



August 26, 2026

Re: Request for Adoption and Approval of Administrative Rulemaking Proposal to Establish a New Chapter, Hawaii Administrative Rules ("HAR") Chapter 13-77.1, "Aquarium Fishery Management" and Aquarium Fishing Amendments to HAR Chapters 13-75, "Rules Regulating the Possession and Use of Certain Fishing Gear", and 13-60.4, "West Hawai'i Regional Fishery Management Area, Hawai'i"
Hearing: Board of Land and Natural Resources Meeting, Friday August 28, 2026 9AM

To: Chair Kanaka'ole and Members of the Board,

On behalf of Surfrider Foundation's chapters on Maui, Kaua'i, and O'ahu and our 1,530 members statewide, Surfrider respectfully urges the Board to reject the Department of Aquatic Resources' (DAR) proposed rules and instead amend them to prohibit commercial aquarium collection statewide and remand the amended rules for the necessary Chapter 91 proceedings.

Surfrider has been actively engaged in efforts to prohibit commercial aquarium collection through state legislation, the ongoing O'ahu EIS process, county actions, and community advocacy. Surfrider strongly opposes reopening the trade given the critical ecological role of reef fish, the cumulative pressures already facing Hawai'i's reef ecosystems, and the State's public trust obligations.

The question before you today is not simply whether commercial aquarium collection can be managed at what DAR characterizes as a relatively low level of biological risk. The more fundamental question is whether authorizing the private commercial removal of Hawai'i's public trust reef resources is a viable option for Hawai'i at all. Surfrider urges the Board to stand with the people of Hawai'i, reject DAR's proposed rules, and direct DAR to amend them to prohibit commercial aquarium collection statewide, so that Hawai'i's keiki can inherit reefs that are abundant, resilient, and full of life.

BLNR has the authority to prohibit commercial aquarium collection statewide

In December 2023, BLNR unanimously approved the community-led petition to initiate rulemaking to prohibit commercial aquarium collection statewide and directed DAR to proceed with rulemaking taking into consideration the petition, public testimony, and the Board's expressed sentiment. That direction was subsequently halted by inaccurate legal

interpretation of HRS §188-31 and DAR ultimately pursued a regulatory framework to permit commercial collection instead.

However, that interpretation has since been rejected, and the legal premise that shaped the rules before the Board today no longer stands. In April 2026, the Environmental Court confirmed that HRS §190-3 authorizes BLNR to prohibit commercial aquarium collection statewide and that a prohibition would not conflict with BLNR permitting authority under HRS §188-31 (F-1 Submittal, p 167). Nor would such an action be unprecedented. BLNR has previously exercised its authority under HRS §190-3 to prohibit the take of stony coral and live rock despite statutory provisions allowing permits for their commercial take.

Following the decision, then-Chair Dawn Chang clearly stated that DAR would brief the Board on the Court's ruling and present alternative options so that the Board could decide "whether to proceed with rules to regulate the commercial aquarium fishery, or to direct DAR to proceed with rulemaking to prohibit commercial aquarium collection statewide." The decision before the Board today should reflect that commitment.

DAR's own submittal recognizes that this fundamental policy choice remains with the Board. On page 17, DAR states that "whether to authorize any commercial aquarium collection at all, and if so, on what terms – is a policy judgment committed to the Board in its capacity as trustee of the State's public natural resources." Although the three courses of action DAR identifies on page 18 do not explicitly identify prohibition, DAR does not present those options as exhaustive. Rather, the submittal states that the Board "may" take those actions and expressly provides for the Board to direct specific amendments and remand the proposal for further Chapter 91 proceedings.

BLNR therefore has both the legal authority and the procedural ability to amend the proposed rules to prohibit commercial aquarium collection statewide and remand the amended rules through the necessary Chapter 91 process.

