

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Aquatic Resources
Honolulu, Hawaii 96813

December 8, 2017

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

RECONSIDERATION OF REQUEST FOR APPROVAL TO ADOPT AMENDMENTS
TO HAWAII ADMINISTRATIVE RULES, CHAPTER 13-74: AMENDING SECTION
13-74-20 (COMMERCIAL MARINE LICENSE) AND ADDING SECTION 13-74-46
(COMMERCIAL MARINE DEALER REPORT).

THE PROPOSED AMENDMENTS ARE ATTACHED TO THIS AGENDA AS
EXHIBIT 1. A REDLINED DOCUMENT SHOWING ALL CHANGES BETWEEN
THE VERSION SUBMITTED TODAY AND THE VERSION THAT THIS BOARD
APPROVED FOR PUBLIC HEARING ON JANUARY 13, 2017 IS ATTACHED TO
THIS AGENDA AS EXHIBIT 2. EXHIBIT 3 IS THE SUMMARY MINUTES OF THE
STATEWIDE PUBLIC HEARINGS.

Submitted for your reconsideration and final approval is a proposed amendment to Hawaii Administrative Rules (HAR), Chapter 13-74, attached hereto as Exhibit 1. This request was deferred from the Board meeting of November 9, 2017. There are two main proposed rule changes: 1) the addition of a new section, HAR §13-74-46, which establishes that commercial marine dealers submit weekly reports, and 2) to amend HAR §13-74-20 to raise the fees for the issuance or renewal of commercial marine licenses from its current \$50 for residents or \$200 for others to a uniform rate of \$150 per year.

The Board provided their preliminary approval to hold statewide public hearings to discuss these proposed rule amendments at its meeting of January 13, 2017. The Division of Aquatic Resources (DAR) conducted eight public hearings, and the summary minutes of those hearings are attached as Exhibit 3 for your information. Forty-seven persons signed the attendance sheets with twenty-nine persons testifying at the hearings.

We have made two primary changes to the version the Board approved for public hearing on January 13, 2017. A redline of these changes is attached hereto as Exhibit 2.

First, with respect to HAR §13-74-20, the fee for the issuance or renewal of licenses will be \$150 on the date the rule goes into effect, rather than \$100 upon approval and a second increase to \$150 on January 1, 2018. During the hearings, we asked specifically for comments on a revised plan to increase the fees in one step from \$50 to \$150/year to occur upon rule approval, instead of the initially proposed two-step increases to first \$100/year upon approval then to \$150/year on January 1, 2018. This change was in response to a six-month delay in the holding of hearings and an anticipated effective date of the rule amendments around late December 2017 to early January 2018. Of those

fishers supporting the increase, no one opposed raising the fees in one step instead of two.

Of those commercial fishers who were opposed, they viewed the increases as relatively large but were also understanding of the need for the increases as the fees were last raised almost 20 years ago in 1999. Those opposing would have preferred multiple but slow, regular increases instead of a few large increases. Some questioned what they would receive for these higher fees and would remain opposed unless their questions were satisfactorily answered.

Some commercial fishers said that they had no problem with the proposed fee increases, with many of the full-time fishers saying they would have supported higher fees. Some part-time fishers said the \$150/year fees for crew members who are only on the vessel once or twice during the year was going to be a burden. They suggested that a lower crew fee be considered for these fishers.

Given the relatively small annual fee for the license and the amount of income that may be generated from commercial fishing, the proposed increases would not be a significant burden for the serious fisher. The type of fishers that would be most impacted by the increases are the part-time commercial fishers that are more typical of non-commercial fishers but sell their catch to recover their fishing costs (known as expense fishers). The part-time crew fishers are the other type of fishers that only fish a few times a year but fill in as crew to accompany the vessel operator for safety or just take-home fish for the table. Some of these fishers are expected to not renew their licenses at the higher fee level but that decision would be made by the fishers based on their individual fishing activity. Our commercial licensing statistics suggest that this component (part-time crew) may be a relatively small portion of all persons getting commercial licenses, indicating that most persons in this category do not get licenses now. Persons in this category will also be addressed in future rules relating to licenses for commercial fishing vessels. In our view, the proposed increases are long overdue, the proposed fees are reasonable, and the revenues are needed to recover our costs.

