readable medium to produce both the copies of rules on file with the lieutenant governor and the camera ready copy for the copies of rules to be printed and distributed. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

§00-9-5 Copies in unofficial size. Agencies may distribute copies of rules in reduced size if those pages are reduced size photocopies of official copies of the rules. In addition, the words "UNOFFICIAL SIZE" shall be clearly visible on the front cover of the rules or on the first page if there is no front cover. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §91-4.2)

HAWAII ADMINISTRATIVE RULES

TITLE 00

LEGISLATIVE REFERENCE BUREAU

SUBTITLE 1 HAWAII ADMINISTRATIVE RULES FORMAT

CHAPTER 10

FORMS AND CHECKLISTS

- §00-10-1 Forms; new rules
- §00-10-2 Forms; amendments
- §00-10-3 Forms; simultaneous amendment and
compilation of chapter
- §00-10-4 Forms; transition to uniform format
- §00-10-5 Checklist for preparation of rules

§00-10-1 Forms; new rules. Forms for new rules shall be as provided in the exhibits entitled "New Rules--Standard Format" and "New Rules--Ramseyer Format", both dated 4/15/84, located at the end of this chapter, which are made a part of this section. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-10-2 Forms; amendments. Forms for amendments to existing rules shall be as provided in the exhibits entitled "Amendments--Standard Format", and "Amendments--Ramseyer Format", both dated 4/15/84, located at the end of this chapter, which are made a part of this section. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-10-3 Forms; simultaneous amendment and compilation of chapter. Forms for the simultaneous amendment and compilation of a chapter shall be as provided in the exhibits entitled "Simultaneous Amendment and Compilation of Chapter--Standard Format", and "Simultaneous Amendment and Compilation of Chapter--Ramseyer Format", both dated 4/15/84, located

at the end of this chapter, which are made a part of this section. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-10-4 Forms; transition to uniform format. Forms for transition from old format rules to the uniform format shall be as provided in the exhibits entitled "Transition to Uniform Format--Standard Format", and "Transition to Uniform Format--Ramseyer Format", both dated 4/15/84, located at the end of this chapter, which are made a part of this section. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

§00-10-5 Checklist for preparation of rules. A checklist for the preparation of rules shall be as provided in the exhibit entitled "Checklist for Preparation of Rules", dated 4/15/84, located at the end of this chapter, which is made a part of this section. [Eff and comp 5/1/84] (Auth: HRS §91-4.2) (Imp: HRS §§91-4.1, 91-4.2)

New Rules

Standard Format 4/15/84

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Adoption of Chapter 15-17
Hawaii Administrative Rules

January 12, 1982

SUMMARY

Chapter 15-17, Hawaii Administrative Rules,
entitled "Aloha Tower Development Corporation Rules of
Practice and Procedure", is adopted.

[separate sheet of paper]

New Rules--Standard

HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF PLANNING AND ECONOMIC
DEVELOPMENT

SUBTITLE 5

ALOHA TOWER DEVELOPMENT CORPORATION

CHAPTER 17

ALOHA TOWER DEVELOPMENT CORPORATION
RULES OF PRACTICE AND PROCEDURE

Subchapter 1 Rules of General Applicability

- §15-17-1 Purpose
- §15-17-2 Definitions
- §15-17-3 Office and office hours
- §15-17-4 Meetings; conduct of meetings
- §15-17-5 Quorum and number of votes necessary for a
decision; designated representatives
- §15-17-6 Authentication of board actions
- §15-17-7 Submittals and requests of petitioners
- §15-17-8 Inspection of public records; requests for
public information
- §15-17-9 Duties of executive officer
- §15-17-10 Delegation of administrative duties
- §§15-17-11 to 15-17-13 (Reserved)

Subchapter 2 Proceedings Before the Development
Corporation

- §15-17-14 General rule
- §15-17-15 Appearances before the board
- §15-17-16 Disqualification of board members
- §15-17-17 Filing of papers
- §15-17-18 Continuances or extensions of time
- §§15-17-19 to 15-17-20 (Reserved)

Subchapter 3 Rulemaking Procedure

- §15-17-21 Initiation of rulemaking procedure

[Two-sided copy begins here]

§15-17-22	Denial of petition
§15-17-23	Acceptance of petition
§15-17-24	Notice of public hearing
§15-17-25	Hearing procedure
§15-17-26	Board action
§15-17-27	Emergency rulemaking

SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

§15-17-1 Purpose. This chapter governs procedures before the Aloha Tower development corporation under chapter 206J, Hawaii Revised Statutes, and shall be construed to effectuate the purpose of the chapter and to secure the just and efficient determination of every proceeding. [Eff] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §§91-2, 206J-5)

§15-17-2 Definitions. As used in this chapter, unless a different meaning clearly appears in the context:

"Aloha Tower complex" means that parcel of land described by section 206J-3, HRS;

"Board" means the board of directors who constitute the governing body of the development corporation, as provided by section 206J-4(b), HRS;

"Chairperson" means the state director of planning and economic development, who is designated as chairperson of the board by section 206J-4(b), HRS;

"Designated representative" means any person designated in writing by the state director of planning and economic development, the state director of transportation, the chairperson of the state board of land and natural resources, or the mayor of the city and county of Honolulu, to represent the designator as an ex officio voting member of the board;

"Development corporation" means the Aloha Tower development corporation established by section 206J-4, HRS, to undertake development of the Aloha Tower complex;

New Rules--Standard

Rules Continue

and responsibility for the execution of the board's policies, the administration of its affairs, and the supervision of its staff. [Eff] (Auth: HRS §206J-5) (Imp: HRS §206J-5)

§15-17-10 Delegation of administrative duties.

(a) The board may delegate to the executive officer any power or authority vested in the board as it deems reasonable and proper for the effective administration of chapter 206J, HRS, except the power to adopt, amend, or repeal rules; and any power or authority expressly reserved to the board by statute or rule.

(b) The board may appoint a hearing officer to conduct a proceeding as provided in this chapter and pursuant to the requirements of chapter 91, HRS. [Eff] (Auth: HRS §206J-5) (Imp: HRS §206J-5)

§§15-17-11 to 15-17-13 (Reserved).

SUBCHAPTER 2

PROCEEDINGS BEFORE THE DEVELOPMENT CORPORATION

§15-17-14 General rule. All petitioners shall comply with this chapter when appearing before the board. Procedures to be followed by the board, unless specifically prescribed in this chapter or by chapter 91, HRS, shall be those which, in the opinion of the board will best serve the purposes of the proceeding. For good cause shown, the board may waive or suspend the provisions of this chapter. [Eff] (Auth: HRS §§91-2, 206J-5) (Imp: HRS §§91-2, 206J-5)

§15-17-15 Appearances before the board. (a) Any party to any proceeding before the board may appear pro se or be represented by an authorized representative.

(b) When an individual acting in a representative capacity appears in person or signs a paper submitted to the board, the personal appearance or signature of

New Rules--Standard

Rules Continue

person or shall confine the testimony to the matters for which the hearing has been called but shall not apply the technical rules of evidence. Witnesses shall be subject to questioning by the members of the board or by any other representative of the board. Cross examination by other persons or agencies shall be permitted only at the discretion of the presiding officer.

(g) All interested persons or agencies shall be afforded an opportunity to submit data, views, or arguments orally or in writing that are relevant to the matters specified in the notice of hearing. The period for filing written comments or recommendations may be extended beyond the hearing date by the presiding officer for good cause. An original and seven copies shall be required when submitting written comments, recommendations, or replies.

(h) Unless otherwise specifically ordered by the board, testimony given at the public hearing shall not be reported verbatim. All supporting written statements, maps, charts, tabulations, or similar data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be received in evidence and made a part of the record. Unless the presiding officer finds that furnishing copies is impracticable, eight copies of the exhibits shall be submitted. [Eff]
(Auth: HRS §§91-2, 91-6) (Imp: HRS §§91-3, 91-6)

§15-17-26 Board action. The board shall consider all relevant comments and materials of record before taking final action in a rulemaking proceeding. Final action shall be taken within a reasonable amount of time following:

- (1) The final public hearing; or
- (2) The expiration of any extension period for submission of written comments or recommendations, whichever occurs later.
[Eff] (Auth: HRS §§91-2, 91-6) (Imp: HRS §91-3, §91-6)

§15-17-27 Emergency rulemaking. The board may adopt emergency rules pursuant to the requirements of section 91-3(b), HRS. [Eff] (Auth: HRS §91-2) (Imp: HRS §91-3)

[Two-sided copy ends here]

New Rules--Standard

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Chapter 15-17, Hawaii Administrative Rules, on the Summary Page dated January 12, 1982, was adopted on January 12, 1982, following a public hearing held on December 29, 1981, after public notice was given in the Honolulu Advertiser on December 7, 1981, and in the Honolulu Star-Bulletin on December 8, 1981.

The adoption of chapter 15-17 shall take effect ten days after filing with the Office of the Lieutenant Governor.

Hideto Kono, Chairperson
Aloha Tower Development
Corporation Board of
Directors

APPROVED:

George R. Ariyoshi
Governor
State of Hawaii

Dated: _____

APPROVED AS TO FORM:

Deputy Attorney General

Filed

[separate sheet of paper]

