

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

December 7, 2023

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

Request for Final Approval to Adopt a New Chapter Under Hawaii Administrative Rules as Title 13, Chapter 13-78, "Ocean Stewardship User Fee"

Submitted for your consideration and approval is a request to adopt Hawaii Administrative Rules (HAR) Title 13, Chapter 78 to implement the Ocean Stewardship User Fee pursuant to section 187A-52, Hawaii Revised Statutes (HRS). The new rules include provisions for a due date for collected fees to be transferred to the Department of Land and Natural Resources (Department), reporting and record keeping requirements for commercial operators, and applicable penalties for violations of the chapter.

PURPOSE

The purpose of this rulemaking action is to implement the Ocean Stewardship User Fee as required by [HRS §187A-52](#). This statutorily mandated program requires all commercial ocean operators that are required to have a Commercial Use Permit from the Division of Boating and Ocean Recreation (DOBOR) to collect a \$1.00 fee from each passenger or customer and to transmit these fees to the Department to use for the conservation, restoration, enhancement, and management of Hawai'i's marine resources. The proposed rules are described in detail in DAR's June 9, 2023 Board submittal (Item F-2), available online at <https://dlnr.hawaii.gov/wp-content/uploads/2023/06/F-2.pdf>.

BACKGROUND

In 2021, the Hawai'i State Legislature passed [House Bill 1019 HD2 SD2 CD1](#), which was subsequently signed into law as [Act 46 \(SLH 2021\)](#). More information about House Bill 1019, including all versions of the measure, committee reports, and public testimony, is available on the Hawai'i State Legislature website at https://www.capitol.hawaii.gov/session/archives/measure_indiv_Archives.aspx?billtype=HB&billnumber=1019&year=2021.

On April 27, 2023 DAR held an online stakeholder scoping meeting via Zoom to share information, answer questions, and solicit feedback on the proposed Ocean Stewardship User Fee rules. Prior to the meeting, DAR sent letters to all commercial

use permit holders of record inviting them to participate. Approximately 544 letters were sent by email and 80 by mail to addresses on file with the Department. Approximately 35 people attended the meeting.

On May 4, 2023, DAR held an in-person meeting with Honokohau fishing charter operators to discuss several upcoming proposed rules, including the Ocean Stewardship User Fee.

On May 26, 2023, DAR provided an informational briefing to the Board of Land and Natural Resources (Board) explaining the proposed Ocean Stewardship Rules, including background information, legal authority, and anticipated revenues and expenditures. A copy of this non-action item submittal (Item F-2) is available on the BLNR website at: <https://dlnr.hawaii.gov/wp-content/uploads/2023/05/F-2-1.pdf>.

On June 9, 2023, the Board approved the Department's request to hold statewide public rulemaking hearings pursuant to Hawaii Revised Statutes (HRS) chapter 91 to adopt HAR chapter 13-78, "Ocean Stewardship User Fee".

From July 25-27, the Department held three statewide public hearings via Zoom, with in-person host sites on Maui, Moloka'i, Lāna'i, Hawai'i island (Hilo and Kona), O'ahu, and Kaua'i. The Department accepted written testimony on the proposed rules from June 25, 2023 to August 4, 2023. The Department received a total of 72 testimonies (35 oral and 37 written) from 63 individuals and 4 organizations (four individuals and one organization provided duplicate testimonies). Of the 67 individuals or organizations providing testimony, 40 were in support of the proposed rules, 6 were in opposition, and 21 provided comments without clearly expressing support or opposition.

PUBLIC TESTIMONY

The vast majority of people that testified, even those in opposition to the proposed rules, expressed support for the general concept of collecting a fee from ocean users to support conservation, restoration, enhancement, and management of Hawai'i's ocean resources. Supporting testimony cited multiple benefits to marine resources, which included opportunities for stewardship in areas of high human use, opportunities to support community-based organizations in ocean stewardship, and the need for additional support to DAR to appropriately manage aquatic resources. Opposition testimony focused on the financial and administrative burden placed on commercial operators, the failure of the Department to adequately maintain boating facilities with funds already collected from commercial operators, and the lack of detailed implementation information in the proposed rules. Other comments expressed concern with the five-year sunset provision of the Ocean Stewardship Special Fund, requested transparency about User Fee revenues and expenditures, and suggested alternative mechanisms to collect revenues from ocean users. The minutes from the public hearings, the analysis of public hearings and testimony, and the written testimonies are

attached as **Exhibit 1**, **Exhibit 2**, and **Exhibit 3**, respectively. The recordings of the public hearings can be viewed on DAR's YouTube channel at: <https://www.youtube.com/@DLNR-DAR>.

RESPONSE TO PUBLIC TESTIMONY

DAR recognizes that the Ocean Stewardship User Fee may place an added financial and administrative burden on operators. Because the fee is mandated by statute, the fee requirement may neither be changed nor waived by rulemaking. However, DAR is incorporating stakeholder input in designing the fee transfer system to minimize the burden on operators. For transparency and accountability in the collection and expenditure of user fees, DAR will develop and maintain a public-facing dashboard and prepare annual reports. DAR has developed an Ocean Stewardship User Fee Overview and Spend Plan that provides more information about the program. This document is available on the DAR website at: [https://dlnr.hawaii.gov/dar/files/2023/09/Ocean Stewardship User Fee rev.pdf](https://dlnr.hawaii.gov/dar/files/2023/09/Ocean_Stewardship_User_Fee_rev.pdf).

Throughout the public scoping process and formal public hearings, DAR received suggestions for alternative mechanisms to collect fees from ocean users. These ranged from collecting a fee from all out-of-state visitors upon arrival in the state, which is not consistent with statutory requirements, to collecting the fee through the monthly statement of gross receipts (SGR) which commercial use permittees pay to DOBOR. DAR has consulted with DOBOR and determined that adding the Ocean Stewardship User Fee to DOBOR's monthly SGR would be infeasible due to the added administrative burden of accounting for these payments and transmitting them to DAR. To avoid commingling of DOBOR permit fees, which go toward operating, maintaining, and managing boating facilities and services, and DAR Ocean Stewardship User Fees, which will go toward marine resource conservation, restoration, and enhancement, DAR is providing a separate fee transfer system for operators to use.

KA PA'AKAI ANALYSIS

On September 11, 2000, the Hawaii Supreme Court (Court) ruled in *Ka Pa'akai O Ka 'Āina vs. Land Use Commission, State of Hawai'i*¹ (Ka Pa'akai) that State and government agencies have an obligation to "preserve and protect traditional and customary Native Hawaiian rights" and that an appropriate analytical framework was needed to assess whether these rights were unduly violated.² The Court developed a

¹ [Ka Pa'akai o ka 'Āina v. Land Use Comm'n \(Ka Pa'akai\), 94 Hawai'i 31, 7 p.3d 1068 \(2000\)](#) (Ka Pa'akai)

² "Following up on PASH, we recognized in Ka Pa'akai that in contested case hearings, the State and its agencies have an 'affirmative duty ... to preserve and protect traditional and customary native Hawaiian

three-pronged test, dubbed the “Ka Pa‘akai Analysis,” which is triggered when government agencies consider proposed uses of land and water resources that may impact the exercise of Native Hawaiian traditional and customary rights.

Although the Court stated that an agency’s constitutional obligation to reasonably protect Native Hawaiian traditional and customary practices was widely applicable to all agency actions, the Court did not opine as to whether the Ka Pa‘akai Analysis could or should be applied outside of contested case hearings. Then, on March 15, 2023, the Court ruled in *Flores-Case ‘Ohana v. University of Hawai‘i*³ (FCO) that the obligation described in Ka Pa‘akai not only applied to contested case hearings, but also to rulemaking actions.⁴ In doing so, the Court provided a modified Ka Pa‘akai Analysis to be used in rulemaking actions. The analysis outlined in FCO requires agencies to consider:

- (1) The identity and scope of Native Hawaiian traditional and customary rights affected by the rule, if any;
- (2) The extent to which Native Hawaiian traditional and customary rights will be affected or impaired by the rule; and
- (3) Whether the proposed rules reasonably protect Native Hawaiian traditional and customary rights, if they are found to exist, as balanced with the State’s own regulatory right.

Subsequently, the Department has provided the following analysis on this proposal’s effects on Native Hawaiian traditional and customary practices:

1) The Identity and Scope of Native Hawaiian Traditional and Customary Rights Affected by the Rule, if Any

DAR received three public testimonies commenting that the fees collected would or should support community stewardship, perpetuation of cultural knowledge and practices, and reducing the negative impacts of ocean tourism on cultural resources. DAR received one testimony stating that the proposed rules would negatively impact a commercial operation that prides itself in sharing cultural

rights’ and provided a framework ‘to effectuate the State’s obligation to protect native Hawaiian customary and traditional practices while reasonably accommodating competing private interests.’ [Flores-Case ‘Ohana v. University of Hawai‘i, 153 hawai‘i 76, at 83 \(2023\)](#) (quoting Ka Pa‘akai at 45-47, 1082-1084)

³ [Flores-Case ‘Ohana v. University of Hawai‘i, 153 hawai‘i 76, \(2023\)](#)

⁴ “In sum, the Ka Pa‘akai framework applies to administrative rulemaking in addition to contested case hearings. Requiring the State and its agencies to consider Native Hawaiian traditional and customary rights in these contexts effectuate[s] the State’s obligation to protect native Hawaiian customary and traditional practices[.]” [Flores-Case ‘Ohana v. University of Hawai‘i, 153 hawai‘i 76, at 84 \(2023\)](#)

Hawaiian heritage with visitors and has served the community for four decades. Hawai'i Courts have held that Native Hawaiian traditional and customary gathering rights may not be exercised for commercial purposes. It is unlikely that sharing cultural Hawaiian heritage as part of a commercial business operation would be considered a protected Native Hawaiian traditional and customary right.

