

State of Hawaii
Department of Land and Natural Resources
Civil Resource Violations System

ADMINISTRATIVE SANCTIONS SCHEDULE

Adopted on March 13, 2009

By the Board of Land and Natural Resources

TABLE OF CONTENTS

Part 1.	General Provisions
Item 1-1.	Objective
Item 1-2.	Legal Authority
Item 1-3.	Applicability
Item 1-4.	Denial of Application for Cause
Item 1-5.	Delegation of Power to Suspend Permits and Licenses Issued by the Department
Item 1-6.	Delegation of Power to Revoke Permits and Licenses Issued by the Department
Item 1-7.	Interpretation of the Schedule
Item 1-8.	Standard Forms
Item 1-9.	Effective Dates
Appendix 1-A.	Standard Form – Notice of Civil Resource Violation(s)
Part 2.	Division of Aquatic Resources (DAR)
Item 2-1.	Violations Pertaining to the Filing of Commercial Marine License (CML) Fishing Catch Reports
Appendix 2-A.	DAR Administrative Sanctions Table
Part 3.	Division of Boating and Ocean Recreation (DOBOR)
Item 3-1.	Violations Pertaining to the Registration of Vessels
Item 3-2.	Unauthorized Mooring of a Vessel
Item 3-3.	Unauthorized Commercial Use of Boat Launching Ramps or Other Boating Facilities of the State
Item 3-4.	Unauthorized Recreational Use of Boat Launching Ramps or Other Boating Facilities of the State
Appendix 3-A.	DOBOR Administrative Sanctions Table

State of Hawaii
Department of Land and Natural Resources
Civil Resource Violations System

ADMINISTRATIVE SANCTIONS SCHEDULE

Adopted on March 13, 2009

By the Board of Land and Natural Resources

The following Administrative Sanctions Schedule is adopted as a guideline for the Department of Land and Natural Resources to be used under the Civil Resource Violations System (CRVS).

PART 1. GENERAL PROVISIONS

Item 1-1. Objective

This Administrative Sanctions Schedule (“Schedule”) seeks to provide a Department-wide standard policy guideline for all divisions of the Department of Land and Natural Resources (DLNR or “Department”) in processing the civil resource violations so as to promote:

- Voluntary compliance of state law for the protection of Hawaii’s natural and cultural resources,
- Fair and cost-effective process for all parties involved, and
- Deterrence of violations.

Item 1-2. Legal Authority

This Schedule is adopted pursuant to §171-6 and Chapter 199D, Hawaii Revised Statutes (HRS), §13-1-70, Hawaii Administrative Rules (HAR), and other statutes and administrative rules of the Department.

Item 1-3. Applicability

The Department shall follow this Schedule when processing a civil resource violation under the CRVS pursuant to Chapter 13-1, Subchapter 7, HAR.

Item 1-4. Denial of Application for Cause

If a person is a respondent in a pending case with the CRVS, the Department may deny any application submitted by such person to the Department for any regulatory permit, license, or a renewal of such, or may issue one with additional conditions upon full payment of the CRVS fines assessed, subject to the review by a hearing officer and the Board or its delegate if the CRVS case is properly contested.

Item 1-5. Delegation of Power to Suspend Permits and Licenses Issued by the Department

- (a) Unless otherwise provided by law or in this Schedule, if a respondent has been issued a CRVS violation notice for any violation related to a particular DLNR permit or license issued to or held by the respondent and fails to comply with the notice within 21 days of the service of the notice, the Chairperson is authorized to suspend the permit or license until the respondent comes into full compliance with all sanctions and requirements imposed through the CRVS.
- (b) A suspension of a permit or license shall mean that the permittee or licensee is not entitled to conduct any activity pursuant to the permit or license until such time as the permit or license is reinstated. Suspension of a permit or license will not affect the expiration of the term of the permit or license.
- (c) The Chairperson may reinstate a suspended permit or license for good cause at any time upon petition of the respondent.
- (d) The Division Administrator shall reinstate a suspended permit or license upon a determination that the respondent has come into full compliance with the law and all violation notices previously issued.

Item 1-6. Delegation of Power to Revoke Permits and Licenses Issued by the Department

- (a) Unless otherwise provided in this Schedule, if a respondent is found to have committed three offenses under this Schedule in the past twelve months for any violation of state law or the terms or conditions of a particular DLNR permit or license issued to or held by the respondent, the Chairperson is authorized to revoke the permit or license for a period not to exceed six month.
- (b) If a permit or license revoked under this Schedule expires before the end of the revocation period, the revocation shall continue to be enforced by denying any application for the renewal or new issuance of a permit or license until the revocation period is over.
- (c) For good cause, the Chairperson may withdraw a revocation of a permit or license.

- (d) After the revocation period, the Division Administrator may reissue a revoked permit or license upon the respondent's application for renewal and payment of the fee that the Department charges for the renewal of the permit or license.

Item 1-7. Interpretation of the Schedule

The Chairperson and a hearing officer appointed pursuant to §13-1-57, HAR, shall have the power to interpret this Schedule, subject to review by the Board.