New Rules

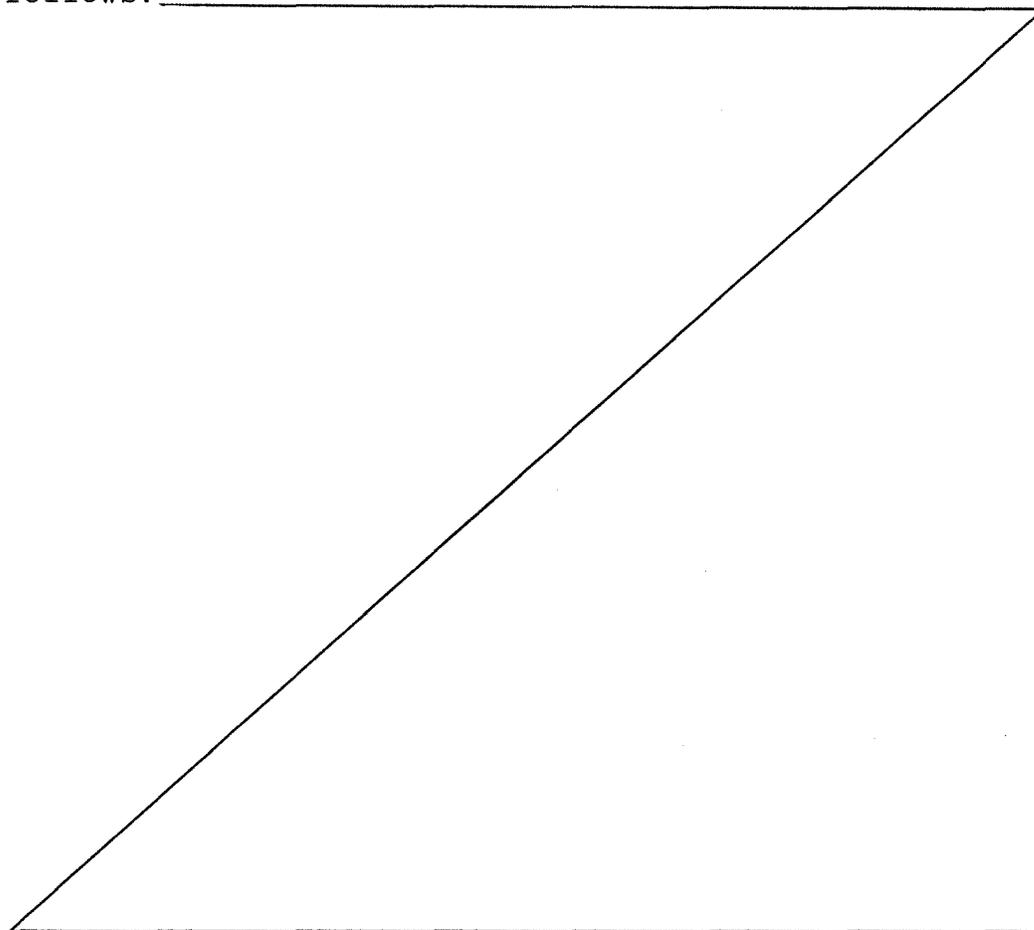
Ramseyer Format 4/15/84

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Adoption of Chapter 15-17
Hawaii Administrative Rules

January 12, 1982

1. Chapter 17 of Title 15, Hawaii Administrative Rules, entitled "Aloha Tower Development Corporation Rules of Practice and Procedure" is adopted to read as follows:



[Attach this sheet (including the "Z") to a photocopy of chapter in standard format. Place quotations at beginning and end of chapter. Do not include summary and signature pages of standard format. This page replaces summary page. Certification at end replaces signature page.]

New Rules--Ramseyer

Quotation marks
at beginning
of rules

ⓂHAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF PLANNING AND ECONOMIC
DEVELOPMENT

SUBTITLE 5

ALOHA TOWER DEVELOPMENT CORPORATION

CHAPTER 17

ALOHA TOWER DEVELOPMENT CORPORATION
RULES OF PRACTICE AND PROCEDURE

Subchapter 1 Rules of General Applicability

- §15-17-1 Purpose
- §15-17-2 Definitions
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decision; designated representatives
- §15-17-6 Authentication of board actions
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public information
- §15-17-9 Duties of executive officer
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- §15-17-14 General rule
- §15-17-15 Appearances before the board
- §15-17-16 Disqualification of board members
- §15-17-17 Filing of papers
- §15-17-18 Continuances or extensions of time
- §§15-17-19 to 15-17-20 (Reserved)

Subchapter 3 Rulemaking Procedure

- §15-17-21 Initiation of rulemaking procedure
- §15-17-22 Denial of petition

New Rules--Ramseyer

§15-17-23	Acceptance of petition
§15-17-24	Notice of public hearing
§15-17-25	Hearing procedures
§15-17-26	Board action
§15-17-27	Emergency rulemaking

Rules Continue

[Photocopy of standard format]

shall confine the testimony to the matters for which the hearing has been called but shall not apply the technical rules of evidence. Witnesses shall be subject to questioning by the members of the board or by any other representative of the board. Cross examination by other persons or agencies shall be permitted only at the discretion of the presiding officer.

(g) All interested persons or agencies shall be afforded an opportunity to submit data, views, or arguments orally or in writing that are relevant to the matters specified in the notice of hearing. The period for filing written comments or recommendations may be extended beyond the hearing date by the presiding officer for good cause. An original and seven copies shall be required when submitting written comments, recommendations or replies.

(h) Unless otherwise specifically ordered by the board, testimony given at the public hearing shall not be reported verbatim. All supporting written statements, maps, charts, tabulations, or similar data deemed by the presiding officer to be authentic and relevant, shall be received in evidence and made a part of the record. Unless the presiding officer finds that furnishing copies is impracticable, eight copies of the exhibits shall be submitted. [Eff]
(Auth: HRS §§91-2, 91-6) (Imp: HRS §§91-3, 91-6)

§15-17-26 Board action. The board shall consider all relevant comments and materials of record before taking final action in a rulemaking proceeding. Final action shall be taken within a reasonable amount of time following:

- (1) The final public hearing; or
- (2) The expiration of any extension period for submission of written comments or recommendations, whichever occurs later.
[Eff] (Auth: HRS §§91-2, 91-6) (Imp: HRS §91-3, §91-6)

§15-17-27 Emergency rulemaking. The board may adopt emergency rules pursuant to the requirements of section 91-3(b), HRS. [Ⓜ] [Eff] (Auth: HRS §91-2) (Imp: HRS §91-3)

Quotation mark
at end of chapter

New Rules--Ramseyer

2. The adoption of chapter 15-17, 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 January 12, 1982, and filed with the Office of the Lieutenant Governor.

Chairperson, Aloha Tower
Development Corporation
Board of Directors

APPROVED AS TO FORM:

Deputy Attorney General

[Provisions on this page begin directly after last section of chapter. If chapter had not ended at end of page, "2." could have begun on that page. These certification provisions may be on reverse side of last page of chapter.]

Amendments

Standard Format 4/15/84

DEPARTMENT OF PERSONNEL SERVICES

Amendments to Chapters 14-1, 14-6, 14-12, and 14-14
Hawaii Administrative Rules

October 9, 1981

SUMMARY

1. §14-1-15 is amended.
2. §§14-6-1, 14-6-3, 14-6-4, 14-6-5, 14-6-7, 14-6-8 and 14-6-9 are amended.
3. §14-12-5 is amended.
4. §14-12-6 is repealed.
5. §14-14-5 is amended.
6. A new §14-14-5.1 is added.
7. §14-14-14 is amended.

[Form is for amendments only. Does not apply to:

- (1) Adoption of new chapters.
- (2) Compilations]

[Note: Originals and all copies must look like this form. Be very careful when photocopying. You cannot assume that everthing will be single-sided or double-sided.]

[Summary page must be on separate sheet of paper.]

§14-6-1 General pay provisions. (a) This chapter applies to each officer and employee in positions covered by chapter 76 or 77, Hawaii Revised Statutes.

(b) When the effective date of more than one personnel action coincide, pay adjustments shall be made in the following order:

- (1) Increment or longevity pay increase or negotiated wage increase;
- (2) Changeover to a new pay schedule;
- (3) Repricing; and
- (4) Promotion, reallocation, initial pricing, or other personnel actions.

(c) A leave of absence without pay shall end upon the day before the first working day an employee properly reports for duty, and an employee shall be entitled to receive compensation as of the first working day the employee properly reports for duty. Each calendar day from the beginning to the end of an employee's leave of absence without pay shall be charged as leave without pay provided that an employee who is granted a leave of absence without pay and who returns to duty after being absent from work for only one working day shall be charged for one day of leave of absence without pay even though one or more scheduled or normal non-working days or a holiday may have preceded the employee's return to duty.

(d) A new hire shall be compensated for services rendered as of the first day the employee reports to duty.

(e) An employee who leaves the service without having worked on all scheduled working days for that month shall be compensated up to the employee's last day of work.

(f) An employee who leaves the service after having worked on all scheduled working days for that month shall receive a full month's compensation.

(g) An employee who suffers a disabling personal injury arising out of and in the course of employment, except for an injury caused by the employee's negligence, wilful intention to injure the employee or others, or by the employee's intoxication or because of the influence of a non-prescribed controlled substance, shall be credited for a full day's work on the day of the injury regardless of the time the employee is injured.

(h) An employee who initially was properly compensated following a promotion, the adoption of a

new pay schedule, a temporary assignment, pricing or repricing, or any other personnel action affecting pay, shall not be required to make reimbursement when it is found subsequently that an overpayment in salary occurred due to the retroactive feature of a position classification action. However, the proper pay adjustment shall be made as of the first pay period following the date of notice of action by the director.

(i) Pursuant to section 77-12, Hawaii Revised Statutes, an employee shall not be entitled to an increment or longevity increase as the case may be in any fiscal year that an increase in the appropriate pay schedule is effected, and no part of the fiscal year shall be counted as service creditable for any future increment or longevity pay increase.

(j) The service anniversary date shall be as follows:

(1) An employee's service anniversary date shall not be affected by a promotion, transfer, denial of an increment or longevity step increase because of substandard performance, reallocation of the employee's position, inter-jurisdictional movement, and demotions except for involuntary demotion, in which case the service anniversary date may be changed at the discretion of the appointing authority to the effective date of the demotion.

(2) The service anniversary date shall be advanced for periods of suspensions, unauthorized absences, and authorized leaves without pay for reasons other than those in section 416-6-6(a)(3);

(k) If an employee with a compression differential, an equity bonus, or a temporary differential receives an upward pay adjustment due to a promotion, reallocation, or repricing, the reduction or termination of the differentials shall be made in the following order:

- (1) Equity bonus;
- (2) Temporary differential;
- (3) Compression differential; [Eff 6/21/81; am
] (Auth: HRS §§26-5, 76-17,
77-10) (Imp: HRS §§76-13, 76-35, 77-10,
77-12, 77-13.5)

[Because this is a long section, continuation must be on reverse. Do not go on to new page until reverse side of page is filled.]

Amendments--Standard

[Each section must be on a separate sheet of paper]

§14-6-5 Pay actions related to reallocation of positions. (a) An employee occupying a position which is reallocated upward, whether permanently or temporarily, shall be compensated as though a promotion had been made.

(b) Whenever the reallocation is retroactive in its effect, employees who previously occupied the position within the period covered by the retroactive date, and who performed the duties of and met the minimum qualifications for the position at the higher class, as determined by the director, shall be entitled to receive retroactive pay adjustments as prescribed in subsection (a).

(c) Pay adjustments as provided for by subsections (a) and (b) shall not apply to emergency appointees and employees who were hired at a rate above the minimum pay rate after the effective date of the position reallocation. For employees hired above the minimum rate, the director shall determine the proper pay rate in the higher pay range.