Hawai'i should be reducing the pressures on our reefs that we can control, not adding new ones

Healthy coral reef systems function as critical natural infrastructure and provide essential ecosystem services that Hawai'i's communities, economy, and coastlines depend upon. NOAA has documented that healthy coral reefs can absorb up to 97% of wave energy, significantly reducing shoreline erosion, flooding, and storm impacts, with an estimated \$1.8 billion in annual flood protection benefits.¹

Benefits derived from coral reefs depend on healthy, functioning reef ecosystems. Many fish targeted by the aquarium trade are herbivores that perform essential jobs on the reef. They graze algae, create space for coral recruitment, and help reefs recover from disturbance.

¹ NOAA Office for Coastal Management. *Coral Reefs and Coastal Protection Overview*. <https://coast.noaa.gov/states/fast-facts/coral-reefs.html>

Hawai'i's reefs are already experiencing significant cumulative ecological stress associated with climate-driven bleaching, chronic land-based pollution, invasive algae proliferation, shoreline modification, and intense coastal development pressure. Coral reefs are increasingly vulnerable to marine heatwaves and climate-driven bleaching events, reducing reef recovery capacity and increasing the ecological importance of herbivorous reef fish in maintaining algal control, coral recruitment, and reef resilience. The combined effects of nutrient pollution, herbivore depletion, and cumulative anthropogenic stressors can push coral reef systems toward persistent algal dominance and long-term ecological degradation.

The central question is not whether aquarium collection alone causes reef degradation, but whether additional extractive pressure is compatible with already stressed reef ecosystems. Under conditions of increasing climate vulnerability, ongoing reef degradation, and ecological uncertainty, adding additional extractive pressure is inconsistent with long-term reef resilience and precautionary resource management.

HRS §190-3 reinforces this precautionary approach by authorizing the Board to prohibit activities that “may disturb, degrade, or alter the marine environment.” As detailed in the rulemaking petition included as Exhibit 3, commercial aquarium collection meets that threshold.

Evidence from West Hawai'i demonstrates a relationship between aquarium collection pressure and the abundance of targeted species. Between 1999 and 2007, yellow tang abundance increased 72% in Fish Replenishment Areas closed to aquarium collection, while declining 45% in areas that remained open to collection.² Importantly, yellow tang densities were similar between these areas before the closures were established, leading researchers to conclude that the subsequent differences represented “real effects of protection.”

Yet DAR's recommendation relies heavily on its conclusion that the proposed fishery presents a “low risk of widespread population decline or major ecosystem harm.” Importantly, DAR acknowledges that low risk does not mean no impact. (F-1 Submittal, p. 17.)

DAR's analysis must account not only for present-day population conditions, but for the conditions Hawai'i's reefs are likely to face in the years ahead. Scientific studies across the state have documented significant reef degradation associated with land-based pollution,

² Williams, I.D., Walsh, W.J., Claisse, J.T., Tissot, B.N., & Stamoulis, K.A. (2009). *Impacts of a Hawaiian marine protected area network on the abundance and fishery sustainability of the yellow tang, Zebrasoma flavescens*. Biological Conservation, 142(5), 1066–1073. Available at: https://www.researchgate.net/publication/237430083_Impacts_of_a_Hawaiian_marine_protected_area_network_on_the_abundance_and_fishery_sustainability_of_the_yellow_tang_Zebrasoma_flavescens

including sediment, nutrients, sewage, and other contaminants entering nearshore waters.³⁴⁵ As climate change brings more frequent and intense flooding and inundation of wastewater and other coastal infrastructure, these pressures are only expected to increase. At the same time, Hawai'i is bracing for significant coral bleaching events as a Super El Niño brings unusually warm ocean temperatures across the state. Against this backdrop of increasing cumulative stress, maintaining abundant populations of ecologically important reef fish becomes increasingly critical to reef recovery and resilience.

Present-day abundance also cannot be treated as the sole benchmark for sustainability. Under the shifting baseline theory, current reef conditions may already reflect substantial long-term ecological degradation and declines in reef fish populations. Management should ask not merely whether populations can withstand additional extraction, but whether they are sufficiently abundant to perform their ecological functions and support reef recovery under increasing future stress.

Who benefits and who bears the burden?