Second, with respect to the new section HAR §13-74-46, the rule presented now states that reports shall be submitted weekly to the department for a weekly reporting period beginning on a Sunday and ending on the following Saturday by the following Tuesday rather than a weekly or monthly reporting period as provided by the department. We asked for comments on a proposed weekly reporting requirement for dealers to report to us purchases made directly from commercial fishers. We understand that this requirement would be difficult for those dealers who do not have the capacity to file weekly reports if they are not computer proficient or do not have internet access. Ultimately, we did not receive any comment on the proposed weekly, instead of monthly, dealer reporting requirement.


DAR supports a weekly reporting period because the bottomfish fishery is jointly managed by the State and Federal agencies and is currently under an annual catch limit (ACL). It is critical to keep accurate and timely catch information to monitor the ACL to have a reliable prediction of when the limit is approaching and to take the steps to close the fishery before the ACL is reached. Timely dealer information verifies the reported catch information to ensure data accuracy.

These are not substantial changes from the version of the rule approved for public hearing on January 13, 2017. First, the original version of HAR § 13-74-20 explicitly stated that the fees for the issuance or renewal of licenses would be \$150 by January 1, 2018, and the single step was raised and discussed at the hearings. Second, the original version of HAR § 13-74-46 stated that reports would be required to be submitted weekly if required by the department, and the weekly reporting requirement was raised and discussed at the hearings.


RECOMMENDATION:

That the Board approve the adoption of the amendments to Chapter 13-74, as set forth in Exhibit 1 attached hereto.

Respectfully submitted,


for Bruce S. Anderson, PhD.
Administrator

APPROVED FOR SUBMITTAL:


SUZANNE D. CASE
Chairperson

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to Chapter 13-74
Hawaii Administrative Rules

(November 9, 2017)

1. 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 issuance or renewal of a commercial marine license shall be[:

(1) Residents, \$50;

(2) All other persons, \$200;

(3) Duplicate license, \$10.] \$150. The fee for a duplicate license shall be \$10.

(d) 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)]~~ (e) 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

Ramseyer Format (11/9/17)

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)

2. 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 a weekly reporting period, which begin on Sundays and end on the following Saturdays. A report shall be submitted to the department by the Tuesday following the end of each weekly reporting 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 weekly." [Eff] (Auth: HRS §189-10)
(Imp: HRS §189-10)

Ramseyer Format (11/9/17)

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 November 9, 2017 and filed with the Office of the Lieutenant Governor.

SUZANNE D. CASE
Chairperson
Board of Land and Natural
Resources

APPROVED AS TO FORM:

Deputy Attorney General

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to Chapter 13-74
Hawaii Administrative Rules

~~(date of adoption~~ November 9, 2017)

1. 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 issuance or renewal of a commercial marine license shall be:

(1) Residents, \$50;

(2) All other persons, \$200;

(3) Duplicate license, \$10.] ~~\$100~~\$150. 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)]~~ ~~(fe)~~ 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)

2. 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 designated in writing by the department during a weekly reporting period, which begin on Sundays and end on the following Saturdays. A report shall be submitted to the department by the Tuesday following the end of each weekly reporting 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

Ramseyer Format (11/139/17)

(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 November 9, 2017 and filed with the Office of the Lieutenant Governor.

SUZANNE D. CASE
Chairperson
Board of Land and Natural
Resources

APPROVED ~~FOR PUBLIC HEARING~~ AS TO FORM:

/s/

Deputy Attorney General

Public Hearing Minutes Summary
Amendments to Hawaii Administrative Rules
CHAPTER 13-74
License and Permit Provisions and Fees for
Fishing, Fish, and Fish Products

Hearing Locations, Dates, & Times:

- 1) Kaunakakai, Molokai on Thursday, September 28, 2017 at the Mitchell Pauole Center Conference Room, 90 Ainoa Street, from 5:30 PM; 2) Honolulu, Oahu on Friday, September 29, 2017 at the Stevenson Middle School Cafeteria, 1202 Prospect Street, from 6:00 PM; 3) Lanai City, Lanai on Friday, September 29, 2017 at the Lanai High/Elementary School Cafeteria, 555 Fraser Avenue, from 5:30 PM; 4) Kahului, Maui on Wednesday, October 4, 2017 at Maui Waena School Cafeteria, 795 Onehee Street, from 5:30 PM; 5) Kailua-Kona, Hawaii on Tuesday, October 3, 2017 at the Honokohau Harbor Big Game Fishing Clubhouse in from 5:30 PM; 6) Hilo, Hawaii on Tuesday, October 3, 2017 at the Hawaii County Aupuni Center Conference Room, 101 Pauahi Street, Suite 101, from 5:30 PM; 7) Lihue, Kauai on Thursday, October 5, 2017 at the Chiefess Kamakahahei Middle School Cafeteria, 4431 Nuhou Street, from 6:00 PM; and 8) Kapa'a, Kauai on Tuesday, October 10, 2017 at the Kapa'a Elementary School, 4886 Kawaihau Road, from 6:00 PM.