2) Extent to Which Native Hawaiian Traditional and Customary Rights Will Be Affected or Impaired by the Rule

There were no Native Hawaiian traditional and customary practices identified that are affected by the proposal.⁵ To the extent that there may be traditional and customary Native Hawaiian rights affected by the proposed rules, the impact would be limited. The added burden of collecting an additional \$1.00 from paying customers would not have the effect of extinguishing a right or practice.

3) Reasonable Protections for Native Hawaiian Traditional and Customary Rights, if They are Found to Exist, as Balanced with the State's Own Regulatory Right

There were no Native Hawaiian traditional and customary practices identified that are affected by the proposal.⁶ Further, the proposed rulemaking action merely implements a requirement established by the Legislature. For statutorily mandated laws such as the proposed Ocean Stewardship User Fee rules, balancing of the State's regulatory rights with potentially impacted Native Hawaiian traditional and customary rights should be done at the Legislative level.

CHANGES TO PROPOSED RULES

No substantive changes are being made to the proposed rules based on the testimonies received through the public hearing process. A few non-substantive technical amendments are being made to the proposed rules based on further discussion with the Department of the Attorney General. Notably, a start date of January 1, 2024 is being added to the rules to clarify the statutorily defined implementation date of the user fee requirement. A redline draft of the updated proposed HAR Chapter 13-78 drafted in

⁵ "Where no Native Hawaiian right or practice is identified or implicated, the agency may say so in a short statement and the need for analysis ends there." [Flores-Case 'Ohana v. University of Hawai'i, 153 Hawai'i at 85 \(2023\)](#).

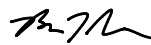
⁶ "Where no Native Hawaiian right or practice is identified or implicated, the agency may say so in a short statement and the need for analysis ends there." [Flores-Case 'Ohana v. University of Hawai'i, 153 Hawai'i at 85 \(2023\)](#).

Ramseyer format is attached as **Exhibit 4**. A clean version of the updated proposed rules drafted in Ramseyer format is attached as **Exhibit 5**.

RECOMMENDATIONS:

“That the Board give final approval to adopt Hawaii Administrative Rules Chapter 13-78, Ocean Stewardship User Fee, as set forth in **Exhibit 5** attached hereto.”

Respectfully submitted,



BRIAN J. NEILSON, Administrator
Division of Aquatic Resources

APPROVED FOR SUBMITTAL



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

Attachments:

- Exhibit 1 – Public Hearing Minutes
- Exhibit 2 – Analysis of Public Hearings and Testimony
- Exhibit 3 – Written testimonies
- Exhibit 4 – Redline Draft Proposed HAR chapter 13-78 (Ramseyer format)
- Exhibit 5 – Clean Draft Proposed HAR chapter 13-78 (Ramseyer format)

Item F-1, Exhibit 1

MEETING MINUTES OF PUBLIC HEARINGS ON OCEAN STEWARDSHIP USER FEE

HAWAII ADMINISTRATIVE RULES CHAPTER 13-78

MEETING LOCATIONS

Maui, Moloka'i, and Lāna'i *

Tuesday, July 25, 2023, 5:30-8:30 pm

- **Location Maui:** Maui DAR Office, 130 Mahalani Street, Wailuku, Hawai'i 96793 Kūlana 'Ōiwi, 600 Maunaloa Highway, Kaunakakai, Hawai'i 96748
- **Location Lāna'i:** Division of Boating and Ocean Recreation – Lāna'i Office, Mānele Small Boat Harbor, Mānele Harbor Road, Lāna'i City, Hawai'i 96763
- YouTube livestream link: <https://www.youtube.com/watch?v=A1CfzXfR9x0>

Hawai'i Island *

Wednesday, July 26, 2023, 5:30-8:30 pm

- **Location East Hawaii:** Aupuni Center Conference Room, 101 Pauahi Street, Suite #1, Hilo, Hawai'i 96720
- **Location West Hawaii:** West Hawai'i Civic Center – Community Meeting Hale, 74-5044 Ane Keohokālole Highway, Kailua-Kona, Hawai'i 96740
- YouTube livestream link: <https://www.youtube.com/watch?v=3sgvu0QdpEE>

O'ahu and Kaua'i *

Thursday, July 27, 2023, 5:30-8:30 pm

- **Location Oahu:** Stevenson Middle School Cafeteria, 1202 Prospect Street, Honolulu, Hawai'i 96822
- **Location Kauai:** Līhu'e Neighborhood Center, 3353 'Eono Street, Līhu'e, Hawai'i 96766
- YouTube livestream link: <https://www.youtube.com/watch?v=h8VziWPyqjg>

*Note: This public hearing was a virtual/in-person hybrid meeting. In-person meeting locations were offered in addition to the virtual (Zoom) option.

Public Hearing Minutes

INTRODUCTION

A: Opening

Aloha and mahalo for joining. My name is David Sakoda, and I am the Fisheries Program Manager for the State of Hawai'i Department of Land and Natural Resources' Division of Aquatic Resources; I will be conducting tonight's public

hearing along with the DAR staff at our in-person host sites. It is now (5:33pm Maui Nui hearing 7/25/23) (5:33pm Hawaii Island hearing 7/26/23) (5:33pm Oahu and Kauai hearing 7/27/23) and this Public Hearing is called to order.

This is a formal Public Hearing on the proposed adoption of a new chapter: Hawaii Administrative Rules (HAR) Chapter 13-78, entitled, "Ocean Stewardship User Fee." The primary purpose of this new chapter is to establish rules implementing the Ocean Stewardship User Fee that was established by the Hawai'i State Legislature in 2021 through Act 46 and codified in section 187A-52, Hawaii Revised Statutes.

As required by law, the proposed rules have been drafted in Ramseyer format, copies of which can be found in the "announcements" section of the DAR website. Those attending the meeting in person may ask DAR staff for a copy.

B: Purpose of Public Hearing

The purpose of this hearing is to provide the public the opportunity to provide comments in the form of oral and written testimony on these proposed amendments.

C: Approvals for Public Hearing

Approvals to conduct this public hearing were obtained from the Board of Land and Natural Resources at their board meeting on June 9, 2023.

D: Notice of Public Hearing

The Legal Notice of this public hearing was published in the June 24, 2023 Saturday issues of The Garden Island and West Hawai'i Today newspapers and in the June 25th, 2023 Sunday issues of the Honolulu Star Advertiser and Hawai'i Tribune Herald.

Additionally, notice of this public hearing was posted on the Draft Rules and Public Notices page of the DAR website (where digital copies of the draft rules in Ramseyer format can be found) as well as posted on the Announcements page of the DAR website.

E: Public Hearing Procedures

First, we will watch a short video explaining the proposed changes to the administrative rules. We will then begin the public testimony period which will be conducted as follows:

1. Everyone testifying via Zoom was required to pre-register in order to get the link to testify. We will keep registration open throughout the public hearing and will monitor our e-mail in case anyone has trouble registering or joining the Zoom meeting to provide their testimony. However, if you are unable to join via Zoom, you may still provide oral testimony at one of the in-person hearing locations listed in this slide or you may submit written testimony by following the directions at the bottom of this slide.

2. Everyone testifying in-person at one of the host sites should have written their information down on the sign in sheet provided at the host site. Those attending in-person who have not registered but would like to provide testimony can alert the DAR public hearing officer at your in-person site at this time and your name will be added to the list. It is important that everyone who wishes to testify provide their name and contact information so we have an accurate record of everyone providing testimony.
3. You will be called upon by a member of the DAR staff when it is your turn to testify. We ask that all individuals attending virtually keep their microphones muted when not speaking. We will take testimony in the following order:
 - First, we will take in-person testimony from people who have been signed up to testify beginning in Lānaʻi, then Molokaʻi, then Maui;
 - Once all in-person testimony is gathered, we will take Zoom testimony;
 - I will then take testimony from anyone else wishing to provide testimony that was not called upon;
 - Last, if we have additional time, I will allow those wishing to provide additional testimony to do so.
 - Please keep your testimony brief and on the subject to allow everyone the opportunity to testify. Each person providing testimony will be given three minutes. Please be aware that if you go beyond three minutes, I will kindly ask you to conclude your testimony.
 - We are recording this hearing to make a written record, so please state your full name before giving your testimony. Make sure to speak clearly so we accurately record your testimony for the record. Please turn off the live YouTube stream of this hearing while testifying as it will cause an echo.
 - Please remember to respect the opinions of all testifiers and that this hearing is not an opportunity for accusations or rebuttals. There may be differing opinions. Everyone will have an opportunity to voice their opinion for the department to consider.
 - All testimony should be directed to me, not to the audience.
 - Please note that this hearing is simultaneously being streamed on YouTube. The live stream will be recorded and preserved on YouTube as a matter of public record. Please be aware that by offering your oral testimony today, you are consenting to being audio and video recorded if your camera is on.

BACKGROUND

A: Legal Authority

Let's begin with a short video on the background explaining the proposed administrative rules. Hawaii Administrative Rules Chapter 13-78, "Ocean Stewardship User Fee" Background and Legal Authority

In 2021, the Hawai'i State Legislature introduced House Bill 1019 as part of DLNR's Administration Bill Package. In the bill, the Legislature recognized the ecological, economic, and cultural value of Hawai'i's ocean waters and marine resources to the State. It also noted that the increasing popularity of marine ecotourism requires greater measures to ensure the continued health of marine ecosystems and that DLNR may need a more consistent and reliable funding source to manage, protect, and restore marine resources throughout the State. To address this need, House Bill 1019 proposed to establish an Ocean Stewardship Special Fund and to authorize DLNR to adopt rules pursuant to the Chapter 91 rulemaking process to establish non-resident user fees for the use and enjoyment of the State's ocean resources.

On June 8, 2021, then Governor David Ige signed the measure into law as Act 46 (SLH 2021) which was later codified into the Hawaii Revised Statutes under HRS §187A-51 (Ocean Stewardship Special Fund) and 187A-52 (Ocean Stewardship User Fee).

