

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

ADMINISTRATIVE SANCTIONS SCHEDULE

Amended on 12/12/2014

By the Board of Land and Natural Resources

The Administrative Sanctions Schedule adopted by the Board of Land and Natural Resources on March 13, 2009 is amended by replacing Part 2 as follows:

PART 2. DIVISION OF AQUATIC RESOURCES (DAR)

Item 2-0. Statutory Authority.

- (a) HRS §187A-12.5(c) authorizes a maximum administrative fine of \$1,000 for a first violation, \$2,000 for a second violation, and \$3,000 for a third violation of HRS Title 12, Subtitle 5, or any rule adopted thereunder.
- (b) HRS §187A-12.5(e) authorizes an additional administrative fine of up to \$1,000 for each specimen of aquatic life taken, killed, or injured in violation of HRS Title 12, Subtitle 5, or any rule adopted thereunder.
- (c) HRS §187A-12.5(b) authorizes a maximum fine of \$5,000 for a first violation, \$10,000 for a second violation, and \$15,000 for a third violation of HRS Title 12, Subtitle 5, or any rule adopted thereunder, involving threatened or endangered species.
- (d) HRS §187A-12.5(d) authorizes an additional fine of up to \$5,000 for each specimen of threatened or endangered aquatic life taken, killed, or injured in violation of HRS Title 12, Subtitle 5 or any rule adopted thereunder.

Item 2-1. Category 1 Violations – Monthly Reports and Trip Reports.

- (a) The Department may issue a violation notice to any person who commits a category 1 violation as described below.
- (b) A person commits a category 1 violation if he or she violates any rule adopted under HAR Title 13, Chapter 74, relating to the submittal of monthly reports or trip reports.

- (c) Each monthly report or trip report that is past due shall constitute a separate violation.
- (d) For category 1 violations, administrative fines shall be imposed as follows:
 - (1) For a first category 1 violation, an administrative fine of up to \$15 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$30 if respondent fails to fully comply within 21 days. In addition to a monetary fine, the respondent shall be required to submit an acceptable monthly report or trip report to the Department for the missing month or trip. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
 - (2) For a second category 1 violation within three months of a first violation within the same year of the license, as determined pursuant to §13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$25, which shall be increased to 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 report or trip report for the missing month or trip and all relevant sale receipts. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
 - (3) For a third or subsequent category 1 violation within three months of a second violation within the same year of the license, 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 within 21 days. The respondent shall also be required to turn in an acceptable monthly report or trip report for the missing month or trip and all relevant sale receipts. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
- (e) The Division Administrator, or designated staff, 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 2-2. Category 2 Violations – Certain Non-Extractive Activities.

- (a) The Department may issue a violation notice to any person who commits a category 2 violation as described below.
- (b) A person commits a category 2 violation if he or she violates any of the following provisions:
 - (1) Rules adopted under HAR Title 13, Subtitle 4, Part I, relating to feeding of aquatic life within any Marine Life Conservation District (“MLCD”);

- (2) Rules adopted under HAR Title 13, Subtitle 4, Parts II and III, relating to any non-extractive activity within any Marine Fisheries Management Area (“Marine FMA”) or Freshwater Fisheries Management Area (“Freshwater FMA”), including but not limited to entry, swimming, water skiing, camping, fish feeding, catch inspection, property damage, pollution, and reporting, but not including rules relating to the mooring, anchoring, or operation of vessels or the use or possession of unlawful fishing gear or methods as covered under category 3 violations;
 - (3) Rules adopted under HAR Title 13, Chapter 73, relating to unlawful activity involving fish aggregating devices (“FADs”), including but not limited to mooring to, damaging, or removing any FAD;
 - (4) Rules adopted under HAR Title 13, Chapter 74, relating to any non-extractive activity, except rules relating to the submittal of monthly reports or trip reports that are covered under category 1 violations, including but not limited to the failure to display a license or identification, allowing another person to use one’s license, failure to allow inspection, failure to keep or issue receipts, failure to report, and violations of license terms and conditions; and
 - (5) Statutory provisions relating to unlawful non-extractive activities, as provided in HRS §§188-40.6 and 188-71.
- (c) For category 2 violations, administrative fines shall be imposed as follows:
- (1) For a first category 2 violation, an administrative fine of up to \$100 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$150 if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
 - (2) For a second category 2 violation within five years of a previous violation, an administrative fine of up to \$200 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$300 if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
 - (3) For a third or subsequent category 2 violation within five years of the last violation, an administrative fine of up to \$400 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$600 if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)

Item 2-3. Category 3 Violations – Unlawful Fishing Gear; Unlawful Vessel Activity.