I. Introduction

A. Opening

1. The Public Hearing is called to order.
2. This is a formal Public Hearing on proposed Administrative Rules of the Department of Land and Natural Resources Relating to License and Permit Provisions and Fees for Fishing, Fish, and Fish Products. These proposed rule amendments would raise the current annual commercial marine license fee from \$50/year to \$100 then \$150/year. The amendments would also establish deadlines for dealers to report their purchases directly from licensed commercial fishers.
3. A staff biologist with the Division of Aquatic Resources conducted the public hearings.

B. Purpose

4. The purpose of the hearings was to provide the public the opportunity to provide comments in the form of oral and written testimony on these proposed Department administrative rule amendments relating to the fees for commercial marine licenses and deadlines for dealer reporting.

5. Persons attending were asked to sign in so we can make a complete record of all persons attending this hearing.
6. There was a separate sheet to sign for those wishing to present testimony on the proposed rule changes.

C. Public attending

A total of 49 persons signed the attendance sheets at all hearings. Typically, not everyone attending signs in. No one from the public attended the Lanai and Molokai hearings.

II. Background

- A. Approvals to conduct this public hearing have been obtained by the Board of Land and Natural Resources at its meeting on January 13, 2017, Small Business Regulatory Review Board on June 20, 2016, and Governor Ige on August 14, 2017.
- B. Copies of the administrative rules were made available for inspection at the table near the entrance.

III. Notice of public hearing

- A. The Legal Notice of this public hearing was published in the August 28, 2017, Sunday issue of the Honolulu Star Advertiser. Notices were also published in The Garden Island, Maui News, West Hawaii Today, Hawaii Tribune Herald, and the Molokai Dispatch (9/6/17).

IV. Hearing procedures

- A. The hearings were conducted as follows:
 1. Explanation of the proposed changes to the administrative rules;
 2. A call for those who signed up to testify as they are listed on the sign in sheet;
 3. After those who signed up have presented their testimonies, persons who did not sign up were asked if they wished to testify;
 5. After all persons have given their testimonies, anyone wishing to add to their testimony could do so;
 6. We are recording this hearing to make a written record, so please state your name for the record before giving your testimony.
 7. Please remember to respect the opinions of all testifiers and that this hearing is not an opportunity for accusations or rebuttals.

V. Rule Explanation

Summary of Proposed Administrative Rule Amendments

Note: Language to be deleted is bracketed while new language to be added is underlined.

Chapter 13-74, License and Permit Provisions and Fees for Fishing, Fish, and Fish Products, amendments are proposed:

Section 13-74-20(c): Provides that the commercial marine license annual fee will be raised from \$50 to \$100 upon approval of these amendments.

Section 13-74-20(d): Provides that the commercial marine license annual fee will be raised from \$100 to \$150 on January 1, 2018. Due to the delay in holding this hearing, we are proposing that both increases would occur at once, changing from \$50 directly to \$150 in one step, upon approval of this amendment. We are seeking comments on this change.

Section 13-74-20(e): Provides that no one may renew a license earlier than two months prior to its expiration date. This provision is to prevent persons from renewing years in advance to avoid paying the higher fees.

Section 13-74-46: This new section establishes the dealer reporting deadlines and the information that will be required to be included in the report. We are proposing to make all primary dealer reporting deadlines on a weekly schedule. The reporting period would be from Sunday to Saturday, with the report due by the following Tuesday. We are seeking specific comments on this change.

VI. Testimonies

A. The following are the testimonies of persons in attendance that wished to provide their comments.

Oahu

- 1) Roy Morioka (oral testimony): I'm Roy Morioka and I am not in support of the proposed rule amendments to the commercial marine license (CML) fees. It would cause an inordinate burden on commercial fishers of the State of Hawaii. I fish with 3 people aboard my vessel, which is my normal crew size. The fees would go from \$50 to \$150. That 3-person crew varies from trip to trip. I have 6-7 persons that fish with me so multiply that by \$150 and it becomes inordinately expensive. I would not expect them to pay \$150 for a CML. Regarding the dealer report, I'd like to know what comprises a dealer and believe this should be defined in the language of the rule. As a commercial fisherman who sells his catch to the United Fishing Agency, is that the dealer or the person actually buying the fish at the auction? This kind of clarification would be

helpful. If you look at the bottomfish catch report, there's an order of magnitude between what the fisher reports catching and what is being sold. It's like night and day. 80% is sold so what is happening to the other 20%? Where is it being missed? I am requesting clarification on who a dealer is. Thank you.