(d) The compensation of an employee upon the downward reallocation of a position shall be determined in the following manner:

- (1) An employee retained in a position reallocated downward shall continue to receive the employee's existing basic rate of pay; provided that:
 - (A) If the employee's existing basic rate of pay falls between two steps in the lower pay range of a compressed schedule, the employee shall be compensated at the next lower step and shall be eligible for temporary differential (TD) pay;
 - (B) If the employee's existing basic rate of pay falls above the maximum step or EM maximum rate in the lower pay range, the employee shall be compensated at the maximum step or EM maximum rate, and shall be eligible for temporary differential (TD) pay;
 - (C) If the employee's existing basic rate of pay falls below the minimum step or EM minimum rate, the employee shall be compensated at the minimum step or EM minimum rate;
- (2) Upon return of the employee's position's original classification after a temporary reallocation upward, the employee shall be

Use numbers rather
than June 22, 1981

compensated at the rate the employee would
have received were it not for the temporary
reallocation. [Eff 6/22/81]; am
] (Auth: HRS §§26-5, 76-17,
77-10) (Imp: HRS §§76-13, 77-10, 77-13.1,
77-13.5)

leave 1-1/2 inches blank
for Lt. Gov. to stamp in date

[Sections from different chapters may be in same "batch" of
amendments.]

§14-12-5 Procedures. In issuing a letter of reprimand, or taking a suspension, involuntary or disability demotion, or dismissal action, an appointing authority shall comply with the following requirements for written notice:

- (1) The appointing authority shall give notice to a regular employee in writing of the suspension, involuntary demotion, disability demotion, or dismissal action, setting forth the specific reasons for the actions and a statement of the employee's appeal rights. A letter of reprimand also shall set forth the specific reasons for its issuance and shall contain a statement of the employee's appeal rights;
- (2) A copy of the notice of any suspension, involuntary demotion, disability demotion, or dismissal action shall be sent to the director concurrently upon issuance of the notice to the employee;
- (3) Written notice shall be given at least ten days in advance of the effective date for dismissal and demotion actions. Where circumstances warrant, an employee may be suspended during the period of advanced notice;
- (4) The appointing authority shall give the employee written notice before a suspension of five or more working days takes place;
- (5) For a suspension of four or less working days, written notice shall be given to the employee within forty-eight hours after the suspension;
- (6) The appointing authority shall issue a letter of reprimand to the employee within seven working days after the incident giving rise to the letter of reprimand. The seven working day requirement shall not apply in certain mitigating situations such as, but not limited to:
 - (A) The affected employee being unavailable during the seven-day period to present evidence and arguments on the employee's own behalf;
 - (B) A complete investigation cannot be concluded within seven working days due to witnesses or information not being readily available.

If the appointing authority is unable to serve the required written notice upon the affected employee, the notice shall be mailed to the employee's last known address within the time limitations prescribed in this section. [Eff 6/22/81; am]
(Auth: HRS §§26-5, 76-17) (Imp: HRS §§76-45, 76-46)

§14-12-6 REPEALED. [Eff 6/22/81; R
]

Amendments--Standard

DEPARTMENT OF PERSONNEL SERVICES

Amendments to chapters 14-1, 14-6, 14-12, and 14-14, Hawaii Administrative Rules, on the Summary page dated October 9, 1981, were adopted on October 9, 1981, following a public hearing held on October 2, 1981, after public notice was given in the Honolulu Advertiser, the Hawaii Tribune-Herald, the Maui News, and the Garden Island News, on September 11, 1981.

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

DONALD BOTELHO
Director
Department of Personnel Services

APPROVED AS TO FORM:

Deputy Attorney General

GEORGE R. ARIYOSHI
Governor
State of Hawaii

Date:

Filed

[Standard format signature page must be on separate sheet of paper.]

Amendments

Ramseyer Format 4/15/84

Amendments to Chapters 14-1, 14-6, 14-12, and 14-14
Hawaii Administrative Rules

1. Section 14-1-15, Hawaii Administrative Rules, is amended by amending the definition of "basic compensation" to read:

Quotes at
beginning and
end of amended
portion

① "Basic compensation["] or basic rate of pay" means the hourly, daily, monthly, or annual rate of pay used to determine an employee's lawful compensation in accordance with appropriate salary schedules and applicable rules. The rate of pay shall not include additional or extra compensation granted such as, but not limited to, differentials for overtime, stand-by duty, [and] temporary unusual work hazards[.], compression differentials, temporary differentials, and shortage differentials.②

2. Section 14-1-15, Hawaii Administrative Rules, is amended by adding a new definition to read as follows:

"Compressed schedules" means the salary or wage board schedules which reduced the number of steps in each pay range pursuant to section 77-13.5, Hawaii Revised Statutes, or SLH 1981, Act 205."

3. Section 14-1-15, Hawaii Administrative Rules, is amended by amending the definition of "demotion" to read:

"Demotion" means a movement of a regular employee from the position in which the employee last held permanent appointment to another position:

- (1) Which is assigned to a class with a lower pay range in the same salary schedule; or
- (2) Which is assigned to a class with a lower maximum rate of compensation in a different salary schedule and the dollar difference between the two maximum rates is more than the dollar difference between the minimum and second step of the former pay range[.]; provided that a rate of five per cent more than the minimum rate of the range shall be deemed to be equivalent to the second step in the EM schedule."

Amendments--Ramseyer

4. Section 14-1-15, Hawaii Administrative Rules, is amended by adding a new definition to read as follows:

"EM schedule" means the salary schedule created for managerial employees excluded from collective bargaining units and which provides for a minimum rate and a maximum rate and no steps within a pay range."

5. Section 14-1-15, Hawaii Administrative Rules, is amended by amending the definition of "promotion" to read:

"Promotion" means a movement of a regular employee from the position in which the employee last held permanent appointment to another position:

- (1) Which is assigned to a class with a higher pay range in the same salary schedule; or
- (2) Which is assigned to a class with a higher maximum rate of compensation in a different salary schedule and the dollar difference between the two maximum rates is more than the dollar difference between the minimum and second step of the former pay range[.]; provided that a rate of five per cent more than the minimum rate of the range shall be deemed to be equivalent to the second step in the EM schedule."

6. Section 14-1-15, Hawaii Administrative Rules, is amended by amending the definition of "reallocation downward" to read:

"Reallocation downward" means the reallocation of a position:

- (1) To a class assigned to a lower pay range in the same salary schedule; or
- (2) To a class in another salary schedule with a lower maximum rate of compensation and the dollar difference between the two maximum rates is more than the dollar difference between the minimum and second step of the former pay range[.]; provided that a rate of 5 per cent more than the minimum rate of the range shall be deemed to be equivalent to the second step in the EM schedule."

7. Section 14-1-15, Hawaii Administrative Rules, is amended by amending the definition of "reallocation upward" to read:

"Reallocation upward" means the reallocation of a position:

- (1) To a class assigned to a higher pay range in the same salary schedule; or
- (2) To a class assigned to another salary schedule with a higher maximum rate of compensation and the dollar difference between the two maximum rates is more than the dollar difference between the minimum and second step of the former pay range[.]; provided that a rate of five per cent more than the minimum rate of the range shall be deemed to be equivalent to the second step in the EM schedule."

8. Section 14-1-15, Hawaii Administrative Rules, is amended by amending the definition of "transfer" to read:

"Transfer" means a movement of a regular employee from the position in which [he] the employee last held permanent appointment to another position which is

Rules Continue

[Ramseyer amendments may continue one section after another on the same page.]

[All pages must be two-sided copy.]

Amendments--Ramseyer

10. Section 14-6-3, Hawaii Administrative Rules, is amended to read as follows:

"§14-6-3 Pay actions related to appointments.

(a) All initial appointments shall be made at the first step of the appropriate pay range, except as may be provided by section 77-9, Hawaii Revised Statutes.

(b) The [pay] basic rate of pay in the higher pay range for a regular employee who is promoted shall be determined in the following manner:

(1) If the promotion is within an EM schedule, from an EM schedule, or to an EM schedule, the compensation of the employee shall be increased by the dollar difference between the minimum rate or step of the existing pay range and the minimum rate or step of the new pay range; provided that if the employee's new basic rate of pay falls between two steps in the new pay range of the SR or compressed schedules, the employee shall be compensated at the next higher step of the new pay range.

(2) If the promotion does not involve an EM schedule, compensation shall be determined in the following manner:

[(1)] (A) If the employee's existing basic rate of pay is on a step other than the maximum step in the employee's existing pay range, the employee shall be compensated at the rate of next higher step of the employee's existing pay range; provided that, if the new rate falls between steps in the higher range, the employee shall be advanced to the next higher step in the new range;

[(2)] (B) If the employee's basic rate of pay is in-between steps of the employee's existing pay range, the employee's compensation shall be based on whichever one of the following methods results in a greater increase:

[(A)] (i) At the rate of the next higher step of the employee's existing pay range; provided that, if the new rate falls between steps in the higher pay range, the employee shall be compensated at the rate of the next higher step in the new range; or

Amendments--Ramseyer

- [(B)] (ii) By adding to the employee's existing rate, the dollar difference between the rates of the steps above and below the employee's existing rate.
- [(3)] (C) If the employee's existing [pay] basic rate of pay is at the maximum step of the employee's existing pay range, the employee shall be compensated at the lowest step in the higher pay range exceeding the employee's existing rate; provided that, if the increase is less than the dollar difference between the rate of the maximum step and the next lower step of the employee's existing pay range, the employee shall be advanced to the next higher step in the new pay range;
- [(4)] (D) If the employee's existing [pay] basic rate of pay is above the maximum step of the employee's existing pay range, the employee's compensation shall be based on whichever one of the following methods results in a greater increase:
 - [(A)] (i) At the next higher rate in the new pay range which exceeds the employee's existing rate; or
 - [(B)] (ii) By adding to the employee's existing rate, the dollar difference between the rate of the maximum step and the next lower step of the employee's existing pay range.
- [(5)] (3) If the employee's existing [pay] basic rate of pay exceeds the rate of the maximum step or EM maximum rate of the higher pay range, the employee shall maintain the employee's existing basic rate of pay.
- [(6)] (4) If the employee's new basic rate of pay, when adjusted under [§14-6-3(b), (1), (2), (3), or (4)] paragraph (2) exceeds the rate of the maximum step or EM maximum rate of the higher pay range, the employee shall be compensated at the rate of the maximum step[.] or EM maximum rate.