The benefits and burdens of commercial aquarium collection are not shared equally. A 2021 cost-benefit analysis by Schaar and Cox cites prior research estimating that roughly 95% of aquarium fish caught in the West Hawai'i fishery were exported.⁶ As cited in Maui County Resolution 26-53, evidence suggests that most fish captured for home aquariums die within the first year of captivity, while species such as lau'ipala can live for more than 40 years in the ocean. Hawai'i therefore bears the ecological loss of long-lived reef wildlife, and the functions those fish provide, while the commercial benefit is concentrated among a relatively small industry serving an overwhelmingly out-of-state market.

The economic benefits are similarly unbalanced. As identified in the Schaar and Cox cost-benefit analysis, the mainland retail prices for Hawai'i aquarium fish were 1.5 - 5.1 x higher than local retail prices, meaning that the vast majority of profits accrue outside Hawai'i. Meanwhile, the State and its taxpayers bear the cost of managing and enforcing the fishery. Their analysis estimated annual State management costs of \$300,000 to \$500,000, based on estimates provided by DAR for 2019. Conversely, the limited number of permits on

³ Wolanski, E., Richmond, R.H., McCook, L., & Sweatman, H. (2009). *Quantifying the impact of watershed urbanization on a coral reef: Maunalua Bay, Hawai'i*. Estuarine, Coastal and Shelf Science, 84(3), 259–268. Available at: https://dlnr.hawaii.gov/holomua/files/2023/01/Wolanski-et-al.-2009-Quantifying-the-impact-of-watershed-urbanization-on-a-coral-reef_Maunalua-Bay-Hawaii.pdf

⁴ Bahr, K.D., Jokiel, P.L., & Rodgers, K.S. (2015). *The 2014 coral bleaching and freshwater flood events in Kāne'ohe Bay, Hawai'i*. PeerJ, 3:e1136. Available at: <https://pmc.ncbi.nlm.nih.gov/articles/PMC4435448/>

⁵ Vargas-Ángel, B., White, D., Storlazzi, C.D., Callender, T., & Maurin, P. (2017). *Baseline assessments for coral reef community structure and demographics on West Maui*. NOAA Data Report, ii, 45 pp. Available at: <https://repository.library.noaa.gov/view/noaa/14801>

⁶ Schaar, M., & Cox, L.J. (2021). *Costs and benefits of Hawai'i's aquarium fish industry management strategies*. Marine Policy, 129, 104509. Available at: <https://www.sciencedirect.com/science/article/abs/pii/S0308597X21000397>

the table (only 7 for the current West Hawai'i proposal) contribute only \$100 each per year to state revenues.

Fish left on the reef are not unused resources. They continue to provide ecological function, support traditional and customary practices, subsistence, recreation, tourism, and contribute to the health and resilience of reef systems that protect Hawai'i's coastlines. Schaar and Cox estimated Hawai'i's on-reef tourism value alone at approximately \$442–479 million annually and concluded that a statewide prohibition was the only policy scenario they evaluated that produced positive annual net benefits while negatively impacting the fewest stakeholder groups.

The relatively narrow scope of the proposed West Hawai'i fishery should not be mistaken for the potential reach of the statewide framework being established. The five-species whitelist and annual catch limits apply specifically to the West Hawai'i geographical endorsement, while the proposed rules establish a statewide aquarium fish permit and regulatory framework. That distinction is particularly important on O'ahu, where a separate environmental review process is already underway for a substantially broader commercial aquarium fishery.⁷

Ultimately, the potential local commercial fishery consists of a very small number of collectors supplying a much larger mainland aquarium and pet industry. Approximately seven potential permits are currently contemplated in West Hawai'i, while the proposed O'ahu fishery would allow up to 15 commercial aquarium permits and a White List of 35 marine species if its environmental review is completed.⁸

The Board should consider the broader implications of establishing a statewide framework that could expand commercial collection for the benefit of a small number of collectors and an overwhelmingly out-of-state industry, while Hawai'i's reefs, taxpayers, communities, and future generations bear the costs and risks.

The State lacks sufficient enforcement capacity to credibly manage extraction

Any permitting framework authorized under HRS §188-31 depends on effective monitoring, enforcement capacity, and compliance mechanisms. DAR relies heavily on species-specific annual catch limits, reporting requirements, monitoring, and adaptive management as safeguards against harm. But these measures are only meaningful if the State can effectively monitor and enforce them.

