

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

June 10, 2021

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

Land Board Members:

SUBJECT: REQUEST FOR APPROVAL AND ADOPTION OF THE DIVISION OF
FORESTRY AND WILDLIFE'S ADMINISTRATIVE SANCTIONS
SCHEDULE FOR THE PROCESSING OF FORESTRY AND WILDLIFE
RESOURCE VIOLATIONS

BACKGROUND

In 2004, the Legislature established Act 142, the Civil Natural Resources Violation Act, under Chapter 199D, Hawai'i Revised Statutes ("HRS"). The purpose was to provide a mechanism to process violations of the Department of Land and Natural Resources' ("Department") regulations for which administrative penalties have been authorized by legislative act or administrative rules that could be applied by all divisions of the Department.

On February 27, 2009, the Board of Land and Natural Resources ("Board") adopted Hawai'i Administrative Rules ("HAR"), Chapter 13-1, Subchapter 7, for the Department's Civil Resource Violation System ("CRVS"). The purpose of the CRVS was to give effect to and carry out the purposes and policies of Chapter 199D, HRS. Some of the objectives of the CRVS system are to provide fair, fast, and cost-effective enforcement measures through an expedited administrative process that benefits the parties, the public, and the Department. Matters are to be processed as a civil proceeding with standard fines. The benefits of CRVS are quicker dispositions, less burdensome evidentiary standards, and more uniform imposition of penalties.

On March 13, 2009, the Board adopted the Department's Administrative Sanctions Schedule to use as guidelines in assessment of administrative sanctions and promoting consistency within the Department. The Board has approved administrative sanctions schedules by division for the Division of Aquatic Resources, Division of Boating and Ocean Recreation, the Office of Conservation and Coastal Lands, the Engineering Division, and Division of State Parks.

PROPOSED DIVISION OF FORESTRY AND WILDLIFE SANCTION SCHEDULE

The mission of the Division of Forestry and Wildlife (“DOFAW”) is to responsibly manage and protect watersheds, native ecosystems, and cultural resources, and provide outdoor recreation and sustainable forest product opportunities, while facilitating partnerships, community involvement and education. DOFAW manages public lands designated as forest reserves, natural area reserves, wildlife sanctuaries, game management areas, and public hunting areas; provides opportunities for outdoor recreation through the Na Ala Hele trail system and public hunting opportunities; and protects and manages threatened and endangered species throughout the Hawaiian Islands.

The proposed amendments would expand the scope of application of the Department’s Administrative Sanctions Schedule guidelines (“Schedule”) to cover many of the forestry and wildlife violations administered by DOFAW. The amended Schedule is intended to enhance and streamline the department’s enforcement function by giving enforcement officers guidance in the issuance of civil citations for violations of many forestry and wildlife laws. Officers would still retain the option to prosecute forestry and wildlife violations through the criminal system or by Board action when appropriate. The imposition of administrative sanctions against a person for a civil resource violation does not preclude criminal prosecution against the same person for a criminal offense committed in the same course of conduct, and vice versa.¹

The amended Schedule groups violations into six categories, and provides suggested administrative fines for each category. DOFAW staff developed penalty amounts based on the potential effect on resources managed by DOFAW, actual resource damage, and whether the fine would act as a deterrent. Fines were set high so as to allow for a hearing officer to reduce but not increase fines based on the specific facts and circumstances of the violation. Graduated penalties with each category are meant to deter repeat violations, and late fees provide an incentive for timely compliance. The amended Schedule would guide the Division of Conservation and Resources Enforcement (“DOCARE”) officers when responding to Category 1, 2, 3, 4 and 6 violations, and guide DOFAW staff when responding to Category 5 violations.

Five statutes authorize the Department to adopt administrative penalties for violations of activities managed by DOFAW. Four of these chapters have similar penalty provisions: Chapter 183, HRS, regulating forest reserves; Chapter 195 regulating the natural area reserves system; Chapter 198D regulating the Na Ala Hele trails system; and Chapter 195D regulating threatened and endangered species. Under all these chapters, the applicable penalty authority provides that first time violators of a statute or administrative rule may be assessed an administrative fine up to \$2,500. If someone commits another violation within five years, they may be assessed an administrative fine up to \$5,000. A third violation within five years, may be assessed an administrative fine up to \$10,000.

Chapter 183D, HRS, which regulates hunting, has a different penalty scheme. Chapter 183D provides that first time violators of Subtitle 4 of Title 12, or administrative rule adopted thereunder, may be assessed an administrative fine up to \$10,000. A second violation within five

¹ See HRS § 183-5(d) (2006); HRS § 183D-12(c) (1996); HRS § 195-8(c) (2001); HRS § 195D-9(f) (2001); HRS § 198D-12(b) (2001); HAR § 13-1-53 (2009).

years may be subject to an administrative fine up to \$15,000. A third violation within five years may be assessed an administrative fine up to \$25,000.

Category 1 violations are *Non-Extractive Violations* because violations in this category do not remove or damage regulated natural resources. Category 1 first time violations are assessed a \$100 fine, second time violations are assessed a \$200 fine, and third and subsequent violations are assessed a \$400 fine. If citations remain unanswered after twenty-one days, a late fee of \$25 is assessed in addition to the fine.²

Category 2 violations are *Extractive Violations* because violations in this category cause damage to or removal of natural resources managed by DOFAW. Category 2 first time violations are assessed a \$250 fine, second time violations are assessed a \$500 fine, and third and subsequent violations are assessed a \$1,000 fine. If citations remain unanswered after twenty-one days, a late fee of \$25 is assessed in addition to the fine.

Category 3 violations are *Safety Violations*; violations in this category risk the health, safety, and welfare of persons and/or natural resources. Category 3 first time violations are assessed a \$500 fine, second time violations are assessed a \$1,000 fine, and third and subsequent violations are assessed a \$2,000 fine. If citations remain unanswered after twenty-one days, a late fee of \$25 is assessed in addition to the fine.

Category 4 violations are *Commercial Activities*, including hunting guide activities without a license. Category 4 first time violations are assessed a \$500 fine, second time violations are assessed a \$1,000 fine, and third and subsequent violations are assessed a \$2,000 fine. If citations remain unanswered after twenty-one days, a late fee of \$25 is assessed in addition to the fine.

Category 5 violations are *Permit or License Report Violations* and are applicable where permittees or licensees are required to file activity reports with DOFAW by specified time periods, depending on the authorizing statute, administrative rule, or permit condition. Category 5 first time violations are assessed a \$15 fine, second time violations are assessed a \$25 fine, and third and subsequent violations are assessed a \$100 fine. If reports are more than twenty-one days late, then the late fine doubles the initial fine.

Category 6 violations are *Species in Need of Conservation and Threatened and Endangered Species Violations*. Category 6 first time violations are assessed a \$2,500 fine, second time violations are assessed a \$5,000 fine, and third and subsequent violations are assessed a \$10,000 fine. If citations remain unanswered after twenty-one days, a late fee of \$25 is assessed in addition to the fine.

