

DEPARTMENT OF TRANSPORTATION

Adoption of Chapter 19-35
Hawaii Administrative Rules

February 15, 1991

SUMMARY

Chapter 19-35, Hawaii Administrative Rules,
entitled "Transportation Use Special Fund", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

SUBTITLE 2

AIRPORTS DIVISION

CHAPTER 35

TRANSPORTATION USE SPECIAL FUND

- §19-35-1 Definitions
- §19-35-2 Determination of Deposits to
Transportation Use Special
Fund
- §19-35-3 Transfers from Transportation Use
Special Fund

§19-35-1 Definitions. As used in this chapter:
"Airport revenue fund" means the special fund of
that name created in the treasury of the State by
section 248-8, Hawaii Revised Statutes.

"Off-airport revenues" means that portion of
moneys received by the state department of
transportation paid under any contract entered into as
authorized by section 261-7, Hawaii Revised Statutes,
which is paid on account of the display, sale, and
delivery of in-bond merchandise displayed or sold at
locations in the State other than on airport
properties.

"Transportation use special fund" means the
separate account of that name in the airport revenue
fund created in the treasury of the state by
section 261D-1, Hawaii Revised Statutes.

[Eff MAR 04 1991] (Auth: HRS §§248-8, 261D-1) (Imp:
HRS §§261-D-1, 261D-2)

§19-35-2 Determination of deposits to
transportation use special fund. (a) The director of
transportation shall determine on not less than an
annual basis, and after taking into account such
information as is deemed reasonable and appropriate, in
the judgment of the director, including data obtained
from parties which have entered into contracts

authorized by section 261-7, Hawaii Revised Statutes, the amount of off-airport revenues received on and after June 13, 1989.

(b) The director of transportation shall deposit to the airport revenue fund when received, and credit to the transportation use special fund therein such times as the portion of off-airport revenues are determined, all off-airport revenues received on and after June 13, 1989. [Eff MAR 04 1991], (Auth: HRS §261D-1) (Imp: HRS §261D-1)

§19-35-3 Transfers from transportation use special fund.

(a) As of dates of determination selected by the director of transportation, the director shall determine the:

- (1) Balance on credit to the transportation use special fund;
- (2) Balance on deposit in the airport revenue fund excluding:
 - (A) The amount on credit to the transportation use special fund;
 - (B) Any other funds which constitute restricted assets for purposes of the audited financial statements of the airports division;
 - (C) Federal grants moneys the use of which is limited to the construction of capital improvements; and
 - (D) An amount equal to the aggregate of appropriations then remaining to be satisfied from the airport revenue fund, unless such appropriations are to be satisfied from airport revenue bond funds or reimbursable general obligation bond funds, in which event the principal and interest payments on such indebtedness shall be included under subsection (a)(4)(A), but the dollar amount of appropriations to be so satisfied shall not be excluded from the balance on deposit in the airport revenue fund;
- (3) Additional funds (other than off-airport revenues), reasonably expected to be deposited to the airport revenue fund for the next ensuing twelve months and through the end of the then current fiscal year; and

- (4) Airport capital and operating costs for the next ensuing twelve months and through the end of the then current fiscal year to be paid from the funds referred to in paragraphs (2) and (3), such airport capital and operating costs to consist of:
 - (A) Principal and interest payments to be made on indebtedness the proceeds of which are used to finance airports system properties and improvements, including airport revenue bonds and reimbursable general obligation bonds, and
 - (B) Costs of operation, maintenance and repair of the airports system properties, including reserves therefor, and the expenses of operation of the state department of transportation in connection with such properties.

(b) The director of transportation, with the approval of the governor or the director of finance if so delegated by the governor, may transfer, as of each date of determination referred to in subsection (a), to the general fund of the State or to any special fund under the control of the state department of transportation, all or any portion of the balance on credit to the transportation use special fund; provided, that, prior to making any such transfer the director shall transfer from amounts credited to the transportation use special fund to that portion of the airport revenue fund which does not include the transportation use special fund, the amount, if any, by which one hundred fifty per cent of the costs referred to in subsection (a)(4) exceeds the sum of the amounts referred to in subsection (a)(2) and subsection (a)(3), the excess to be determined both for the next ensuing twelve months and through the end of the then current fiscal year and the transfer, if any, from the transportation use special fund shall be sufficient to satisfy each excess; and provided further, that, no such transfer shall cause a violation of federal law, including without limitation 49 App. U.S.C. 2210(g), or federal grant agreements. As of the effective date of this rule, 49 App. U.S.C. 2210(g) provides, among other requirements, (1) any funds transferred from the transportation use special fund can only be used for a project for construction or reconstruction of a highway on a federal-aid system (as defined in 23 U.S.C. 101)


which will facilitate access to an airport and which is located within ten miles by road of the airport, (2) the funds that may be so transferred are limited to off-airport revenues generated after May 4, 1990, and before December 31, 1994, and to amounts on deposit in the airport revenue fund attributable to off-airport revenues generated before May 4, 1990, and (3) the maximum amount of off-airport revenues that may be transferred from the transportation use fund is limited to \$250,000,000 in the aggregate. [Eff MAR 04 1991], (Auth: HRS §261D-2) (Imp: HRS §§37-53, 261-5, 261D-2).

DEPARTMENT OF TRANSPORTATION

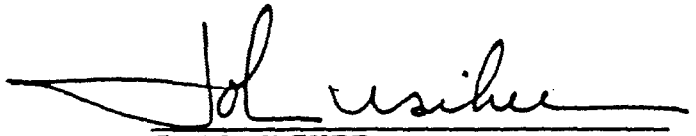
Adoption of Chapter 19-35

Chapter 19-35 of Title 19, Hawaii Administrative Rules, on the summary page dated February 15, 1991, was adopted on February 15, 1991, following public hearings held on January 3 and 4, 1991, after public notice was given in the Honolulu Advertiser, Honolulu Star Bulletin, Garden Island News, Maui News, Hawaii Tribune-Herald and in West Hawaii Today on November 30, 1990.

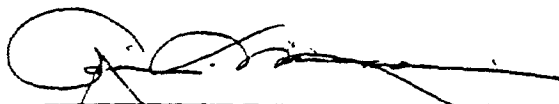
The adoption of chapter 19-35 shall take effect ten days after filing with the Office of the Lieutenant Governor.


EDWARD Y. HIRATA
Director of Transportation

APPROVED:


JOHN WAIHEE
Governor of Hawaii

APPROVED AS TO FORM:


Deputy Attorney General

Filed

FILED
FEB 15 1991
HONOLULU