Item 1-8. Standard Forms

- (a) The Chairperson may make minor modifications and corrections to a standard form adopted by the Board for use in the CRVS if deemed necessary.
- (b) The Department shall use the standard form of Notice of Civil Resource Violation(s), as attached in Appendix 1-A, when preparing a violation notice pursuant to §13-1-62, HAR.

Item 1-9. Effective Dates

This Schedule and its subsequent amendments shall be effective upon adoption by the Board.

Appendix 1-A. Standard Form – Notice of Civil Resource Violation(s)

PART 2. DIVISION OF AQUATIC RESOURCES (DAR)

Item 2-1. Violations Pertaining to the Filing of Commercial Marine License (CML) Fishing Catch Reports (§189-3, §187A-12.5, HRS)

- (a) §187A-12.5, HRS, authorizes a maximum fine of \$1,000 for a first violation, \$2,000 for a second violation, and \$3,000 for a third violation.
- (b) Each monthly catch report that is past due shall constitute a separate violation.
- (c) For a first offense of §189-3, HRS, an administrative fine of up to \$15 shall be assessed if the respondent fully complies with the violation notice within 21 days of the service of the violation notice. The administrative fine shall increase up to \$30 if the respondent fails to fully comply within 21 days. In addition to a monetary fine, the respondent shall be required to submit an acceptable monthly catch report to the Department for the missing month. (Authority: §187A-12.5, HRS)
- (d) For a second offense within three months of a first offense within the same year of the CML, as determined pursuant to §13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$25, which shall be increased up to \$50 if the respondent fails to fully comply within 21 days. The respondent shall also be required to turn in an acceptable monthly catch report for the missing month and all relevant sale receipts. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
- (e) For a third offense or thereafter within three months of a second offense within the same year of the CML, as determined pursuant to §13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$100, which shall be increased up to \$200 if the respondent fails to fully comply within 21 days. The respondent shall also be required to turn in an acceptable monthly catch report for the missing month and all relevant sale receipts. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
- (f) The Division Administrator shall review a respondent's report submitted to the Division for completeness, truthfulness and accuracy. Any report that fails the review shall constitute non-compliance.

Item No.	Authority	Violation	No. of Offense	Fine (In 21 Days)	Fine (Late)	Other Sanctions*
2-1	HRS §189-3; HRS §187A-12.5	Failing to file a CML fishing catch report	First	Up to \$15	Up to \$30	Back report required
			Second	Up to \$25	Up to \$50	Back report required; sale receipts required
			Third	Up to \$100	Up to \$200	Back report required; sale receipts required

* In addition to any administrative sanctions that may be listed in this column, a regulatory permit or license issued to or held by the respondent may be subject to suspension under Item 1-5 of this Schedule and to revocation under Item 1-6.

PART 3. DIVISION OF BOATING AND OCEAN RECREATION (DOBOR)

Item 3-1. Violations Pertaining to the Registration of Vessels (§200-31, §200-14.5, HRS)

- (a) §200-14.5, HRS, authorizes a maximum fine of up to \$5,000 for a first violation, up to \$10,000 for a second violation, and up to \$15,000 for a third violation.
- (b) The Department may issue a violation notice to the owner or operator of a vessel if the Department finds that the vessel has not been properly registered as required by law or that the vessel's registration has expired and not been properly renewed as required by law.
- (c) For a first offense of §200-31, HRS, an administrative fine of up to \$15 shall be assessed if the respondent fully complies with the violation notice within 21 days of the service of the notice. An administrative fine of up to \$30 shall be assessed if the respondent fails to fully comply within the 21 day period. (Authority: §200-14.5, HRS)
- (d) For a second offense, as determined pursuant to §13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$25, which shall be increased up to \$50 if the respondent fails to fully comply with the violation notice within the 21 day period. (Authority: §200-14.5, HRS; Implementation: §13-1-71, HAR)
- (e) For a third offense or thereafter, as determined pursuant to §13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$100, which shall be increased to up to \$200 if the respondent fails to fully comply with the violation notice within the 21 day period. (Authority: §200-14.5, HRS; Implementation: §13-1-71, HAR)
- (f) In addition to a monetary fine, a respondent shall be required to register the subject vessel within the 21 day period. If the respondent fails to do so, the respondent has committed a separate violation, and the Department may issue a separate violation notice.

Item 3-2. Unauthorized Mooring of a Vessel (§200-16, HRS; §13-234-5, HAR)

- (a) §13-234-5, HAR, authorizes daily fines for unauthorized mooring.
- (b) The Department may issue a violation notice to the owner or operator of a vessel if the Department finds that the vessel has been moored at a small boat harbor of the State or at an offshore mooring area without a valid use permit issued by the Department.