The new law requires all Commercial Use Permit holders to collect an ocean stewardship user fee from each passenger carried or customer served beginning on January 1, 2024; provided that the fee shall be \$1 per passenger or customer deposited into the Ocean Stewardship Special Fund established pursuant to HRS §187A-51 and requires the department to adopt rules to implement the new fee requirement.

B: Potential Uses

The department has received questions regarding how the moneys collected will be used. HRS §187A-51(c) establishes the authorized uses for the Ocean Stewardship Special Fund. The statute allows the moneys deposited into the Ocean Stewardship Special Fund to be used to:

1. Develop and carry out marine resource conservation, restoration, enhancement, research, regulatory measures, enforcement actions, educational activities, or any other management measure intended to conserve, restore, and enhance State marine resources;
2. Develop and carry out restoration and compensatory mitigation measures for impacts to the marine environment, including impacts to the marine environment from federal or state permitted actions, or aquatic resource violations; and
3. Install, maintain, and replace day use mooring buoys and other infrastructure to reduce impacts to the marine ecosystem.

C: The Division of Aquatic Resources Anticipated Uses

Subsequently, based on feedback during public scoping, DAR plans to use Ocean Stewardship User Fee revenues for a number of projects and programs including but not limited to:

1. Habitat Restoration, including coral reefs and estuaries
2. Invasive species prevention and removal
3. Water quality research and monitoring
4. Marine debris removal
5. Enhanced monitoring of marine habitat and resources
6. Establishing a statewide program to install inspect, maintain, and replace day-use mooring buoys
7. Development of materials and trainings to educate visitors on the cultural, historical, and ecological importance of the various marine resources they interact with, as well as best practices to minimize their impacts

DRAFT RULES

Now that we provided some background on the Ocean Stewardship User Fee and Ocean Stewardship Special Fund, we will review the draft rules that are the basis of this public hearing: Hawaii Administrative Rules Chapter 13-78, entitled, "Ocean Stewardship User Fee"

A: Definitions

Section 1 is the definitions section and includes are the pertinent definitions for the chapter. The following definitions are included within this section:

1. "Commercial operator" means a person that is required to have, a commercial operator permit or commercial use permit pursuant to section 13-256-3.
2. "Commercial operator permit" means a permit described in section 13-256-3, now known as a "commercial use permit".
3. "Commercial vessel" means a vessel engaged in any trade, business, or commercial activity, including, but not limited to, carrying passengers for hire, charter fishing, bare boat (demise) or any type of charter maintenance, harvesting coral or similar resources, construction, towing, tow-boating, or other trade or business wherein the vessel is used in any manner to promote the venture, or is registered with the State or documented by the United States Coast Guard for commercial use.
4. "Customer" means an individual using the services of a commercial use permit holder.
5. "Department" means the department of land and natural resources.
6. "Passenger" means an individual onboard a vessel other than the master, members of the crew, or other persons employed in the business of the vessel.
7. "Person" means an individual, partnership, firm, company, corporation, association, or other entity.
8. "State" means the State of Hawaii.
9. "Vessel" means all description of watercraft, used or capable of being used as a means of transportation on or in the water, except a seaplane.

B: Ocean Stewardship User Fee

Section 2, subsections (a) through (c), essentially restate the relevant Ocean Stewardship User Fee requirements set forth in HRS §187A-52. It states:

1. All operators of commercial vessels, watercraft, or water sports equipment that are required to have a commercial operator permit or commercial use permit pursuant to section 13-256-3 shall collect an ocean stewardship user fee from each passenger carried or customer served.
2. The ocean stewardship user fee shall be \$1 per passenger or customer.
3. Fees collected pursuant to this section shall not be counted toward gross revenues for purposes of section 200-10(c)(5), HRS.
4. All fees collected pursuant to this section shall be transferred to the department on or before the last day of the month following the month in which the fees were collected.

Subsection 2(e) establishes a monthly reporting requirement for commercial operators to report the total number of passengers carried or customers served during the month covered by the report. This information is necessary to calculate the amount of collected user fees that must be transferred to DLNR.

The report will also collect information about the general location of the operator's commercial activity, as well as the nature or type of commercial activity. This information can assist DLNR in deciding how user fee revenues should be allocated.

Subsection 2(f) requires commercial operators to maintain records of the daily number of passengers carried or customers served for at least twenty-four months and to make them available for inspection by DLNR upon request. This provides a mechanism for DLNR to conduct audits to ensure compliance with user fee requirements.

C: Penalties – Generally

Section 3 describes the statutorily authorized penalties that will apply for violations of this chapter. It states that

any person violating any provision of this chapter shall be subject to:

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

Section 3(b) also states that unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of the State.

D: Severability

Last, Section 4 is a severability clause, which is a standard inclusion when new administrative rules are proposed.

PUBLIC TESTIMONY

We have now reached the testimony portion of this public hearing.

You will be called upon by a member of the DAR staff when it is your turn to testify. We ask that all individuals attending virtually keep their microphones muted when not speaking. As I mentioned earlier, we will take testimony in the following order:

1. First, we will take in-person testimony from people who have been signed up to testify beginning in (Lānaʻi, then Molokaʻi, then Maui) (East Hawaii then West Hawaii) (Kauai then Oahu)
2. Once all in-person testimony is gathered, we will take Zoom testimony.

REMINDER: Please keep your testimony to 3 minutes in order to ensure that everyone who signed up has a chance to give testimony. If there is extra time at the end of everyone on the list and you would like more time to testify, we will allow those who already spoke to give additional testimony. I will now stop sharing my screen so everyone providing testimony can be clearly seen.

1. We will begin with any in-person testimony.
[DAR staff on location will call testifiers in the order they signed up to testify]
2. Next we will take Zoom testimony.
[Call testifiers in the order they signed up to testify]

Maui Nui:

- Support: 2
- Did not indicate support or opposition: 2
- Oppose: 1

Hawaii Island:

- Support: 4
- Did not indicate support or opposition: 4
- Oppose: 3

Oahu and Kauai:

- Support: 4
- Did not indicate support or opposition: 14
- Oppose: 1

Are there any others who have not testified and wish to do so now?

- None indicated Maui Nui
- None indicated Hawaii Island

- None indicated Oahu and Kauai

Is there anyone who has testified that wishes to provide additional testimony?

- None indicated Maui Nui
- None indicated Hawaii Island
- None indicated Oahu and Kauai

MEETING CLOSING

A: Additional Comments

Persons unable to attend today or wishing to present additional comments, may mail written testimony to us by August 4, 2023.

Please mail testimonies to:

Department of Land and Natural Resources
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813

Written testimony may also be submitted by email to DLNR.aquatics@hawaii.gov

B: Decision making on the process

This is the projected timeline for these rules after this public hearing. The dates are estimates assuming that no significant changes to the proposal need to be made based on the testimony received.

Based on the testimonies presented, the Department will submit its findings and recommendations to the Board of Land and Natural Resources. If approved by the Board, the Department of the Attorney General will conduct a final legal review. If approved, the proposed rules will be given to the Governor for his final approval. Should the Governor grant approval, certified copies will be filed with the Lt. Governor's office, and after 10 days, it becomes effective as law.

Are there any questions regarding this process?

- None indicated Maui Nui
- None indicated Hawaii Island
- None indicated Oahu and Kauai

C: Adjournment

On behalf of the Board of Land and Natural Resources and DAR, thank you for attending this public hearing. It is now (6:27pm Hawaii Island) (6:16pm Maui Nui) (6:57pm Oahu and Kauai). and this public hearing is now adjourned. Thank you for taking time out from your day to participate in this public hearing.

Item F-1, Exhibit 2

ANALYSIS OF PUBLIC HEARINGS AND TESTIMONY ON OCEAN STEWARDSHIP USER FEE

HAWAII ADMINISTRATIVE RULES CHAPTER 13-78

BACKGROUND:

In June 2021, Hawai'i's Governor signed Act 46 into law establishing an Ocean Stewardship Special Fund and authorizing the Department of Land and Natural Resources (DLNR) to collect an Ocean Stewardship User Fee for the use and enjoyment of the State's ocean resources. In creating the Ocean Stewardship User Fee, the Legislature noted that Hawai'i's ocean waters and the marine resources contained within are some of the State's most ecologically, economically, and culturally valuable environmental assets. The Legislature also noted that the increasing popularity of marine ecotourism requires greater measures to ensure the continued health of marine ecosystems and that DLNR may need a more consistent and reliable source of funding to manage, protect, and restore marine resources throughout the State. The collection of Ocean Stewardship User Fees will help DLNR and its Division of Aquatic Resources (DAR) more effectively manage the State's marine resources.

Overall, DAR received 35 oral testimonies via Zoom or in-person at seven public hearing locations throughout the Main Hawaiian Islands on Moloka'i, Lāna'i, Maui, East Hawai'i, West Hawai'i, Kaua'i, and O'ahu. DAR also received 37 written testimonies. Of the 72 total testimonies, 67 were from unique individuals or organizations and 5 were duplicates. 40 testimonies were in support, 6 testimonies were in opposition, and 21 testimonies provided comments, but did not clearly indicate either support or opposition. Details, including comments and recommendations from the testimonies received, are described in the sections below.

TESTIMONY IN SUPPORT:

40 testifiers publicly testified orally or in writing (or both) to express support for the proposed Hawaii Administrative Rules (HAR) Chapter 13-78. These testifiers cited multiple benefits to marine resources, which included opportunities for stewardship in areas of high human use, opportunities to support community-based organizations in ocean stewardship, and the need for additional support to DLNR-DAR to appropriately manage aquatic resources. Testifiers in support provided multiple comments and recommendations, which are summarized below.

