

TITLE 15 DEPARTMENT OF PLANNING AND ECONOMIC
DEVELOPMENT

SUBTITLE 1 THE DEPARTMENT OF PLANNING
AND ECONOMIC DEVELOPMENT

PART 1 GENERAL

CHAPTER 1

ADMINISTRATIVE RULES OF THE DEPARTMENT

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Historical Note: This chapter is based substantially upon Rules and Regulations Governing the Department of Planning and Economic Development. [Eff. 12/4/69; R JUL 06 1981]

§15-1-1 Scope and purpose. (a) This chapter shall apply to all divisions, offices, programs, and activities of the department but shall not apply to those agencies of the department authorized by statute to adopt rules.

(b) The purpose of this chapter is to provide rules of practice and procedure governing the manner in which persons may obtain information from the department; petition for the adoption, amendment, or repeal of rules; or petition for a declaratory order by the director. [Eff. JUL 06 1981]
(Auth: HRS §91-2) (Imp: HRS §91-2)

§15-1-2 Definitions. As used in this chapter, unless a different meaning clearly appears in the context:

"Agency" means a board or commission statutorily assigned to the department for administrative purposes, but does not include a division, office, program, or activity of the department;

"Department" means the department of planning and economic development, and any of its divisions, offices, programs, or activities, but does not include an agency;

"Director" means the director of planning and economic development;

"Information office" means the information office of the department;

"Office hours" means from 7:45 a.m. to 4:30 p.m., Mondays through Fridays, unless otherwise provided by statute or executive order;

"Person" means an individual, partnership, corporation, association, or a public or private organization of any character;

"Public record" means any written, typed, or printed material as defined by statute.

[Eff. JUL 6 1981] (Auth: HRS §91-2) (Imp: HRS §91-2)

§15-1-3 Public information and public records.

(a) Any person may obtain information within the jurisdiction of the department by inquiring at the information office in person or by telephone, during office hours, or by submitting a written request to the information office.

(b) Any person may inspect a copy of rules of the department at the information office during office hours.

(c) Any person may inspect written statements of policy or interpretation formulated, adopted, or used by the department in the discharge of its functions and all final opinions and orders of the director, at the office of the director, during office hours.

(d) Any person may inspect or request a copy of any public record by calling at the appropriate organization of the department which has custody of the public record, or the information office, during office hours. [Eff. JUL 6 1981] (Auth: HRS §91-2) (Imp: HRS §91-2)

§15-1-4 Petition for adoption, amendment or repeal of rules; procedure and processing. (a) Any person may petition the director for adoption, amendment, or repeal of any rule of the department by submitting a signed letter to the director. The letter of the petitioner shall contain:

- (1) A statement of the nature of the petitioner's interest in the rule;
- (2) A statement of the reason or reasons in support of the proposed rule, amendment, or repeal;
- (3) A draft or the substance of the proposed rule or amendment, in the case of a petition for adoption or amendment of a rule;
- (4) The specific section or sections affected by the request;
- (5) A statement that the petition is being made pursuant to this section; and,
- (6) The name, address, and telephone number of the petitioner.

Any petition which does not conform to the requirements of this section may be rejected by the director.

(b) Upon receipt of the petition, the director shall cause it to be dated to establish the date of receipt. Within fifteen days of the date of receipt, the director shall notify the petitioner of the date, time, and place when the director or a designated representative shall consider the petition; the petitioner's privilege of personal appearance, with or without counsel as the petitioner may elect; and the petitioner's privilege of presenting evidence in support of the petition.

(c) Within thirty days after the receipt of the petition, the director shall inform the petitioner in writing that the petition is denied and shall state the reasons for the denial, or that proceedings will be initiated in accordance with provisions of section 91-3, Hawaii Revised Statutes, for the adoption, amendment, or repeal of the rule in question.

[Eff. JUL 6 1981] (Auth: HRS §91-2) (Imp: HRS §91-6)

§15-1-5 Declaratory ruling by the director; procedure and processing. (a) Any person may petition the director for a declaratory order as to the applicability of any statutory provision or of any rule or order of the department, by submitting a signed letter to the director. The letter of the petitioner shall contain:

- (1) A statement of the nature of the petitioner's interest, including reasons for the submission of the petition;
- (2) A designation of the specific statutory provision, rule, or order in question;
- (3) A statement of the relevant facts;
- (4) A statement of the interpretation given the statutory provision, rule, or order by the petitioner, including any legal authorities, in support of the interpretation of the petitioner;
- (5) A statement that the petition is being made pursuant to this section; and,
- (6) The name, address, and telephone number of the petitioner.

Any petition which does not conform to the requirements of this section may be rejected by the director.

(b) Upon receipt of the petition, the director shall cause it to be dated to establish the date of receipt. Within fifteen days of the date of receipt, the director shall notify the petitioner of the date, time, and place when the director or a designated representative shall consider the petition; the petitioner's privilege of personal appearance, with or without counsel as the petitioner may elect; and the petitioner's privilege of presenting evidence in support of the petition.

(c) The director may for good cause refuse to issue a declaratory order. Such good cause may include, but shall not be limited to, any of the following:

- (1) The question is speculative or purely hypothetical and does not involve an existing situation or one which may reasonably be expected to occur in the near future;

- (2) The petitioner's interest is not of the type which would give the petitioner standing to maintain an action in a court of law;
- (3) The issuance of the declaratory order may adversely affect the interest of the department or the State of Hawaii in any litigation which is pending or may reasonably be expected to arise;
- (4) The matter is not within the jurisdiction of the department.

(d) Within thirty days after a hearing is held in the manner provided by subsection (b) the director shall inform the petitioner in writing that the petition is denied and shall state reasons therefor, or that a declaratory order will be issued. If a declaratory order is issued, it shall be issued within sixty days from the date of receipt of the petition.

[Eff. **JUL 6 1981**] (Auth: HRS §91-2, §91-8)
(Imp: HRS §91-8)