Rules Continue

Amendments--Ramseyer

in classes which are repriced to lower pay ranges shall be retained[.]; provided that:

- (1) If the employee's existing basic rate of pay falls between two steps in the lower pay range of a compressed schedule, the employee shall be compensated at the next lower step and shall be eligible for temporary differential (TD) pay;
- (2) If the employee's existing basic rate of pay falls above the maximum step or EM maximum rate in the lower pay range, the employee shall be compensated at the maximum step or EM maximum rate and shall be eligible for temporary differential (TD) pay;
- (3) If the employee's existing basic rate of pay falls below the minimum step or EM minimum rate, the employee shall be compensated at the minimum step or EM minimum rate." [Eff 6/22/81; am] (Auth: HRS §§26-5, 76-17, 77-10) (Imp: HRS §§77-10, 77-13.1, 77-13.5)

14. Chapter 14-6, Hawaii Administrative Rules, is amended by adding a new section 14-6-8 to read as follows:

Language
for new
section

"§14-6-8 Temporary differential pay. (a) An employee shall be eligible for temporary differential pay (herein referred to as TD pay) in the event of a disability demotion, a demotion to avoid layoff, a demotion due to reorganization, a transfer, a reallocation, or repricing upward actions. When the adjustment due to these actions is greater than or equal to the TD pay, the TD pay shall be terminated.

(d) When an employee with TD pay is demoted or transferred, or whose position is reallocated to a class in the same or lower pay range, the TD shall be continued in the new pay range." [Eff] (Auth: HRS §§26-5, 76-17, 77-10) (Imp: HRS §77-10)

15. Chapter 14-6, Hawaii Administrative Rules, is amended by adding a new section 14-6-9 to read as follows:

"§14-6-9 Compensation adjustments for employees with compression differential or equity bonus. (a) When an employee with a compression differential (CD)

Amendments--Ramseyer

is promoted, demoted, or transferred, or whose position is reallocated to a class outside of the bargaining unit, the CD is added to the existing basic rate of pay of the employee for the purpose of computing the employee's pay adjustment and is no longer carried with the employee as a differential.

(b) When an employee with an equity bonus (EB) is promoted, demoted, or transferred, or whose position is reallocated to a class outside of the bargaining unit, the EB shall be terminated on the date of the action.

(c) When an employee with CD or EB is demoted, or transferred, or whose position is reallocated to a class in the same or lower pay range within the same bargaining unit, the CD or EB shall be continued in the new pay range.

(d) When a regular employee is released from a probational, limited term, or other temporary appointment and returns to the position to which the employee last held permanent appointment, the CD shall be restored as though the employee had remained in the former position continuously. The EB shall be restored if the return is within the same fiscal year." [Eff _____] (Auth: HRS §§26-5, 76-17, 77-10) (Imp: HRS §77-10)

16. Section 14-12-5, Hawaii Administrative Rules, is amended to read as follows:

"§14-12-5 Procedures. In issuing a letter of reprimand, or taking a suspension, involuntary or disability demotion, or dismissal action, an appointing authority shall comply with the following requirements for written notice:

- (1) The appointing authority shall give notice to a regular employee in writing of the suspension, involuntary demotion, disability demotion, or dismissal action, setting forth the specific reasons for [such] the actions and a statement of the employee's appeal rights. A letter of reprimand also shall set forth the specific reasons for its issuance and shall contain a statement of the employee's appeal rights;
- (2) A copy of the notice of any suspension, involuntary demotion, disability demotion, or dismissal action shall be sent to the

Amendments--Ramseyer

- director concurrently upon issuance of [such] the notice to the employee;
- (3) Written notice shall be given at least ten days in advance of the effective date for dismissal and demotion actions. Where circumstances warrant, an employee may be suspended during the period of advanced notice;
 - (4) The appointing authority shall give the employee written notice before a suspension of five or more working days takes place;
 - (5) For a suspension of four or less working days, written notice shall be given to the employee within forty-eight hours after the suspension;
 - (6) The appointing authority shall issue a letter of reprimand to the employee within seven working days after the incident giving rise to the letter of reprimand. The seven working day requirement shall not apply in certain mitigating situations such as, but not limited to:
 - (A) The affected employee being unavailable during the seven-day period to present evidence and arguments on the employee's own behalf;
 - (B) A complete investigation cannot be concluded within seven working days due to witnesses or information not being readily available.

If the appointing authority is unable to serve the required written notice upon the affected employee, the notice shall be mailed to the employee's last known address within the time limitations prescribed in this section." [Eff 6/22/81; am]
(Auth: HRS §§26-5, 76-17) (Imp: HRS §§76-45, 76-46)

17. Section 14-12-6, Hawaii Administrative Rules, is repealed.

["§14-12-6 Review by the director. Upon receipt of any copy of a notice of suspension, involuntary or disability demotion, or dismissal action, the director shall review the notice to insure that it is in compliance with the procedures prescribed herein. In the event the director finds that the notice does not comply with the prescribed procedures, the director shall take whatever action necessary to insure

Repeal
of
section

compliance with the procedures prescribed herein."]
[Eff 6/22/81; R]

Repeal
of
section
(continued)

18. Section 14-14-5, Hawaii Administrative Rules, is amended to read as follows:

"§14-14-5 Resignation in good standing. A resignation shall be deemed to be in good standing when the resignation notice is submitted in accordance with [§14-14-3 above,] section 14-14-3, and the employee is not under investigation or subject to suspension, demotion, or dismissal actions at the time of the employee's separation." [Eff 6/22/81; am] (Auth: HRS §§26-5, 76-17) (Imp: HRS §76-30)

19. Chapter 14-14, Hawaii Administrative Rules, is amended by adding a new section 14-14-5.1 to read as follows:

"§14-14-5.1 Resignation submitted during investigation. Whenever an employee submits a resignation while being the subject of an investigation pertaining to an alleged irregularity on the employee's part, the appointing authority shall:

- (1) Discontinue the investigation and accept the resignation as one in good standing; provided the requirements of section 14-14-3 have been met; or
- (2) Terminate the employee in accordance with section 14-14-14(9) if the appointing authority elects to complete the investigation; provided, upon completion of the investigation, the appointing authority shall change the termination action to a resignation in good standing should the charges against the former employee be unsubstantiated, or dropped, and shall notify the former employee in writing of the change.

[Eff] (Auth: HRS §§26-5, 76-17) (Imp: HRS §76-30)

Amendments--Ramseyer

20. Section 14-14-14, Hawaii Administrative Rules, is amended to read as follows:

"§14-14-14 Termination of employment. The appointing authority may terminate the services of an employee for any of, but not limited to the following reasons:

- (1) The duration of the temporary period of employment is ended;
- (2) The non-regular employee failed to qualify for probational or permanent appointment to continue the employee's employment;
- (3) The employee does not report to work for fourteen days or return to duty within fourteen days from the expiration of the employee's authorized leave of absence and fails to notify the employee's supervisor within fourteen days;
- (4) The employee contracts an infectious or contagious disease which endangers the health of others;
- (5) The employee affected by a layoff cannot be placed in another position;
- (6) During the employee's leave of absence, the employee accepts other employment which is contrary to the purpose of the leave;
- (7) The employee failed to provide the appointing authority with the proper notice of resignation;
- (8) The employee is convicted of any act, attempt, or conspiracy to overthrow the State or the federal government by force or violence[.];
- (9) The employee submitted a notice of resignation while under investigation or subject to suspension, demotion, or dismissal action." [Eff 6/22/81; am] (Auth: HRS §§26-5, 76-17) (Imp: HRS §§76-25, 76-27, 76-30, 76-31, 76-43)

Amendments--Ramseyer

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

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

23. These amendments to chapters 14-1, 14-6, 14-12, and 14-14, 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.

Director of Personnel Services

APPROVED AS TO FORM:

Deputy Attorney General

[Material on this page follows last amended, repealed, etc. section. It is only on a separate page like this if sections end in same manner as in this form, at the end of the previous page.]

Simultaneous Amendment
and Compilation of Chapter--Standard Format 4/15/84

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-23
Hawaii Administrative Rules
August 2, 1982

SUMMARY

1. Title amended.
2. §§16-23-1 to 16-23-8 are amended.
3. §§16-23-10 to 16-23-12 are amended.
4. §§16-23-14 to 16-23-17 are amended.
5. §16-23-18 is repealed.
6. §16-23-19 is amended.
7. §§16-23-21 and 16-23-22 are amended.
8. §§16-23-24 and 16-23-25 are amended.
9. §§16-23-27 and 16-23-28 are amended.
10. §§16-23-31 to 16-23-33 are amended.
11. §§16-23-57 to 16-23-59 are amended.
12. §§16-23-61 to 16-23-66 are amended.
13. §§16-23-68 to 16-23-84 are amended.
14. §§16-23-86 to 16-23-88 are amended.
15. Chapter 23 is compiled.

[Must be on separate sheet of paper]

Amendment and Compilation--Standard

[2 sided copy begins here]

HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 23

RULES RELATING TO THE HAWAII MOTOR VEHICLE
ACCIDENT REPARATIONS ACT, CHAPTER 294
HAWAII REVISED STATUTES

Subchapter 1 General provisions

- §16-23-1 Definitions
- §16-23-2 No-fault policy of insurance or self-insurance required
- §16-23-3 Verification of insurance

Subchapter 2 Required No-Fault Policy Coverage

- §16-23-4 No-fault policy
- §16-23-5 No-fault benefits
- §16-23-6 Entitlement to monthly earnings loss benefits
- §16-23-7 Computation of monthly earnings
- §16-23-8 Computation of monthly earnings loss
- §16-23-9 Liability coverage
- §16-23-10 Determination of tort threshold

Subchapter 3 Optional Additional Insurance

- §16-23-11 Required optional additional coverage
- §16-23-12 Other optional coverages

Subchapter 4 Application for Insurance, Rejection,
Cancellation, Non-Renewal

- §16-23-13 Application for coverage, restriction against rejection of; grounds for rejection
- §16-23-14 Restriction against cancellation or non-renewal
- §16-23-15 Notice of cancellation or non-renewal

Chapter Analysis Continues

§16-23-73	Public assistance benefits recipients
§16-23-74	Application for JUP coverage; placement
§16-23-75	Denial of application; appeal
§16-23-76	Administration by JUP bureau
§16-23-77	Servicing carrier's duties
§16-23-78	Allowances to servicing carriers
§16-23-79	Commissions
§16-23-80	JUP rates
§16-23-81	JUP private passenger manual
§16-23-82	JUP commercial manual
§16-23-83	JUP assigned claims; eligibility
§16-23-84	Application; assignment
§16-23-85	Proration of costs and assigned claims paid
§16-23-86	JUP membership termination
§16-23-87	Joint liability for JUP business
§16-23-88	Auditing of members

[Include historical note here if there is one]

SUBCHAPTER 1

GENERAL PROVISIONS

§16-23-1 Definitions. As used in this chapter:

"Accidental harm" means bodily injury, death, sickness, or disease caused by a motor vehicle accident to a person.

