

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

August 28, 2015

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

**REQUEST FOR PRELIMINARY APPROVAL TO HOLD PUBLIC HEARINGS TO ADOPT
A NEW CHAPTER UNDER HAWAII ADMINISTRATIVE RULES AS TITLE 13
CHAPTER 86.1, "SEA CUCUMBER MANAGEMENT." THIS CHAPTER IS INTENDED TO
REGULATE THE HARVEST OF SEA CUCUMBERS FROM STATE WATERS.**

Submitted for your consideration and approval is a request to hold public hearings to adopt Hawaii Administrative Rules ("HAR") chapter 13-86.1 to address the recent spike in the commercial harvest of sea cucumbers and to generally manage the various users of these species.

On June 26, 2015, the Board approved emergency rules for the protection of sea cucumbers in State waters. The emergency rules have a 120 day time limit, upon which the rules will expire. The purpose of these rules are to provide more long term management of this fishery to ensure the resources will not be overharvested.

Since the emergency rules were approved, the Division of Aquatic Resources (DAR) has met with various participants in the fishery to discuss specifics about their operations, the species being taken, and other information in preparation for these more long-term rules. We have identified three main segments of the Hawaii sea cucumber fishery: 1) commercial consumption, 2) commercial aquarium, and 3) non-commercial.

The commercial consumption fishery includes those that collect sea cucumbers for sale as either food or medicine. While a minimal commercial consumption fishery has existed for many years, a recent spike in commercial harvest has developed since the beginning of 2015 with the entry of a new dealer. The product is primarily intended for overseas Chinese markets.

The commercial aquarium fishery includes those persons who collect animals for the aquarium trade. This fishery has also existed for many years but has been operating at a stable but reduced level since the economic downturn in the nation's economy beginning in 2008 ranging from 1,500 to 3,500 animals per year. The sea cucumbers are considered a minor component of the aquarium fishery compared to other more interesting marine life.

The non-commercial fishery consists of the recreational food fishers taking animals for direct personal consumption as a raw or salted/marinated product and the native take for consumption or medicinal non-consumptive uses. We have no data on the level of take or the number of users in this fishery but we suspect that the overall take is likely to be minimal.

Proposed Management Measures

The proposed rule deals with each segment of the fishery differently. These different management measures recognize the different fisheries and the different impacts these fisheries have on the resources.

DAR proposes to close the commercial consumption fishery due to the continued concern that a sustainable take level is unknown at the present time. Without this information, there is uncertainty as to whether any level of commercial take is sustainable. We recommend closure of the commercial consumption fishery as a precautionary approach until more information is available. The proposed rule would prohibit the taking of sea cucumbers for sale for human consumption. The timeframe for collecting the necessary baseline information may be at least 3 years. Because the longevity of these species is unknown, we do not have a more specific estimate of when the sustainable take level would be developed.

DAR proposes to keep the commercial aquarium fishery open at the current level of take. The aquarium fishery in general is very sensitive to the market demand for species and the demand for sea cucumbers is not expected to change significantly in the near future. A meeting with a small group in the industry indicates that they would support maintaining the take at its current level. The current data indicates that this level of take is not a concern and can likely continue without adverse impact to sea cucumber populations. The proposed rules set an annual catch limit to ensure that the current take does not substantially increase.

DAR proposes to allow a small level of non-commercial take subject to daily bag limits with different limits depending on whether the animals are being killed or released alive. The small daily bag limits are intended to recognize the small subsistence take for eating as this level of take is not thought to have a negative impact on the resources.

There is a non-consumptive native take where the animals are collected, the guts squeezed out without killing the animals, then returned to the ocean to regenerate. The guts are used as a medicine due to their adhesive properties to close open wounds and as an anti-inflammatory and anesthetic. There was some internal discussion on the need for any bag limit for a catch and release take but we have proposed a larger non-consumptive bag limit as a preventive measure to keep consumptive users from claiming a non-consumptive unlimited exemption. We note that these proposed bag limits are for discussion purposes only and may be subject to further refinement during the public comment process.

Business and Public Impacts

The proposed closure of the commercial consumption fishery will end the one existing dealer who was in operation at the time of the emergency rule adoption. The other persons dealing in sea cucumbers prior to the emergence of the one dealer were operating at such a minimal level, we do not expect that the closure will have any impact on those dealers.

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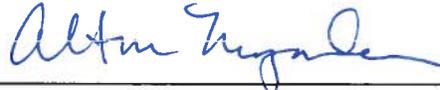
The maintenance of the commercial aquarium at its current level was supported by the few members of the aquarium industry we contacted. We do not believe there will be significant impacts to small business from this provision.