- 2) Ed Watamura: This is Ed Watamura representing the Wailua Boat Club. About 50% of the members in the club are commercial. There is an overwhelming outrage over the large increase that would be multiplied by the crew. The typical situation with small boat fishermen is the crew is not selling fish so they are technically not commercial fishermen. They come along for fun and we give them a couple of fish at the end of the day. They take home a little to eat but mainly come out for fun. We cannot ask them to pay \$150. So basically, we are going to be absorbing that cost by ourselves. Highly unlikely you are going to get compliance. If your goal is to increase revenues, I don't think you're going to see it. If anything, guys are going to get one license and the crew are going to be unlicensed. You should, as quick as possible, create a vessel license. Personally, I can see paying the \$450 for the vessel license but most would only get the one license for \$150 and the crew don't have a license. There is no enforcement, there's no way to check, especially for trollers. You could meet them at the dock and ask them if this is a commercial trip and all they have to say is "No." Bottomfishing is a different story because you can stop them and they cannot say no if there's more than five fish per person. The vessel license is the best scenario and the best win-win.
- 3) Ron Dellinger: My name is Ron Dellinger. I don't want to repeat everything that's already been said. I am strongly opposed because I don't see the benefit to the fisherman. It's a 200% increase that we are paying for but we don't get any more. I think a lot of CML holders will give up their licenses. You will lose the data as well from these fishers. You need this data to monitor the fishery but you will not have it. I think you want to make more money but you will end up shooting yourself in the foot.
- 4) Glorianne Young: My name is Glorianne Young, I'm opposed. I do not have a CML but sometimes my son goes out fishing and he asks me I can come. If I go with you guys, you can't go bottomfishing because I do not have a CML and definitely, I will not get a CML if it costs \$150. Another thing I'm concerned about is who he goes fishing with if he doesn't have a full crew. A lot of people will not have a CML at this rate. This will jeopardize my son's safety since he fishes the BRFA's and he has to go farther to find the bottomfish. I like the idea of a vessel CML because with it, he can find the crew

easier since they will not need a CML than trying to find crew with CMLs.

- 5) Bob Lee: I'm Bob Lee and I have a commercial license. I am opposed to the proposal as written now solely on the drastic fee change. It baffles me how we can have the same fee for 20 years then suddenly it triples. I don't mind having marginal increases but what is the justification for tripling it all at once with so little notice. I know that it helps pay for the programs but that's been there for years. We've had on-line reporting for years. What has changed to justify such a drastic increase? It doesn't make sense to me.
- 6) Roger Takabayashi: I'm Roger Takabayashi and I have a commercial license. I do not sell, everything is given away. I only have it to maximize my ability to catch more (bottomfish). I oppose this but echo everything everyone else has said so far. I will support a vessel license since I cannot see my crew, cousin to cousin to cousin, each getting a commercial fishing license. That doesn't make sense.
- 7) I am Edwin Taniguchi and a member of the Wailua Boat Club. I currently have a CML and I hardly ever go out and use it. One of the club members told me that if I wanted to go fishing I have to get a CML. I go out may be once a year. I've been maintaining the license but I told the DLNR and the club members that I would not be renewing my license. I cannot afford to pay \$150 but I agree with the others that it makes more sense to get a vessel license so the captain can legally have a crew without a CML. Thank you.
- 8) Roy Morioka again. Previous comments regarding a vessel license, I support wholly a vessel based CML. It is the fairest application of a CML. It alleviates the issue of foreign crewmembers on the longline vessels by eliminating the need for each crew member to have a CML. It becomes a fairness doctrine. There should be a graduated fee based on crew size. One fee for 1-2 persons per vessel, a higher fee for 3-4 persons per vessel, and a higher fee for 5+. This accommodates the type of fishing that is occurring on each vessel. A lone operator would pay for one license and satisfy that person's needs. But if you have a vessel like mine and you need three guys, then it would be appropriate that I pay a little more.
- 9) Edwin Taniguchi: No question that smaller boats should pay less than larger boats, but a person shouldn't have to pay for 5 persons if 3 are just along for the ride. Somehow it has to be more thought out.

