

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to Chapter 13-74
Hawaii Administrative Rules

(date of adoption)

1. Section 13-74-1, Hawaii Administrative Rules, is amended by amending the definition of "commercial marine dealer" to read:

"Commercial marine dealer" means any:

(a) Person who sells or exchanges, or who is an agent in the transfer of, marine life obtained:

- 1) Directly from a commercial marine licensee who took the marine life;
- 2) From another dealer;
- 3) From a licensed aquaculture facility; or
- 4) From an importer whose marine life is regulated under state law, or

(b) Person who exports marine life taken within the jurisdiction of the State for commercial purpose;
or

(c) Commercial marine licensee who sells or exchanges locally caught marine life they took themselves at retail." [Eff 8/12/93; am 10/18/10; am] (Auth: HRS §§187A-5, 188-37, 188-44, 188-45, 188-50, 188-53, 188-57, 189-2, 189-6) (Imp: HRS §§187A-5, 188-37, 188-44, 188-45, 188-50, 188-53, 188-57, 189-2, 189-6, 189-10)

2. Section 13-74-20, Hawaii Administrative Rules, is amended to read as follows:

"§13-74-20 Commercial marine license. (a) No person shall take marine life for commercial purposes whether the marine life is caught or taken within or outside of the State, without first obtaining a commercial marine license. Additionally, any person providing vessel charter services in the State for the

taking of marine life in or outside of the State shall obtain a commercial marine license.

(b) Licenses to persons with proof of identity to engage in the activities described in subsection (a) shall require the person's name, address, age, place of birth, length of residence in the State, height, weight, color of hair and eyes, citizenship, and such other information as the department may require.

(c) The fee for the commercial marine license shall be[:

(1) Residents, \$50;

(2) All other persons, \$200;

(3) Duplicate license, \$10.] \$100. The fee for a duplicate license shall be \$10.

(d) Beginning January 1, 2018, the fee for the commercial marine license shall be \$150. The fee for a duplicate license shall be \$10.

(e) No person may:

(1) Renew a commercial marine license more than two months prior to its expiration date; or

(2) Be issued more than one commercial marine license at any one time.

[(d)] (f) The department may require persons issued the commercial marine license to submit reports of their fishing activity. Such reports shall be submitted to the department monthly; provided that persons taking bottomfish as defined in chapter 13-94, in the main Hawaiian islands, shall, in addition to their monthly report for species other than bottomfish, submit trip reports of their bottomfish fishing activity if requested. The monthly and trip reports shall be subject to section 13-74-2, sections 189-3 and 189-3.5, HRS, and as may be otherwise provided by law. [Eff 8/12/93; am 1/15/99; am 10/18/10; am] (Auth: HRS §§189-2, 189-3, 189-3.5) (Imp: HRS §§189-2, 189-3, 189-3.5)

3. Chapter 13-74, Hawaii Administrative Rules, is amended by adding a new section 13-74-45 to read as follows:

“§13-74-45 Commercial marine dealers. (a) The department may issue a commercial marine dealer license to any person to sell or exchange, or act as an agent in the transfer of, marine life obtained directly from a commercial marine licensee, or to any commercial marine licensee to export marine life taken within the jurisdiction of the State for commercial purpose or to sell or exchange marine life at retail.

(b) No person shall sell or exchange, or act as an agent in the transfer of, marine life obtained directly from a commercial marine licensee without possessing a valid commercial marine dealer license.

(c) No commercial marine licensee shall export any marine life taken within the jurisdiction of the State for commercial purpose without possessing a valid commercial marine dealer license.

(d) No commercial marine licensee shall sell or exchange marine life at retail without possessing a valid commercial marine dealer license.

(e) A person applying for the commercial marine dealer license shall provide to the department the name and physical location of the place of business.

(f) A separate commercial marine dealer license shall be required for each place of business, even if one person owns or operates several places of business, provided that a person who owns or operates a business consisting of only mobile places of business may be issued one marine dealer license per vehicle.

(g) It is unlawful for any commercial marine dealer to sell or offer for sale, to purchase or attempt to purchase, to exchange, or to act as an agent in the transfer of, any marine life taken within the jurisdiction of the State for commercial purpose, that is obtained from any person whom the department has required to have, but does not have, a valid commercial marine license, commercial marine dealer license, or other license or permit authorizing such sale, purchase, exchange, or transfer for commercial purpose.

(h) Every commercial marine dealer shall issue receipts to the person from whom marine life is obtained and shall provide the following information on the receipt:

- (1) The date of the issuance;
- (2) The name and commercial marine license number of the person to whom the receipt is issued;
- (3) The species, numbers, weights, and values of each of the varieties of marine life obtained; and
- (4) The signature of the commercial marine dealer who issued the receipt.

Any commercial marine dealer who takes the dealer's own marine life shall issue a sales receipt with the same information.

(i) The commercial marine dealer shall keep all receipts on file and be able to present such receipts for inspection upon demand of any officer authorized to enforce the laws of the State. The receipts shall be kept for not less than twenty-four months after the transaction date or until the regulated aquatic life is no longer in the licensee's possession, whichever is longer. The department may approve the use of documents other than the receipts as written records of the transaction." [Eff _____] (Auth: HRS §189-10) (Imp: HRS §§189-10, 189-11)

4. Chapter 13-74, Hawaii Administrative Rules, is amended by adding a new section 13-74-46 to read as follows:

"§13-74-46 Commercial marine dealer report. (a) Every commercial marine dealer shall submit to the department a report of all marine life obtained, purchased, transferred, exchanged, or sold during the report period. Reports shall contain the following information:

- (1) The name, address, and telephone number of the commercial marine dealer;
- (2) The time period for which the report is being submitted;

- (3) The species, numbers, weights, and values of each of the varieties of marine life landed in the State that the dealer obtained, purchased, transferred, exchanged, or sold during the reporting period;
- (4) The name and current license number of the commercial marine licensee from whom the marine life was obtained or purchased; and
- (5) Other information as required on forms provided by, or as directed in writing by, the department.

(b) Reports shall be submitted to the department monthly or weekly as provided in writing by the department." [Eff _____] (Auth: HRS §189-10) (Imp: HRS §189-10)

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

6. Additions to update source notes to reflect these amendments are not underscored.

7. These amendments to chapter 13-74, 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.

SUZANNE D. CASE
Chairperson
Board of Land and Natural
Resources

Ramseyer Format (4/22/16)

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General