

Hawaii's Marine Resource Law Enforcement and the Civil Resource Violations System

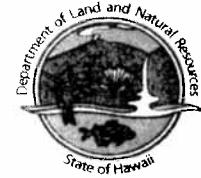
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Department of Land & Natural Resources
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A. Marine Resource Damages and Violations

- Coral damages from anchoring and mooring
- Marine debris dumping and littering
- Vessel grounding and sinking
- Destructive fishing practices
- Chemical and oil spills
- Sewage spills and construction runoffs
- Approaching protected marine mammals
- Taking/culling/killing of protected species
- Commercial/recreational activities on the reefs
- Unlawful research activities
- MLCD, sanctuary and fisheries law violations
- Commercial fishing catch report delinquencies



B. Resource Law Enforcement – A Three-Step Process



- 1. Resource law making – Statutes and administrative rules**
- 2. Police enforcement and investigation – DOCARE**
- 3. Adjudication – A judicial process or administrative (semi-judicial) process**

C. Adjudication: Criminal vs. Administrative



- Criminal – Criminal Cases:**
Investigated by DOCARE and prosecuted in court by county prosecutors. (E.g., debris dumping/littering, killing protected species)
- Administrative – Major Civil Cases:**
Brought directly to Land Board by divisions. (E.g., coral damages, vessel grounding)
- Administrative – Minor Civil Cases:**
Initiated by a division or a DOCARE enforcement officer, processed through the Civil Resource Violations System (CRVS).

D. Purpose of the CRVS?



- To promote voluntary compliance with state law for the protection of Hawaii's natural and cultural resources;
- To provide fair, fast and cost-effective process for all parties involved; and
- To promote public awareness and responsible use of resources.

E. What Will the CRVS Do?



- **Active enforcement:** Fines and other sanctions, e.g., suspension/revocation of permits/licenses.
- **Simplification:** Simple process and reasonable, graduated fines to encourage compliance.
- **Consolidation:** Departmental case processing to promote efficiency, uniformity and impartiality.
- **Interaction:** With the department's permitting and enforcement systems.

F. The CRVS Progress



- Civil Natural Resource Violations Act (Ch. 199D, HRS).
- Rulemaking process – 10/2007 to 02/2009. On 02/17/09, Gov. Lingle signed into law Chapter 13-1, HAR.
- A partial Administrative Sanctions Schedule was approved by the Land Board on 03/13/2009:
 - DAR – Past due commercial marine fishing reports,
 - BOR – Late registrations, illegal moorings, and use permit violations.
- Further steps: Divisions will be phased in (2009-10).

G. The CRVS Schedule – Administrative Fines



* All fines are up to the amounts provided.

Division Item No.	Authority	Violation	No. of Offense	Fine * (21-Day)	Fine * (Late)
DAR 2-1	HRS §189-3, §187A-12.5	Violation of the CML catch report filing requirement	1 st 2 nd 3 rd	\$15 \$25 \$100	\$30 \$50 \$200
BOR 3-1	HRS §200-31, §200-14.5	Failing to register a vessel	1 st 2 nd 3 rd	\$15 \$25 \$100	\$30 \$50 \$200
BOR 3-2	HRS §200-16, §200-14.5	Unauthorized vessel mooring	N/A	Daily fine §13-234-5	Additional \$50
BOR 3-3	HAR §13-234-31, HRS §200-14.5	Unauthorized commercial use of boating facilities	1 st 2 nd 3 rd	\$25 \$50 \$100	\$50 \$100 \$200
BOR 3-4	HAR §13-234-34, HRS §200-14.5	Unauthorized recreational use of boating facilities	1 st 2 nd 3 rd	\$15 \$25 \$100	\$30 \$50 \$200

H. The CRVS Schedule – Non-Monetary Sanctions



- **Denial of permit or license applications:**
A division may deny an application if the applicant isn't compliant with another division.
- **Suspension of permits or licenses:**
May be used to compel cooperation in case investigation and processing.
- **Revocation of permits or licenses:**
May be used against repeat offenders.
- **Others:**
Back reports, sale receipts, impoundment, etc.

I. The CRVS Process



1. **Civil Citation:** Issued by a division or DOCARE officer.
2. **Answer:** Respondent must answer in 21 days –
 - Waive contest and comply
 - Waive contest but request mitigation
 - Contest citation
3. **Mitigation request:** A hearing officer will examine the request and render final decision w/o holding a hearing.
4. **Contested case hearing:** If the respondent contests.
5. **Review by the Land Board**
6. **Judicial review and appeal**

J. Benefits for the Parties



- **A simple, standard and low-cost process:**
Same island hearing, no court appearance, etc.
- **No criminal record, no stress**
- **Easy to assert rights and defenses, including native gathering rights**
- **Better communication with DLNR**
- **All due-process rights preserved, including rights to hearing, review and appeal**

K. Benefits for the Public



- **More effective, fast and complete enforcement**
- **Enhanced public awareness through deterrence**
- **Funding for restoration, restitution and conservation of resources and habitats**
- **Funding for community-based resource management**
- **More efficient use of state resources**