Maui

- 10) Basil Oshiro (oral and written testimonies) : I am objecting to the fee raise for the licenses. I have questions about it. First thing, will this report reach Alton Miyasaka, who is retiring. If it doesn't go through, we don't know what is going to happen. What will be the give back? What will we see in return? With the fee raise, are we going to see better harbors? Are we going to see restrooms at Kahului? That kind of small stuff. Raising the fees is penalizing just the commercial fishermen. There is one recreational guy, Ryan over here. Recreational guys need to step up to the plate too. They are not paying anything. Just the commercial guys are paying. Before they even raise the fees, they need to make something to involve the recreational guys. Right not they get it free. They need to give on their side too. If there is bad spending from DAR, they have to be held responsible for that portion. We want to know where the special funds go. It is 300 or 500 million they get. Where does that funding all go? Russell was trying to explain to me outside. Hawaii being an Island state, everybody uses the ocean, so that way we need more funding from recreational, commercial or subsistence fisherman. This price of \$150 isn't justifiable. Is it going to help the fishermen? My other part is on data. They are charging us more, but we not getting support back. Data from the BFRA and data from the size and bag limits. If you go on the site it is hard to find information. Education for the ethnic groups. They are not here. They have to somehow get an outreach program for these people. So they know what is going on too. Not just the few that we have here. So that is the other thing if you have anything on the other ethnic groups that have CMLs? They rarely show up to these meetings or hearings. So I guess, I don't know, DAR? Do you folks have a program for outreach to these people? We don't just have locals like what we have here. So that is about it on my side. Thank you.
- 11) Melvin Lopez: Opposed to this increase. To me, one of the biggest issues is the long liners. They are getting away scott free. They are the one making the big money. We are the ones paying the taxes and not them. I pay choke taxes every year. My business and everything else. I don't think we should be paying anything more. If they like make the increase, hit the long liners. If they are going to raise them, I can see raising them, but not \$150. All of us are all small time fisherman. Most of us only take one guy out every time we go. And it is not always the same one guy. So for us to go out and I got to pay for my crew members every time we go, if I get four different guys that coming with me, I got to pay for four different licenses. And only one guy at a time going to come with me. So to me, I don't think the way you guys stay setting them up is right. To me it is totally wrong. I can see an increase, but this amount is just too much one time. If anything you guys should hit the guys that

making all the money. Those long liners, they are all illegal's over there. They are not citizen's you know. They no pay taxes. So they should be paying a big amount, just so they can make money over here in Hawaii. You know, us guys who are paying our tax, why are we being penalized for it? I don't think that is right. That is all I have to say.

- 12) Clarence Yamamoto: For the record I oppose any type of fee increase. I think that the big commercial vessels should cover the majority of the expense--that you guys feel the short falls will be. For us guys, again, we are small vessels. So they should make it where a certain size of vessel will pay more for a commercial license, where the smaller vessels will pay a little bit less. Again, we provide a service to the community. We sell on the roadside, so people can afford to buy our fish. We don't always sell directly to the market. If Licenses get to high, people may decide to go under the radar and sell without a license. So that data will be lost. That data is really important along with botcams and fish transects to help manage the resources properly. You take out on piece of that puzzle it may be very problematic. We don't know what the outcome may be. And again, I think all of us kind of view this as another takeaway. We don't see any benefits to us as small kind commercial fisherman. That is all I got.
- 13) Richard Magsayo: Go to the next guy. I am opposed to it!
- 14) Walter Baula: Nah—I don't want to testify, I opposed.
- 15) Clifton Akiyama: I would like to ask for another class of fisherman to be added to this. Commercial fisherman and recreational fisherman and put in Subsistence fisherman and have a different class of license for them. They are not big time like the commercial guys. We don't run commercial registered vessels. We are mostly subsistence fisherman. Part-time fisherman. Maybe you can consider putting that classification in there. Thank you.