- (c) For an offense of §200-16, HRS, the assessment of fees and fines shall follow §13-234-5, HAR. An additional fine of up to \$50 shall be assessed if the respondent fails to fully comply with the violation notice within 21 days of the service of the notice. (Authority: §§200-14.5 and 16, HRS)
- (d) Impoundment: A proceeding on the impoundment of a vessel under §200-16, HRS, shall not be affected by the operation of the CRVS.

Item 3-3. Unauthorized Commercial Use of Boat Launching Ramps or Other Boating Facilities of the State (§13-234-31, HAR; §200-14.5, HRS)

- (a) §200-14.5, HRS, authorizes a maximum fine of up to \$5,000 for a first violation, up to \$10,000 for a second violation, and up to \$15,000 for a third violation.
- (b) The Department may issue a violation notice to the owner or operator of a commercial trailered vessel that uses a state launching ramp, wharf, or other state boating facility except state small boat harbors without a valid permit pursuant to §13-234-31, HAR.
- (c) For a first offense, an administrative fine of up to \$25 shall be assessed if the respondent fully complies with the violation notice within 21 days of the service of the notice. An administrative fine of up to \$50 shall be assessed if the respondent fails to fully comply within 21 days. (Authority: §200-14.5, HRS)
- (d) For a second offense, as determined pursuant to §13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$50, which shall be increased up to \$100 if the respondent fails to fully comply with the violation notice within 21 days. (Authority: §200-14.5, HRS; Implementation: §13-1-71, HAR)
- (e) For a third offense or thereafter, as determined pursuant to §13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$100, which shall be increased up to \$200 if the respondent fails to fully comply with the violation notice within 21 days. (Authority: §200-14.5, HRS; Implementation: §13-1-71, HAR)
- (f) In addition to a monetary fine, a respondent shall be required to obtain a permit and pay all past due fees for the use of a state launching ramp, wharf, or other state boating facility within the 21 day period. If the respondent fails to do so and uses such facilities beyond that period, the respondent has committed a separate violation, and the Department may issue a separate violation notice.

Item 3-4. Unauthorized Recreational Use of Boat Launching Ramps or Other Boating Facilities of the State (§13-234-34, HAR; §200-14.5, HRS)

- (a) §200-14.5, HRS, authorizes a maximum fine of up to \$5,000 for a first violation, up to \$10,000 for a second violation, and up to \$15,000 for a third violation.
- (b) The Department may issue a violation notice to the owner or operator of a trailered vessel using a state launching ramp or other state boating facility for recreational and fishing purposes without a permit pursuant to §13-234-34, HAR.
- (c) For a first offense, an administrative fine of up to \$15 shall be assessed if the respondent fully complies with the violation notice within 21 days of the service of the notice. An administrative fine of up to \$30 shall be assessed if the respondent fails to fully comply with the violation notice within 21 days. (Authority: §200-14.5, HRS)
- (d) For a second offense, as determined pursuant to §13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$25 if the respondent fully complies with the violation notice within 21 days of the service of the notice. An administrative fine of up to \$50 shall be assessed if the respondent fails to fully comply with the violation notice within 21 days. (Authority: §200-14.5, HRS; Implementation: §13-1-71, HAR)
- (e) For a third offense or thereafter, as determined pursuant to §13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$100, which shall be increased up to \$200 if the respondent fails to fully comply with the violation notice within 21 days. (Authority: §200-14.5, HRS; Implementation: §13-1-71, HAR)
- (f) In addition to a monetary fine, a respondent shall be required to obtain a permit and pay all past due fees for the use of a state launching ramp or other state boating facility within the 21 day period. If the respondent fails to do so and uses such facilities beyond that period, the respondent has committed a separate violation, and the Department may issue a separate violation notice.

Item No.	Authority	Violation	No. of Offense	Fine (In 21 Days)	Fine (Late)	Other Sanctions*
3-1	HRS §200-31; HRS §200-14.5	Failing to register a vessel	First	Up to \$15	Up to \$30	Registration
			Second	Up to \$25	Up to \$50	
			Third	Up to \$100	Up to \$200	
3-2	HRS §200-16; HAR §13-234-5; HRS §200-14.5	Unauthorized mooring of a vessel	N/A	Penalty schedule under §13-234-5, HAR	Additional fine up to \$50	Cease and desist; subject to impoundment with additional charges for fees and costs
3-3	HAR §13-234-31; HRS §200-14.5	Unauthorized Commercial Use of Launching Ramps or Other Boating Facilities	First	Up to \$25	Up to \$50	Application for appropriate permit; payment of fees including past due amounts
			Second	Up to \$50	Up to \$100	
			Third	Up to \$100	Up to \$200	
3-4	HAR §13-234-34; HRS §200-14.5	Unauthorized Recreational Use of Launching Ramps or Other Boating Facilities	First	Up to \$15	Up to \$30	Application for appropriate permit; payment of fees including past due amounts
			Second	Up to \$25	Up to \$50	
			Third	Up to \$100	Up to \$200	

* In addition to any administrative sanctions that may be listed in this column, a regulatory permit or license issued to or held by the respondent may be subject to suspension under Item 1-5 of this Schedule and to revocation under Item 1-6.