

NOTICE OF PUBLIC HEARING  
ON DRINKING WATER RULES  
STATE DEPARTMENT OF HEALTH  
DOCKET NO. R-3-15

The Department of Health (DOH) will receive written comments and hold a public hearing on proposed changes to Hawaii Administrative Rules, Chapter 11-65, Environmental State Revolving Funds. A general discussion of the proposed changes to Chapter 65 is summarized below.

General Description:

The Department of Health charges a loan fee on all Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) loans. The current language requires that loan fees be paid at the same time as principal and interest. The nearly identical changes proposed to §11-65-03 and §11-65-10 will improve flexibility for both the CWSRF and DWSRF programs regarding when loan fees can be charged and become payable by their County borrowers. The revisions will allow the two programs to offer currently unavailable flexible payment options, e.g. fee and interest only payments during construction, which will greatly improve County borrowers' cash flow during this period, and thus provide enhanced customer service.

These changes will not affect the current operations of the DOH in terms of responsibilities, functions, activities and inter-relationships, internally. Externally, the loan fee change will allow the two programs to continue to charge lower loan fees. These changes would provide greater flexibility to the loan recipients, which may increase participation in the programs, thereby supporting the programs' self-sustaining program funding and compliance with EPA requirements.

Small Business Impacts

The amendment of HAR 11-65 does not affect small business. The Attorney General has determined that, as municipal entities, none of the four County borrowers for the two programs are small businesses.

## Public Hearing Information

**The public hearing will be held on Oahu on Thursday, August 20, 2015 at 10:00 a.m.,** 5<sup>th</sup> floor of 919 Ala Moana Boulevard. Persons desiring to speak are asked to submit two copies of their statement before or at the hearing. Written statements will also be accepted until 4:30 p.m. on Monday, August 24, 2015, at the Safe Drinking Water Branch (SDWB) Oahu address noted below.

Copies of the proposed rules and documents explaining the proposed changes are available at the following locations:

Oahu	Safe Drinking Water Branch, 919 Ala Moana Boulevard, Room 308, Honolulu, 96814
Kauai	Department of Health, District Health Office, 3040 Umi Street, Lihue, 96766
Maui	Department of Health, District Health Office, 54 High Street, Wailuku, 96793
Hilo	Department of Health, District Health Office, 1582 Kamehameha Avenue, Hilo, 96720
Kona	Department of Health, District Health Office, 79-1015 Haukapila Street, Kealahou, 96750

The proposed rules will also be mailed at no cost upon request. To obtain copies, call the Safe Drinking Water Branch at (808) 586-4258, or write to its Oahu address:

Safe Drinking Water Branch  
919 Ala Moana Blvd., Room 308  
Honolulu, 96814-4920  
Attention: Mr. Michael Miyahira,

The documents can also be downloaded from the following websites:

<http://health.hawaii.gov/sdwb/>

<http://ltgov.hawaii.gov/the-office/administrative-rules/> (scroll down to “Title 11 DOH”)

For more information, or if you have special needs due to disability that will aid you in inspecting and/or commenting on this public hearing's proposed rules and related information, please contact Mr. Michael Miyahira, Engineering Section Supervisor, at the above address or (808) 586-4258 (Voice) at least seven (7) calendar days before the comment deadline. For those who use a TTY/TDD, please call through Sprint Relay Hawaii, at 1-711 or 1-877-447-5991.

VIRGINIA PRESSLER, M.D.

Director of Health

Rules Amending Title 11  
Hawaii Administrative Rules  
( )

1. Chapter 65 of Title 11, Hawaii Administrative Rules, entitled "Environmental State Revolving Funds" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 65

ENVIRONMENTAL STATE REVOLVING FUNDS

Subchapter 1 General Provisions

§11-65-01 Purpose  
§11-65-02 Definitions

Subchapter 2 Clean Water State Revolving Fund

§11-65-03 Fees for CWSRF loans  
§11-65-04 Reserved  
§11-65-05 CWSRF administrative account  
§11-65-06 CWSRF loan default  
§11-65-07 Reserved  
§11-65-08 Penalty and procedures for CWSRF loan default  
§11-65-09 Reserved

§11-65-01

Subchapter 3 Drinking Water State Revolving Fund

§11-65-10 Fees for DWSRF loans  
§11-65-11 DWSRF administrative account  
§11-65-12 DWSRF loan default  
§11-65-13 Penalty and procedures for DWSRF loan  
default