Lihue, Kauai

- 16) Shyla Moon: member of the Western Pacific Fisheries Management Council Advisory Panel (AP) but speaking for herself and not as a representative of the Council or the AP. Not opposed to the fee increases but had questions about what the fees would be used for. She was also not sure about the weekly dealer reporting deadline so wouldn't comment on this provision.
- 17) Cory Nakamura: opposed to the proposed fee increases due to insufficient information to make a decision

- 18) Warren Koga: opposed to the proposal
- 19) Scott Shibuya: opposed to the proposal
- 20) Ryan Koga: opposed to the proposal; non-residents should pay more, they do in other states
- 21) Clayton Kubo: I am not a current commercial marine license holder but I used to have a license in the 1980-90s; the fees haven't been raised in a long time; ice and other costs go up, that's the way it is; \$150 is a no brainer, not much for a commercial license (support proposal).
- 22) Howard Mikasa (written testimony only): suggest a temporary fishing license or a one-day pass for a fee of \$10-20. Often, a captain will take crew members fishing for only a few times a year making it a costly expense. Having Day Passes will help generate funding for the State and lessen the burden on fishermen.

Kapaa, Kauai

- 23) Frank Medeiros: I am a commercial fisher, have been for 45 years, and my whole family fishes, my two sons and grandson. We have 5 commercial licenses in my family. I had my boat registered as a commercial fishing vessel (registered "CF" under DOBOR) and I ran into all kinds of problems with who is on the boat, are they all licensed, cannot go fishing unless everyone licensed.

I used to be a member of the Western Pacific Fishery Management Council but I thought there was a conflict of interest so I quit. We tried to raise the commercial fishing license fees years ago. In Alaska, where the fees are \$100,000s a year, enforcement is unbelievable. We should do something like that here. They don't only do fishing, they check for safety equipment, too. It would be good if the fees could be used to help commercial fishers, like improve the boating facilities and hire more enforcement officers. We also tried to raise the 3-pound minimum size of the ahi. Somebody catching coolers full of small ahi and selling them. We wanted a 5 or 10-pound limit but we were opposed by the recreational fishers. One guy owns three service stations and he's crying about not being able to sell 3-pound ahi. Come on.

The commercial license is more of a burden with the reporting requirement and the fines, if you are delinquent. I got fined for delinquent reports even though I mailed them before I went on a trip.

It seems my reports got lost in the mail. If the forms had a space for the date that you filled it out, that would be proof of when you did it. It took me a while to resolve this, I ended up paying a small fine, but it creates more problems, than if I didn't have a license. The only people getting fines are the ones that get a license and try to be compliant. If you don't have a license, the dealers buy from you anyway, and you don't get delinquent fines.

Some guys on Kauai fish without licenses, catch more fish than the commercial licensed guys. And they sell all their fish for cash. The restaurants rather pay cash. They don't report their catch, the catch data is all under-reported, and they don't get fined. The system works against the people who are trying to do it right.

We were trying to raise the fees a long time ago. If the fees are high, only the serious guys would get the license and the part-time guys will get out of the business. My two sons and grandson all make their living fishing.

The money always seems to go somewhere else. The harbors are in poor shape, they need dredging, it's hard to drive your boat out in some places. With all the state people, what are they doing? Where are the enforcement wardens? They supposed to be checking the markets and restaurants. But they don't do that.

We don't mind paying the fees, if they go back into the program, help the fisherman, something to improve the harbors. I don't mind paying for the license, if it's enforced. I have nothing against raising the fees.

The report form is so complicated, it makes the fisherman less likely to fill it out. Keep it simple. It's hard to fill out. Two hours in this area, caught this fish in this location fishing for x hours. You need a computer to keep track.

He mentioned a number of topics from keeping your ahi catch from burning, Department of Health HACCP food safety regulations, need for more enforcement, fish quality, and lay netting in stream mouths. He asked about new licensing requirements for charter boat clients, if the clients will need a license as well. Mr. Miyasaka responded that the proposed rule amendment would not include licensing for charter clients.

Hilo, HI

24) Cory Harden: I support the proposal. Our State constitution says that the State will conserve Hawaii's beauty and natural resources and

shall promote the use of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State. All public natural resources of the State are held in trust for the benefit of the people. DLNR's mission statement says to enhance, protect, conserve, and manage Hawaii's unique cultural and natural resources held in trust for present and future generations. Everyone knows that DLNR is underfunded and understaffed. I support the proposed amendments as a way that persons who benefit from the resources help to contribute to adequate funding for DLNR to protect the resources. Not protecting the marine resources would be unfair to the people in the future who might end up without enough fish. DLNR might consider adjusting fees for those fishers who do not go out that often. I do want to hear from dealers and fishers about how these changes will affect them.