⁷ Hawai'i Fishers Association. (2026). *Environmental Impact Statement Preparation Notice: Collection of Marine Life for Commercial Aquarium Purposes on the Island of O'ahu Pursuant to Commercial Aquarium Permits and Commercial Marine Licenses*, Executive Summary, p. vii (PDF p. 17). Available at: https://files.hawaii.gov/dbedt/erp/Doc_Library/2026-05-08-OA-EISPN-Collection-of-Marine-Life-for-Commercial-Aquarium-Purposes-on-Oahu.pdf

⁸ Hawai'i Department of Land and Natural Resources, Division of Aquatic Resources. (2024). *BLNR Item F-1: Request for Approval of Application Form and Terms and Conditions for the State of Hawai'i Aquarium Fish Permit and West Hawai'i Aquarium Permit*. August 23, 2024, pp. 1, 3. Available at: <https://dlnr.hawaii.gov/wp-content/uploads/2024/08/F-1-1.pdf>

The Division of Conservation and Resources Enforcement (DOCARE) is tasked with patrolling approximately 3 million acres of state ocean waters, 3.2 million acres of state and conservation lands, and 750 miles of coastline while enforcing a broad range of conservation, wildlife, boating, and aquatic resource laws statewide.⁹ Yet DLNR's FY27 supplemental budget identifies no significant increase in DOCARE's program size or enforcement capacity associated with this additional regulatory responsibility.¹⁰

The proposed framework would add another layer of enforcement responsibility requiring the State to verify who is collecting, where collection occurs, which species are taken, whether catches are accurately reported, whether annual catch limits have been reached, and whether collection actually ceases once those limits are reached. These safeguards depend substantially on accurate reporting and the State's ability to independently verify compliance.

Furthermore, Schaar and Cox identify concerns regarding under-reporting of catch in Hawai'i and discrepancies within aquarium fishery reporting. These realities raise significant concerns regarding the reliability of self-reported catch data and the practical ability to accurately monitor compliance with total allowable catch systems and species-specific quotas.

At present, DAR's proposed safeguards remain aspirational on paper. Where prohibition is an available alternative, the Board should not authorize additional extraction that depends on already-stretched monitoring and enforcement capacity.

The statewide call for protection is clear

Across Hawai'i, communities have repeatedly made clear that our reef fish are worth more on the reef than in an aquarium. All four counties have taken action opposing the reopening of the commercial aquarium trade or urging stronger protections for Hawai'i's reef fish. Thousands of residents have submitted testimony, signed petitions, and called on decision-makers to keep these public trust resources where they belong.

This is not simply a question of whether DAR can construct a regulatory framework capable of allowing some level of commercial extraction. It is a question of whether Hawai'i should allow this private commercial use of our reef resources at all. The benefits are concentrated among a small number of collectors and a largely out-of-state industry, while Hawai'i's communities, taxpayers, reefs, and future generations bear the costs and risks.

The Board itself has previously supported prohibiting commercial aquarium collection, and the courts have now confirmed its authority to do so. Hawai'i's counties and communities

⁹ DOCARE, DLNR. *Division of Conservation and Resources Enforcement*, dlnr.hawaii.gov/docare

¹⁰ Hawai'i Department of Budget and Finance. Department of Land and Natural Resources, FB 2025–27 Program and Financial Plan. December 2024. Available at: <https://budget.hawaii.gov/wp-content/uploads/2024/12/23.-Department-of-Land-and-Natural-Resources-FB25-27-PFP.7Lt.pdf>

have asked for the same outcome. The answer is clear: Hawai'i should be reducing the pressures on our reefs that we can control, not creating a pathway to add them back.

We therefore urge the Board to reject DAR's recommendation and instead amend the proposed rules to prohibit commercial aquarium collection statewide.

Mahalo for the opportunity to provide testimony on this important matter.

Sincerely,

Hanna Lilley
Hawai'i Regional Manager
Surfrider Foundation