"Commissioner" means the state commissioner of insurance as defined in section 431-31, HRS. Pending the appointment of a person to or during any vacancy in that office, it refers to the state director of commerce and consumer affairs.

"County" means the counties of Hawaii, Maui, and Kauai and the city and county of Honolulu.

"Eligible injured person" means:

- (1) The person identified by name as an insured in a no-fault policy and any relative, as defined herein, who sustains accidental harm arising out of the operation, maintenance, or use of any motor vehicle;
- (2) A pedestrian or other non-occupant, such as a bicyclist, or any user or operator of a moped as defined in section 249-1, HRS, who sustains accidental harm arising out of the

Rules Continue

motor vehicle, policy number, names of the insured and the insurer, and the effective dates of coverage including the expiration date; provided that insurers of five or more motor vehicles which are under common registered ownership and used in the regular course of business shall not be required to indicate the name and make and factory or serial number of each motor vehicle.

The commissioner shall issue a certificate of self-insurance periodically, as necessary, for use in each motor vehicle insured under section 294-8(a)(2), HRS.

The insurance identification card issued by an insurer or the certificate of self-insurance issued by the commissioner shall be kept in the insured motor vehicle at all times and shall be exhibited to a law enforcement officer upon demand.

A person who violates this chapter shall be subject to the penalty provisions of section 294-39 and chapter 805, HRS. [Eff. 9/1/74; am 9/1/78; am and ren §16-23-3, 7/7/80; am 9/1/80; am and comp] (Auth: HRS §294-37) (Imp: HRS §§286-26, 286-108, 286-116, 294-8.5, 294-39, 805-13)

SUBCHAPTER 2

REQUIRED NO-FAULT POLICY COVERAGE

§16-23-4 No-fault policy. In order to be a no-fault policy, an insurance policy covering a motor vehicle shall provide:

- (1) No-fault benefits, as described in section 16-23-5, sometimes referred to as personal injury protection benefits or first-party benefits, with respect to any accidental harm, covering medical and rehabilitative expenses, earnings loss and other expenses, such as those for substituted services, funeral, and attorneys' fees or costs, payable to the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian such as a bicyclist, or any user or operator of a moped as defined in section 249-1, HRS, who sustains accidental harm as a result of the operation, maintenance, or use

Rules Continue

[Note: If entire section is being repealed at time of compilation, it can be set forth in standard format as indicated by §16-23-18.]

director of commerce and consumer affairs authorizing the holder to engage in the business of making contracts of motor vehicle insurance or a license valid as of August 31, 1978 issued by the director authorizing the holder to act as a general agent, subagent, solicitor, or adjuster relative to motor vehicle insurance, pursuant to chapter 431, HRS, shall remain valid and in effect for the remainder of its term, unless it is sooner revoked or terminated; provided that the holder meets any additional requirements of statute, rules, and commissioner's directives.

Prior to the expiration of a certificate or license which is in existence as of August 31, 1978, the commissioner may issue a new license for the remainder of the existing term. Upon the expiration of an existing certificate or license, the commissioner may issue a new license as a motor vehicle insurer, general agent, subagent, solicitor, or adjuster. The term of a license of a motor vehicle insurer is one year and of a general agent, subagent, solicitor, or adjuster is two years.

Insurance of licenses, regulation of all licensees, and suspension, revocation, or termination of a certificate or license shall be in accordance with the applicable provisions of chapters 431 and 294, HRS, and pertinent rules. [Eff 9/1/74; am 9/1/78; am and ren §16-23-17, 7/7/80; am and comp] (Auth: HRS §294-37) (Imp: HRS §§294-14, 431-81 to 431-114, 431-361 to 431-407)

§16-23-18 REPEALED. [R]

§16-23-19 Licensing of health insurers. A person who is licensed to engage in the business of making contracts of disability insurance (also referred to as health insurance or accident and sickness insurance), also may be licensed by the commissioner to provide those no-fault medical-rehabilitative benefits described in section 294-2(10)(A) and (B), HRS, or to provide optional major medical coverages in excess of no-fault benefits coverages, or both, if the commissioner finds that the insurer meets the requirements of section 294-14, HRS. In addition, before licensing an insurer to provide the no-fault medical-rehabilitative benefits, the commissioner

Rules Continue

[2-sided copy ends here]

[Note: Signatures do not follow last section. They are on a separate sheet of paper.]

Amendment and Compilation--Standard

[For exhibits incorporated by reference into rules, type on 8-1/2 x 11 inch paper, or reduce to that size unless physically impossible. Copy 2-sided wherever possible.]

APPENDIX A

Amendments to the HJUP Private Passenger Automobile Manual

Rule 1. Definitions

This rule is amended to read as follows:

- A. Private passenger
1. A private passenger automobile is a motor vehicle of the private passenger, stationwagon or jeep type that is owned or hired under a long term contract by an individual or by husband and wife who are residents of the same household and is neither used as a public or livery conveyance for passengers nor rented to others without a driver. This term excludes motorcycles, motorized bicycles, powercycles, motorized scooters, golfmobiles, snowmobiles, and other similar motorized vehicles.
 2. A motor vehicle with a pickup body, van type, a delivery sedan, or a panel truck with a load capacity of 1,500 pounds or less owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession, or business of the insured other than in the course of driving to or from work shall be classified and rated as a private passenger automobile.
- B. Motorcycles
This term includes motorcycles, motorized scooters, golfmobiles, snowmobiles, and other similar vehicles required to be registered under chapter 286, HRS, owned by an individual or by husband and wife who are residents of the same household.

Rule 2. Rate Determination

This rule is amended to read as follows:

The Bodily Injury Liability, Property Damage Liability, Basic No-Fault and Uninsured Motorists coverage premium for Certified Public Assistance Insureds (CPAI) shall be the composite rate shown on the rate sheets.

Amendment and Compilation--Standard

The Bodily Injury Liability, Property Damage Liability, Basic No-Fault and Excess No-Fault, Comprehensive and Collision premiums shall be determined as follows:

- A. Refer to the Private Passenger Automobile and Motorcycle Classification Rule to determine the applicable classifications.
- B. Refer to the Age Group Rule and the Symbol and Identification Section for the appropriate age and symbol applicable to private passenger automobiles. Refer to the Age Group Rule and rate pages for motorcycles.
- C. Refer to Territory Sheets of this Manual to determine the number of the territory in which the automobile/motorcycle will be principally garaged.

Effective September 1, 1982 (New Business)
October 1, 1982 (Renewals)

Amendment and Compilation--Standard

Amendments to and compilation of chapter 23, title 16, Hawaii Administrative Rules, on the Summary Page dated August 2, 1982 were adopted on August 2, 1982 following a public hearing held on July 28, 1982, after public notice was given in the Honolulu Advertiser, Honolulu Star-Bulletin, The Maui News, The Garden Island News and The Hawaii Tribune-Herald on July 5, 1982, July 12, 1982 and July 19, 1982.

They shall take effect ten days after filing with the Office of the Lieutenant Governor; provided that implementation of the amendments relating to the Hawaii Joint Underwriting Plan rules and rates contained herein shall occur on October 1, 1982 for renewal policies effective on or after that date; provided further that implementation of the amendments to section 16-23-11 relating to required optional additional coverage shall occur on December 1, 1982.

MARY G. F. BITTERMAN
Director of Commerce and
Consumer Affairs

GEORGE R. ARIYOSHI
Governor
State of Hawaii

Dated: _____

Filed

APPROVED AS TO FORM:

Deputy Attorney General

[Must be on separate sheet of paper]

Simultaneous Amendment and
Compilation of Chapter--Ramseyer Format

Rules Amending Title 16
Hawaii Administrative Rules

August 2, 1982

1. Chapter 23 of Title 16, Hawaii Administrative Rules, entitled "Rules Relating to the Hawaii Motor Vehicle Accident Reparations Act, Chapter 294, Hawaii Revised Statutes" is amended and compiled to read as follows:

Quotation marks
at beginning
of rules

Ⓚ HAWAII ADMINISTRATIVE RULES

TITLE 16

[DEPARTMENT OF REGULATORY AGENCIES]
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 23

RULES RELATING TO THE HAWAII MOTOR VEHICLE
ACCIDENT REPARATIONS ACT, CHAPTER 294,
HAWAII REVISED STATUTES

Subchapter 1 General Provisions

- §16-23-1 Definitions
- §16-23-2 No-fault policy of insurance or self-insurance required
- §16-23-3 Verification of insurance

Changes in chapter analysis need not be shown using brackets and under-scoring. Changes to headings will be shown in particular sections.

Subchapter 2 Required No-Fault Policy Coverage

- §16-23-4 No-fault policy
- §16-23-5 No-fault benefits
- §16-23-6 Entitlement to monthly earnings loss benefits
- §16-23-7 Computation of monthly earnings
- §16-23-8 Computation of monthly earnings loss
- §16-23-9 Liability coverage
- §16-23-10 Determination of tort threshold

Subchapter 3 Optional Additional Insurance

- §16-23-11 Required optional additional coverage
- §16-23-12 Other optional coverages

Chapter Analysis Continues

§16-23-73	Public assistance benefits recipients
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§16-23-85	Proration of costs and assigned claims paid
§16-23-86	JUP membership termination
§16-23-87	Joint liability for JUP business
§16-23-88	Auditing of members

[Include historical note if there is one.]

SUBCHAPTER 1

GENERAL PROVISIONS

§16-23-1 Definitions. Unless the context indicates otherwise, as used in [these rules:] this chapter:

"Accidental harm" means bodily injury, death, sickness, or disease caused by a motor accident to a person.

"Commissioner" means the state commissioner of [motor vehicle] insurance as defined in section 431-31[(c).], HRS. Pending the appointment of a person to or during any vacancy in that office, it refers to the state director of [regulatory agencies.] commerce and consumer affairs.

"County" means the counties of Hawaii, Maui, and Kauai and the city and county of Honolulu.

"Eligible injured person" means:

- (1) The person identified by name as an insured in a no-fault policy and any relative, as defined herein, who sustains accidental harm arising out of the operation, maintenance, or use of any motor vehicle;
- (2) A pedestrian or other non-occupant, such as a bicyclist, or any user or operator of a moped as defined in section 249-1, HRS, who

Rules Continue

written showing the name and make and the factory or serial number of the motor vehicle, policy number, names of the insured and the insurer, and the effective dates of coverage including the expiration date; provided that insurers of five or more motor vehicles which are under common registered ownership and used in the regular course of business shall not be required to indicate the name and make and factory or serial number of each motor vehicle.

