

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND
TOURISM

Adoption of Chapter 15-37
Hawaii Administrative Rules

(Date TBD)

SUMMARY

Chapter 15-37, Hawaii Administrative Rules,
entitled, "Solar Water Heater Variance," is adopted.

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND
TOURISM

Adopting of Chapter 15-37
Hawaii Administrative Rules

(Date TBD)

1. Chapter 15-37, Hawaii Administrative Rules,
entitled, "Solar Water Heater Variance," is adopted to
read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 15

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND
TOURISM

CHAPTER 37

SOLAR WATER HEATER VARIANCE

Subchapter 1 General Purpose

§15-37-1 Purpose

§15-37-2 Definitions

Subchapter 2 Eligibility for, Selection
Criteria, and Amendment of a SWHV

§15-37-3 Eligibility criteria for a SWHV

§15-37-4 Procedure for a SWHV

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§15-37-5 Criteria for state review of a SWHV request

§15-37-6 Procedure for amendment of a SWHV

Subchapter 3 Administration

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§15-37-8 Fee Increases

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SUBCHAPTER 1

GENERAL PURPOSE

§15-37-1 Purpose. The purpose of this chapter is to provide rules for administration of the state solar water heater variance program authorized by section 196-6.5, Hawaii Revised Statutes.

[Eff] (Auth: HRS §196-6.5)

(Imp: HRS §196-6.5)

§15-37-2 Definitions. As used in this chapter, unless a different meaning clearly appears in the context:

"Authorized to do business in the State" means a domestic or foreign profit corporation incorporated under chapter 414, HRS; domestic general partnership or foreign general partnership incorporated under chapter 425, HRS; domestic limited partnership or domestic limited liability partnership incorporated under chapter 425E, HRS; foreign limited partnership or foreign limited liability partnership incorporated under chapter 425E, HRS; domestic limited liability company or foreign limited liability company incorporated under chapter 428, HRS; a domestic limited liability partnership or foreign limited liability partnership incorporated under chapter 425, HRS; or a sole proprietorship.

"County" or "counties" means the City and County of Honolulu and the counties of Hawaii, Kauai, and Maui.

"DBEDT" means the State of Hawaii Department of Business, Economic Development, and Tourism.

"Department" means the State of Hawaii Department of Business, Economic Development, and Tourism.

"Director" means the director of the Department of Business, Economic Development, and Tourism.

"Family" means any group of people, which may include children, living together as a unit.

"HRS" means Hawaii Revised Statutes, the laws of the State of Hawaii, which were passed by the State Legislature and signed by the Governor or allowed to become law without signature.

"Program" means the state solar water heater variance program authorized by section 196-6.5, HRS.

"Qualified professional" means any architect or mechanical engineer licensed to do business in the State, which is:

- (1) Subject to the state corporate or individual income tax under chapter 235, HRS; and
- (2) Engaged in design or engineering of a Hawaii single family dwelling.

"Representative" is a person who submits a "Request for Variance from the Mandatory Solar Water Heater Law" on behalf of and with the consent of the homeowner or future homeowner.

"Request" means a valid "Request for Variance from the Mandatory Solar Water Heater Law" form.

"Requestor" is a homeowner or homeowner's representative requesting a Solar Water Heating Variance.

"Single family dwelling" means a building designed for one family to live in. This excludes duplexes, triplexes, apartments, condominiums, and other structures built for multiple families.

"Solar water heater" is a device in which water is heated by the sun to provide domestic hot water. Most solar water heater systems in Hawaii use a series of large glass and metal panels containing a metal pipe winding itself inside. The panels are usually

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installed on a building's roof. The heated water is usually stored in a large tank (eighty gallons or more). In an active system, an electric pump pumps the water from the supply pipe through the pipe that runs through the panels and into the storage tank. In a passive system, the heated water moves through the pipe through natural convection.

"State" means the State of Hawaii.

"SWHV" is a "solar water heater variance," a request to be exempt from HRS section 196-6.5, which requires a solar water heating system for new single-family residential construction.

"Valid form" is a template, usually in Microsoft "Word" or an online form for the "Request for Variance from the Mandatory Solar Water Heater Law" that is designated by the State to be the most recent version that complies with state requirements.

[Eff _____] (Auth: HRS §196-6.5)

(Imp: HRS §196-6.5)

SUBCHAPTER 2

ELIGIBILITY FOR, SELECTION CRITERIA, AND AMENDMENT OF A SWHV

§15-37-3 Eligibility criteria for a SWHV. a) To be eligible for a solar water heater variance, a home shall be:

- (1) Built on or after January 1, 2010;
- (2) A single family dwelling; and
- (3) Located within the State of Hawaii.