- (a) The Department may issue a violation notice to any person who commits a category 3 violation as described below.
- (b) A person commits a category 3 violation if he or she violates any of the following provisions:
 - (1) Rules adopted under HAR Title 13, Subtitle 4, Parts I, II, and III, relating to the use or possession of unlawful fishing gear or methods within any MLCD, Marine FMA, or Freshwater FMA;
 - (2) Rules adopted under HAR Title 13, Subtitle 4, Parts I, II, and III, relating to unlawful mooring, anchoring, or operation of a vessel within any MLCD, Marine FMA, or Freshwater FMA;
 - (3) Rules adopted under HAR Title 13, Chapter 74, relating to unlawful fishing for aquatic life without an appropriate license or permit, where a license or permit is required;
 - (4) Rules adopted under HAR Title 13, Chapter 75, relating to the unlawful possession, sale, disposal, or use of certain regulated fishing gear or methods; and
 - (5) Statutory provisions relating to unlawful fishing activities in certain areas, as provided in HRS §§188-34, 188-35, 188-36, and 189-2.5.
- (c) For category 3 violations, administrative fines shall be imposed as follows:
 - (1) For a first category 3 violation, an administrative fine of up to \$200 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$300 if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
 - (2) For a second category 3 violation within five years of a previous violation, an administrative fine of up to \$400 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$600 if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
 - (3) For a third or subsequent category 3 violation within 5 years of the last violation, an administrative fine of up to \$800 shall be assessed if the respondent fully complies with the violation notice within 21 days of

service of the notice. The administrative fine shall increase to up to \$1,200 if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)

- (d) In addition to any fines assessed for a category 3 violation involving the unlawful possession, sale, disposal, or use of regulated fishing gear or methods in violation of HAR Title 13, Chapter 75, an additional fine shall be assessed for each specimen of aquatic life taken, killed, or injured as a result of the unlawful possession, sale, disposal, or use of the regulated fishing gear or methods. Per specimen fines shall be imposed as follows:
 - (1) For aquatic life regulated under HRS Title 12, Subtitle 5 or HAR Title 13, Subtitle 4, an administrative fine shall be assessed as provided for in Items 2-4(c), (d), & (e) of this Administrative Sanctions Schedule. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
 - (2) For unregulated aquatic life, an administrative fine of up to \$100 per specimen shall be assessed if the respondent fully complies within 21 days of service of the notice. The administrative fine shall increase to up to \$150 per specimen if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)

Item 2-4. Category 4 Violations – Unlawful Extractive Activity.

- (a) The Department may issue a violation notice to any person who commits a category 4 violation as described below.
- (b) A person commits a category 4 violation if he or she violates any of the following provisions:
 - (1) Rules adopted under HAR Title 13, Subtitle 4, Parts I, II, and III, relating to the unlawful take or possession of aquatic life within any MLCD, Marine FMA, or Freshwater FMA;
 - (2) Rules adopted under HAR Title 13, Subtitle 4, Part I, relating to the unlawful take, destruction, or possession of geological material within any MLCD;
 - (3) Rules adopted under HAR Title 13, Chapter 74, relating to the unlawful take, possession, sale, or release of aquatic life without an appropriate license or in violation of license conditions, where a license is required;
 - (4) Rules adopted under HAR Title 13, Subtitle 4, Part V, relating to the unlawful take, possession, or sale of protected marine fisheries resources;

- (5) Rules adopted under HAR Title 13, Subtitle 4, Part VI, relating to the unlawful take, possession, or sale of protected freshwater fisheries resources; and
 - (6) Statutory provisions relating to the unlawful take, possession, or sale of protected freshwater or marine fisheries resources, including HRS §§188-22.8, 188-39.5, 188-40.7, 188-42.5, 188-43, 188-58.5, and 189-2.5.
- (c) For category 4 violations, except as provided in Items 2-4(d) and (e), below, administrative fines shall be imposed as follows:
- (1) For a first category 4 violation, an administrative fine of up to \$200 per specimen shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$300 per specimen if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
 - (2) For a second category 4 violation within five years of a previous violation, an administrative fine of up to \$400 per specimen shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$600 per specimen if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
 - (3) For a third or subsequent category 4 violation within five years of the last violation, an administrative fine of up to \$600 per specimen shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$900 per specimen if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
- (d) For a category 4 violation involving the unlawful capture or killing of a manta ray in violation of HRS §188-39.5, administrative fines shall be imposed as follows:
- (1) For a first violation, an administrative fine of up to \$2,000 per specimen shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$3,000 per specimen if respondent fails to fully comply within 21 days. (Authority: §188-39.5, HRS; Implementation: §13-1-71, HAR)
 - (2) For a second violation within five years of a previous violation, an administrative fine of up to \$5000 per specimen shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$6000

per specimen if respondent fails to fully comply within 21 days.
(Authority: §188-39.5, HRS; Implementation: §13-1-71, HAR)