The commissioner shall issue a certificate of self-insurance periodically, as necessary, for use in each motor vehicle insured under section 294-8(a)(2), [Hawaii Revised Statutes.] HRS.

The insurance identification card issued by an insurer or the certificate of self-insurance issued by the commissioner shall be kept in the insured motor vehicle at all times and shall be exhibited to a law enforcement officer upon demand.

A person who violates this chapter shall be subject to the penalty provisions of section 294-39 and chapter 805, [Hawaii Revised Statutes.] HRS. [Eff 9/1/74; am 9/1/78; ~~am and ren §16-23-3~~, 7/7/80; am 9/1/80; am and comp] (Auth: HRS §294-37) (Imp: HRS §§286-26, 286-108, 286-116, 294-8.5, 294-39, 805-13)

[Source note if section has been amended and renumbered]

SUBCHAPTER 2

REQUIRED NO-FAULT POLICY COVERAGE

§16-23-4 No-fault policy. In order to be a no-fault policy, an insurance policy covering a motor vehicle shall provide:

- (1) No-fault benefits, as described [below,] in section 16-23-5, sometimes referred to as personal injury protection benefits or first-party benefits, with respect to any accidental harm, covering medical and rehabilitative expenses, earnings loss and other expenses, such as those for substituted services, funeral, and attorneys' fees or costs, payable to the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian such as a bicyclist, or any user or operator of a moped

Rules Continue

a no-fault policy and will be provided adequate claims processing and payment services.

An insurer licensed under this section to provide [such] optional major medical coverages also shall provide those optional medical coverages which no-fault insurers are required to provide under section 294-11[.], HRS.

A person licensed under this section to provide no-fault medical-rehabilitative benefits or optional major medical coverages shall comply with those provisions in chapter 294, HRS, relating to insurers, such as, but not limited to, those relating to setting of rates and submission of information and reports to the commissioner.

It shall be assessed its equitable proration of costs and claims paid under the [Joint Underwriting Plan] joint underwriting plan (JUP) and the assigned claims program. [Eff 9/1/74; am and ren §16-23-19, 7/7/80; am and comp] (Auth: HRS §§294-37, 294-14) (Imp: HRS §§294-11, 294-13, 294-14, 294-15, 294-20, 294-23)

[Note indicating section was amended and compiled simultaneously]

SUBCHAPTER 6

REQUIREMENTS FOR SELF-INSURANCE

§16-23-20 Application. A person desiring to qualify as a self-insurer shall apply to the commissioner on a form prescribed by the commissioner. [Eff 9/1/74; am and ren §16-23-20, 7/7/80; comp] (Auth: HRS §294-37) (Imp: HRS §294-14)

[Indicates section was not amended. Just compiled.]

§16-23-21 Agreement. The applicant also shall execute and file with the commissioner an agreement in a form prescribed by the commissioner, that if certified as a self-insurer [he] the applicant will:

- (1) In accordance with and to the extent prescribed in the no-fault law:
 - (A) In case of injury, arising out of a motor vehicle accident, to a person, including an operator, occupant, or user of the self-insured motor vehicle or any pedestrian who sustains accidental harm as a result of the operation, maintenance, or user of [said] the

Rules Continue

[Note: If a new section is being added at time of compilation,
source note should read: "[Eff and comp]"]

agreement, the commissioner may release the securities deposited or permit cancellation of the bond. [Eff 9/1/74; am and ren §16-23-32, 7/7/80; am and comp 9/1/82] (Auth: HRS §294-37) (Imp: HRS §§294-14, 294-15)

§16-23-33 Reporting requirements. A self-insurer shall submit the reports prescribed by subchapter 11 (data for establishment of the [90%] ninety per cent medical-rehabilitative threshold), and subchapter 12 (statistical and reporting requirements)[.] of this chapter. [Eff 9/1/74; am and ren §16-23-33, 7/7/80; am and comp 9/1/82] (Auth: HRS §294-37) (Imp: HRS §§294-14, 294-15)

[Merging in of sections which were repealed prior to compilation.]

SUBCHAPTER 7 REPEALED

§16-23-34 REPEALED [R 9/1/80]
§16-23-35 REPEALED [R 9/1/80]
§16-23-36 REPEALED [R 9/1/80]
§16-23-37 REPEALED [R 9/1/80]
§16-23-38 REPEALED [R 9/1/80]
§16-23-39 REPEALED [R 9/1/80]
§16-23-40 REPEALED [R 9/1/80]
§16-23-41 REPEALED [R 9/1/80]
§16-23-42 REPEALED [R 9/1/80]
§16-23-43 REPEALED [R 9/1/80]

Rules Continue

[Note: If section is being repealed at same time as compilation, Ramseyer version must carry the section typed out in full with brackets on each end. Source note must contain all information starting from effective date, and ending with "R" followed by space for stamp.]

[Do not copy exhibits or other material on the back of this page. This is 2-sided only if rules and signatures continue on.]

members. [Eff 9/1/80; am and comp 9/1/82] (Auth: HRS §§294-37, 294-25) (Imp: HRS §294-20)

§16-23-88 Auditing of members. The commissioner may audit the records of any member relating to the JUP and may prescribe policies, and the keeping of records, books of account, documents, and related material that [he] the commissioner deems necessary to carry out JUP functions. [Such] This material shall be provided by the members in the form and with the frequency required by the commissioner. (ii) [Eff 9/1/80; am and comp 9/1/82] (Auth: HRS §§294-37, 294-25) (Imp: HRS §§294-15, 294-20)

quote at end of rules

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

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

4. These amendments to and compilation of chapter 16-23, Hawaii Administrative Rules shall take effect ten days after filing with the Office of the Lieutenant Governor; provided that the implementation of the amendments relating to the Hawaii Joint Underwriting Plan rules and rates contained herein shall occur on October 1, 1982 for renewal policies effective on or after that date; provided further that implementation of the amendments to section 16-23-11 relating to required optional additional coverage shall occur on December 1, 1982.

[Provision has been tailored to agency's needs. In most cases, it would read: "These amendments to and compilation of chapter 16-23, Hawaii Administrative Rules, shall take effect ten days after filing, etc."]

Amendment and Compilation--Ramseyer

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 August 2, 1982 and filed with the Office of the Lieutenant Governor.

MARY G. F. BITTERMAN
Director of Commerce and
Consumer Affairs

APPROVED AS TO FORM:

Deputy Attorney General

Amendment and Compilation--Ramseyer

[Exhibits incorporated by reference into rules. Reduce to 8-1/2 x 11 inch size unless impossible. Copy 2-sided wherever possible.]

APPENDIX A

Amendments to the HJUP Private Passenger
Automobile Manual

Rule 1. Definitions

This rule is amended to read as follows:

A. Private passenger

1. A private passenger automobile is a motor vehicle of the private passenger, stationwagon or jeep type that is owned or hired under a long term contract by an individual or by husband and wife who are residents of the same household and is neither used as a public or livery conveyance for passengers nor rented to others without a drive. This term excludes motorcycle,s motorized bicycles, powercycles, motorized scooters, golfmobiles, snowmobiles, and other similar motorized vehicles.
2. A motor vehicle with a pickup body, van type, a delivery sedan or a panel truck with a load capacity of 1,500 pounds or less owned by an individual or by husband and wife who are residents of the same household, not customarily used in the occupation, profession, or business of the insured other than in the course of driving to or from work shall be classified and rated as a private passenger automobile.

B. Motorcycles

This term includes motorcycles, motorized scooters, golfmobiles, snowmobiles, and oterh similar vehicles required to be registered under chapter 286, HRS, owned by an individual or by husband and wife who are residents of the same household.

Rule 2. Determination

This rule is amended to read as follows:

The Bodily Injury Liability, Property Damage Liability, Basic No-Fault and Uninsured Motorists coverage premium for Certified Public Assistance Insured (CPAI) shall be the composite rate shwon on the rate sheets.

The Bodily Injury Liability, Property Damage Liability, Basic No-Fault and Excess No-Fault,

Amendment and Compilation--Ramseyer

Comprehensive and Collision premiums shall be determined as follows:

- A. Refer to the Private Passenger Automobile and Motorcycle Classification Rule to determine the applicable classifications.
- B. Refer to the Age Group Rule and the Symbol and Identification Section for the appropriate age and symbol applicable to private passenger automobiles. Refer to the Age Group Rule and rate pages for motorcycles.
- C. Refer to Territory Sheets of this Manual to determine the number of the territory in which the automobile/motorcycle will be principally garaged.

Effective: September 1, 1982 (New Business)
October 1, 1982 (Renewals)

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Repeal of State of Hawaii Public Employment Relations
Board Rules of Practice and Procedure and Adoption
of Chapter 12-42, Hawaii Administrative Rules
January 7, 1981

SUMMARY

1. State of Hawaii Public Employment Relations
Board Rules of Practice and Procedure is repealed.

2. Chapter 12-42, Hawaii Administrative Rules,
entitled "State of Hawaii Public Employment Relations
Board Rules of Practice and Procedure," is adopted.

Must be separate sheet of paper

Transition--Standard

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

State of Hawaii Public Employment Relations Board
Rules of Practice and Procedure, REPEALED
[]

Separate sheet of paper

[This sheet is to be filed with pre-uniform format rules to show
repeal.]