(b) The requestor shall submit to the State a valid, correctly completed "Request for Variance from the Mandatory Solar Water Heater Law" form.

(c) The request must be submitted by a qualified professional who is an architect or mechanical engineer licensed to do business in the State of Hawaii according to chapter 464, HRS.

(d) The form should be printed on the letterhead of the architect or mechanical engineer, or correctly completed online.

(e) A valid form can be obtained by:

- (1) Accessing the DBEDT Energy Division Solar Water Heater Variance website and completing the online form;
- (2) Downloading a form from the DBEDT Energy Division Solar Water Heater Variance website; or
- (3) E-mailing the program office at:
DBEDT.SWH-Variance@hawaii.gov.

(f) A request must be submitted for each dwelling.

(g) A SWHV processing fee of \$25 shall be charged for each SWHV request. The request shall be processed when the fee is received. [Eff]
(Auth: HRS §196-6.5) (Imp: HRS §196-6.5)

§15-37-4 Procedure for a SWHV. (a) Homeowner or representative (requestor) submits a properly completed, valid "Request for Variance from the Mandatory Solar Water Heater Law" form and fee payment to the State via:

- (1) Online at the DBEDT Energy Division Solar Water Heater Variance website;
- (2) E-mail: DBEDT.SWH-Variance@hawaii.gov;
- (3) Fax: 808-586-2536;
- (4) U.S. Postal Service: SWH Variance, c/o DBEDT Energy Division, P.O. Box 2359, Honolulu, HI 96804-2359; or
- (5) Hand delivery.

(b) The State reviews the request.

(c) The State shall inform the requestor of any errors on the request, if the request is on an invalid form, or if there is a problem with the fee payment.

(d) After review, the correct and paid requests are sent to the director or director's designee.

(e) The director or director's designee approves or denies the request.

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(f) The requestor is notified of the director's or director's designee's decision.

(g) A copy of the approved request is sent to the requestor.

(h) Information about the request is posted on the department's SWHV webpage, including the director's approval or denial of the request.

[Eff] (Auth: HRS §196-6.5)

(Imp: HRS §196-6.5)

§15-37-5 Criteria for state review of a SWHV request. (a) Upon receiving a "Request for Variance from the Mandatory Solar Water Heater Law" form and fee payment, the request is reviewed to ensure that the:

- (1) Request is on a valid form;
- (2) Fee is paid; and
- (3) Request is correctly completed, including:
 - (A) Printed on architect's or mechanical engineer's letterhead with name, address, e-mail address, and phone number. In lieu of a letterhead, the architect's or mechanical engineer's name, address, e-mail address, and phone number shall be written on the form or inputted into the online form.
 - (B) Return e-mail address to which the "Request for Variance from the Mandatory Solar Water Heater Law" form should be returned.
 - (C) The property's address (at least the street name), town, and island.
 - (D) The property's Tax Map Key (TMK) number.
 - (E) One of the options is checked:
 - (i) If Option 1 (installation impracticable or cost-prohibitive) is checked, a Life Cycle Cost Comparison, also available from the SWHV website or the program office, is included and properly completed,

including architect's or mechanical engineer's stamp and signature;

- (ii) If Option 2 (renewable energy technology) is checked, the renewable system to be installed is circled or otherwise marked; or
- (iii) If Option 3 (gas tankless on-demand water heater) is checked, at least one additional gas appliance is listed on the line under the Option 3 paragraph.

(F) Request is signed and stamped by the architect or mechanical engineer.

(b) The request shall be reviewed by the department and sent to the director or director's designee for review.

(c) The director or director's designee shall approve or deny a request based upon requirements of section 196-6.5, HRS.

(d) A requestor whose variance request is denied shall be notified and provided with the reasons for denial. [Eff _____] (Auth: HRS §196-6.5)
(Imp: HRS §196-6.5)

§15-37-6 Procedure for amendment of a SWHV.

(a) A homeowner may request amendment of an approved SWHV by submitting a written notification to the department and a revised SWHV request.

(b) Requests for an amendment will be considered if the amendment relates to a change in the homeowner's choice of water heating device.

(c) If the amendment is to change to a solar water heater, no fee will be required. All other amendments require payment of the current SWHV processing fee.

(d) The request for amendment shall be reviewed by the department and forwarded to the director or director's designee.

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(e) If approved by the director or director's designee, the amendment shall take effect on the date of approval.

(f) A homeowner whose application for amendment is denied by the director or director's designee shall be notified and provided with the reasons for denial.