DOFAW staff determined fines for each category based on the following rationale:

² HAR § 13-1-63 (2009) authorizes the Department to assess a higher fine for a CRVS violation notice not answered within twenty-one days of service. See HAR § 13-1-63 (2009); HRS § 199D-1 (2004).

- Category 5, *Permit or License Report Violations*, has the lowest recommended fines because violations in this category apply to reports required as part of an approved permit or license.
- Category 1, *Non-Extractive Violations*, are lower than Category 2, *Extractive Violations*, because Category 1 violations do not remove or damage regulated natural resources, whereas Category 2 violations cause damage to or remove natural resources managed by DOFAW.
- DOFAW recommends similar fines for Category 3, *Safety Violations*, which risk the health, safety, and welfare of persons and/or natural resources, and Category 4, *Commercial Violations*, because of the potential for violations in these categories to cause severe damage to natural resources.
- Fines for Category 6, *Species in Need of Conservation and Threatened and Endangered Species Violations*, are highest because of the potential to adversely affect populations of native wildlife.

CONCLUSION

DOFAW is seeking Board approval for a delegation of authority to the Chairperson to process violations described in the attached amended Schedule (Exhibit 1). This Schedule would guide DOCARE officers when responding to Categories 1, 2, 3, 4 and 6 violations, and guide DOFAW staff when responding to Category 5 violations for processing through the CRVS.

DOFAW collaborated with DOCARE and APO staff in the development of this schedule. DOFAW staff developed penalty amounts based on the potential effect on resources managed by DOFAW, actual resource damage, and whether the fine would act as a deterrent.

Other divisions within the Department have approved sanctions schedules and have enforced provisions in those approved schedules through the APO. For example, compliance with the Division of Aquatic Resources' (DAR) marine commercial fishing license reporting requirement has increased to ninety-two percent following its inclusion in DAR's schedule. The Office of Ocean and Coastal Lands ("OCCL") has seen no repeat offenses for violations of administrative rules in OCCL's schedule.

RECOMMENDATION

That the Board:

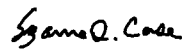
1. Approve and adopt the Division of Forestry and Wildlife's Administrative Sanctions Schedule (Exhibit 1) to guide DOCARE and DOFAW on the issuance of notices for forestry and wildlife resource violations; and
2. Delegate to the Chairperson and the Department's designated administrative hearing officer the authority to administratively process all forestry and wildlife resource violations under the Civil Resource Violation System in accordance with the Administrative Sanctions Schedule.

Respectfully submitted,



David G. Smith, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL



Suzanne Case, Chairperson
Board of Land and Natural Resources

Exhibits

1. Proposed Amended Part 7 of DLNR's Administrative Sanctions Schedule.
2. Current DLNR Sanctions Schedule.
3. Draft Civil Resource Violation System Notice of Violation.

Exhibit 1

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

ADMINISTRATIVE SANCTIONS SCHEDULE
Amended on __ / __ /2020

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 7 as follows:

Part 7. DIVISION OF FORESTRY AND WILDLIFE (DOFAW)

Item 7-0. Statutory Authority.

- (a) HRS § 183-5(b) authorizes a maximum administrative fine of \$2,500 for a first violation, \$5,000 for a second violation, and \$10,000 for a third violation of Chapter 183, HRS, or any rule adopted thereunder.
- (b) HRS § 195D-9(d) authorizes a maximum administrative fine of \$2,500 for a first violation, \$5,000 for a second violation, and \$10,000 for a third violation of Chapter 195D, HRS, or any rule adopted thereunder.
- (c) HRS § 183D-12(a) authorizes a maximum administrative fine of \$10,000 for a first violation, \$15,000 for a second violation, and \$25,000 for a third or subsequent violation of HRS Title 12, Subtitle 4 or any rule adopted thereunder.
- (d) HRS § 195-8(b) authorizes a maximum administrative fine of \$2,500 for a first violation, \$5,000 for a second violation, and \$10,000 for a third violation of Chapter 195, HRS, or any rule adopted thereunder.
- (e) HRS § 198D-12(a) authorizes a maximum administrative fine of \$2,500 for a first violation, \$5,000 for a second violation, and \$10,000 for a third violation of Chapter 198D, HRS, or any rule adopted thereunder.

Item 7-1. Category 1 Violations – Non-Extractive Activities

- (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 of the following provisions:

- (1) Rules adopted under HAR Title 13, Chapters 104, 121, 122, 123, 126, 130, or 209, considered to be Non-Extractive Violations because violations in this category do not remove or damage regulated natural resources.
- (2) Statutory provisions relating to unlawful non-extractive activities, as provided in HRS §§ 183D-27; 183D-27.5(a), (b); 183D-32; 183D-33, 183D-63 and 183D-64.

(c) For category 1 violations, administrative fines shall be imposed as follows:

- (1) For a first category 1 violation not preceded within a five-year period by a violation of the same chapter, 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 \$125 if the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §183D-12(a), HRS, §195-8(b), HRS, §198D-12(a), HRS; Implementation: §13-1-63, HAR)
- (2) For a second category 1 violation within five years of the previous violation of the same chapter, as determined by § 13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$200, which shall be increased up to \$225 if the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §183D-12(a), HRS, §195-8(b), HRS, §198D-12(a), HRS; Implementation: §13-1-63, HAR, § 13-1-71, HAR)
- (3) For a third or subsequent category 1 violation within five years of the last violation of the same chapter, as determined by § 13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$400, which shall be increased up to \$425 if the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §183D-12(a), HRS, §195-8(b), HRS, §198D-12(a), HRS; Implementation: §13-1-63, HAR, § 13-1-71, HAR)

Item 7-2. Category 2 Violations – 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, Chapters 104, 121, 122, 123, 126, 130, or 209, considered to be Extractive violations because violations in this category cause damage to or remove natural resources managed by DOFAW.
 - (2) Statutory provisions relating to unlawful non-extractive activities, as provided in HRS §§ 183-5(c)(2); 183-17; 183D-21; and 183D-25.
- (c) For category 2 violations, administrative fines shall be imposed as follows:
- (1) For a first category 2 violation not proceeded within a five-year period by a violation of the same chapter, an administrative fine of up to \$250 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 \$275 if the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §183D-12(a), HRS, §195-8(b), HRS, §198D-12(a), HRS; Implementation: §13-1-63, HAR)
 - (2) For a second category 2 violation within five years of the previous violation of the same chapter, as determined by § 13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$500, which shall be increased up to \$525 if the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §183D-12(a), HRS, §195-8(b), HRS, §198D-12(a), HRS; Implementation: §13-1-63, HAR, § 13-1-71, HAR)
 - (3) For a third or subsequent category 2 violation within five years of the last violation of the same chapter, as determined by § 13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$1,000, which shall be increased up to \$1,025 if the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §183D-12(a), HRS, §195-8(b), HRS, §198D-12(a), HRS; Implementation: §13-1-63, HAR, § 13-1-71, HAR)

Item 7-3. Category 3 Violations – Safety

- (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, Chapters 104, 121, 122, 123, 126, or 130, considered to be Safety violations because violations in this category risk the health, safety, and welfare of persons and/or natural resources.