SUBCHAPTER 1

GENERAL PROVISIONS

§11-65-01 Purpose. (a) These rules establish fees for loans and other financial assistance from the water pollution control revolving fund established by section 342D-83, Hawaii Revised Statutes, also known as the clean water state revolving fund or CWSRF. The fees are intended to cover the costs of the activities specified in section 342D-86, HRS. These rules also set penalty procedures in the case of default of loans and other financial assistance from the CWSRF. Other requirements of the CWSRF are contained in federal regulations and 33 United States Code sections 1381 to 1387.

(b) These rules also establish fees for loans and other financial assistance from the drinking water treatment revolving loan fund, also known as the drinking water state revolving fund or DWSRF, established and defined by sections 340E-31 and 340E-35, HRS. These fees are intended to cover the costs of the activities specified in section 340E-39, HRS. These rules also set penalty procedures in the case of default of loans and other financial assistance from the DWSRF. Other requirements of the DWSRF are contained in the federal regulations and 42 United States Code section 300j-12. [Eff 5/5/97; am and comp 6/1/00; am and comp 1/22/02; comp 5/17/03; comp 11/18/11; comp ] (Auth: HRS §§340E-33(d), 342D-82(a)(4), 342D-86(b)) (Imp: HRS §§340E-31, 340E-32, 340E-33, 340E-35, 340E-36, 340E-39, 342D-

81, 342D-82, 342D-83, 342D-84, 342D-86, 33 U.S.C. §§ 1381-1387, 42 U.S.C. §300j-12)

§11-65-02 Definitions. As used in this chapter:

"CWSRF" means the clean water state revolving fund. This refers to the state's water pollution control revolving fund established in section 342D-83, HRS, which is a water pollution control revolving fund under 33 U.S.C. §§1381-1387.

"Director" means the director of health or the director's duly authorized agent.

"DWSRF" means the drinking water state revolving fund. This refers to the drinking water treatment revolving loan fund (drinking water fund) defined and established in sections 340E-31 and 340E-35, HRS, which is a drinking water treatment revolving loan fund (state loan fund) under 42 U.S.C. §300j-12.

"Recipient" means the recipient of a CWSRF or DWSRF loan or financial assistance. [Eff 5/5/97; am and comp 6/1/00; am and comp 1/22/02; comp 5/17/03; comp 11/18/11; comp ] (Auth: HRS §§340E-33(d), 342D-82(a)(4), 342D-86(b)) (Imp: HRS §§340E-31, 340E-32, 340E-33, 340E-35, 340E-36, 340E-39, 342D-81, 342D-82, 342D-83, 342D-84, 342D-86, 33 U.S.C. §§ 1381-1387, 42 U.S.C. §300j-12)

## SUBCHAPTER 2

### CLEAN WATER STATE REVOLVING FUND

§11-65-03 Fees for CWSRF loans. The director may charge loan fees for any CWSRF loan. The loan fee shall [not exceed an annual rate of one percent of] be an annual rate, computed on the outstanding principal balance of the loan. [ The fee shall be computed based on, and shall be payable on, the same dates that corresponding repayments of the principal and interest on the loan are due.] [Eff 5/5/97; am and comp 6/1/00; comp 1/22/02; comp 5/17/03; comp 11/18/11; am and comp ] (Auth: HRS §§342D-82(a)(4),

§11-65-03

342D-86(b)) (Imp: HRS §§342D-81, 342D-82, 342D-83, 342D-84, 342D-86, 33 U.S.C. §§1381-1387)

§11-65-04 (Reserved)

§11-65-05 CWSRF administrative account. All loan fees and fees for other financial assistance collected shall be deposited into a CWSRF loan fee administrative account. At the end of each fiscal year, any funds within the CWSRF loan fee administrative account (less encumbrances) in excess of \$3 million shall be transferred to the CWSRF repayment accounts to be used for CWSRF loans. [Eff 5/5/97; am and comp 6/1/00; comp 1/22/02; am and comp 5/17/03; comp 11/18/11; comp ] (Auth: HRS §§342D-82(a)(4), 342D-86(b)) (Imp: HRS §§342D-81, 342D-82, 342D-83, 342D-84, 342D-86, 33 U.S.C. §§1381-1387)