[Eff _____] (Auth: HRS §196-6.5)
(Imp: HRS §196-6.5)

SUBCHAPTER 3

ADMINISTRATION

§15-37-7 Administration. (a) The department is authorized to implement and enforce this chapter.

(b) The department shall monitor the program to ensure adherence to this chapter, the effectiveness of this chapter, and that the purpose of the program is still relevant to the intent of section 196-6.5, HRS.

[Eff _____] (Auth: HRS §196-6.5)
(Imp: HRS §196-6.5)

§15-37-8 Fee increases. From time to time, it may be necessary to increase the SWHV processing fee required by section 15-37-3(g). A fee increase shall be instituted when approved by the director and posted on the department's website for thirty calendar days.

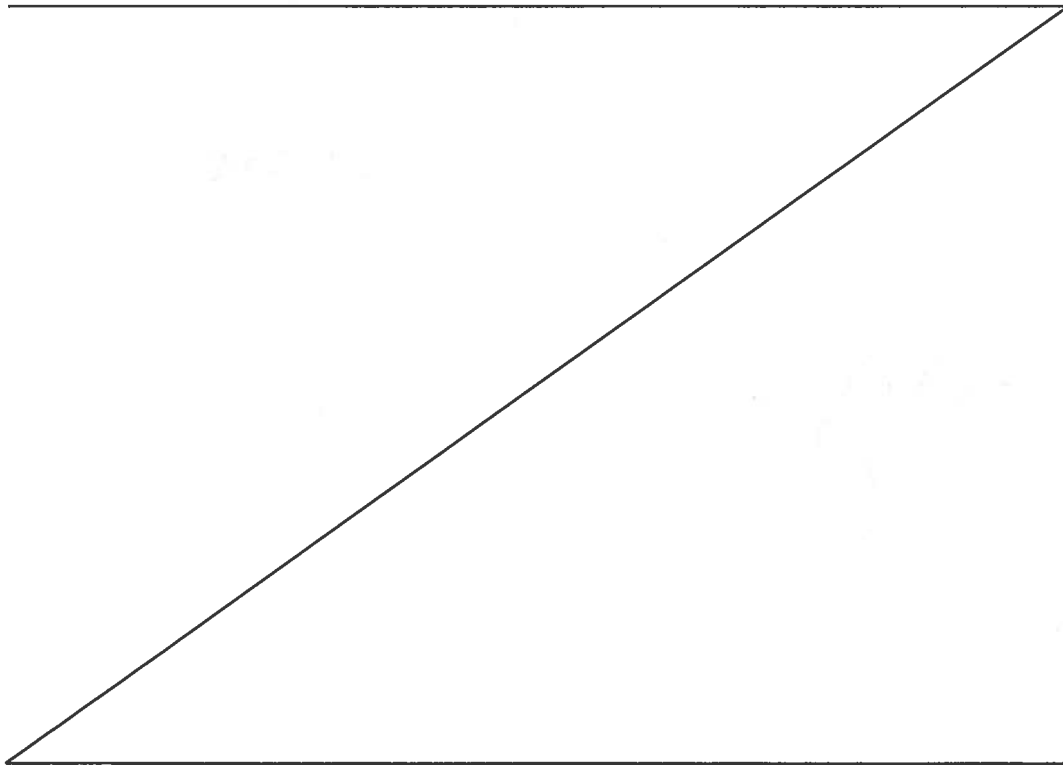
[Eff _____] (Auth: HRS §196-6.5)
(Imp: HRS §196-6.5)

§15-37-9 Waiver. The director may waive particular provisions of this chapter to conform to applicable federal requirements.

[Eff _____] (Auth: HRS §196-6.5)
(Imp: HRS §196-6.5)

§15-37-10 Severability. If any part, section, sentence, clause, or phrase of this chapter, or its application to any person, transaction, or other circumstance, is for any reason held to be unconstitutional or invalid, the remaining parts, sections, sentences, clauses, and phrases of this chapter, or its application to other persons, transactions, or circumstances shall not be affected." [Eff] (Auth: HRS §196-6.5) (Imp: HRS §196-6.5)

2. Chapter 15-37, Hawaii Administrative Rules, on the Summary Page dated , was adopted on , following a public hearing held on November 1, 2017, after public notice was given in the Honolulu Star-Advertiser, Hawaii Tribune Herald, West Hawaii Today, The Garden Island, and The Maui News on September 29, 2017.




3. The adoption of chapter 15-37, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.



Luis P. Salaveria
Director
Department of Business,
Economic Development, and
Tourism

APPROVED:



David Y. Ige
Governor
State of Hawaii

Dated: 08-14-2018

APPROVED AS TO FORM:



Deputy Attorney General

Filed