- (2) Statutory provisions relating to unlawful non-extractive activities, as provided in HRS §183D-26.
- (c) For category 3 violations, administrative fines shall be imposed as follows:
 - (1) For a first category 3 violation not proceeded within a five-year period by a violation of the same chapter, 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 \$525 if the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §183D-12(a), HRS, §198D-12(a), HRS; Implementation: §13-1-63, HAR)
 - (2) For a second category 3 violation within five years of the previous violation of the same chapter, as determined by § 13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$1,000, which shall be increased up to \$1,025 if the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §183D-12(a), HRS, §198D-12(a), HRS; Implementation: §13-1-63, HAR, § 13-1-71, HAR)
 - (3) For a third or subsequent category 3 violation within five years of the last violation of the same chapter, as determined by § 13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$2,000, which shall be increased up to \$2,025 if the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §183D-12(a), HRS, §198D-12(a), HRS; Implementation: §13-1-63, HAR, § 13-1-71, HAR)

Item 7-4. Category 4 Violations – Commercial 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, Chapters 104, 107, 126, 130, or 209, considered to be Commercial activities including hunting guide activities without a license.
 - (2) Statutory provisions relating to unlawful non-extractive activities, as provided in HRS §§ 183D-25.5(a) and (b).
- (c) For category 4 violations, administrative fines shall be imposed as follows:
 - (1) For a first category 4 violation not proceeded within a five-year period by a violation of the same chapter, 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 \$525 if the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §195D-9(d), HRS, §183D-12(a), HRS, §195-8(b), HRS, §198D-12(a), HRS; Implementation: §13-1-63, HAR)

- (2) For a second category 4 violation within five years of the previous violation of the same chapter, as determined by § 13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$1,000, which shall be increased up to \$1,025 if the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §195D-9(d), HRS, §183D-12(a), HRS, §195-8(b), HRS, §198D-12(a), HRS; Implementation: §13-1-63, HAR, § 13-1-71, HAR)
- (3) For a third or subsequent category 4 violation within five years of the last violation of the same chapter, as determined by § 13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$2,000, which shall be increased up to \$2,025 if the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §195D-9(d), HRS, §183D-12(a), HRS, §195-8(b), HRS, §198D-12(a), HRS; Implementation: §13-1-63, HAR, § 13-1-71, HAR)

Item 7-5. Category 5 Violations – Permit or License Report Violations

- (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, Chapter 104 or 107 relating to the submittal of reports required as part of a license or permit.
- (c) Each report that is past due shall constitute a separate violation.
- (d) For category 5 violations, administrative fines shall be imposed as follows:
 - (1) For a first category 5 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 the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §195D-9(d), HRS; Implementation: §13-1-63, HAR)
 - (2) For a second category 5 violation within five years of the previous violation of the same chapter, as determined by § 13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$25, which

shall be increased up to \$50 if the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §195D-9(d), HRS; Implementation: §13-1-63, HAR, § 13-1-71, HAR)

- (3) For a third or subsequent category 5 violation within five years of the last violation of the same chapter, as determined by § 13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$100, which shall be increased up to \$200 if the respondent fails to fully comply within 21 days. (Authority: §183-5(b), HRS, §195D-9(d), HRS; Implementation: §13-1-63, HAR, § 13-1-71, HAR)

Item 7-6. Category 6 violations – Species in Need of Conservation and Threatened and Endangered Species Violations

- (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 violates any of the following provisions:
 - (1) §195D-3(c), HRS
 - (2) §195D-4(e), HRS
- (c) Each report that is past due shall constitute a separate violation.
- (d) For category 6 violations, administrative fines shall be imposed as follows:
 - (1) For a first category 6 violation, an administrative fine of up to \$2,500 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 \$2,525 if the respondent fails to fully comply within 21 days. (Authority: §195D-9(d), HRS; Implementation: §13-1-63, HAR)
 - (2) For a second category 6 violation within five years of the previous violation of the same chapter, as determined by § 13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$5,000, which shall be increased up to \$5,025 if the respondent fails to fully comply within 21 days. (Authority: §195D-9(d), HRS; Implementation: §13-1-63, HAR, § 13-1-71, HAR)
 - (3) For a third or subsequent category 6 violation within five years of the last violation of the same chapter, as determined by § 13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$10,000, which shall be increased up to \$10,025 if the respondent fails to fully comply within 21 days. (Authority: §195D-9(d), HRS; Implementation: §13-1-63, HAR, § 13-1-71, HAR)

Appendix 7-A. DOFAW Administrative Sanctions Table

Item 7-1. Category 1 Violations – Non-Extractive Activities

Item No.	Authority	Violation	Statute or Administrative Rule	Fine paid (21 days) / Late fine		
				First Offense	Second Offense	3 rd or More Offense
7-1(b)	HRS § 183-5(b)	Advertising	13-104-4(8)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Camping	13-104-16 13-104-19(c)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Disorderly conduct	13-104-15	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Domestic animals	13-104-12(a), (c)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Firearms	13-104-9	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Human waste	13-104-5(2), (3)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Hunting dogs	13-104-12(b)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Noise	13-104-13	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Permitted activity	13-104-21 13-104-23	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Regulated entry	13-104-4(5)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Swimming	13-104-10	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Alcohol, drugs, intoxication	13-104-4(10)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Vehicles	13-104-11(3), (4), (6)	\$100 / \$125	\$200 / \$225	\$400 / \$425
	HRS § 183D-12(a)	Artificial light	13-123-7	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Blaze orange	13-122-12(f)(2) 13-123-22(7)(A)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Camping	13-121-6(d)(2) 13-122-12(i)(1) 13-122-13(6) 13-123-22(10)(A) 13-123-22(8)(H) 13-123-24(6) 13-126-26	\$100 / \$125	\$200 / \$225	\$400 / \$425

Item No.	Authority	Violation	Statute or Administrative Rule	Fine paid (21 days) / Late fine		
				First Offense	Second Offense	3 rd or More Offense
		Closed area	13-126-4	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Communication equipment	13-126-27	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Disorderly conduct	13-126-28	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Disposition of game	13-122-12(e)(1), (2), (3) 13-122-12(f)(1) 13-123-22(6)(B), (C)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Domestic animals	13-121-6(d)(6) 13-126-23(c)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		False reports	13-126-30	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Firearms	13-122-12(b)(1), (2), (3), (4), (7) 13-122-12(c)(4) 13-123-22(2)(A), (B), (C), (D), (E), (F), (G), (J), (K) 13-123-22(3)(A) 13-123-22(4)(D) 13-123-22(11)(C) 13-123-22(8)(E), (F), (G) 13-126-31(b)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Human waste	13-126-43(f)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Hunting license	13-122-12(a)(1), (2) 13-123-22(1)(A), (B)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Hunter check-in	13-122-12(a)(3) 13-123-22(1)(C) 13-122-12(j)(2)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Hunting hours	13-122-8 13-123-6	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Game bird season	183D-32	\$100 / \$125	\$200 / \$225	\$400 / \$425