- 25) Craig Severance (written and oral testimonies): Aloha, I've submitted written testimony. I'm Craig Severance and I'm in support of this proposed amendment. I serve on the Western Pacific Fisheries Management Council, Science and Statistical Committee, Social Science Planning Committee, and weighmaster for Hilo Trollers. Tonight, I'm speaking for myself. I think we all recognize that the Division of Aquatic Resources is chronically understaffed and there has not been a raise in fees for almost 20 years. This fee is more reasonable than one proposed 3-4 years ago to separate the part-time from the full-time commercial fishers. I support with caveats. One, the fees must stay within the division and they should not go into the general fund. Second, the division should look into a non-commercial marine license because the only way we are going to get decent data on the non-commercial/recreational catch is with a decent sampling frame and a list of active fishers. Current estimates vary so widely that it is not credible for management purposes. We need to know how much is coming out of the ocean so we can manage it well. The requirement that all persons on a commercial fishing trip need to have a commercial marine license is burdensome at \$50. When it becomes \$150 it will become quite burdensome on some and that flies in the face of Aloha. The state should consider some kind of exemption for visitors, at least if they are not going out for more than a few trips.
- 26) Gary Beals (written and oral testimonies): Gary Beals, fisherman from Hilo. I support this but I didn't come here with the intension of giving testimony. I have a set of questions to ask. (Mr. Miyasaka responded that he would answer the questions after the hearing.) 1) Why would a charter boat have to get a license if he has no intention of selling the fish? 2) What is the purpose of requiring a commercial marine license (CML)? 3) Will each person fishing on a commercial

vessel be required to hold a CML or only the operator? 4) Why are outside funds (license fees) required to pay for license issuance when the State budget pays for State employees? 5) Will additional safety equipment be required by the State and/or Coast Guard on a vessel holding a vessel license? 6) Have any of the funds collected by the commercial fish special fund been used for research in the bottomfish restricted fishing areas? and 7) Do the license holders have any input as to how the funds are used?

- 27) Carl Shioji: I'm Carl Shioji, member of the Hilo Trollers, part-time commercial fisher from Hilo, defers expenses by selling fish. I agree with Mr. Beals. Although Craig is a good friend of mine, I'm opposed to this fee increase. If the fee is increased, I cannot see the money going to the general fund. I would strongly advise we delay the implementation of this increase until all questions have been satisfactorily answered and approved by us. If we disagree with some answers, we can discuss. The reason for my concerns is the bottomfishing closures, especially the one off Hilo, that was supposed to close only for a few years but they are still closed (almost 20 years later).

Kona, HI

- 28) Steve Kaiser (oral & written testimonies): While I have no issue with the increase in the cost of the license, I do think it opens a discussion on some of the issues which may arise.

As we already know the numbers of recreational fisherman selling fish is already an issue. Has the department seen the increase in a license fee an issue for many of the current holders to drop out and go underground with sales? If this does happen catch data will be lost. And how is this going to be enforced? DOCARE is already stretched thin and are poorly equipped to handle ocean based resources. And speaking of data while data is being collected what is being done with this data? How or what studies are being done beyond measuring the take?

Recently a study was released that showed the highest contribution to population decline is over fishing. Yet in many areas the loss of habitat due to urban run-off has been disastrous. Having dove the area outside of Puako where the loss of coral is now approaching 100%. And having recently visited Oahu and seeing the loss of coral in Maunalua Bay was shocking from what I remember 25 years ago. Koas or fish houses have lasted for hundreds of years yet many of the Koas I had fished for 40 years are now dead and vacant. And the lack of even seeing a live coral was shocking. Added to this invasive algae on Oahu and the ever increasing numbers of Roi on this island

I am somewhat dismayed and have to question these types of reports as results driven and far from objective.

So keeping in mind the above points, as a fisherman I don't mind paying to protect my resource and investment. The fish and habitat that is protected today will help to sustain my business. And yet in Puako the continued development with no plan for the increase in sewage abatement is shocking. I know that UH Hilo has the area under study but with sampling only 4 times a year over a 2-year period as funding is not available, is this really how we want to solve our issues? The lack of a concise and deliberate plan to deal with invasive species is a disappointment that is now becoming critical.