Transition--Standard

HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 7 BOARDS

CHAPTER 42

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD
RULES OF PRACTICE AND PROCEDURE

Subchapter 1 Rules of General Applicability

- §12-42-1 Scope
- §12-42-2 Construction of rules
- §12-42-3 Subchapters
- §12-42-4 Definitions
- §12-42-5 The board
- §12-42-6 Public records
- §12-42-7 Appearance and practice before the board
- §12-42-8 Proceedings before the board
- §12-42-9 Declaratory rulings by the board
- §12-42-10 Adoption, amendment, or repeal of rules
- §§12-42-11 to 15 (Reserved)

Subchapter 2 Determination of Optional Appropriate
Bargaining Unit, Selection of Exclu-
sive Bargaining Representative, and
Decertification Pursuant to Sections
89-6 and 89-7, HRS

- §12-42-16 Scope
- §12-42-17 Petition for determination of optional
appropriate bargaining unit
- §12-42-18 Petition for selection of exclusive
bargaining representative
- §12-42-19 Petition for decertification
- §12-42-20 Petition for clarification or amendment
of certification
- §12-42-21 Petition for inclusion or exclusion of
supervisory employees
- §12-42-22 Filing of petition for determination of
optional appropriate bargaining unit,
selection of exclusive bargaining repre-
sentative, or decertification

Transition--Standard

Chapter Analysis Continues

Subchapter 9 Reference Materials Pursuant to
Section 89-5, HRS

- §12-42-126 Scope
- §12-42-127 Constitution, charter, by-laws
- §12-42-128 Collective bargaining agreements
- §12-42-129 Statutes, ordinances, rules, regulations,
orders, policies
- §12-42-130 Information and data
- §12-42-131 Statistical data
- §12-42-132 Public records
- §§12-42-133 to 135 (Reserved)

Historical note: This chapter is based substantially upon State of Hawaii Public Employment Relations Board Rules of Practice and Procedure. [Eff. 12/1/71; R]

SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

§12-42-1 Scope. This chapter governs procedure before the Hawaii public employment relations board under chapter 89, HRS, and such other statutes as may now or hereafter be administered by the board. [Eff] (Auth: HRS §89-5) (Imp: HRS §89-5)

§12-42-2 Construction of rules. This chapter shall be liberally construed to effectuate the purpose of chapter 89, HRS, and to secure the just and speedy determination of every proceeding. [Eff] (Auth: HRS §89-5) (Imp: HRS §89-5)

§12-42-3 Subchapters. (a) Each of the subchapters sets forth special rules applicable to the type of proceeding described in the caption of the subchapter.

(b) This subchapter sets forth general rules applicable to all proceedings conducted pursuant to chapter 89, HRS, and should be read in conjunction

[Running head in
upper left corner
of even-numbered
pages]

Transition--Standard

Rules Continue

§12-42-113 Hearing. Except as provided in this subchapter, the procedure for hearing on the failure to make available a financial report by an employee organization shall be governed by subchapter 1. [Eff] (Auth: HRS §89-5) (Imp: HRS §89-5) (Imp: HRS §89-15)

§§12-42-115 to 120 (Reserved)

SUBCHAPTER 8

RESOLUTION OF DISPUTES CONCERNING COST ITEMS PURSUANT TO SECTION 89-5, HRS

§12-42-121 Scope. This subchapter governs the general procedure for the resolution of any dispute concerning cost items pursuant to section 89-5, HRS. [Eff] (Auth: HRS §89-5) (Imp: HRS §89-5)

§12-42-122 Jurisdiction of board. Jurisdiction of the board to resolve any dispute concerning cost items shall be limited to the determination of whether the matter in dispute is or is not a cost item and shall be processed upon petition by any exclusive bargaining representative or public employer pursuant to the provisions set forth in subchapter 1 relating to declaratory rulings. [Eff] (Auth: HRS §89-5) (Imp: HRS §89-5)

§§12-42-123 to 125 (Reserved)

SUBCHAPTER 9

REFERENCE MATERIALS PURSUANT TO SECTION 89-5, HRS

§12-42-126 Scope. This subchapter governs the filing of all reference materials pertaining to public employee-management relations pursuant to section 89-5, HRS. [Eff] (Auth: HRS §89-5) (Imp: HRS §89-5)

Transition--Standard

Rules Continue

§12-42-128 Collective bargaining agreements. The public employer entering into a written collective bargaining agreement pursuant to chapter 89, HRS, shall file a copy of the agreement with the board within thirty days after execution and issuance. [Eff] (Auth: HRS §89-5) (Imp: HRS §89-5)

§12-42-129 Statutes, ordinances, rules, regulations, orders, policies. The public employer shall file with the board, within thirty days after adoption and issuance, a copy of every statute, ordinance, rule, regulation, order, or policy statement affecting public employee-management relations applicable to all employees of such public employer. [Eff] (Auth: HRS §89-5) (Imp: HRS §89-5)

§12-42-130 Information and data. Upon request from the board, all public employers and employee organizations shall submit information and data pertaining to public employee-management relations necessary for the board to carry out its functions and responsibilities pursuant to chapter 89, HRS. [Eff] (Auth: HRS §89-5) (Imp: HRS §89-5)

§12-42-131 Statistical data. Upon request from the board, all public employers shall submit statistical data relating to wages, benefits, and employment practices in public employment. [Eff] (Auth: HRS §89-5) (Imp: HRS §89-5)

§12-42-132 Public records. All materials and documents submitted to the board under this subchapter shall be considered to be public records. [Eff] (Auth: HRS §89-5) (Imp: HRS §§89-5, 92-50)

§§12-42-133 to 135 (Reserved)

Transition--Standard

[End two-sided copy here]

Transition--Standard

Signature Page
[Separate sheet of paper]

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Chapter 42, State of Hawaii Public Employment Relations Board Rules of Practice and Procedure, on the Summary Page dated January 7, 1981 following public hearings held on December 8, 9, 10, 11, 1980, after public notice was given in the Honolulu Star-Bulletin, Hawaii Herald Tribune, Maui News, and Garden Island on November 14, 1980.

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

JOSHUA C. AGSALUD
Director of Labor and
Industrial Relations

APPROVED AS TO FORM:

Deputy Attorney General

[Signature blocks
may be altered to
meet agency needs]

GEORGE R. ARIYOSHI
Governor
State of Hawaii

Date:

Filed

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

Repeal of State of Hawaii Public Employment Relations
Board Rules of Practice and Procedure and Adoption
of Chapter 12-42, Hawaii Administrative Rules

1. State of Hawaii Public Employment Relations
Board Rules of Practice and Procedure is repealed.

2. Chapter 12-42, Hawaii Administrative Rules,
entitled "State of Hawaii Public Employment Relations
Board Rules of Practice and Procedure," is adopted to
read as follows: _____

[This system allows use of standard format with minor
modifications as Ramseyer. Eliminates need to completely re-type
entire set of rules.]

[This version is the identical set of rules used for the standard
set with a few pages changed.]

[2-sided copy begins here]

Quotation marks
at beginning
of rules

Ⓜ HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 7 BOARDS

CHAPTER 42

HAWAII PUBLIC EMPLOYMENT RELATIONS BOARD
RULES OF PRACTICE AND PROCEDURE

Subchapter 1 Rules of General Applicability

- §12-42-1 Scope
- §12-42-2 Construction of rules
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- §12-42-10 Adoption, amendment, or repeal of rules
- §§12-42-11 to 15 (Reserved)

Subchapter 2 Determination of Optional Appropriate Bargaining Unit, Selection of Exclusive Bargaining Representative, and Decertification Pursuant to Sections 89-6 and 89-7, HRS

- §12-42-16 Scope
- §12-42-17 Petition for determination of optional appropriate bargaining unit
- §12-42-18 Petition for selection of exclusive bargaining representative
- §12-42-19 Petition for decertification
- §12-42-20 Petition for clarification or amendment of certification
- §12-42-21 Petition for inclusion or exclusion of supervisory employees

Transition--Ramseyer

Chapter Analysis Continues

Note: Virtual photocopy of standard versionSubchapter 9 Reference Materials Pursuant to
Section 89-5, HRS

- §12-42-126 Scope
- §12-42-127 Constitution, charter, by-laws
- §12-42-128 Collective bargaining agreements
- §12-42-129 Statutes, ordinances, rules, regula-
tions, orders, policies
- §12-42-130 Information and data
- §12-42-131 Statistical data
- §12-42-132 Public records
- §§12-42-133 to 135 (Reserved)

Historical note: This chapter is based substantially upon State of Hawaii Public Employment Relations Board Rules of Practice and Procedure. [Eff 12/1/71; R]

SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

§12-42-1 Scope. These rules govern procedure before the Hawaii public employment relations board under chapter 89, HRS, and such other statutes as may now or hereafter be administered by the board. [Eff] (Auth: HRS §89-5) (Imp: HRS §89-5)

§12-42-2 Construction of rules. This chapter shall be liberally construed to effectuate the purpose of chapter 89, HRS, and to secure the just and speedy determination of every proceeding. [Eff] (Auth: HRS §89-5) (Imp: HRS §89-5)

§12-42-3 Subchapters. (a) Each of the subchapters sets forth special rules applicable to the type of proceeding described in the caption of the subchapter.

(b) This subchapter sets forth general rules applicable to all proceedings conducted pursuant to chapter 89, HRS, and should be read in conjunction

Transition--Ramseyer

Rules Continue

§12-42-127 Constitution, charter, by-laws. Upon request from the board, an employee organization shall provide and submit to the board a copy of its constitution, charter, or by-laws. [Eff
] (Auth: HRS §89-5) (Imp: HRS §89-5)

§12-42-128 Collective bargaining agreements. The public employer entering into a written collective bargaining agreement pursuant to chapter 89, HRS, shall file a copy of the agreement with the board within thirty days after execution and issuance. [Eff
] (Auth: HRS §89-5) (Imp: HRS §89-5)

§12-42-129 Statutes, ordinances, rules, regulations, orders, policies. The public employer shall file with the board, within thirty days after adoption and issuance, a copy of every statute, ordinance, rule, regulation, order, or policy statement affecting public employee-management relations applicable to all employees of such public employer. [Eff
] (Auth: HRS §89-5)
(Imp: HRS §89-5)

§12-42-130 Information and data. Upon request from the board, all public employers and employee organizations shall submit information and data pertaining to public employee-management relations necessary for the board to carry out its functions and responsibilities pursuant to chapter 89, HRS. [Eff
] (Auth: HRS §89-5) (Imp: HRS §89-5)

§12-42-131 Statistical data. Upon request from the board, all public employers shall submit statistical data relating to wages, benefits, and employment practices in public employment. [Eff
] (Auth: HRS §89-5) (Imp: HRS §89-5)

§12-42-132 Public records. All materials and documents submitted to the board under this subchapter shall be considered to be public records. [Eff
] (Auth: HRS §89-5) (Imp: HRS §89-5)

Transition--Ramseyer

§§12-42-133 to 135 (Reserved)①

Quotation marks
at very end
of rules

3. The repeal of the State of Hawaii Public Employment Relations Board Rules of Practice and Procedure and the adoption of chapter 12-42, 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 January 7, 1981 and filed with the Office of the Lieutenant Governor.

Director

APPROVED AS TO FORM:

Note: No approval by Governor

Deputy Attorney General

[Signatures need not be on separate sheet of paper. Paragraph 3 should follow directly after end of rules.]

CHECKLIST FOR PREPARATION OF RULES (5/1/84)

I. Drafting Rules

A. If adopting new chapter or chapters:

1. Develop rough draft of substance of what is to be said.
2. Consult with departmental rules coordinator regarding use of section numbers. Make sure that the numbers for your new chapters are not already in use elsewhere.