- a) 10 testifiers stated that they would support an increase from \$1.00 and would like to see a larger fee per person. Some testifiers listed explicit amount increases like \$5.00 and \$10.00, while others suggested an increase more broadly.
- b) 25 testifier made suggestions on how the funds should be used, including:

- 1) 1 testifier stated that they would like to see marine debris programs funded.
- 2) 20 testifiers suggested funds support community-based marine resource management and direct community collaboration.
- 3) 1 testifier expressed interest in supporting the Makai Watch Program
- 4) 2 testifier expressed interest in supporting programs already in existence (listed examples include reef safe sunscreen programs, blue water task force, and Malama Kai Foundation)
- 5) 1 testifier expressed interest in supporting marine education.
- 6) 1 testifier expressed interest in supporting water quality programs.
- c) 5 testifiers suggested that the revenue generated in a specific location should directly contribute to projects benefiting that location, keeping funds local to the area they are generated.
- d) 9 testifiers suggested that DAR publicly track program expenditures through regular updates to improve program transparency and accountability.
 - 1) 1 testifier suggested a public process for determining project priorities.
- e) 1 testifier suggested streamlining with the Division of Boating and Ocean Recreation's (DOBOR's) gross receipt report to minimize the administrative burden on commercial operators.
- f) 3 testifiers expressed concerns with the Ocean Stewardship Special Fund sunseting and after 5 years entering general fund revenue for the State.
- g) 2 testifiers expressed concern over the implication of taxes and credit card charges, and how these will impact the revenue generated for the Ocean Stewardship User Fee
 - 1) 1 testifier expressed a need for an exemption via G-45 tax form to alleviate potential risk of paying taxes on revenue generated from the Ocean Stewardship User Fee
- h) 1 testifier suggested that funds only go towards paying customer experiences, not pro bono volunteer or education uses.
- i) 1 testifier suggested a community advisory panel is established to oversee allocation of funds generated.
- j) 1 testifier suggested that commercial operators participating in the Ocean Stewardship User Fee clearly mark vessels, partially to support enforcement.
- k) 1 testifier stated they already contribute funds to the State via 3% of generated revenue to maintain harbor facilities and enforcement, and the State does not deliver on this revenue generated.
- l) 1 testifier expressed interest in education to create something structured.
- m) 1 testifier suggested that residents should not have to pay into this User Fee

TESTIMONY WITH NO INDICATION OF SUPPORT OR OPPOSITION:

21 testifiers publicly testified orally or in writing (or both) to provide comments on the proposed HAR Chapter 13-78 with no explicit support or opposition identified. These testifiers had mixed feelings on the implementation of the rules and expressed recommendations based on the lack of transparency in use of funds, presence of illegal

operators not participating in the User Fee, and the administrative burden on commercial operators. Testifiers that did not clearly express support or opposition provided multiple comments and recommendations, which are summarized below.

- a) 11 testifiers expressed concern over transparency of fund uses and the need to ensure that funds go toward marine resource management.
- b) 2 testifiers stated confusion over the Office of Hawaiian Affairs (OHA) revenue allocation (one person submitted testimony twice on the same topic, but clearly a different email)
- c) 1 testifier stated that tourists are already overburdened with fees
- d) 1 testifier expressed interest in ecotourism initiatives
- e) 1 testifier expressed a need to define customer, passenger, and others to clarify the fees and their application
- f) 1 testifier urged the exclusion of Native Hawaiian residents from having to pay into the Ocean Stewardship User Fee
- g) 1 testifier expressed concern over the implication of taxes, credit card charges, and how these will impact the revenue generated for the Ocean Stewardship User Fee
- h) 1 testifier expressed interest in an online accounting system
- i) 1 testifier expressed concern over the course of action for the fee if the commercial operator has to cancel an experience due to unforeseen circumstances (e.g., weather)
- j) 5 testifiers stated they already contribute funds to the State via 3% of generated revenue to maintain harbor facilities, and the State does not deliver on this revenue generated
 - 1) 4 testifiers stated frustration with illegal commercial operators
 - 2) 1 testifier suggested this stewardship fee be generated from the 3% already collected by DOBOR
- k) 1 testifier expressed concerns with the Ocean Stewardship Special Fund sunseting and after 5 years entering general fund revenue for the State.
- l) 2 testifiers suggested that instead of collection from commercial operators, visitors should be taxed when they enter Hawai'i.
- m) 1 testifier requested specific information on specific penalties or late fees for lack of compliance with the Ocean Stewardship User Fee
- n) 1 testifier is concerned about the administrative burden of collecting the User Fee and requests alleviating that administrative burden
- o) 1 testifier expressed concern over the implication of taxes and credit card charges, and how these will impact the revenue generated for the Ocean Stewardship User Fee
- p) 1 testifier expressed a need for clarity on enforcement of this User Fee
- q) 1 testifier disagreed that surf and catamaran related commercial operators should have to participate in the Ocean Stewardship User Fee
- r) 1 testifier would like to see how DAR and DOBOR will collaborate on this User Fee

- s) 1 testifier suggested the revenue generated in a specific location directly contribute to projects benefiting that location, keeping funds local to the area they are generated.

TESTIMONY IN OPPOSITION:

6 testifiers publicly testified orally or in writing (or both) to express opposition for the proposed HAR Chapter 13-78. These testifiers generally supported the concept of collecting a fee to support Ocean Stewardship, but cited multiple concerns related to the administrative burden placed on commercial operators, lack of transparency in use of funds, lack of action from other DLNR agencies such as DOBOR to maintain facilities with funds already collected from commercial operators, and confusion over the inclusion of OHA ceded land revenue. Testifiers in opposition provided multiple comments and recommendations, which are summarized below.

- a) 1 testifier stated that tourists are already overburdened with fees.
- b) 1 testifier stated confusion over the OHA revenue allocation.
- c) 2 testifiers disagreed that surfing related commercial operators should have to participate in the Ocean Stewardship User Fee
- d) 1 testifier expressed frustration with illegal commercial operators not having to pay into this User Fee
- e) 5 testifiers stated they already contribute funds to the State via 3% of generated revenue to maintain harbor facilities and enforcement, and the State does not deliver on this revenue generated
- f) 1 testifier suggested that funds bypass the government and DLNR-DAR and go directly to a non-profit to distribute the funds
- g) 1 testifier suggested that funds only go towards paying customer experiences, not pro bono volunteer or education uses.
- h) 3 testifiers expressed concerns with the Ocean Stewardship Special Fund sunseting and after 5 years entering general fund revenue for the State.
- i) 1 testifier suggested this stewardship fee be generated from the 3% already collected by DOBOR

Item F-1, Exhibit 3

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] \$1.00 ocean fee.....
Date: Tuesday, July 25, 2023 2:25:32 PM

-----Original Message-----

From: Rita Shockley [REDACTED]
Sent: Tuesday, July 25, 2023 8:04 AM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] \$1.00 ocean fee.....

I am not in favor of charging more fees for using the ocean. Tourist are being hammered with “fees” at every turn. I don’t understand why HOA would be receiving money? How did they get in the mix. When ever there is a pot of money seems everyone has their hands out. If you do this it needs to have controls on where and to whom the money goes. It looks like a pot of gold to some people. Just get in there for a slice of the pie.

Rita Shockley

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL]
Date: Tuesday, July 25, 2023 2:25:07 PM

From: NInon Rynerson [REDACTED]
Sent: Tuesday, July 25, 2023 7:33 AM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL]

Concerning the user fee \$1 is a modest amount that could be passed on to those served and I hope everyone will be glad to pay and to give back to help create funds to clean up the ocean thank you so much from n rynerson taxpayer on the island of Oahu

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Bill to impose ocean use fee
Date: Wednesday, July 26, 2023 1:32:18 PM

From: Mehana Vaughan [REDACTED]
Sent: Wednesday, July 26, 2023 12:15 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Bill to impose ocean use fee

Aloha, I am writing to testify on the bill to impose an ocean use fee for commercial and tour operators of one dollar per person. Two things. 1) Why has this taken so long. Our oceans and coastlines are a public resource and they need care. Anyone commercially benefitting should contribute substantially to their care, or their business occurs on the backs of Hawai'i's people and environment. 2) Why is the fee so little? Ten dollars per person is much more reasonable and powerful in funding the much needed work of DAR and others to care for coastal and ocean areas.

In Hawai'i we perpetually undervalue our environment, and in so doing, our selves. In most other parts of the world, (our 'ohana just returned from Kenya) visitors or anyone paying to recreate in coastal or ocean waters pays a hefty fee, not just to their tour operator but to government agencies responsible for caring for those places. It is common practice and common sense.

Thank you so much,
Mehana Vaughan

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Friendly suggestion
Date: Tuesday, July 25, 2023 2:29:38 PM

From: Rebecca Canright [REDACTED]
Sent: Tuesday, July 25, 2023 1:45 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Friendly suggestion

*Aloha Chair Chang and members of the BLNR,
Greetings! As a young person, I care a lot about protecting our marine ecosystems and beautiful diverse species.
The Ocean Stewardship Fees have the potential to generate much needed funds to support Hawai'i's marine conservation and protection, and importantly the Department of Land and Natural Resources's work.*

I support the proposed rules and kindly suggest that a portion of the fees be used to support community-based marine resource management and/or support increasing the Division of Aquatic Resources's capacity to collaborate directly with communities.

*Thank you for this opportunity to testify on this important matter.
Take care, Rebecca*

--

Frigate birds fly for months over the ocean and can engage in both regular sleep and use half their brain at a time to sleep during soaring or gliding flight.



Compassion for all creatures great and small.

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Hawaii Administrative Rules (HAR) chapter 13-78, establishing provisions for the Ocean Stewardship User Fee
Date: Tuesday, July 25, 2023 2:27:48 PM

From: Holly Crane [REDACTED]
Sent: Tuesday, July 25, 2023 12:17 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Hawaii Administrative Rules (HAR) chapter 13-78, establishing provisions for the Ocean Stewardship User Fee

Aloha,

I am writing to provide written testimony with regards to Hawaii Administrative Rules (HAR) chapter 13-78, establishing provisions for the Ocean Stewardship User Fee. My husband and I created, own and operate Anelakai Adventures out of Keauhou Bay. We are purely paddle power and offer Hawaiian Double Hull Canoe Tours as well as kayak tours. Our goal has always been to set an industry standard for truly sustainable and culturally sound tourism, and we support any effort for ocean conservation and protection.

