



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P. O. BOX 621
HONOLULU, HAWAII 96809

STAFF SUBMITTAL

COMMISSION ON WATER RESOURCE MANAGEMENT

June 17, 2016
Honolulu, Hawaii

Request for Authorization to Initiate Rule-Making Proceedings to
Amend Hawaii Administrative Rule §13-168-12(a) to
Increase the \$25 Permit Application Filing Fee for
Well Construction and Pump Installation Permits

The rule amendment can be reviewed online at
<http://ltgov.hawaii.gov/the-office/administrative-rules/>
or can be reviewed or obtained in person at the
Commission on Water Resource Management offices on Oahu at
1151 Punchbowl St. Room 227, Honolulu, Hawaii 96813 from
8:00 am to 3:30 pm, Monday through Friday, except Holidays.

SUMMARY OF REQUEST:

That the Commission on Water Resource Management (Commission) authorize the initiation of rule-making proceedings to amend Hawaii Administrative Rules (HAR) §13-168-12(a) to increase the non-refundable filing fee of \$25.00 to \$300.00 for each well construction or pump installation permit application, which is an amount deemed sufficient to defray the administrative cost of the permit system.

BACKGROUND:

The Commission has the authority to charge permit application fees. Haw. Rev. Stat. §174C-61:

The commission shall promulgate a schedule of application and permit fees. The fees shall be used to defray the administrative costs of the permit systems established under this chapter. A public agency shall not be subject to the payment of any fees.

Hawaii Administrative Rules §13-168-12(a), adopted in 1988, established a \$25 nonrefundable filing fee for well construction or pump installation permit applications processed by the Commission. At the time of the adoption of this rule, the Commission did not have any experience with or knowledge of the administrative costs related to the processing of well construction and pump installation permit applications.

DISCUSSION:

The staff has analyzed the actual administrative costs of permit processing and believes a reasonable and equitable processing fee is \$300 per application for well construction and pump installation permits. The \$25 fee the Commission collects now for these permits is nominal and grossly insufficient to cover even the initial clerical expenses, let alone the professional time, regulatory services, and administrative duties.

While filing fees are not intended to and can never recover the actual costs to the Commission, an increase from the current flat \$25 fee (set by rule in 1988) will better reflect the administrative costs for the application being processed.

Staff estimated administrative costs in labor, time, and material for typical ministerial applications and follow-up construction reports that do not require Commission action or potential contested case hearing proceedings. Depending on the circumstances and application information from the driller, the range of administrative costs were estimated to be between \$160, for simple individual applications with no issues, to \$475 for more complicated situations (i.e., staff review revealed more issues with ownership, well design, well location, driller compliance, other agency issues, etc. that needed more analysis or special conditions). A \$300 fee seems a reasonable average estimate. A simplified breakdown of tasks considered for these ministerial applications is shown in Exhibit 1.

The proposed new language for the administrative rule proposed for amendment is shown in Exhibit 2.

Staff recommends the Commission approve steps to amend this administrative rule to adopt a fair and equitable fee that contributes more toward defraying the actual costs of processing permits.

If approved by the Commission, the immediate next steps to amend the rule include review and approval by the Attorney General's Office, review by the Small Business Regulatory Review Board, then approval by the Governor to hold public hearings.

ENVIRONMENTAL REVIEW (Haw. Rev. Stat. Chapter 343):

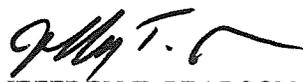
An amendment to an administrative rule is not considered an agency action for purposes of Haw. Rev. Stat. Chapter 343. No environmental review is required.

RECOMMENDATIONS:

Staff recommends that the Commission:

1. Authorize the initiation of rule-making proceedings to amend its Hawaii Administrative Rules HAR §13-168-12(a) to increase the \$25 permit application filing fees to \$300 per application.
2. Request approval from the Governor to conduct public hearings on proposed rule.