The Hawaii community development authority and the Aloha Tower development authority failed to coordinate with their department coordinator. As a result, title 15 has two chapter 17s, one for the Hawaii community development authority, and one for the Aloha Tower development authority. Because of this, any citation to chapter 15-17 is ambiguous because it could refer to either of two very different chapters.

3. If rough draft does not already do so, break down chapters into sections, subsections, etc.
4. If sections are lengthy, divide into subsections if at all reasonable to do so. This will substantially facilitate future amendment. Remember--only the subsection amended needs to be set forth when making amendments. If the section has no subsections, the entire section must be typed, even though only a single word or punctuation mark is being changed.
5. Determine citations of authority and sections implemented for each rule section. If not clear on the difference between "authority" vs. "implement or interpret", think in terms of common sense, "non-legalese", "non-bureaucratese" definitions for each of those words. As a practical matter, sections in Hawaii Revised Statutes which authorize the adoption of rules tend to use language such as "the department (board, etc.) may adopt rules pursuant to chapter 91 to implement this chapter".
6. Make sure each section has a section number and section heading, and that the section heading

reasonably covers the subject matter covered in the section.

7. Check style and grammar in text of section. Among other things:
 - a. Eliminate gender-based terms (he, him, his, chairman, etc.);
 - b. Be sure your cross references are stated correctly (e.g., subsection (a)(1)(B) rather than subparagraph (B) of paragraph (1) of subsection (a)). Do not include the section number unless you are referring to something in another section.
 - c. Be sure you have included citations to the United States Code every time you make reference to federal legislation (exception being the Internal Revenue Code); and
 - d. Be sure numbers are spelled out when they should be.
 8. If you are repealing other chapters, be sure to include:
 - a. Separate page indicating repealed chapter (see example at end of chapter 00-5 for repealed chapter); and
 - b. Historical notes if appropriate.
 9. Prepare certification provisions for Ramseyer format.
 10. Prepare summary and signature pages for standard format.
- B. If you are amending, or amending and compiling existing rules:
1. Prepare Ramseyer format.
 2. Show changes to be made using brackets and underscoring (remember--delete first, then add).
 3. In making changes, be sure to take into consideration any amendments which have been made to the particular section since the chapter was first adopted.

4. Do not amend the entire section if amending the subsection will do. Do not create extra work.
5. Go through all of the steps in A. If any errors occur, correct them.
6. Use of Ramseyer format is recommended for the rules process (preliminary approvals, public hearing, etc.) because it most clearly shows what changes are being made.
7. If amending and compiling chapter, be sure the compiled chapter reflects all changes to be made, as well as all amendments, new sections, notices of change, etc. since chapter first adopted.

C. Typing

1. Be sure paper size is correct.
2. Be sure margins are 1-1/2 inches on all four sides.
3. Type body of rules.
4. In typing source notes, be sure to leave 1- 1/2 inches of blank space at the end of the source note (before the closing bracket) for the stamp indicating the effective date. Because a rubber stamp is used, all 1-1/2 inches of blank space must be on one line. The rubber stamp can't bend.
5. Be sure margins used for notes at the end of each section is controlled by the unit of organization which ends the section. For example, if the section ends with a subparagraph, margins for the notes stay at the subparagraph level.
6. In typing Ramseyer format, be sure that new material follows the deleted material.
7. In typing standard format, remember:
 - a. How the document looks depends on what is being done:
 - i. New chapters and amended and compiled chapters are typed as a complete body;
 - ii. Amended chapters show new, amended, or repealed sections on separate sheets of paper;

- iii. Notices of change are like in ii.
 - b. Summary and signature pages are always on separate sheets of paper.
8. To prevent print from "bleeding through", typing may be done single sided as long as two-sided photocopies are made where appropriate.
9. Type running heads and page numbers on standard format.

D. Proofreading

Proofreading of drafts and final versions of rules in standard and Ramseyer formats should be done in teams having a minimum of two persons. The error rate can be expected to rise significantly if proofing is done by a single person.

A minimum of 3 proofreadings will be required: Standard vs. Standard, Ramseyer vs. Ramseyer, and Standard vs. Ramseyer.

E. Making copies of rules

1. This can be one of the most critical elements. The best drafting and typing can be undone by improper copying. Improperly photocopied rules may result in a failure to meet requirements of the format.
2. In copying rules in standard format be sure that:
 - a. Main chapters are copied two sided;
 - b. Main chapters each begin on a new sheet of paper (not on the back side of the previous chapter);
 - c. New, amended, and repealed sections of chapters which are not compiled are all on separate sheets of paper;
 - d. New or amended sections which are too long to fit on one side of a sheet of paper continue on the back side of the sheet;
 - e. Notices of change are on separate sheets of paper; and
 - f. Summary and signature pages are on separate sheets of paper.

3. It is particularly critical to remember the requirements in 2 because rules generally will be typed single sided (to prevent print from "bleeding through") thus requiring the person doing the copying to know which pages must be copied single sided and which must be copied two sided.

F. Centralization of typing and other clerical work

In order to promote efficiency and good quality work in the production of rules, it is recommended that the typing and other clerical work for an entire department (or as large an organization as possible) be centralized in a single clerical pool. A number of departments have shown substantial variations in the quality of work done by varied units within a department.

An example of a particularly good department is the department of commerce and consumer affairs. The department has some 9 divisions, as well as over 30 boards and other bodies attached to the department for administrative purposes. The typing and copying of virtually all rules for all of the entities is done by a single office. The result is greater consistency and better quality than in any other department.

II. Approval for Public Hearing

- A. Comply with the requirements of Governor's Administrative Directive 82-4 concerning approval to hold public hearings for rulemaking.
- B. In addition to the requirements of AD 82-4, many departments have other internal requirements concerning proposed rules. Be familiar with these requirements, and consult departmental rules coordinator where necessary.

III. Review by Legislative Reference Bureau

- A. Since 1979, the bureau has offered and continues to provide the service of reviewing proposed new rules or changes to existing rules for compliance with the Hawaii Administrative Rules Format.
- B. Agencies are encouraged to submit copies of proposed rules for review in order to eliminate format problems before the rules are finalized.

- C. Copies of proposed rules may be submitted for review at any time. Perhaps the best times are when the proposed rules:
1. Are being submitted for approval for public hearing; or
 2. At an earlier stage than in 1 if the agency has completed a working draft and is soliciting preliminary comments from persons likely to be affected (and doing this prior to the time when it will seek approval to go to public hearing).
- D. If approval to hold public hearings already has been obtained, agencies are still encouraged to send proposed rules for review by the bureau. Comments from the bureau may be treated as comments received pursuant to the public notice.

IV. Public Notice and Hearing

Handle these stages in consultation with the attorney general.

In some cases, the comments received from the public pursuant to the public notice and hearings may result in extensive changes to the proposed rules. The determination of whether additional public notices and hearings are required should be made in consultation with the attorney general.

V. Final Copies of Rules

A. Ramseyer format

1. If changes are being made to rules which already exist, the final version in the Ramseyer format should show all changes being made to the existing rules;
2. If new chapters are being adopted, the final version in Ramseyer format should show final text.

B. Standard format

After completion of Ramseyer format, type standard format.

- C. Type, proofread, and make copies in standard and Ramseyer formats pursuant to I.C., I.D., and I.E.

VI. Approval and Filing

A. Approval by governor

1. Send 3 copies of rules in standard format to the governor.
2. The governor will sign (if approved) the rules and send them directly to the lieutenant governor for filing.
3. If the agency is specifying an effective date, the agency must see to it that the governor's office files the rules with the lieutenant governor more than 10 but fewer than 30 days before the specified effective date. For instance, if the governor's office sends the rules to the lieutenant governor only 7 days before the specified effective date, the actual effective date will be 3 days after the specified date.

B. Filing with lieutenant governor

1. Upon receipt, the lieutenant governor's office will keep one copy, send one copy to the ombudsman, and return one copy to the agency.
2. The copy returned to agency will have the effective date stamped at the end of the source note of first rule section.

VII. Processing and Distribution to Legislative Auditor and Legislative Reference Bureau

- A. After receiving the returned copy from the lieutenant governor, the agency stamps the effective date in the source note of all remaining sections of that copy in standard format.
- B. The agency stamps the effective date in all the source notes in the final Ramseyer version.
- C. Make copies (pursuant to I.E.) of standard and Ramseyer format versions.
- D. Within 10 days after receiving return copy from lieutenant governor, send one copy in standard format and one in Ramseyer format to:

Legislative Auditor
465 South King St., Room 500
Honolulu, HI 96813

Attention: Administrative Rules Project

and

Director
Legislative Reference Bureau
State Capitol, Room 004
Honolulu, HI 96813

Attention: Administrative Rules Project

VIII. Notice of Change

- A. Draft notices.
- B. Send copies with cover letter directly to the office of the lieutenant governor, office of legislative auditor, and legislative reference bureau.

IX. Distribution of Rules to Public

- A. Be sure copies being distributed are on 8-1/2 x 11 inch paper.
- B. Be sure rules are arranged in same manner as filed with lieutenant governor, i.e., unless chapter is compiled, all new sections, amendments, notices of change, etc., are on separate sheets of paper at the end of the main chapter.
- C. Be sure that even though copies meet physical requirements of A and B, that the text has not been typeset again after filing with lieutenant governor. In other words, if some kind of offset printing has been used, exact replicas of copies filed with lieutenant governor must have been used as camera-ready copy.
- D. If copies fail to meet requirements of either B or C, they must be clearly marked "UNOFFICIAL" in letters at least one-inch high.
- E. If copies meet requirements of B and C, but are on a size of paper other than 8-1/2 x 11 inches, they must be clearly marked "UNOFFICIAL SIZE".

INDEX TO HAWAII ADMINISTRATIVE RULES FORMAT

Administrative rules format,
see Hawaii administrative rules format

Amendment and compilation
see also Compilation

examples

Ramseyer format §§00-6-24, 00-10-3
standard format §§00-5.5-6, 00-10-3

Amendments, new, and repealed rules
chapters §00-5-4

examples

Ramseyer format chapter 00-10
standard format §00-5-11, chapter 00-10

maps, forms, exhibits
amendment of §00-5-3

notices of change §00-5-6

order of §00-5-4

page numbers §00-5-7

Ramseyer format
see also Ramseyer format

filing §00-5-1

running heads §00-5-7

sections
method of amendment §00-5-3

separate sheets of paper §00-5-4

signature pages §00-5-4

source notes
changes to §00-5-5

standard format
filing §00-5-2

subchapters §00-5-4

subsections
method of amendment §00-5-3

summary pages §00-5-4

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