We support the establishment of the Ocean Stewardship Fee and feel that all companies operating commercially should contribute to the protection of the resources that sustain them. The only question that we have is how to ensure that the monies collected on Hawai'i Island will go toward the protection and conservation of Hawai'i Island. It would be wonderful to be able to see and track how the fee is being implemented on each island, and that information could even potentially be shared with the passengers/guests/visitors that are paying the fee. The more awareness that can be raised among locals and visitors alike, the better.

Thank you for the opportunity to provide testimony and for your time and consideration.

Mahalo,

Holly Crane
Anelakai Adventures

[REDACTED]
<https://www.anelakaiadventures.com>

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] I support ocean stewardship fees
Date: Tuesday, July 25, 2023 2:23:15 PM

From: Kiele Akana-Gooch [REDACTED]
Sent: Monday, July 24, 2023 6:19 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] I support ocean stewardship fees

Aloha Chair Chang and members of the BLNR,

The Ocean Stewardship Fees have the potential to generate much needed funds to support Hawaii's marine conservation and protection, and importantly the Department of Land and Natural Resources's work in doing such work.

I support the proposed rules and kindly suggest that a portion of the fees be used to support community-based marine resource management and/or support increasing the Division of Aquatic Resources's capacity to collaborate directly with communities.

Thank you for this opportunity to testify on this important matter.

Sincerely,
Keiko Gonzalez

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] In support of Ocean Stewardship Fee
Date: Tuesday, July 25, 2023 2:22:52 PM

From: Donna [REDACTED]
Sent: Monday, July 24, 2023 5:45 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] In support of Ocean Stewardship Fee

I am writing in support of the Ocean Stewardship Fee, although I feel \$1 is not enough actually. Many companies and people who use the oceans are not aware of their impact on the sealife, ocean floor, and even the infrastructure that needs to be maintained for their use.

I realize Hawaii needs tourism but the island needs our love and care. Even by imposing this fee people can be made aware of the need to manage our use and how much support it needs.

Thank you,
Donna Lum
Honolulu

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] LIVE NOTE: Regarding the Fee to support marine conservation.
Date: Tuesday, July 25, 2023 2:24:49 PM
Attachments: [oq-image-placeholder-blank.png](#)

From: John Shockley [REDACTED]
Sent: Tuesday, July 25, 2023 6:56 AM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Cc: Rita Shockley [REDACTED]
Subject: [EXTERNAL] LIVE NOTE: Regarding the Fee to support marine conservation.

Aloha!

The “special fee” sounds good in theory but has some negative sides that we can see. How is the Office of Hawaiian Affairs getting their hands on the money collected for marine preservation? Who will control this new “designated fund?” Will they have any transparency or oversight. If so, who will do the watch-dog work to see the money is not diverted away from ocean conservancy?

If these issues are not addressed BEFORE the fee is in place, we suspect too many negatives will make what sounds like a “good idea” turn into potential bureaucratic side-tracking.

Another thing: Hawaii is hitting up tourists with so many other “fees”, this could just be the one that turns the tide on Hawaii being the place of Aloha for many.

Mahalo for your time!

John & Rita Shockley. Coordinators: Free Access Coalition.

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Ocean Stewardship Fee Testimony Submission
Date: Monday, July 31, 2023 8:44:59 AM

From: Scott Bacon [REDACTED]
Sent: Thursday, July 27, 2023 7:21 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Ocean Stewardship Fee Testimony Submission

Aloha,

I would like to submit testimony for the Ocean Stewardship Fee Chapter 13-78

I am in favor of paying an ocean user fee of \$1 per customer to fund ocean conservation efforts to preserve the marine ecosystem. As an ocean user I am happy to give back to conservation efforts that help sustain the natural beauty and natural resources. A healthy and vibrant marine ecosystem is the foundation of my business's continued success.

As part of this Rule, I would like to see the fee collection method streamlined and combined with the commercial user fee gross receipt report that I submit each month. This method would make it simple and easy for me to fill out one form and submit one payment monthly, instead of having a separate method of payment.

I would also like the funds collected to be kept on the island where they were collected and allocated to marine ecosystem conservation efforts on the island where they funds were raised.

I also recommend that an annual report be provided to all ocean stewards that are contributing. This annual report will show how much funds were collected and to what conservation projects they were allocated.

Thank you for your consideration of these recommendations.

--

Mahalo
Scott Bacon
[Kauai Scuba Adventures](#)
[REDACTED]
<https://kauaiscubaadventures.com>

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Ocean Stewardship Fees
Date: Monday, July 31, 2023 10:25:56 AM

From: d g [REDACTED]
Sent: Monday, July 31, 2023 9:18 AM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Ocean Stewardship Fees

Yes, please! This nominal charge per watercraft/vessel user would be a great beginning in ocean conservation. The sea is our most important feature and we want to care for it as much as possible!

Please implement the Ocean Stewardship Fees.

Thank you very much!

Danielle Guion
[REDACTED]
Makakilo, Hawaii

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Ocean Stewardship Fees
Date: Monday, July 31, 2023 9:09:55 AM

From: Michele A. Halligan [REDACTED]
Sent: Saturday, July 29, 2023 2:49 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Ocean Stewardship Fees

Aloha Chair Chang and members of the BLNR,

The Ocean Stewardship Fees have the potential to generate much needed funds to support Hawai'i's marine conservation and protection, and importantly the Department of Land and Natural Resources' work in doing such work.

As a former resident of Maui, I support the proposed rules and kindly suggest that a portion of the fees be used to support community-based marine resource management and/or support increasing the Division of Aquatic Resources's capacity to collaborate directly with communities.

Thank you for this opportunity to testify on this important matter.

*Sincerely,
Michele Halligan
Aptos, CA*

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Ocean Stewardship Fees
Date: Thursday, July 27, 2023 9:11:32 AM

From: Amre Klimchak [REDACTED]
Sent: Thursday, July 27, 2023 4:23 AM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Ocean Stewardship Fees

Aloha Chair Chang and members of the BLNR,

The Ocean Stewardship Fees have the potential to generate much needed funds to support Hawai'i's marine conservation and protection, and importantly the Department of Land and Natural Resources's work in doing such work.

I support the proposed rules and kindly suggest that a portion of the fees be used to support community-based marine resource management and/or support increasing the Division of Aquatic Resources's capacity to collaborate directly with communities.

Thank you for this opportunity to testify on this important matter.

Sincerely,
Amre Klimchak

--

Amre Klimchak | Writer and Mindful Educator | [REDACTED]

Twitter: <https://twitter.com/amreklimchak>

Instagram: <https://www.instagram.com/amreklimchak/>

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Ocean Stewardship Fees
Date: Tuesday, July 25, 2023 2:28:01 PM

-----Original Message-----

From: Jennifer Valentine [REDACTED]
Sent: Tuesday, July 25, 2023 12:19 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Ocean Stewardship Fees

Aloha Chair Chang and members of the BLNR,

The Ocean Stewardship Fees have the potential to generate much needed funds to support Hawai'i's marine conservation and protection, and importantly the Department of Land and Natural Resources's work in doing such work.

I support the proposed rules and kindly suggest that a portion of the fees be used to support community-based marine resource management and/or support increasing the Division of Aquatic Resources's capacity to collaborate directly with communities.

Thank you for this opportunity to testify on this important matter.

Sincerely,
j valentine

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Ocean Stewardship Fees
Date: Tuesday, July 25, 2023 2:23:04 PM

From: Gloria Charland [REDACTED]
Sent: Monday, July 24, 2023 6:03 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Ocean Stewardship Fees

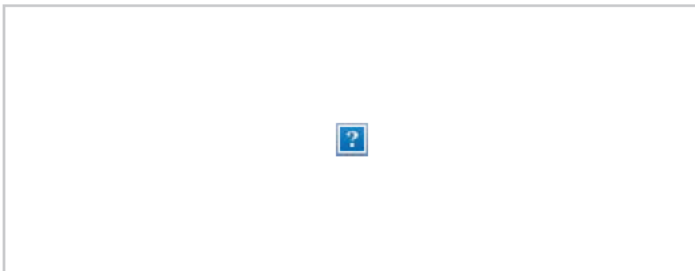
Aloha Chair Chang and members of the BLNR,

The Ocean Stewardship Fees have the potential to generate much needed funds to support Hawai'i's marine conservation and protection, and importantly the Department of Land and Natural Resources's work in doing such work.

I support the proposed rules and kindly suggest that a portion of the fees be used to support community-based marine resource management and/or support increasing the Division of Aquatic Resources's capacity to collaborate directly with communities.

Thank you for this opportunity to testify on this important matter.

*Sincerely,
Gloria Charland--*



From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Ocean Stewardship Fees
Date: Tuesday, July 25, 2023 2:22:40 PM

From: [REDACTED]
Sent: Monday, July 24, 2023 5:23 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Ocean Stewardship Fees

I support the proposed **Ocean Stewardship Fees** as long as the funds collected are used appropriately to protect ocean resources.

Bette Belanger
Kihei, HI

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Ocean User Stewardship Fee, Comment
Date: Wednesday, August 2, 2023 1:24:47 PM

-----Original Message-----

From: Jim Scancella [REDACTED]
Sent: Wednesday, August 2, 2023 10:33 AM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Ocean User Stewardship Fee, Comment

Ocean User Stewardship Fee comment:

I am in favor of an 'Ocean User Stewardship Fee'. A one-dollar fee is good for starters but there is much more to be decided. How would the fee be allocated to the certain areas that have immediate needs and how are those decisions to be made? Will there be public comment on needs and areas of need? Also as I read the statute it appears that after a certain number of years, the fees will still be collected but then be placed in the 'General Fund'. I am not in favor of these fees being placed in the General Fund, at any time. The much-needed Stewardship of the Ocean will not be over in a few years. As I read the statute I have more questions than answers but one thing I am in favor of is having a fee collected that will help in taking care of our oceans.