As a long-time fisherman who has returned to Hawaii after 25 years. What happened to the artificial reef program? The maintenance and deployment of FADS? The push to make taape and underutilized species popular or in the case of roi eradication? A managed shark fishery was once discussed? The recent court stoppage of the most regulated fishery in Hawaii (Aquarium Fish) has me very worried as the same rhetoric could be applied to commercial and even recreational fisheries. Don't think it could happen? This is not a question of conservation, it's about preservation vs. conservation and the groups leading this are well organized and funded so please don't think it couldn't happen.

- 29) Jim Lovell: My name is Jim Lovell. I'm an aquarium collector and I also have a CML. I understand the expenses that are involved with licensing, that \$50 is silly, I don't have any problem whatsoever. The \$150 is still reasonable for a commercial license. Instead of going to \$100 then \$150, just go straight to \$150. I'm not sure why, there must be good reasons. I know DLNR is talking about a boat license so we can have deck hands. I'd like to see this as something we can do with these licenses. My daughters can come on the boat and not make me in violation of any law. I'm in support, thank you for your time.
- 30) Scott Davidson: I understand the revenues that would be generated for the department but what is being returned to the fisherman. We're not getting that information on the Internet. We submit the information and you are saying we need to close the bottomfish fishery because you're reporting this much fish. You're out there and you get nicked because you're out there and you close it. Are you communicating with the harbors division or the fishers to tell us what we have to do? You got DLNR up there with binoculars watching in a restricted zone. We need information. If we want to go for pelagic fish, what are we supposed to do to comply with you

people? We got to figure this out. Of course, we have to save the resources, but, we need information from you. We have many more skiffs out there. We need to work together to make this work. These price changes. What are we paying for? Are we paying for new boats for you? Are we paying for the trails and DLNR? I just trying to find out where the money is going.

- 31) Nathan Abe: I know the fees haven't been raised for almost 20 years and I know where the money goes. I think you should work towards a better system. Get the vessel license going. Everyone on the boat supposed to have a license. When you raise the fee to \$150 and everyone on the vessel has to have a license, this system, I don't know if you guys have figured out statistically the revenues but you might end up with less revenues. But with a vessel license and everybody being covered, and one guy selling the fish, that sounds like something you guys should think about. You also have to think about the shoreline fisherman. People who sell opihi. For the menpachi fishers, that price is a little high and I know it's going to go even higher. Should consider having three categories. One license for the vessel, one for shoreline. You have to think outside the box about the revenues you need. These changes might cost you less revenues. These fees are used for research/stats. How many people going to actually pay \$150? For a lot of fishermen, the only guy with a license is the owner. The deckhand doesn't have one so people will go underground. You won't get the fishing report. Don't tell me restaurants don't buy fish under the books. If the price goes too high, you might have less revenues.

Mailed Testimony

- 32) Gregg Nelson (written testimony only): Per the media's view, everyone feels it's fine and dandy to raise the fees for the above mentioned. That said, in the County of Hawaii alone, how many full-time fishermen do you have? Now would you go back and compare to how many full-time fishermen you had in 2000.

The DLNR's fees and rules (ever since making us put "BF" on boats) and the rest of the lobbying has made many of us fishermen retire since 2000, because we can't afford to fish nor take care of our families. Sad to see no fish for sale in small communities, whereas in 1989, lots of fish and fishermen could be found. Shame on you and your rules for losing fishermen. You have left only the "elite" to help support the DLNR.

- D. Late testimonies: Persons unable to attend today or wishing to present additional comments, may mail written testimony to us by October 13, 2017. Please mail testimonies to:

Department of Land and Natural Resources
1151 Punchbowl Street, Rm 330
Honolulu, HI 96813

VII. Decision-making on the proposals:

- A. Based on the testimonies presented, the Department will submit its findings and recommendations to the Board of L&NR.
- B. Depending on the comments received tonight, our goal will be to present these proposed rules, the hearing minutes, findings and recommendations to the Board at its meeting on November 9, 2017 (November 10, Friday is the Veteran's Day holiday). If approved by the Board, the Department of the Attorney General will conduct a final legal review. If approved, the proposed rules will be presented to the Small Business Regulatory Review Board, Department of Business, Economic Development, and Tourism (DBEDT) for their review. After their review, the proposed rules will be sent to the Governor for his final approval.
- C. Should the Governor grant approval, certified copies will be filed with the Lt. Governor's office, and after 10 days, it becomes effective as law.
- D. Are there any questions regarding this process?

VIII. Adjournment

- A. On behalf of the Board of Land and Natural Resources and DAR, thank you for attending the public hearings. The public hearings are now adjourned.
- B. Thank you for attending the hearings.