- (3) For a third or subsequent violation within five years of the last violation, an administrative fine of up to \$9000 per specimen shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$10,000 per specimen if respondent fails to fully comply within 21 days.
(Authority: §188-39.5, HRS; Implementation: §13-1-71, HAR)

- (e) For a category 4 violation involving the unlawful possession, sale, offer for sale, trade, or distribution of shark fins in violation of HRS §188-40.7, administrative fines shall be imposed as follows:

- (1) For a first violation, an administrative fine of up to \$10,000 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$15,000 if respondent fails to fully comply within 21 days.
(Authority: §188-40.7, HRS; Implementation: §13-1-71, HAR)
- (2) For a second violation within five years of a previous violation, an administrative fine of up to \$30,000 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$35,000 if respondent fails to fully comply within 21 days. (Authority: §188-40.7, HRS; Implementation: §13-1-71, HAR)
- (3) For a third or subsequent violation within five years of the last violation, an administrative fine of up to \$45,000 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$50,000 if respondent fails to fully comply within 21 days. (Authority: §188-40.7, HRS; Implementation: §13-1-71, HAR)

Item 2-5. Category 5 Violations – Unlawful Commercial Activity Within MLCDs; Non-Indigenous Aquatic Species; Ballast Water Management.

- (a) The Department may issue a violation notice to any person who commits a category 5 violation as described below.
- (b) A person commits a category 5 violation if he or she violates any of the following provisions:
 - (1) Rules adopted under HAR Title 13, Subtitle 4, Part I, relating to unlawful or unpermitted commercial activity within an MLCD; and

- (2) Rules adopted under HAR Title 13, Chapter 76, relating to non-indigenous aquatic species or ballast water management.
- (c) For category 5 violations, administrative fines shall be imposed as follows:
- (1) For a first category 5 violation, an administrative fine of up to \$500 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$750 if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
 - (2) For a second category 5 violation within five years of a previous violation, an administrative fine of up to \$1,000 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$1,500 if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
 - (3) For a third or subsequent category 5 violation within five years of the last violation, an administrative fine of up to \$2,000 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$3,000 if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)

Item 2-6. Category 6 Violations – Threatened or Endangered Species.

- (a) The Department may issue a violation notice to any person who commits a category 6 violation as described below.
- (b) A person commits a category 6 violation if he or she commits any violation of Subtitle 5 of Title 12, HRS, or any rule adopted thereunder, involving a threatened or endangered species.
- (c) For category 6 violations, administrative fines shall be imposed as follows:
 - (1) For a first category 6 violation, an administrative fine of up to \$4000 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$5000 if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
 - (2) For a second category 6 violation within five years of a previous violation, an administrative fine of up to \$8,000 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the

notice. The administrative fine shall increase to up to \$10,000 if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)

- (3) For a third or subsequent category 6 violation within five years of the last violation, an administrative fine of up to \$12,000 shall be assessed if the respondent fully complies with the violation notice within 21 days of service of the notice. The administrative fine shall increase to up to \$15,000 if respondent fails to fully comply within 21 days. (Authority: §187A-12.5, HRS; Implementation: §13-1-71, HAR)
- (d) In addition to any fines assessed for a category 6 violation, an additional fine of up to \$5,000 shall be assessed for each specimen of threatened or endangered aquatic life taken, killed, or injured. (Authority: §187A-12.5, HRS)

Appendix 2-A. DAR Administrative Sanctions Table

Item No.	Violation	No. of Offense	Fine (Paid in 21 Days)	Fine (Late)	Other Sanctions*
Item 2-1. Category 1 Violations – Month and Trip Reports					
2-1(b)	Failure to file monthly report or trip report	First	\$15	\$30	Back report required
		Second	\$25	\$50	Back report required; sale receipts required
		3 rd or more	\$100	\$200	Back report required; sale receipts required
Item 2-2. Category 2 Violations – Certain Non-Extractive Activities					
2-2(b)(1)	Unlawful feeding of aquatic life within MLCD	First	\$100	\$150	
		Second	\$200	\$300	
		3 rd or more	\$400	\$600	
2-2(b)(2)	Any other non-extractive unlawful activity within Marine or Freshwater FMA	First	\$100	\$150	
		Second	\$200	\$300	
		3 rd or more	\$400	\$600	
2-2(b)(3)	Violation of any FAD rule	First	\$100	\$150	
		Second	\$200	\$300	
		3 rd or more	\$400	\$600	
2-2(b)(4)	Any other non-extractive violation of HAR Title 13, Chapter 74	First	\$100	\$150	
		Second	\$200	\$300	
		3 rd or more	\$400	\$600	
2-2(b)(5)	Statutory violations	First	\$100	\$150	
		Second	\$200	\$300	
		3 rd or more	\$400	\$600	
Item 2-3. Category 3 Violations – Unlawful Fishing Gear; Unlawful Vessel Activity					
2-3(b)(1)	Use or possession of unlawful fishing gear or methods within MLCD, Marine FMA, or Freshwater FMA	First	\$200	\$300	
		Second	\$400	\$600	
		3 rd or more	\$800	\$1,200	