Mahalo,
Jim Scancella
Hawi, Hawaii

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Please support Ocean Stewardship Fees
Date: Wednesday, August 2, 2023 1:24:35 PM

From: Carol Joan Patterson [REDACTED]
Sent: Wednesday, August 2, 2023 10:33 AM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Please support Ocean Stewardship Fees

Aloha Chair Chang and members of the BLNR,

The Ocean Stewardship Fees have the potential to generate much needed funds to support Hawai'i's marine conservation and protection, and importantly the Department of Land and Natural Resources's work in doing such work.

I support the proposed rules. In addition, a portion of the fees should be used to support community-based marine resource management and/or support increasing the Division of Aquatic Resources's capacity to collaborate directly with communities.

Thank you for considering my comments.

Carol Joan Patterson

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Proposed \$1. charge on tourists for the ocean
Date: Tuesday, July 25, 2023 2:27:31 PM

-----Original Message-----

From: Rita Shockley [REDACTED]
Sent: Tuesday, July 25, 2023 12:06 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Proposed \$1. charge on tourists for the ocean

I have seen other countries have conservation tours and getting travelers help clean up beaches. This gets them thinking about their homes and what they could do there as well to pitch in. It's called eco tourism.

I personally don't trust big pots of money, people tend to find ways to spend it down to 0! Why would HOA have their hand in the pot?? I don't get that at all.

Rita Shockley

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Proposed HAR, Chapt. 13-78
Date: Tuesday, August 1, 2023 8:50:17 AM
Attachments: [Written Testimony Re Chapt 13-78 HAR.pdf](#)

From: [REDACTED]
Sent: Tuesday, August 1, 2023 8:48 AM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Cc: George Parsons [REDACTED]
Subject: [EXTERNAL] Proposed HAR, Chapt. 13-78

Dear DAR,

I submit the attached written testimony re: the draft HAR, Chapt. 13-78, implementing the Ocean Stewardship User Fee.

Bryan

 Secured by [Paubox](#) - HITRUST CSF certified

Bryan Y.Y. Ho

Attorney At Law, A Law Corporation
Suite 909, Davies Pacific Center
841 Bishop Street
Honolulu, Hawaii 96813

Telephone [REDACTED]

March 16, 2022

DIVISION OF AQUATIC RESOURCES
DLNR, State of Hawaii
1151 Punchbowl Street, Room 330
Honolulu, Hawaii 96813

VIA E-MAIL @ DLNR.Aquatics@hawaii.gov

Re: Written Testimony Re: DAR Proposed Chapter 13-78,
Hawaii Administrative Rules Re: Ocean Stewardship User Fee

Dear Sir or Madam,

I submit the following comments/observations/suggestions regarding DAR's proposed administrative rules implementing the Ocean Stewardship User Fee (OSUF), designated as HAR Chapter 13-78.

Please consider the following concerns and modifications prior to implementing these rules in final form:

1. Please revise the definitions of "customer" and "passenger" to clarify the fee only applies to paying passengers/customers, enabling permit holders to exclude from their OSUF assessments/reports, all persons carried for charitable, educational or other non revenue generating basis.
2. Exclude Hawaii residents from having to pay the OSUF.
3. The proposed rules do not take into consideration that some permit holders sell their activities through third party activity desks that take a 20% commission on all monies collected, on top of the 3% service charge by credit card companies. The net result is the permit holder will have to come out of pocket another 23% to supplement the shortfall to pay the OSUF, on top of the 3% they already pay DOBOR in CUP permit fees.
4. DAR should establish an online system similar to that of the Hawaii State Tax Department, enabling permit holders to file OSUF reports on forms generated by DAR, as well as, pay the OSUF electronically via the internet.

DIVISION OF AQUATIC RESOURCES

August 1, 2023

Page 2

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Bryan Y.Y. Ho

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Statutorily-Mandated Ocean Stewardship User Fee
Date: Thursday, July 27, 2023 9:10:29 AM

-----Original Message-----

From: [REDACTED]
Sent: Wednesday, July 26, 2023 2:19 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Statutorily-Mandated Ocean Stewardship User Fee

Aloha,

I am Nancy Poland, owner of Molokai Ocean Tours on the island of Molokai. I testified yesterday, in person, at the DAR Public Hearing. I am not against the proposed Ocean Stewardship User Fee. My testimony was to ensure the monies collected from Molokai is spent on Molokai projects.

I have one concern that I will need guidance on. Currently 85% of my tour boat customers pay by credit card. Most will tell me to add it to my tour fees using their credit card. The minute I accept their credit card, the Ocean Stewardship User Fee becomes Gross Income as my credit card company does not understand that the fee is a tax-exempt fee. I receive annual tax paperwork from the credit card company for my gross sales and this information is also sent to the IRS. With this scenario, I would pay \$1.00 plus 4.5% GE Taxes on the \$1.00 and 3% credit card fees on the \$1.00 plus IRS income taxes on total \$1.00s collected.

Rarely, even if I tell them in advance, will they bring cash to pay the Ocean Stewardship User Fee...especially international customers.

Another issue would be the amount of cash change I will need since the bank ATMs give out \$20 which my customers will then give me for the Ocean Stewardship User Fee.

One suggestion may be that when completing the GE 45 Taxes (which is the total amount of income I make from Molokai Ocean Tours), the state of Hawaii adds an exemption for the Ocean Stewardship User Fee. The Hawaii GE 45 tax form has several exemptions now and maybe can add this additional exemption. This exemption would lower my Gross Income and then I am not paying GE Taxes and IRS Income Taxes on the Ocean Stewardship User Fee. This exemption would have to be added to the GE Form.

Mahalo for listening to my concerns!

Nancy Poland
Molokai Ocean Tours
[REDACTED]

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Support for Ocean Stewardship Fee
Date: Wednesday, August 2, 2023 1:23:40 PM

From: Robert Culbertson [REDACTED]
Sent: Tuesday, August 1, 2023 8:49 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Support for Ocean Stewardship Fee

Aloha Chair Chang and members of the BLNR,

The Ocean Stewardship Fees have the potential to generate much needed funds to support Hawai'i's marine conservation and protection.

I support the proposed rules and kindly suggest that a portion of the fees be used to support community-based marine resource management and/or support increasing the Division of Aquatic Resources's capacity to collaborate directly with communities.

I am sure some naysayers will suggest this is a 'slippery slope' to enhanced user fees across the spectrum of government services. But, the reality of the poly crises gripping the natural world is the real slippery slope we have already fallen down and now is no time to carp about user fees!

Thank you for this opportunity to testify on this important matter.

Sincerely,

R A Culbertson

Honokaa



From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] testimony in favor of Ocean Stewardship Fund
Date: Thursday, July 27, 2023 12:36:10 PM
Attachments: [Hixon testimony Ocean Stewardship Fund.pdf](#)

From: [REDACTED]
Sent: Thursday, July 27, 2023 11:24 AM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] testimony in favor of Ocean Stewardship Fund

Aloha DAR,

Please consider my attached testimony as a private citizen in favor of the Ocean Stewardship Fund.

Mahalo,
Mark Hixon



Mark Hixon, Professor and
Hsiao Endowed Chair in Marine Biology
School of Life Sciences
University of Hawai'i at Mānoa
2538 McCarthy Mall, Edmondson 216
Honolulu, HI 96822-2216

Office: Edmondson 417
Phone: [REDACTED]
E-mail: [REDACTED]
Web: manoa.hawaii.edu/lifesciences/people/people-faculty/mark-hixon/

Outreach:

- UH News on [REFFrame: Waikiki Coral Restoration](#) (also on [Hawai'i News Now](#))
- KHON2 TV on [Fish Flow](#)
- UH Pilina Ao on [Saving Hawai'i's Coral Reefs](#)
- Blue Planet Foundation: Empowered on [Climate Impacts on Hawai'i's Coral Reefs](#)
- Cape Perpetua Land-Sea Symposium on [Coastal Connectivity: a Web of Life](#) (start at 12:13)
- ARCS Foundation on [How Science Can Help Save Hawai'i's Coral Reefs](#)
- Hawai'i Division of Aquatic Resources PSA on [Saving Coral Reef Herbivores](#)
- UH Better Tomorrow on [Hawai'i's Changing Ocean](#)
- Civil Beat on [Real White Walkers are Coming](#)
- MAHB on [Why Americans are Letting the Oceans Die](#)
- UH News on [Secrets of Fish Population Changes Revealed](#)
- Pride of Maui on [10 Ways to Save Coral Reefs](#)
- Hawai'i Conservation Conference [Fish Larval Dispersal Connects Coral Reefs and Human Communities](#)
- Hawai'i Public Radio on [Science in a Post-Truth World](#) and [March for Science](#)
- [UH News](#) and [Hawai'i Public Radio](#) on ArtSci 2016 – Where Art and Science Meet

ThinkTech Hawai'i TV on [Big Old Fat Fertile Female Fish](#)

TED talk on [coral reef conservation](#)

[Lionfish Invasion](#) web page

TED talk on [lionfish invasion](#)

PBS TV on [lionfish invasion](#)

[Scientists' Warning to Humanity](#)

"Facts do not cease to exist because they are ignored." --Aldous Huxley

Mālama honua! [Fish Pono!](#) Join the Great Turning!

Mahalo to [Erica Karawina Hsiao](#) for funding this professorship.



27 July 2023

TO: Division of Aquatic Resources (DAR)
RE: Hawai'i Ocean Stewardship Special Fund (HB 1019)

Aloha,

As a professional marine biologist with substantial experience and expertise on the state of Hawai'i's coral-reef ecosystems, I am strongly in favor of a Hawai'i Ocean Stewardship Special Fund.

