

DEPARTMENT OF LAND AND NATURAL RESOURCES

Adoption of Chapter 13-78
Hawaii Administrative Rules

(Date of adoption)

1. Chapter 13-78, Hawaii Administrative Rules, entitled "Ocean Stewardship User Fee", is adopted to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART IV FISHERIES RESOURCE MANAGEMENT

CHAPTER 78

OCEAN STEWARDSHIP USER FEE

§13-78-1	Definitions
§13-78-2	Ocean stewardship user fee
§13-78-3	Penalties, generally
§13-78-4	Severability

§13-78-1 Definitions. For purposes of this chapter only:

"Commercial operator" means a person that is required to have, a commercial operator permit or commercial use permit pursuant to section 13-256-3.

"Commercial operator permit" means a permit described in section 13-256-3, now known as a "commercial use permit".

"Commercial vessel" means a vessel engaged in any trade, business, or commercial activity, including, but not limited to, carrying passengers for hire, charter fishing, bare boat (demise) or any type of charter maintenance, harvesting coral or similar resources, construction, towing, tow-boating, or other trade or business wherein the vessel is used in any manner to promote the venture, or is registered with the State or documented by the United States Coast Guard for commercial use.

"Customer" means an individual using the services of a commercial use permit holder.

"Department" means the department of land and natural resources.

"Passenger" means an individual onboard a vessel other than the master, members of the crew, or other persons employed in the business of the vessel.

"Person" means an individual, partnership, firm, company, corporation, association, or other entity.

"State" means the State of Hawaii.

"Vessel" means all description of watercraft, used or capable of being used as a means of transportation on or in the water, except a seaplane.
[Eff] (Auth: HRS §187A-52) (Imp: HRS §187A-52)

§13-78-2 Ocean stewardship user fee. (a) All operators of commercial vessels, watercraft, or water sports equipment that are required to have a commercial operator permit or commercial use permit pursuant to section 13-256-3 shall collect an ocean stewardship user fee from each passenger carried or customer served.

(b) The ocean stewardship user fee shall be \$1 per passenger or customer.

(c) Fees collected pursuant to this section shall not be counted toward gross revenues for purposes of section 200-10(c)(5), HRS.

(d) All fees collected pursuant to this section shall be transferred to the department on or before the last day of the month following the month in which the fees were collected.

(e) Commercial operators shall submit a monthly report to the department with information about commercial operations during the month covered by the report including total number of passengers carried or customers served, location of commercial activity, and nature or type of commercial activity. The report shall be rendered to the department as a true and correct statement of the information contained therein. Reports shall be submitted on or before the last day of the month following the month covered by the report.

(f) Commercial operators shall maintain records of the daily number of passengers carried or customers served for at least twenty-four months after the carriage or service date. Records shall be made available for inspection by the department upon request. [Eff _____] (Auth: HRS §187A-52)
(Imp: HRS §187A-52)

§13-78-3 Penalties, generally. (a) Any person violating any provision of this chapter shall be subject to:

- (1) Administrative penalties as provided by section 187A-12.5, HRS;
- (2) Revocation of a commercial use permit as provided by section 13-256-10; and
- (3) Denied reissuance of commercial use permit as provided by section 13-231-61.

(b) Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of the State.

[Eff] (Auth: HRS §187A-52) (Imp: HRS §§187A-12.4, 187A-12.5, 187A-52, 200-2, 200-3, 200-4)

§13-78-4 Severability. If any provision of this chapter, or the application thereof, to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable." [Eff] (Auth: HRS §187A-52 (Imp: HRS §1-23)

2. The adoption of chapter 13-78, 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.



DAWN N.S. CHANG
Chairperson
Board of Land and Natural
Resources

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General