Item No.	Authority	Violation	Statute or Administrative Rule	Fine paid (21 days) / Late fine		
				First Offense	Second Offense	3 rd or More Offense
		Grazing animals	13-126-21	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Harassment of hunters	183D-27.5(a), (b)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Horses	13-126-23(d)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Hunting dogs	13-122-12(g)(1) &(2), (3), (4) 13-122-12(h)(1) 13-123-22(3)(B), (C), (E), (F)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Portable motorized equipment	13-126-39	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Motorized models	13-126-38	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Mourning doves	13-122-9(1), (2), (3), (4), (5), (6), (7)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Night hunting	183D-27	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Non-hunters and hunter assistants	13-122-12(f)(5) 13-122-12(j)(1) 13-123-22(7)(B) 13-123-22(9)(A)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Shooting pigeons	183D-33	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Regulated entry or visiting hours	13-122-12(k)(2) 13-123-22(11)(A), (B) 13-123-22(8)(A), (C), (D) 13-126-40(b), (g) 13-126-7(a)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Residence	13-126-42	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Restricted area	13-126-5	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Signs	13-126-8	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Swimming	13-126-44	\$100 / \$125	\$200 / \$225	\$400 / \$425

Item No.	Authority	Violation	Statute or Administrative Rule	Fine paid (21 days) / Late fine		
				First Offense	Second Offense	3 rd or More Offense
		Tagging	13-123-23	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Alcohol, drugs, intoxication	13-121-6(d)(3) 13-122-12(f)(4) 13-123-22(7)(D) 13-126-36(a), (b)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Wild birds	183D-63 183D-64	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Vehicles	13-122-12(c)(1), (3) 13-122-12(i)(2) 13-122-12(k)(1) 13-123-22(4)(A), (C) 13-123-22(10)(B) 13-123-22(8)(B) 13-123-22(8)(I) 13-126-45(a), (b), (c), (d), (e), (f)	\$100 / \$125	\$200 / \$225	\$400 / \$425
	HRS § 195-8(b)	Entry or parking in Ahihi-Kinau NAR	13-209-5.7 13-209-5.8	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Camping	13-209-4(7)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Closed area	13-209-4(16), 13-209-4.5	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Group size	13-209-4(15)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Alcohol, drugs, intoxication	13-209-4(12), (18) 13-209-4(20), (21)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Vehicles	13-209-4(17)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Visiting hours	13-209-4.6	\$100 / \$125	\$200 / \$225	\$400 / \$425
	HRS § 198D-12(a)	Advertising	13-130-20(8)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Camping	13-130-23(a)	\$100 / \$125	\$200 / \$225	\$400 / \$425

Item No.	Authority	Violation	Statute or Administrative Rule	Fine paid (21 days) / Late fine		
				First Offense	Second Offense	3 rd or More Offense
		Disorderly conduct	13-130-33	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Domestic animals	13-130-30(a)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Firearms	13-130-26	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Human waste	13-130-21(2), (3)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Hunting dogs	13-130-30(b)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Noise	13-130-31	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Parking	13-130-28(a)(4)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Permitted activity	13-130-36	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Regulated entry	13-130-20(5)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Residence	13-130-23(b)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Swimming	13-130-27	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Trail use	13-130-18 13-130-20(12) 13-130-29(a)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Alcohol, drugs, intoxication	13-130-20(10), (11)	\$100 / \$125	\$200 / \$225	\$400 / \$425
		Vehicles	13-130-28(a)(1)	\$100 / \$125	\$200 / \$225	\$400 / \$425

Item 7-2. Category 2 Violations – Extractive Activities

Item No.	Authority	Violation	Statute or Administrative Rule	Fine paid (21 days) / Late fine		
				First Offense	Second Offense	3 rd or More Offense
7-2(b)	HRS § 183-5(b)	Abandoned property	13-104-5(4) 13-104-5.5	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Construction	13-104-4(6)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Fire	13-104-7(1), (2), (3), (4)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025

Item No.	Authority	Violation	Statute or Administrative Rule	Fine paid (21 days) / Late fine		
				First Offense	Second Offense	3 rd or More Offense
		Geologic feature	13-104-4(2)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Hunting or fishing	13-104-8	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Aircraft	13-104-11(2), (7)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Litter and waste	13-104-5(1)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Markers	13-104-4(4)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Permitted activity	13-104-20(a) 13-104-18(b)(9)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Archaeological or historic site	13-104-4(3)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Sale	13-104-4(7)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Transportation	13-104-11(5)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Vehicles	13-104-11(1)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Wildlife or plants	13-104-4(1) 13-104-4(9)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Harvested trees	183-5(c)(2)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Timber trespass	183-17	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
	HRS § 183D-12(a)	Abandoned property	13-126-20(a), (d)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Construction	13-126-40(f)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Fire	13-121-6(d)(5) 13-122-13 (4), (5) 13-123-24 (4) 13-126-32	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Geologic feature	13-126-34	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Hunting license	183D-21 183D-25	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Hunting or fishing	13-121-6(d)(1) 13-126-33 13-126-35	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025

Item No.	Authority	Violation	Statute or Administrative Rule	Fine paid (21 days) / Late fine		
				First Offense	Second Offense	3 rd or More Offense
			13-126-43(e)			
		Aircraft	13-126-22	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Litter and waste	13-122-13(2) 13-123-24(2) 13-126-43(a), (b), (c), (d)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Markers	13-126-37 13-126-40(e)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Property damage	13-122-13(1) 13-123-24(1)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Archaeological or historic site	13-122-13(3) 13-123-24(3) 13-126-24 13-126-40(c), (d)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Vessels	13-126-25(a), (b)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Wildlife or plants	13-121-3(a) 13-126-23(a), (b) 13-126-40(a)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
	HRS § 195-8(b)	Fishing gear use in Ahihi-Kinau NAR	13-209-4(14)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Construction	13-209-4(6)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Geologic feature	13-209-4(3)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Kaena Point	195-12(a)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Litter and waste	13-209-4(9)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Markers	13-209-4(5)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Archaeological or historic site	13-209-4(4)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Vehicles	13-209-4(10)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025

Item No.	Authority	Violation	Statute or Administrative Rule	Fine paid (21 days) / Late fine		
				First Offense	Second Offense	3 rd or More Offense
		Vessels	13-209-4(11)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Wildlife or plants	13-209-4(1), (2)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
	HRS § 198D-12(a)	Abandoned property	13-130-21(4) 13-130-28(b)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Construction	13-130-20(6)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Fire	13-130-24(1), (2), (3), (4), (7)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Geologic feature	13-130-20(2)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Hunting or fishing	13-130-25	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Aircraft	13-130-28(a)(2)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Litter and waste	13-130-21(1)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Markers	13-130-20(4)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Archaeological or historic site	13-130-20(3)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Sale	13-130-20(7)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Transportation	13-130-28(a)(5)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Vehicles	13-130-28(a)(3), (6)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025
		Wildlife or plants	13-130-20(1), (9)	\$250 / \$275	\$500 / \$525	\$1,000 / \$1,025