The establishment of this fund will provide more consistent and reliable support for the conservation, protection, restoration, and management of Hawai'i's precious and endangered marine resources. Currently, DAR is woefully underfunded to educate our society about these critical environmental issues, and such an educational campaign would enhance compliance with conservation and management efforts. DOCARE is also underfunded to enforce ocean use rules and regulations effectively. The combination of low compliance and low enforcement has long been a chronic problem in Hawai'i.

A critical issue is that, historically, if DAR tried to implement any conservation or management rules and regulations that were unpopular with politically powerful groups, they would have their legislative cronies cut funding to DAR. The Ocean Stewardship Special Fund will enhance the financial independence of DAR and DOCARE to fulfill their important missions that benefit all of our society.

I suggest that a reasonable portion of this fund be allocated to community groups actively working to conserve Hawai'i's marine resources at the local level. I believe that true partnerships between the State and local communities will effectively conserve our ocean ecosystems for sustainable use by present and future generations.

Mahalo,

A handwritten signature in black ink, appearing to read "Mark Hixon". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark Hixon

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Testimony Ocean Stewardship Fee
Date: Monday, July 31, 2023 1:35:15 PM
Attachments: [KOA Testimony Ocean Stewardship Fee.docx](#)

From: Damien Kenison [REDACTED]
Sent: Monday, July 31, 2023 12:10 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Testimony Ocean Stewardship Fee

Aloha, please accept my testimony for the Ocean Stewardship Fee
Damien Kenison
Kauhako Ohana Association



"Solutions not Complaints"

Aloha no kakou,

Regarding the Ocean Stewardship Special Fund;

On behalf of our Ho'okena area families I would like to express our strong support for this effort by the Department and Land and Natural Resources and its divisions to malama ka 'aina I ke kai. Although the fees that will be collected are minimal it sends a message to the businesses, who are taking advantage of our natural and cultural resources to be responsible and respectful in their operations.

Since the Ocean Stewardship Special Fund was established for the collection and use of moneys for the conservation, restoration, and enhancement of the State's marine resources, and authorizes the Department of Land and Natural Resources to collect non-resident user fees for the use and enjoyment of the State's ocean resources. we advocate that a portion of the funding be used to support the Makai Watch Program Statewide.

Helping communities to work in congruence with DAR, DOCARE, and DOBOR to efficiently manage our marine resources is common sense and maintains a bridge of communication between our communities and government. Additionally, the people who live in the areas of high tourism and are impacted by the industry should have an opportunity to help manage the marine resources where their families reside

As part of the Makai Watch Program people are asked to volunteer their time and effort by government workers or paid nonprofit staff. This creates instability in the program because most people are not financially independent and the high cost of living in Hawaii necessitates the need to devote a majority of their time to earning an income. A Makai Watch Program which pays a small staff is important to maintaining consistency and effectiveness.

Mahalo nui for taking into consideration this request.

Ke Aloha Nunui,

A handwritten signature in blue ink that reads "Damien Kenison".

Damien Kenison
Kauhakō Ohana Association

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Testimony regarding Ocean Stewardship Fees
Date: Tuesday, July 25, 2023 2:23:27 PM

From: Elisabeth Ann Iwata [REDACTED]
Sent: Monday, July 24, 2023 8:45 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Testimony regarding Ocean Stewardship Fees

Aloha Chair Chang and members of the BLNR,

The Ocean Stewardship Fees have the potential to generate much needed funds to support Hawai'i's marine conservation and protection, and more importantly, the Department of Land and Natural Resources' work.

I support the proposed rules and kindly suggest that a portion of the fees be used to support community-based marine resource management and/or support increasing the Division of Aquatic Resources' capacity to collaborate directly with communities.

Thank you for this opportunity to testify on an important proposal that will help improve the lives of our keiki and conserve our precious marine ecosystem.

Sincerely,
Elisabeth Iwata

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] Testimony: Ocean Stewardship Fee
Date: Wednesday, July 26, 2023 8:48:13 AM

-----Original Message-----

From: Iwa Shaw [REDACTED]
Sent: Tuesday, July 25, 2023 8:42 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Testimony: Ocean Stewardship Fee

Aloha, my name is 'Iwa Shaw. I currently live on Maui, born and raised on O'ahu. My husband and I own and operate commercial boats based out of Lāhaina, Maui. I am in support of the Ocean Stewardship Fee as long as there is complete transparency of its use and it is only ever used for what it was originally designated for. I see that after 5 years the fees collected from this program will go into the state general fund. This is unacceptable! If the fees collected are put into the state general fund, they will never be used towards their original purpose. Rather than spending so much more to create state-run competitive organizations, please use the fees to support already existing programs such as Malama Kai, a non-profit currently installing and maintaining day use moorings, the Blue Water Task Force which is a volunteer ocean water testing program, to expand the free mineral sunscreen program available at popular locations across the state, or to provide grants towards starting or growing programs that align with the purpose of this fee. I also believe the ocean stewardship fee should only be charged to paying passengers/customers as many commercial operators use their means to provide educational activities for local schools and charities. For boats, this can be tracked and verified by tour manifests, we already report this monthly to DLNR on our gross receipts. Mahalo for your time.

'Iwa Shaw

[REDACTED]
Lāhaina, Maui 96767

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [EXTERNAL] We support The Ocean Stewardship Fees!!
Date: Tuesday, July 25, 2023 2:21:57 PM

From: Mari Mennel-Bell [REDACTED]
Sent: Monday, July 24, 2023 4:06 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] We support The Ocean Stewardship Fees!!

Aloha Chair Chang and members of the BLNR,

The Ocean Stewardship Fees have the potential to generate much needed funds to support Hawaii's marine conservation and protection, and importantly the Department of Land and Natural Resources's work in doing such work.

We support the proposed rules and kindly suggest that a portion of the fees be used to support community-based marine resource management and/or support increasing the Division of Aquatic Resources's capacity to collaborate directly with communities.

Thank you for this opportunity to testify on this important matter.

*Sincerely,
Mari Mennel- Bell and Joel Greenbaum
Pompano Beach, Florida*

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: [TESTIMONY] for PUBLIC HEARINGS SCHEDULED FOR PROPOSED ADOPTION OF HAR 13-78 IMPLEMENTING THE OCEAN STEWARDSHIP USER FEE
Date: Monday, July 31, 2023 10:26:57 AM

From: Maui Jenn [REDACTED]
Sent: Monday, July 31, 2023 9:22 AM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] [TESTIMONY] for PUBLIC HEARINGS SCHEDULED FOR PROPOSED ADOPTION OF HAR 13-78 IMPLEMENTING THE OCEAN STEWARDSHIP USER FEE

IF A FEE FOR ANY AMOUNT IS PASSED, it should be with exception that there will be a separate account & line item in the budget so we the people can see the money that comes in and more importantly can see where those taxed funds go. This is to ensure those funds are used specifically for what they're being taxed for. No commingling. Ocean Stewardship User Fee Funds need to be separate from everything else.

Thanks,

Maui Resident

From: [DLNR.AR.DLNR.Aquatics](#)
To: [Sagum, Nicholas K](#)
Cc: [Sakoda, David](#)
Subject: FW: Ocean Stewardship Fee
Date: Wednesday, August 2, 2023 1:24:09 PM

From: john broward [REDACTED]
Sent: Wednesday, August 2, 2023 9:40 AM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Ocean Stewardship Fee

Aloha Chair Chang and members of the BLNR,

The Ocean Stewardship Fees have the potential to generate much needed funds to support Hawai'i's marine conservation and protection, and importantly the Department of Land and Natural Resources's work in doing such work. I have witnessed how agencies such as the US Department of Interior utilize fee generated funds for improving natural, cultural and recreational resources. The proposed Ocean Stewardship Fees are minimal but can have a great impact on ocean consevation.

I support the proposed rules and kindly suggest that a portion of the fees be used to support community-based marine resource management and/or support increasing the Division of Aquatic Resources's capacity to collaborate directly with communities.

Thank you for this opportunity to testify on this important matter.

Sincerely,

John Broward
[REDACTED]

West Hawai'i Fishery Council

August 1st, 2023

Hawai'i Division of Aquatic Resources

1151 Punchbowl Street, Room 330, Honolulu, HI 96813



To whom it may concern:

We, the West Hawai'i Fishery Council, are writing in support of HAR 13-78 Ocean Stewardship User Fee. However, we would also like to raise some concerns for the Division of Aquatic Resources (DAR) to consider when implementing these rules. We are a community-based, multi-stakeholder council representing community interests in the West Hawai'i Regional Fishery Management Area (WHRFMA). Our volunteer members represent subsistence, recreational, and commercial fishers, as well as Hawaiian cultural practitioners, recreational swimmers, aquaculturists, scientists, and others who depend on and care for the WHRFMA. It is part of our mission to provide advice to the DAR regarding the development and implementation of rules that affect the WHRFMA.

The Ocean Stewardship User Fee is welcomed by all members of the council as a long-overdue increase in funding for the responsible stewardship of Hawai'i's marine environment. We are excited to see the DAR present its proposed rules for the implementation of this law. However, there is a concerning lack of detail in how these funds will be managed and used by the DAR. We strongly recommend that the DAR consider the following additions to the proposed rules:

- Establish a transparent process for receiving and allocating funds, such that the public can easily find (i.e. available online and in reports) the following information at all times: 1) how much money is coming in and from where, 2) how these funds are used by the DAR, 3) geographic location where the money is used by DAR.
 - Allocate a substantial portion of this fund to the communities across the islands who are most impacted by the commercial users who pay this fee. Provide funding that: 1) directly addresses impacts of use in local areas and 2) supports community efforts to voluntarily mālama their coastal areas and assist with enforcement, while bearing the brunt of user impacts.
 - Establish a community advisory panel to oversee the implementation of funds, representing all interests from all islands. This should be created to assist with achieving the first two suggestions above.
 - Require boats who hold permits that require them to collect the \$1 fee should *clearly* display that they hold these permits via a means viewable at a distance by the public at all times (ex: a large "C" sticker on the bow to indicate a commercial permit holder). This can facilitate enforcement.
-

Thank you for considering these comments.