The establishment of the non-commercial bag limits may reduce the daily take of some persons but we believe that these small limits are in line with a reasonable take for subsistence and traditional purposes. Further discussions during the public review process should more fully inform us whether these proposed limits will be supported by the larger public.

RECOMMENDATIONS:

“That the Board approve the holding of public hearings to adopt Hawaii Administrative Rules Chapter 13-86.1, Sea Cucumber Management.”

Respectfully submitted,



ALTON MIYASAKA, Acting Administrator
Division of Aquatic Resources

APPROVED FOR SUBMITTAL



SUZANNE CASE, Chairperson
Board of Land and Natural Resources

Attachments:

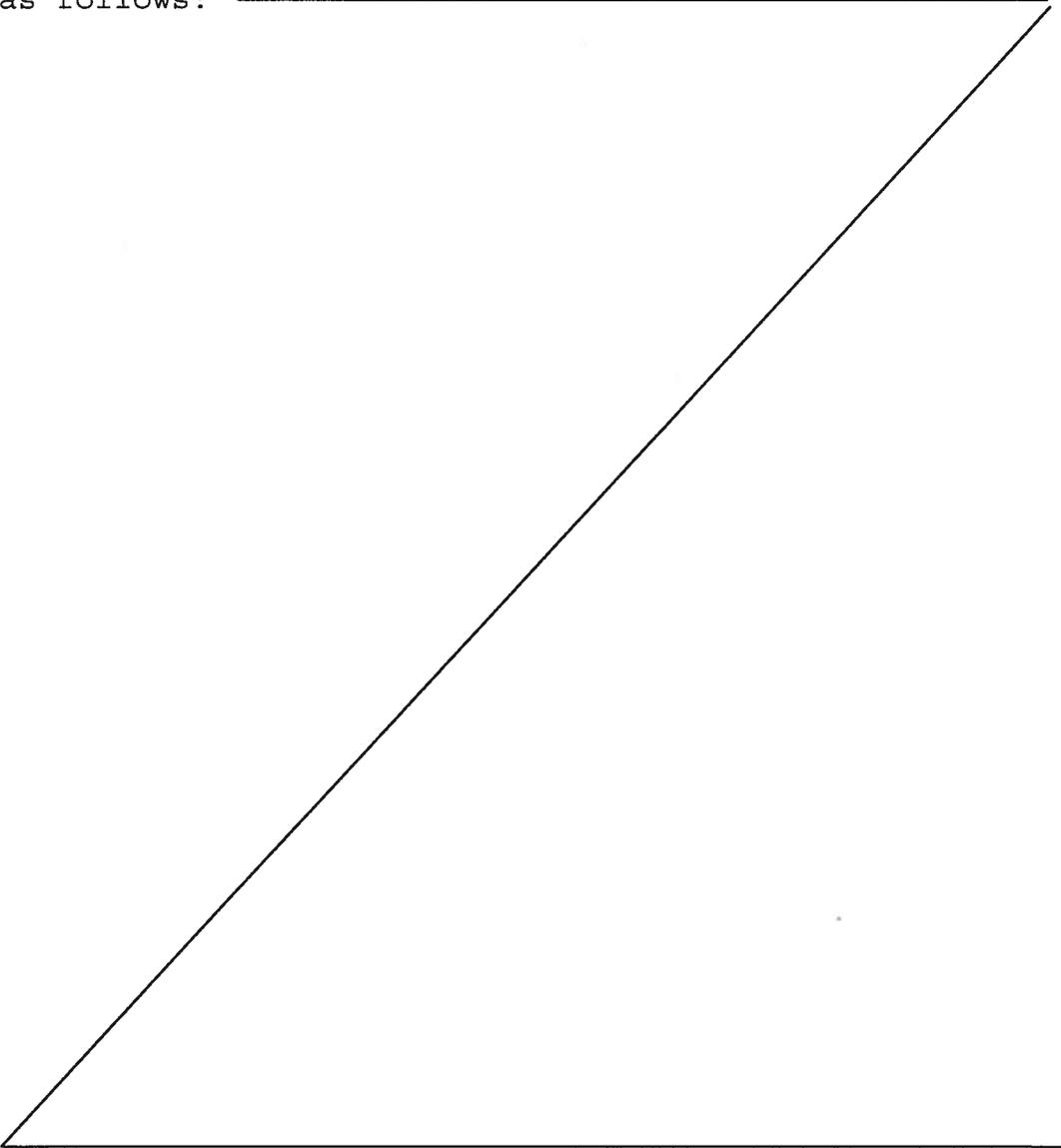
Exhibit 1 – Ramseyer Draft

DEPARTMENT OF LAND AND NATURAL RESOURCES

Adoption of Chapter 13-86.1
Hawaii Administrative Rules

(Date)