Item 7-3. Category 3 Violations – Safety

Item No.	Authority	Violation	Statute or Administrative Rule	Fine paid (21 days) / Late fine		
				First Offense	Second Offense	3 rd or More Offense
7-3(b)	HRS § 183-5(b)	Explosives	13-104-14	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
		Fire	13-104-7(5), (6)	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025

	HRS § 183D-12(a)	Camping	13-123-24(5)	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
		Explosives	13-121-6(d)(4) 13-126-29	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
		Firearms	13-121-3(b) 13-126-31(a)	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
		Game bird / mammal hunting	13-122-3 13-122-7 13-122-8.1 13-123-12 13-123-8	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
		Hunting on private land	183D-26	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
		Permitted activity	13-123-22(6)(A)	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
		Safety zone	13-122-12(d) 13-123-22(5)	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
	HRS § 195-8(b)	Fire	13-209-4(8)	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
	HRS § 198D-12(a)	Explosives	13-130-32	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
		Fire	13-130-24(5), (6)	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
		Permitted activity	13-130-37(1), (2)	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025

Item 7-4. Category 4 Violations – Commercial Activity

Item No.	Authority	Violation	Statute or Administrative Rule	Fine paid (21 days) / Late fine		
				First Offense	Second Offense	3 rd or More Offense
7-4(b)	HRS § 183-5(b)	Commercial activity	13-104-24	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
	HRS § 195D-9(d)	Commercial activity	13-107-6(e)	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
	HRS § 183D-12(a)	Commercial activity	13-126-50(a), (c)	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
		Hunting guide license	183D-25.5(a), (b)	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
	HRS § 195-8(b)	Commercial activity	13-209-4(13)	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025
	HRS § 198D-12(a)	Commercial activity	13-130-35 13-130-43(b) 13-130-44(1), (2)	\$500 / \$525	\$1,000 / \$1,025	\$2,000 / \$2,025

Item 7-5. Category 5 Violations – Permit or License Report Violations

Item No.	Authority	Permit or License/ Report Requirement	Statute or Administrative Rule	Fine paid (21 days) / Late fine		
				First Offense	Second Offense	3 rd or More Offense
7-5(b)	HRS § 183-5(b)	Access, collecting, or research permit/ Report	13-104-18(b)(1)	\$15 / \$30	\$25 / \$50	\$100 / \$200
	HRS § 195D-9(d)	Collecting, possessing, transporting, propagating, or outplanting threatened or endangered plants permit /Annual report	13-107-4(d)	\$15 / \$30	\$25 / \$50	\$100 / \$200

Item 7-6. Category 6 Violations – Species in Need of Conservation and Threatened and Endangered Species Violations

Item No.	Authority	Violation	Statute or Administrative Rule	Fine paid (21 days) / Late fine		
				First Offense	Second Offense	3 rd or More Offense
7-6(b)	HRS § 195D-9(d)	Unlawful to take, possess, transport, transplant, export, process, sell, offer for sale, or ship species department deemed in need of conservation	195D-3(c)	\$2,500 / \$2,525	\$5,000 / \$5,025	\$10,000 / \$10,025
		Unlawful to export, take, possess, process, sell, offer for sale, deliver, carry, transport, or ship any threatened or endangered species	195D-4(e)	\$2,500 / \$2,525	\$5,000 / \$5,025	\$10,000 / \$10,025

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

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

ADMINISTRATIVE SANCTIONS SCHEDULE

Adopted on March 13, 2009

By the Board of Land and Natural Resources

The following Administrative Sanctions Schedule is adopted as a guideline for the Department of Land and Natural Resources to be used under the Civil Resource Violations System (CRVS).

PART 1. GENERAL PROVISIONS

Item 1-1. Objective

This Administrative Sanctions Schedule (“Schedule”) seeks to provide a Department-wide standard policy guideline for all divisions of the Department of Land and Natural Resources (DLNR or “Department”) in processing the civil resource violations so as to promote:

- Voluntary compliance of state law for the protection of Hawaii’s natural and cultural resources,
- Fair and cost-effective process for all parties involved, and
- Deterrence of violations.

Item 1-2. Legal Authority

This Schedule is adopted pursuant to §171-6 and Chapter 199D, Hawaii Revised Statutes (HRS), §13-1-70, Hawaii Administrative Rules (HAR), and other statutes and administrative rules of the Department.

Item 1-3. Applicability

The Department shall follow this Schedule when processing a civil resource violation under the CRVS pursuant to Chapter 13-1, Subchapter 7, HAR.

Item 1-4. Denial of Application for Cause

If a person is a respondent in a pending case with the CRVS, the Department may deny any application submitted by such person to the Department for any regulatory permit, license, or a renewal of such, or may issue one with additional conditions upon full payment of the CRVS fines assessed, subject to the review by a hearing officer and the Board or its delegate if the CRVS case is properly contested.

Item 1-5. Delegation of Power to Suspend Permits and Licenses Issued by the Department

- (a) Unless otherwise provided by law or in this Schedule, if a respondent has been issued a CRVS violation notice for any violation related to a particular DLNR permit or license issued to or held by the respondent and fails to comply with the notice within 21 days of the service of the notice, the Chairperson is authorized to suspend the permit or license until the respondent comes into full compliance with all sanctions and requirements imposed through the CRVS.
- (b) A suspension of a permit or license shall mean that the permittee or licensee is not entitled to conduct any activity pursuant to the permit or license until such time as the permit or license is reinstated. Suspension of a permit or license will not affect the expiration of the term of the permit or license.
- (c) The Chairperson may reinstate a suspended permit or license for good cause at any time upon petition of the respondent.
- (d) The Division Administrator shall reinstate a suspended permit or license upon a determination that the respondent has come into full compliance with the law and all violation notices previously issued.

Item 1-6. Delegation of Power to Revoke Permits and Licenses Issued by the Department

- (a) Unless otherwise provided in this Schedule, if a respondent is found to have committed three offenses under this Schedule in the past twelve months for any violation of state law or the terms or conditions of a particular DLNR permit or license issued to or held by the respondent, the Chairperson is authorized to revoke the permit or license for a period not to exceed six month.
- (b) If a permit or license revoked under this Schedule expires before the end of the revocation period, the revocation shall continue to be enforced by denying any application for the renewal or new issuance of a permit or license until the revocation period is over.
- (c) For good cause, the Chairperson may withdraw a revocation of a permit or license.

- (d) After the revocation period, the Division Administrator may reissue a revoked permit or license upon the respondent's application for renewal and payment of the fee that the Department charges for the renewal of the permit or license.

Item 1-7. Interpretation of the Schedule

The Chairperson and a hearing officer appointed pursuant to §13-1-57, HAR, shall have the power to interpret this Schedule, subject to review by the Board.

Item 1-8. Standard Forms

- (a) The Chairperson may make minor modifications and corrections to a standard form adopted by the Board for use in the CRVS if deemed necessary.
- (b) The Department shall use the standard form of Notice of Civil Resource Violation(s), as attached in Appendix 1-A, when preparing a violation notice pursuant to §13-1-62, HAR.