Mahalo,



Amber Datta
Co-Chair WHFC



Chris Funada
Co-Chair WHFC

On behalf of the West Hawai'i Fishery Council.

West Hawai'i Fishery Council Mission Statement:

"To provide for substantive involvement of the community in resource management decisions; encourage scientific research and monitoring of the nearshore resources and environment from Upolu Point to Ka Lae; to work toward and advise about the resolution of conflicts of use and the enhancement of nearshore resources; and to assist in the development and implementation of management plans for minimizing resource depletion; per legislative mandate to the Department of Land and Natural Resource."

From: Shauna Tom [REDACTED]
Sent: Friday, August 4, 2023 5:03 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Support for HAR 13-78 IMPLEMENTING THE OCEAN STEWARDSHIP USER FEE

Aloha,

My name is Shauna Kēhaunani Springer and I am in full support of HAR 13-78 IMPLEMENTING THE OCEAN STEWARDSHIP USER FEE

Mahalo Nui,
Shauna Kēhaunani Springer

From: Stephanie Czar [REDACTED]
Sent: Friday, August 4, 2023 5:12 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] HAR 13-78

To Whom It May Concern,

I (Stephanie Czar) support (HAR) chapter 13-78, establishing provisions for the Ocean Stewardship User Fee. Additional funding for DAR is needed for research and management our aquatic resources in Hawaii.

Thank you,

Stephanie Czar

Sent from my iPhone

From: Greg Czar [REDACTED]
Sent: Friday, August 4, 2023 5:15 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] HAR 13-78

To Whom It May Concern,

I (Greg Czar) support (HAR) chapter 13-78, establishing provisions for the Ocean Stewardship User Fee. This fee will help offset the cost of managing our overused ocean resources.

Thanks,

R. Greg Czar

From: william mae-huihui [REDACTED]
Sent: Friday, August 4, 2023 5:25 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Proposal to Adopt a New Chapter Under Hawaii Administrative Rules (HAR) as Title 13, Chapter 13-78, "Ocean Stewardship User Fee"

Aloha mai kakou, my name is William Ma'e Huihui, Milolii Makai Watch Coordinator and Kilokilo diver for the Miloli'i Community Based Subsistence Fishing Area.

I support this proposal with a few comments.

I feel that one dollar is but a drop in the bucket for tourist that come and are willing to go on these tours. The tourist will be more than willing to pay the extra fees because of the beauty of our ocean.

I would also like to see some of the funds go towards communities with outreach and support for community members that help the state and county with co-management. Information materials and outreach will help with tourist and ohana understand the importance of these fees and the help it will give back to communities.

From: william hambaro [REDACTED]
Sent: Friday, August 4, 2023 7:00 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] ocean stewardship fee proposal

I heartily support this long overdue proposal to boost the underfunded DLNR. The fees are not only justified, but are necessary to further protect the ocean resources.

I urge the passing of this proposal.

Mahalo,

William Hambaro
[REDACTED]

From: Garrett Hambaro [REDACTED]
Sent: Friday, August 4, 2023 7:46 PM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] Proposed ocean user fee

To whom it may concern. My name is Garrett Hambaro and my family is from Waianae. I have seen a massive increase in snorkel tours coming from Ko Olina or Honolulu to participate in sea turtle and dolphin tours. It is imperative that users of the ocean in such high volumes contribute to its steward and protection. A one dollar fee is a good Place to start and Hopefully it can be raised periodically to support both conservation and indigenous communities. We have a responsibility to protect the marine environment and this is a good beginning.

Mahalo,

Garrett Hambaro
Makaha
Sent from my iPhone

From: Jessica [REDACTED]
Sent: Friday, August 4, 2023 10:17 AM
To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>
Subject: [EXTERNAL] I am testifying in favor of the \$1 Stewardship fee

Aloha, I am writing to testify that I am in favor of the one dollar ocean stewardship fee. Mahalo, Jessica Kuzmier, Kona



SIERRA CLUB OF HAWAI'I

To: Brian Neilson, Administrator
Division of Aquatic Resources
Department of Land and Natural Resources
1151 Punchbowl Street Room 330
Honolulu, Hawai'i 96813
Via e-mail: DLNR.Aquatics@hawaii.gov

Date: August 4, 2023

Re: **Testimony on Ocean Stewardship User Fee Rules**

Aloha e Administrator Neilson,

The Sierra Club offers testimony in **SUPPORT** of the proposed Ocean Stewardship User Fee rules, which would provide a mechanism for generating substantial and dedicated revenues to support the conservation, restoration, and enhancement of our marine resources. We do urge the Division of Aquatic Resources to amplify the impact of these revenues by supporting the expansion of community-based management initiatives that can leverage thousands of volunteer hours and generations' worth of intimate, place-based knowledge, to sustain and perpetuate our nearshore ocean resources.

The significance of our nearshore waters and resources to the ecological, cultural, social, and economic interests of Hawai'i cannot be emphasized enough. These nearshore ocean waters are accordingly safeguarded under the public trust, as outlined in the Hawai'i State Constitution¹, while submerged lands are also part of the Public Land Trust established under the admission act and reaffirmed under Art. XII Sec. 4. The Hawai'i State Constitution further requires the state and its agencies to protect and enforce Native Hawaiian rights, including traditional and customary practices associated with, and dependent upon, carefully managed and abundant nearshore resources.²

Unfortunately, the **BLNR has faced resource limitations** that have hindered its ability to fulfill the state's responsibilities in protecting and managing our nearshore areas effectively. The continued decline of our marine environment due to inadequate management capacity poses a substantial threat to the overall well-being of our islands, and demonstrates the lack of state capacity to fulfill its aforementioned constitutional and fiduciary duties.³

The introduction of an Ocean Stewardship User Fee will supply the BLNR with a crucial and potentially revolutionary source of financial resources to protect and manage our nearshore

¹ HAW. CONST. ART. XI § 1, 6.

² HAW. CONST. ART. XII § 7.

³ Ingram, R. J., Oleson, K. L., & Gove, J. M. (2018). Revealing complex social-ecological interactions through participatory modeling to support ecosystem-based management in Hawai'i. *Marine Policy*, 94, 180-188.



SIERRA CLUB OF HAWAI'I

waters. Such financial support will empower the BLNR and the Department of Land and Natural Resources to better fulfill the state's fiduciary and constitutional duties in safeguarding and managing Hawai'i's invaluable nearshore waters. Additionally, by ensuring an equitable distribution of these fees, taking into account submerged lands' place in the Public Land Trust, this rule proposal will further actualize the state's constitutional commitment to restorative justice for Kānaka 'Ōiwi through the betterment of the conditions of native Hawaiians.

The Sierra Club appreciates the Division of Aquatic Resources' growing recognition of the critical role that subsistence communities play in sustaining their nearshore resources and associated traditional and customary practices, through the application of generational knowledge and culturally-grounded values and management practices. **Given the proven success of recent community-based fisheries management initiatives, we respectfully recommend that the BLNR and the Department prioritize the use of ocean stewardship fee revenues to increase the Division of Aquatic Resources' capacity to facilitate community co-management of local nearshore resources.**

Therefore, the Sierra Club respectfully urges the BLNR to approve the proposed adoption of Hawai'i Administrative Rules (HAR) Title 13, Chapter 78 to implement the Ocean Stewardship User Fee.

Mahalo nui loa for the opportunity to testify on this measure.

Sincerely,

Wayne Tanaka, Director
Sierra Club of Hawai'i

Item F-1, Exhibit 4

DEPARTMENT OF LAND AND NATURAL RESOURCES

Adoption of Chapter 13-78 Hawaii Administrative Rules

(Date of adoption)

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

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART IV FISHERIES RESOURCE MANAGEMENT

CHAPTER 78

OCEAN STEWARDSHIP USER FEE

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

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

"Commercial operator" means a person that is required to have ~~r~~ a commercial operator permit under

this chapter or a commercial use permit pursuant to section 13-256-3.

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

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

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

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

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

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

"State" means the State of Hawaii.

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

§13-78-2 Ocean stewardship user fee. (a)

Beginning on January 1, 2024, aAll operators of commercial vessels, watercraft, or water sports equipment that are required to have a commercial operator permit or commercial use permit pursuant to section 13-256-3 shall collect an ocean stewardship user fee from each passenger carried or customer served.

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

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

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

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

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

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

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

(b) Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or

penalties available under all other laws of the State.
[Eff _____] (Auth: HRS §187A-52) (Imp: HRS
§§187A-12.4, 187A-12.5, 187A-52, 200-2, 200-3, 200-4)

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

2. The adoption of chapter 13-78, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

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

APPROVED AS TO FORM:

Deputy Attorney General

DEPARTMENT OF LAND AND NATURAL RESOURCES

Adoption of Chapter 13-78
Hawaii Administrative Rules

(Date of adoption)

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

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART IV FISHERIES RESOURCE MANAGEMENT

CHAPTER 78

OCEAN STEWARDSHIP USER FEE

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

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

"Commercial operator" means a person that is required to have a commercial operator permit under

this chapter or a commercial use permit pursuant to section 13-256-3.

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

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

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

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

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

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

"State" means the State of Hawaii.

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

§13-78-2 Ocean stewardship user fee. (a)

Beginning on January 1, 2024, all operators of commercial vessels, watercraft, or water sports equipment that are required to have a commercial operator permit or commercial use permit pursuant to section 13-256-3 shall collect an ocean stewardship user fee from each passenger carried or customer served.

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

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

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

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

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

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

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

(b) Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or

penalties available under all other laws of the State.
[Eff _____] (Auth: HRS §187A-52) (Imp: HRS
§§187A-12.4, 187A-12.5, 187A-52, 200-2, 200-3, 200-4)


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

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