

State of Hawai‘i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Aquatic Resources
Honolulu, Hawai‘i 96813

May 12, 2023

Board of Land and Natural Resources
State of Hawai‘i
Honolulu, Hawai‘i

NON-ACTION ITEM:
BRIEFING ON PROPOSED AMENDMENTS TO AND COMPILATION OF
CHAPTER 13-74, HAWAII ADMINISTRATIVE RULES, “LICENSE AND PERMIT
PROVISIONS AND FEES FOR FISHING, FISH, AND FISH PRODUCTS”

OVERVIEW OF PROPOSED AMENDMENTS:

The Division of Aquatic Resources (DAR) is proposing to amend and compile chapter 13-74, Hawaii Administrative Rules (HAR), “License and Permit Provisions and Fees for Fishing, Fish, and Fish Products.” The primary purpose of this rulemaking action is to implement a new Nonresident Recreational Marine Fishing License, a new Commercial Marine Vessel License, and a new Commercial Marine Dealer License. DAR is also taking the opportunity to update fees for various licenses and permits, update and clarify various reporting requirements, add new definitions to for clarity and consistency, and perform other housekeeping measures.

The proposed amendments include:

- 1) Adding new definitions for “baitfish,” “baitfishing report,” “catch report,” “Commercial Marine Vessel License,” “fishing activities,” “license period,” “Main Hawaiian Islands,” “nonresident,” “permittee,” and “qualified aquaculturist;”¹
- 2) Removing the definitions for “board” and “Northwestern Hawaiian Islands;”²
- 3) Amending the definition of “resident;”³
- 4) Clarifying that licenses and permits are non-refundable;⁴
- 5) Clarifying the administrative penalty schedule for violations of the chapter;⁵
- 6) Adding asset forfeiture as an administrative enforcement tool within the chapter;⁶
- 7) Establishing and adding provisions for a new Nonresident Recreational Marine Fishing License (NRMFL) pursuant to section [188-72](#), Hawaii Revised Statutes (HRS);⁷

¹ See attached draft rules at §13-74-1.

² Id.

³ Id.

⁴ See attached draft rules at §13-74-2(1).

⁵ See attached draft rules at §13-74-4.

⁶ See attached draft rules at §13-74-4.5.

⁷ See attached draft rules at §13-74-11.

- 8) Establishing and adding provisions for a new Commercial Marine Vessel License (CMVL) pursuant to [HRS §189-2](#);⁸
- 9) Adding an exception for CMVL holders to the Commercial Marine License requirements;⁹
- 10) Removing the Northwestern Hawaiian Islands Fishing Permit;¹⁰
- 11) Increasing the fee for the Bait License, the Mullet Pond Operator and Closed Season Sales License, the Kona Crab and Lobster Closed Season Sales License, the Special Marine Animal or Product Possession and Sale License, and the Aquaculture License from \$50.00 to \$100.00;¹¹
- 12) Establishing a fee for duplicate Aquaculture Licenses and licenses to sell reared species;¹²
- 13) Adding a catch reporting requirement for all Bait License holders;¹³
- 14) Giving the Department discretion to require additional reports from Aquaculture License holders;¹⁴
- 15) Establishing a fee of \$200 for a license to sell reared species;¹⁵
- 16) Establishing and adding provisions for a new Commercial Marine Dealer License pursuant to [HRS §189-10](#);¹⁶ and
- 17) Other non-substantive housekeeping amendments for clarity and consistency with other chapters.

RATIONALE AND LEGAL AUTHORITY FOR THE PROPOSED AMENDMENTS:

Nonresident Recreational Marine Fishing License and Commercial Marine Vessel License

On June 8, 2021, former Governor David Ige signed into law [House Bill 1023](#) as [Act 48 \(2021\)](#) and [House Bill 1016](#) as [Act 43 \(2021\)](#). [Act 48 \(2021\)](#) was codified under [HRS §188-72](#), establishing the Nonresident Recreational Marine Fishing License (NRMFL) required for all non-Hawai'i residents. [Act 43 \(2021\)](#) was codified within [HRS §189-2](#) establishing the Commercial Marine Vessel License (CMVL) as an alternative to the current requirement of all crew on a commercial fishing vessel to each possess separate valid Commercial Marine Licenses. The purpose of including the NRMFL and the CMVL in this proposal is to carry out the legislative directive given to the Department to adopt rules necessary for the implementation of these two legislatively created licenses.

Commercial Marine Dealer License

Although [HRS §189-10](#) authorizes the Department to issue licenses to commercial marine dealers and to adopt rules for the implementation of a Commercial Marine Dealer License

⁸ See attached draft rules at §13-74-23.

⁹ See attached draft rules at §13-74-20.

¹⁰ See attached draft rules at §13-74-21.

¹¹ See attached draft rules at §13-74-22(e), 40(c), 41(c), 42(d), and 43(k).

¹² See attached draft rules at §13-74-43(k) and 44(h).

¹³ See attached draft rules at §13-74-22(f).

¹⁴ See attached draft rules at §13-74-43(h)(4).

¹⁵ See attached draft rules at §13-74-44(h).

¹⁶ See attached draft rules at §13-74-45.

(CMDL), there is currently no such license requirement for commercial marine dealers within the Hawaii Administrative Rules. The current administrative rules only require commercial marine dealers to provide weekly reports to the Department pursuant to [HAR §13-74-46](#). The Department finds it necessary to include provisions for a CMDL within this proposal. A CMDL will allow the Department to keep an accurate accounting of all commercial marine dealers and will also allow for streamlined enforcement and enhanced compliance.

Updated Fee Schedule

As new technology becomes available and the demand for licenses and permits increase, the costs of implementation of the Division's licensing and permitting system grows; Therefore, the fee schedule for these licenses and permits must be updated to accommodate for the rising costs of implementation in addition to the costs of ensuring the system is up-to-date with new technology as it becomes available. Subsequently, the Department has included an updated fee schedule for the Bait License, the Mullet Pond Operator and Closed Season Sales License, the Kona Crab and Lobster Closed Season Sales License, the Special Marine Animal or Product Possession and Sale License, and the Aquaculture License and has set a fee for the license to sell reared species, the NRMFL, the CMVL and the CMDL.

The proposed amendment and compilation of HAR Chapter 13-74 drafted in Ramseyer format is attached as **Exhibit 1**.

PRELIMINARY STAKEHOLDER ENGAGEMENT

DAR reached out directly to known stakeholders and stakeholder representatives to gather feedback on the proposed rules as they were being developed. Below is a list of stakeholder meetings held, along with a brief summary of meeting highlights.

6/2/22 – In person meeting with Hawaii longline fishery representatives to discuss proposed CMVL rules for longline vessels. They expressed overall support for CMVL and felt \$1,500 fee was reasonable.

4/3/23 – Zoom meeting with commercial marine dealers to discuss proposed CMDL rules. Some dealers expressed concern that \$100 annual license fee was burdensome for small businesses. This could drive some dealers to purchase fish “under the table”, resulting in a loss of dealer data. Suggested a CMDL fee of \$10 per year.

4/6/23 – Zoom meeting with fishing charter operators to discuss proposed CMVL and NRMFL rules. Some operators expressed concern that NRMFL fees would hurt their business. Some expressed support for fees as long as revenues were spent appropriately.

5/4/23 – In person meeting with fishing charter operators at Honokohau Harbor to discuss CMVL and NRMFL.

Respectfully submitted,



BRIAN J. NEILSON, Administrator
Division of Aquatic Resources

APPROVED FOR SUBMITTAL



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

Attachments:

Exhibit 1 – Proposed HAR chapter 13-74 (Ramseyer format)