§11-65-06 CWSRF loan default. A loan default occurs when the recipient of a CWSRF loan fails to remit the loan repayments as established in a CWSRF loan agreement, or when a condition specified in a CWSRF loan agreement as a default is met. [Eff 5/5/97; am and comp 6/1/00; comp 1/22/02; comp 5/17/03; comp 11/18/11; comp ] (Auth: HRS §§342D-82(a)(4), 342D-86(b)) (Imp: HRS §§342D-81, 342D-82, 342D-83, 342D-84, 342D-86, 33 U.S.C. §§1381-1387)

§11-65-07 (Reserved)

§11-65-08 Penalty and procedures for CWSRF loan default. (a) Procedures for notice of loan default shall be included in the CWSRF loan agreements.

(b) In the event of a loan default, the director is entitled to collect interest from the recipient on the amount of each overdue repayment at the effective

rate of twelve per cent simple interest per year commencing on the first day following the repayment due date and ending on the date the director receives the check or warrant issued by the recipient. [Eff 5/5/97; am and comp 6/1/00; comp 1/22/02; comp 5/17/03; comp 11/18/11; comp ] (Auth: HRS §§342D-82(a)(4), 342D-86(b)) (Imp: HRS §§342D-81, 342D-82, 342D-83, 342D-84, 342D-86, 33 U.S.C. §§1381-1387)

§11-65-09 (Reserved)

SUBCHAPTER 3

DRINKING WATER STATE REVOLVING FUND

§11-65-10 Fees for DWSRF loans. The director may charge loan fees for any DWSRF loan. The loan fee shall [not exceed an annual rate of three and twenty-five one hundredths per cent of] be an annual rate, computed on the outstanding principal balance of the loan. [ The fee shall be computed based on, and shall be payable on, the same dates that corresponding repayments of the principal and interest on the loan are due.] [Eff 6/1/00; comp 1/22/02; comp 5/17/03; am and comp 11/18/11; am and comp ] (Auth: HRS §§340E-33(d)) (Imp: HRS §§340E-32, 340E-33, 340E-35, 340E-36, 340E-39, 42 U.S.C. §300j-12)

§11-65-11 DWSRF administrative account. All loan fees and fees for other financial assistance collected for DWSRF loans shall be deposited into a DWSRF loan fee administrative account. At the end of each fiscal year, any funds within the loan fee administrative account (less encumbrances) in excess of \$2.0 million shall be transferred to the DWSRF repayment accounts to be used for DWSRF loans. [Eff and comp 6/1/00; comp 1/22/02; comp 5/17/03; am and comp 11/18/11; comp ] (Auth: HRS

§11-65-11

§§340E-33(d)) (Imp: HRS §§340E-32, 340E-33, 340E-35, 340E-36, 340E-39, 42 U.S.C. §300j-12)

§11-65-12 DWSRF loan default. A loan default occurs when the recipient of a DWSRF loan fails to remit the loan repayments as established in a DWSRF loan agreement, or when a condition specified in a DWSRF loan agreement as a default is met. [Eff and comp 6/1/00; comp 1/22/02; comp 5/17/03; comp 11/18/11; comp ] (Auth: HRS §§340E-33(d)) (Imp: HRS §§340E-32, 340E-33, 340E-35, 340E-36, 340E-39, 42 U.S.C. §300j-12)

§11-65-13 Penalty and procedures for DWSRF loan default. (a) Procedures for notice of loan default shall be included in the DWSRF loan agreements.

(b) In the event of a loan default, the director is entitled to collect interest from the recipient on the amount of each overdue repayment at the effective rate of twelve per cent simple interest per year commencing on the first day following the repayment due date and ending on the date the director receives the check or warrant issued by the recipient." [Eff and comp 6/1/00; comp 1/22/02; comp 5/17/03; comp 11/18/11; comp ] (Auth: HRS §§340E-33(d)) (Imp: HRS §§340E-32, 340E-33, 340E-35, 340E-36, 340E-39, 42 U.S.C. §300j-12)"

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 11-65, 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 \_\_\_\_\_ and  
filed with the Office of the Lieutenant Governor.

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Virginia Pressler, M.D.  
Director of Health

APPROVED AS TO FORM:

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Deputy Attorney General