Item No.	Violation	No. of Offense	Fine (Paid in 21 Days)	Fine (Late)	Other Sanctions*
2-3(b)(2)	Unlawful mooring, anchoring, or operation of a vessel within MLCD, Marine FMA, or Freshwater FMA	First	\$200	\$300	
		Second	\$400	\$600	
		3 rd or more	\$800	\$1,200	
2-3(b)(3)	Unlawful fishing for aquatic life without an appropriate license, where a license is required	First	\$200	\$300	
		Second	\$400	\$600	
		3 rd or more	\$800	\$1,200	
2-3(b)(4)	Unlawful possession, use, sale, or disposal of certain fishing gear or methods in violation of HAR Title 13, Chapter 75	First	\$200	\$300	\$100 per specimen or according to Items 2-4(c), (d), & (e)
		Second	\$400	\$600	
		3 rd or more	\$800	\$1,200	
2-3(b)(5)	Statutory violations	First	\$200	\$300	
		Second	\$400	\$600	
		3 rd or more	\$800	\$1,200	
Item 2-4. Category 4 Violations – Unlawful Extractive Activity					
2-4(b)(1)	Unlawful take of aquatic life from within MLCD, Marine FMA, or Freshwater FMA	First	\$200/specimen	\$300/specimen	
		Second	\$400/specimen	\$600/specimen	
		3 rd or more	\$600/specimen	\$900/specimen	
2-4(b)(2)	Unlawful take of geological material from within MLCD	First	\$200/specimen	\$300/specimen	
		Second	\$400/specimen	\$600/specimen	
		3 rd or more	\$600/specimen	\$900/specimen	
2-4(b)(3)	Unlawful take, possession, sale, or release of aquatic life without	First	\$200/specimen	\$300/specimen	
		Second	\$400/specimen	\$600/specimen	

Item No.	Violation	No. of Offense	Fine (Paid in 21 Days)	Fine (Late)	Other Sanctions*
	appropriate license or in violation of license conditions	3 rd or more	\$600/specimen	\$900/specimen	
2-4(b)(4)	Unlawful take, possession, or sale of protected marine fisheries resources	First	\$200/specimen	\$300/specimen	
		Second	\$400/specimen	\$600/specimen	
		3 rd or more	\$600/specimen	\$800/specimen	
2-4(b)(5)	Unlawful take, possession, or sale of protected freshwater fisheries resources	First	\$200/specimen	\$300/specimen	
		Second	\$400/specimen	\$600/specimen	
		3 rd or more	\$600/specimen	\$900/specimen	
2-4(b)(6)	Statutory violations	First	\$200/specimen or according to Items 2-4(d) or (e)	\$300/specimen or according to Items 2-4(d) or (e)	
		Second	\$400/specimen or according to Items 2-4(d) or (e)	\$600/specimen or according to Items 2-4(d) or (e)	
		3 rd or more	\$600/specimen or according to Items 2-4(d) or (e)	\$900/specimen or according to Items 2-4(d) or (e)	
Item 2-5. Category 5 Violations – Unlawful commercial activity within MLCDs; Non-Indigenous Aquatic Species; Ballast Water Management					
2-5(b)(1)	Unlawful or unpermitted commercial activity within MLCD	First	\$500	\$750	
		Second	\$1,000	\$1,500	
		3 rd or more	\$2,000	\$3,000	
2-5(b)(2)	Violation of any rule involving non-indigenous aquatic species or ballast water management	First	\$500	\$750	
		Second	\$1,000	\$1,500	
		3 rd or more	\$2,000	\$3,000	

Item No.	Violation	No. of Offense	Fine (Paid in 21 Days)	Fine (Late)	Other Sanctions*
Item 2-6. Category 6 Violations – Threatened or Endangered Species					
2-6(b)	Violation of Title 12, Subtitle 5, HRS, or any rule adopted thereunder, involving a threatened or endangered species	First	\$4,000	\$5,000	\$5,000 per specimen
		Second	\$8,000	\$10,000	
		3 rd or more	\$12,000	\$15,000	

* 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.