Item 1-9. Effective Dates

This Schedule and its subsequent amendments shall be effective upon adoption by the Board.

Appendix 1-A. Standard Form – Notice of Civil Resource Violation(s)

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 MLCs; 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 MLC; 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.

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

ADMINISTRATIVE SANCTIONS SCHEDULE

Amended November 13, 2009

Board of Land and Natural Resources

The Administrative Sanctions Schedule for the Civil Resource Violations System is amended as follows:

PART 4. DIVISION OF STATE PARKS (SP)

Item 4-1. Violations Pertaining to Unauthorized Landing, Operating, Leaving Unattended, Beaching, Parking, Launching, Mooring and Anchoring of Vessels Where Prohibited by Signage (§13-146-13, HAR; §184-5.5, HRS)

- (a) §184-5.5, HRS, authorizes a maximum fine of \$2,500 for a first violation, \$5,000 for a second violation, and \$10,000 for a third or subsequent violation.
- (b) Every day of such an illegal activity shall constitute a separate violation.
- (c) For a first offense of §13-146-13, HAR, a respondent shall be assessed an administrative fine of up to \$30 if the respondent ceases and desists such an offense immediately and pays the fine within 21 days of the service of the violation notice. The fine shall be up to \$60 if the respondent fails to do so. (Authority: §184-5.5, HRS)
- (d) For a second offense within five years of a first offense, as determined pursuant to §13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$50 if the respondent ceases and desists such an offense immediately and pays the fine within 21 days of the service of the violation notice. The fine shall be up to \$100 if the respondent fails to do so. (Authority: §184-5.5, HRS)
- (e) For a third or subsequent offense within five years of a second offense, as determined pursuant to §13-1-71, HAR, a respondent shall be assessed an administrative fine of up to \$100 if the respondent ceases and desists such an offense immediately and pays the fine within 21 days of the service of the violation notice. The fine shall be up to \$200 if the respondent fails to do so. (Authority: §184-5.5, HRS)

- (f) Seizure and forfeiture: A proceeding on the seizure or forfeiture of a vessel pursuant to §199-7, HRS, for a violation of §13-146-13, HAR, shall not be affected by the operation of the CRVS.

Appendix 4-A. SP Administrative Sanctions Table

Item No.	Authority	Violation	No. of Offense	Fine (In 21 Days)	Fine (Late)	Other Administrative Sanctions*
4-1	HAR §13-146-13; HRS §184-5.5	Unauthorized landing, Operating, Leaving Unattended, Beaching, Parking, Launching, mooring or anchoring of Vessels Where Prohibited by Signage	First	Up to \$30	Up to \$60	None
			Second	Up to \$50	Up to \$100	None
			Third	Up to \$100	Up to \$200	None

* 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. Any seizure or forfeiture of a vessel pursuant to §199-7, HRS, for a violation of §13-146-13, HAR, shall not be affected by the operation of the CRVS.

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

ADMINISTRATIVE PENALTIES SCHEDULE

Adopted October 26, 2012

The following Administrative Penalties Schedule for the Civil Resource Violations System (CRVS) is adopted:

PART 5. ENGINEERING DIVISION

Item 5-1. Impoundment without applying for certificate of approval to impound

For a first violation of impoundment without applying for a certificate of approval to impound under §13-190.1-12 or 51, HAR, a respondent shall be assessed an administrative fine of up to \$500. For a repeat violation, a respondent shall be assessed a fine of up to \$1,000. (Authority: §179D-8, HRS)

Item 5-2. Unsafe impoundment after being noticed by the Department

For a first violation of unsafe impoundment after being noticed by the Department under §13-190.1-14(f), HAR, a respondent shall be assessed an administrative fine of up to \$1,000. For a repeat violation, a respondent shall be assessed a fine of up to \$2,000. (Authority: §179D-8, HRS)

Item 5-3. Impoundment in violation of any suspension, revocation or restriction of an impoundment certificate or in violation of any terms or conditions set in a certificate

For a first violation of impoundment in violation of any suspension, revocation or restriction of an impoundment certificate or in violation of any terms or conditions set in a certificate under §13-190.1-15, HAR, a respondent shall be assessed an administrative fine of up to \$1,000. For a repeat violation, a respondent shall be assessed a fine of up to \$2,000. (Authority: §179D-8, HRS)

Item 5-4. Violation of dam and reservoir permit terms, conditions or schedules

For a first violation of dam and reservoir permit terms, conditions or schedules under §13-190.1-20, HAR, a respondent shall be assessed an administrative fine of up to \$1,000. For a repeat violation, a respondent shall be assessed a fine of up to \$2,000. (Authority: §179D-8, HRS)

Item 5-5. Failure to furnish requested information or submit required documents or reports

For a first violation of failing to furnish requested information or submit a document or report as required under §179D-6(b)(3), HRS, §13-190.1-30 or 31, HAR, a respondent shall be assessed an administrative fine of up to \$1,000. For a repeat violation, a respondent shall be assessed a fine of up to \$2,000. (Authority: §179D-8, HRS)

Item 5-6. Conducting minor construction work on dam without permit

For a first violation of minor construction work on dam without permit under §13-190.1-20(a), HAR, a respondent shall be assessed an administrative fine of up to \$1,000. For a repeat violation, a respondent shall be assessed a fine of up to \$2,000. Minor construction work means construction activity that the owner may have inadvertently considered as normal repair or maintenance but should require the prior approval by the Department. (Authority: §179D-8, HRS)

Item 5-7. Conducting moderate or major construction work on dam without permit

All violations of moderate and major construction work on dam without permit under §13-190.1-20(a), HAR, shall be processed through proper filing with the Board.

Item 5-8. Failure to maintain required operation and maintenance plan

For a first violation of failing to maintain the required operation and maintenance plan under §13-190.1-40.1, HAR, a respondent shall be assessed an administrative fine of up to \$500. For a repeat violation, a respondent shall be assessed a fine of up to \$1,000. (Authority: §179D-8, HRS)

Item 5-9. Failure to submit a required emergency action plan (EAP) or EAP update

For a first violation of failing to submit a required emergency action plan (EAP) or EAP update under §13-190.1-42, HAR, a respondent shall be assessed an administrative fine of up to \$500. For a repeat violation, a respondent shall be assessed a fine of up to \$1,000. (Authority: §179D-8, HRS)

Item 5-10. Failure to cooperate with the Board's agents in carrying out HRS Chapter 179D duties

For a first violation of failing to cooperate with the Board's agents in carrying out HRS Chapter 179D duties under §179D-6(b)(4) or 30(3), HRS, a respondent shall be assessed an administrative fine of up to \$1,000. For a repeat violation, a respondent shall be assessed a fine of up to \$2,000. (Authority: §179D-8, HRS)

Item 5-11. Failure to allow DLNR staff or representative access to dam or reservoir

For a first violation of failing to allow DLNR staff or representative access to dam or reservoir under §13-190.1-46, HAR, a respondent shall be assessed an administrative fine of up to \$1,000. For a repeat violation, a respondent shall be assessed a fine of up to \$2,000. (Authority: §179D-8, HRS)