Respectfully Submitted,



JEFFREY T. PEARSON, P.E.
Deputy Director

Exhibits:

1. Task list for ministerial type well construction & pump installation applications
2. Amendment to Title 13, Chapter 13-168

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE
Chairperson

Task Description

APPLICATION PROCESSING

Receive & Time Stamp
Route to Branch Chief (BC) manager w/deposit slip

Input primary info into Water Resource Information Management System (WRIMS)
database & Google Earth
Review driller background check
Route to reviewer

Review application for completeness
Parcel Owner Verification (MLS)/printout
SMA boundary review
CD boundary review
Contractor Verification (DCCA Website)/printout
Contact driller with questions
Make CWRM Well location Map
1-mile radius analysis
Make File with current info w/label
Draft Transmittal Letter (acknowledge/accept/agency review)
Route to BC manager for review

BC Review application acceptance/update WRIMS
Route to finalize

Finalize acceptance letter & review transmittals
Deputy Signature & initial
Mail acceptance to contractor, landowner, well owner
Mail review documents to agencies (9 - time included above)
File yellow, correspondence, running file
Post online to monthly bulletin
E-mail monthly bulletin to public

Receive, time, & route stamp responses
Review/route comments (5 to 9 responses)
Follow-up on/file comments

Draft permit & attachments
Route to BC manager for review

BC Review permit/update WRIMS
Route to finalize

Finalize permit
Deputy Signature
Mail/email permit to contractor, landowner, well owner
File correspondence
Post online to monthly bulletin
E-mail monthly bulletin to public
Receive, timestamp, route signed permit
Log & route signed permit
File signed permit

FOLLOW-UP REPORTING PROCESSING
Well Completion Report (WCR1)

Receive & Time Stamp
Route to manager

Log
Input primary WCR1 info into WRIMS
Input well index data into WRIMS
Google Earth plot check
GIS list update (Ingrid list method)
Route to reviewers

Review
Geology Check & Report
Aquifer Pump Tests Analysis & Report
Spreadsheet check for well section
Update well maps (google earth, hanging, GIS)
Additional cross-check on all items
MLS re-verification
Draft response/acceptance/certificate
Route to BC manager for review

BC Review WCR1 acceptance/update WRIMS
Route to finalize

Finalize
Route to signature
Deputy Signature
Mail acceptance/Certificate
File & copies for WCR1 acceptance & WCC Certificate

WCR2
Receive & Time Stamp
Route to manager

Log
Input primary WCR2 info into WRIMS
Input well index data into WRIMS
Google Earth plot check
Route to reviewers

Review
Pump Size Check
Spreadsheet check for completeness
MLS re-verification
Draft response/acceptance/certificate
Route to BC manager for review

BC Review WCR2 acceptance/update WRIMS
Route to finalize

Finalize
Route to signature
Deputy Signature
Mail acceptance/Certificate
File & copies for WCR2 acceptance & PIC Certificate

EXHIBIT 1

COMMISSION ON WATER RESOURCE MANAGEMENT

Amendment to Title 13
Chapter 13-168
Hawaii Administrative Rules

SUMMARY

1. Section 13-168-12 is amended.

EXHIBIT 2

1. Section 13-168-12, Hawaii Administrative Rules, is amended by amending subsection (a) to read as follows:

"(a) No well shall be constructed, altered, or repaired and no pump or pumping equipment shall be installed, replaced, or repaired without an appropriate permit from the commission. [An]Each application for a well construction or pump installation permit shall be accompanied by a non-refundable filing fee of [\$25.00] \$300.00, excepting government agencies, and shall be required for all areas of the state, including water management areas. The owner of a well shall make application or cause an application to be made by the well driller who will construct the well or by the pump installation contractor who will install the pump and pumping equipment, as the case may be." [Eff 5/27/88; am] (Auth: HRS §174C-8, 174C-61)
(Imp: HRS §§174C-48, 174C-61, 174C-84)

EXHIBIT 2

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

3. This amendment to section 13-168-12, 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 _____, by the Commission on Water Resource Management and filed with the Office of the Lieutenant Governor.

SUZANNE D. CASE
Chair
Commission on Water Resource
Management

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General

EXHIBIT 2