1. Chapter 13-86.1, Hawaii Administrative Rules,
entitled "Sea Cucumber Management", is adopted to read
as follows: _____



"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART V PROTECTED MARINE FISHERIES RESOURCES

CHAPTER 86.1

SEA CUCUMBER MANAGEMENT

§13-86.1-1	Definitions
§13-86.1-2	Registration
§13-86.1-3	Commercial consumption fishery; prohibition
§13-86.1-4	Commercial aquarium fishery; season; closure; restrictions
§13-86.1-5	Non-commercial fishery; daily bag limits
§13-86.1-6	Licenses, permits, and other exemptions
§13-86.1-7	Penalty

§13-86.1-1 Definitions. As used in this chapter, unless otherwise provided:

"Aquarium permit" means the permit issued by the department pursuant to section 188-31, HRS.

"Board" means the board of land and natural resources.

"Sea cucumber" means any echinoderm species of aquatic life in the class Holothuroidea.

"Take" means to catch, kill, remove, capture, confine, or harvest, or to attempt to catch, kill, remove, capture, confine, or harvest. [Eff

] (Auth: HRS §190-3) (Imp: HRS §190-3)

§13-86.1-2 Registration. (a) The department may register, and assign an identification number to, any person taking or attempting to take any sea cucumber from State waters. The purpose of the number is to identify all persons taking sea cucumber to gather information on the number of participants in the fishery, the levels of effort and take, the purposes of this take, and other such relevant information the department may deem appropriate.

(b) It is unlawful for any person to take any sea cucumber from State waters or to possess any sea cucumber in or on the water or on the shoreline without a sea cucumber registration number assigned or approved by the department. [Eff]
(Auth: HRS §§189-10, 190-3) (Imp: HRS §§189-10, 189-11, 190-3)

§13-86.1-3 Commercial consumption fishery; prohibition. It is unlawful for any person to sell or offer for sale any sea cucumber taken from State waters for consumption purposes, or to otherwise take any sea cucumber from State waters for commercial purposes, except for commercial aquarium purposes as provided in section 13-86.1-4. [Eff]
(Auth: HRS §§189-10, 190-3) (Imp: HRS §§189-10, 189-11, 190-3)

§13-86.1-4 Commercial aquarium fishery; season; closure; restrictions. (a) There is established an annual catch limit for sea cucumbers when taken by persons with a valid aquarium permit for commercial aquarium purposes. The annual catch limit for sea cucumbers for aquarium purposes shall be 3,600 animals per year or as may otherwise be determined and announced by the board.

(b) There is established an annual sea cucumber aquarium harvesting season for the taking of sea cucumbers from State waters for commercial aquarium purposes to prevent overharvesting in this fishery.

(c) The board may close the sea cucumber aquarium harvesting season when the annual catch limit is reached or exceeded or is anticipated to be reached or exceeded, as determined and announced by the board at a public meeting.

(d) When a sea cucumber aquarium harvesting season is closed, it is unlawful for any person to take, possess, sell, or offer for sale any sea cucumber taken from State waters for aquarium purposes, except that aquarium dealers may possess, sell, and offer for sale sea cucumbers validly obtained during an open season, provided that proper receipts are kept on file pursuant to HRS §189-11.

(e) When a sea cucumber aquarium fishing season is open, any person issued a valid aquarium permit and a valid commercial marine license may take, possess, and sell sea cucumbers for aquarium purposes, subject to the provisions of this chapter, and as may be otherwise provided by law. [Eff]
(Auth: HRS §§189-10, 190-3) (Imp: HRS §§189-10, 189-11, 190-3)

§13-86.1-5 Non-commercial fishery; daily bag limits. (a) Any person may take and possess up to three sea cucumbers per day, provided that the sea cucumbers are taken and possessed for human consumption and not for commercial use.

(b) Any person may take and use up to seven sea cucumbers per day for non-consumptive purposes, provided that the sea cucumbers are released alive and in good health immediately after use. [Eff] (Auth: HRS §§189-10, 190-3) (Imp: HRS §§189-10, 189-11, 190-3)

§13-86.1-6 Licenses, permits, and other exemptions. Notwithstanding the provisions of this chapter, the department may issue the following licenses and permits to exempt persons from the provisions of this chapter:

2. The adoption of chapter 13-86.1, 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 sections 91-4 and 91-4.1, Hawaii Revised Statutes, which were adopted on _____ and filed with the Office of the Lieutenant Governor.

SUZANNE CASE
Chairperson
Board of Land and Natural
Resources

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General