Item 5-12. Failure to furnish requested information by stipulated deadline

For a first violation of failing to furnish requested information by stipulated deadline under §179D-30(5), HRS, a respondent shall be assessed an administrative fine of up to \$500. For a repeat violation, a respondent shall be assessed a fine of up to \$1,000. (Authority: §179D-8, HRS)

Item 5-13. Failure to pay the annual dam owner fee

For a violation of failing to pay the annual dam owner fee under §13-190.1-52, HAR, a respondent shall be assessed an administrative fine of up to 10% of the delinquent amount plus any interest as authorized under Subsection (b). (Authority: §179D-8, HRS)

Item 5-14. Failure to complete corrective actions as ordered by the Board or its agent

For a first violation of failing to complete corrective actions as ordered by the Board or its agent under §179D-6(b)(16), HRS, or §13-190.1-32 or 40(c), HAR, a respondent shall be assessed an administrative fine of up to \$1,000. For a repeat violation, a respondent shall be assessed a fine of up to \$2,000. (Authority: §179D-8, HRS)

Item 5-15. Failure to timely address unsafe or emergency conditions

For a first violation of failing to timely address unsafe or emergency conditions under §13-190.1-41, HAR, a respondent shall be assessed an administrative fine of up to \$2,000. For a repeat violation, a respondent shall be assessed a fine of up to \$4,000. (Authority: §179D-8, HRS)

Item 5-16. Failure to repay costs of emergency actions

For a first violation of failing to repay costs of emergency actions §13-190.1-41(d) or (e), HAR, a respondent shall be assessed an administrative fine of up to \$1,000. For a repeat violation, a respondent shall be assessed a fine of up to \$2,000. (Authority: §179D-8, HRS)

Item 5-17. Repeat violations

A repeat violation means a violation that is committed within one year of a previous violation of the same HRS or HAR section. (Authority: §179D-8, HRS)

Item 5-18. Chronic violators

A chronic violator is a party that is suspected of having committed more than two violations of the same HRS or HAR section in the past two years. The Department may process the additional violations through the CRVS as repeat violations or in alternative may process through proper filing with the Board. (Authority: §179D-8, HRS)

Item 5-19. Other penalties in addition to fines

In addition to any fines provided in the above items, the Department may, by proper notice to a respondent, temporarily suspend a certificate of approval to impound or a dam or reservoir permit until the respondent comes to full compliance of all applicable rules and regulations. (Authority: §179D-6(b)(16), HRS)

CIVIL RESOURCE VIOLATION SYSTEM
The Conservation District
Sanction Schedule

These guidelines are to implement Hawaii Administrative Rules §13-1, Subchapter 7, Civil Resource Violation System (CRVS) for the Conservation District to be assessed by the Office of Conservation and Coastal Lands Staff (Staff) for minor and very minor harm to the resource for CRVS processing.

AUTHORITY

Chapter 183C, Hawaii Revised Statutes (HRS)

§183C-3, HRS identifies the Board and Department of Land and Natural Resources to establish and enforce land use regulation on conservation district lands including the collection of fines for violations of land use and terms and conditions of permits issued by the department.

§183C-7, HRS Penalty for violation identifies that: (a) The department shall prescribe administrative procedures as it deems necessary for the enforcement of this chapter and any zoning rule adopted in accordance therewith. (b) Any person violating this chapter or any rule adopted in accordance with this chapter shall be fined not more than \$15,000.00 per violation in addition to administrative costs, costs associated with land or habitat restoration, and damages to public land or natural resources, or any combination thereof.

After written or verbal notification from the department, willful violation of this chapter or any rule adopted in accordance with this chapter may incur an additional fine of up to \$15,000.00 per day per violation for each day in which the violation persists.

Chapter 183C shall not be construed to prohibit any person from exercising native Hawaiian gathering rights or traditional cultural practices as authorized by law or as permitted by the department pursuant to Article XII, section 7 of the Hawaii constitution.

Chapter 13-5, Hawaii Administrative Rules (HAR)

Chapter 13-5, HAR is utilized to regulate land use in the conservation district. All proposed uses must be an identified land use as defined in 13-5, HAR. If a use is not identified within 13-5, HAR, then by definition the land use would not be allowed. The rules provide for a hierarchy of permit processes, where the level of review is scaled to the level of potential impact.

Chapter 115, HRS

This statute provides for public access to coastal area and has recently been amended to reaffirm public policy of extending public use and ownership of Hawaii's shoreline to ensure the public's lateral access along the shoreline, by requiring the removal of private landowners' induced or cultivated vegetation that interferes or encroaches seaward of the shoreline. As land seaward of the shoreline is designated Conservation, the Department shall enforce upon adjacent landowners to maintain access within beach transit corridors under chapter 183C.

PENALTY ASSESSMENT

Staff will treat each case individually when assigning conservation district penalties using the following framework and additional considerations and factors for upward or downward adjustments. Authorization requiring a Site Plan Approval under 13-5, HAR shall be the threshold for processing a conservation district land use violation under the CRVS. Staff will use these penalty schedule guidelines to issue civil resource violation notices for Conservation District penalties.

These guidelines presume that all cases in which a Conservation District violation has been assessed, the Department is allowed to recoup all administrative costs associated with the alleged violation pursuant to HRS §183C-7(b). Recommended penalties above \$2,000.00 shall be forwarded to the Board of Land and Natural Resources. Noncompliance of a CRVS notice issued for the Conservation District may also be forwarded to the Board.

I. Violations Pertaining to Identified Land Use Penalties (Authority §183C-7, HRS)

Minor Harm to the Resource/Site Plan Approval (B) Permit

In instances in which a permit with the B prefix should have been sought to assure that “minor harm(s) to the resource” are minimized may incur a penalty of \$1,000-\$2,000 and could be actions causing limited to short-term direct impacts including, but not limited to, small-scaled construction, construction of accessory structures, encroachment and installation of temporary or minor shoreline activities or similar uses.

Very Minor Harm to the Resource/(B) Permit

In instances in which a permit with the B prefix should have been sought but are considered to have only caused “very minor harm(s) to resource” a penalty of up to \$1,000 may be incurred. These “very minor harm(s) to the resource” could be actions in which the impact on the water resource or terrestrial, littoral or marine ecosystem was temporary or insignificant, and was not of a substantial nature either individually or cumulatively.

In addition to a monetary penalty, other sanctions to resolve unauthorized identified land use penalties may include land remediation, removal of the unauthorized land use or the filing of an After the Fact Site Plan Approval (SPA).

Table 1-Conservation District Penalty Guideline Framework for Identified Land Uses

Harm to resource or potential for harm to resource	Identified land use permit beginning with the letter	Penalty Range
Minor	B (Site Plan)	\$1,001-\$2,000
Very Minor	B (Site Plan)	Up to \$1,000

II. Non- Identified Land Use Penalties (Authority §183C-7, HRS)

Regarding violations in which an unauthorized use is not identified in HAR §§13-5-22, -23, -24 and -25, staff may try to associate the action with the most similar identified land use in Chapter 13-5, or in accordance to the “harm to the resource” caused by the violation. Refer to the above section I. In addition to a monetary penalty, other sanctions to resolve unauthorized identified land use penalties shall require removal of the unauthorized land use and may include land remediation.

III. Vegetation Removal/Vegetation Clearing (Authority §183C-7, HRS)

In minor or very minor harm to the resource, in accordance with the identified land uses within HAR, §13-5 the assessment of vegetation removal is based on a single citation of removal/clearing determined by the square footage of vegetation removed (See Table 2 Vegetation Removal). However, the Department may see fit to assess the removal/clearing of threatened, endangered, or commercially valuable plants on an individual plant basis of up to \$15,000 per plant that would be forwarded to the Board of Land and Natural Resources.

In addition to a monetary penalty, other sanctions to resolve unauthorized clearing may include land remediation and/or the filing of an After the Fact Site Plan Approval (SPA).

Table 2-Vegetation Removal

Action	Comparable Harm to Resource	Penalty Range
Removal of less than 2,000 sq. ft. vegetation	Minor	\$1,001-\$2,000
Clearing of Invasive or noxious vegetation	Very Minor	Up to \$1,000 ¹

Note: The clearing of threatened, endangered or commercially valuable plants may incur a penalty of up to \$15,000 per plant as determined by the Board of Land and Natural Resources. Vegetation clearing may incur a penalty of up to \$1 per square foot.

IV. Permit Non-Compliance (Authority §183C-7, HRS)

Violation of existing approved Conservation District Use Permit (CDUP) conditions involving initiation and/or completion of project construction, notification of start and completion dates, failure to file legal documents, etc., may be considered very minor within the existing framework, although it should be noted that such actions could result in a recommendation to the Board of Land and Natural Resources for permit revocation.

V. Shoreline Vegetation Encroachment (Authority §183C-7, HRS & §115, HRS)

Coastal property owners must ensure that beach transit corridors abutting their land be kept passable and free from human-induced, enhance, or unmaintained vegetation that interferes or encroaches upon beach transit corridors. The department shall maintain access within beach transit corridors by requiring private property owners to ensure that

¹ Provided the harm to the resource and offsite damage were minimal.

beach transit corridors abutting their lands shall be kept passable and free from the landowner's human-induced, enhanced, or unmaintained vegetation that interferes or encroaches in the beach transit corridors.

If any landowner fails to remove the induced, enhanced, or unmaintained vegetation within twenty-one days of notice being issued, the department shall take any action authorized under §183C-7, HRS as necessary to maintain access within beach transit corridors; provided that if the landowner contests the basis upon which the notice was issued prior to the expiration of the notice period, the department's enforcement actions under §183C-7, HRS shall be tolled until the final resolution of the contested matter.

The Department shall issue the first notice requesting removal of the encroaching vegetation. If there is no compliance within 21-days, the Department shall issue a second notice with a recommended monetary penalty of no less than \$1,000.00.

Additional Considerations and Factors

After Staff applies the Conservation District violation graduated penalty framework for minor or very minor harm to the resources, staff may incorporate several considerations into the final assessed conservation district penalty including but not limited to, factors identified in HAR, §13-1-70 Administrative Sanctions Schedule; Factors to be considered.

**Conservation District
Administrative Sanctions Table**

Item	Authority	Violation	Notice	Fine Very Minor Minor		Other Sanctions*
I	§183C-7, HRS	Identified Land Use	1st	Up to \$1,000	\$1001 to \$2,000	<ul style="list-style-type: none"> • Remediation • Removal • After the Fact SPA
II		Non-Identified Land Use	1st	Up to \$1,000	\$1001 to \$2,000	<ul style="list-style-type: none"> • Remediation • Removal
III		Vegetation Removal	1st	Up to \$1,000	\$1001 to \$2,000	<ul style="list-style-type: none"> • Remediation • After the Fact SPA • Board Determination
IV		Permit Noncompliance	1st	Up to \$1,000		<ul style="list-style-type: none"> • Board Determination

*No permit application shall be processed by the Department until any violations pending against the subject parcel are resolved.

Item	Authority	Violation	Notice	Fine	Other Sanctions*	
V	§115, HRS***	Encroaching Vegetation Within Beach Transit Corridors	1st	\$0	• Removal	
			2nd	\$1,000	• Removal	
	§183C-7, HRS		3rd	\$2,000	• Removal	
			4th		• Board Determination	

*No permit application shall be processed by the Department until any violations pending against the subject parcel are resolved.

***This statute will be repealed July 1, 2013. Violations shall be processed under §183C-7, HRS.

I. SUMMONS TO RESPONDENT

Pursuant to §199D-1, HRS, and §13-1-62, HAR, you are hereby summoned and required to submit an answer to this Notice within twenty-one (21) days from the date of service of this Notice. Submit your answer, payment, statement and/or evidence to DLNR/APO, 1151 Punchbowl Street, Room 130, Honolulu, Hawaii 96813, or at www.dlnr.hawaii.gov/apo. If you fail to answer within 21 days, a default decision for the relief demanded in this Notice will be entered against you, and you may be subject to additional actions without further notice to you.

J. ANSWER BY RESPONDENT (Required)

INSTRUCTIONS:

1. You have three options in answering this Notice. **CHOOSE ONLY ONE** and check the corresponding box below. Sign and date your answer and return it to the DLNR Administrative Proceedings Office (DLNR/APO) at the address listed above or answer at the website address listed above.
2. If you choose Option 1, include with your answer payment in the amount stated in the first column of Section E if you are answering within 21 days of receiving this Notice or in the amount stated in the second column if after 21 days. Make your check payable to State of Hawaii. For credit card payment, see attached envelope. You are also required to comply with all sanctions and requirements specified in Section F. Your case will be concluded.
3. If you choose Option 2, include with your answer a statement and evidence showing the mitigating circumstances. A hearing officer will review your request and render a decision without holding a hearing, and may adopt, modify or reverse any sanctions assessed in this Notice. This decision is final and may not be contested or appealed.
4. If you choose Option 3, include with your answer a statement and evidence showing the reasons of your contest. A Notice of Administrative Hearing will be mailed to you within 30 days of your answer.
5. If answer by mail, return this original page to DLNR/APO. Retain a copy of everything you submit for your records. For inquiries, contact DLNR/APO at (808) 587-1496, DLNR.CO.APO@hawaii.gov or www.dlnr.hawaii.gov/apo.

Option 1: Comply

- ☐ **I DO NOT contest this Notice, and have complied with all sanctions assessed herein.**

Option 2: Request Mitigation

- ☐ **I DO NOT contest this Notice, but request mitigation in the assessed sanctions.**

Option 3: Contest

- ☐ **I DO contest this Notice, and request an administrative contested case hearing.**

STATEMENT OF RESPONDENT: (Please type or write legibly. Use additional sheet if necessary.)

Print your name:

Signature:

Date:

Address:

Phone:

E-Mail: