

[§188-22.9] Ha`ena community-based subsistence fishing area; restrictions; regulations. (a) There is designated the Ha`ena community-based subsistence fishing area on the northwestern coast of Kauai, which shall consist of all state waters and submerged lands bounded by:

- (1) The shoreline of the Ha`ena district;
- (2) A line that follows an imaginary extension of the boundary between Hae`ena state park and Na Pali state park that extends seaward for one mile from the shoreline;
- (3) An irregular line one mile offshore that is parallel to the contours of the shoreline; and
- (4) A line that follows an imaginary extension of the boundary between Hae`ena and Wainiha, as specified in the tax map of the county of Kauai, that extends seaward for one mile from the shoreline.

(b) In addition to the provisions of this chapter, the following uses or activities shall be regulated in the Ha`ena community-based subsistence fishing area:

- (1) Any activities with a commercial purpose, as defined in section 187A-1;
- (2) The issuance of any commercial marine license, as defined in section 187A-1;
- (3) The issuance of any aquarium fish permits, pursuant to section 188-31;
- (4) Fishing with the use of gill nets;
- (5) Fishing with self-contained underwater breathing apparatus and spears; and
- (6) Any other use or activity that the department of land and natural resources, in consultation with the inhabitants of the ahupua`a of Ha`ena and other interested parties, deems appropriate.

(c) The department of land and natural resources, as soon as practical, shall consult with as broad a base as possible, group of inhabitants of the ahupua`a of Ha`ena and other interested parties to establish rules for the Ha`ena community-based subsistence fishing area, to include but not be limited to:

- (1) A determination of fishing practices that are customarily and traditionally exercised for purposes of native Hawaiian subsistence, culture, and religion in the fishing area;
- (2) A management plan recognizing existing marine activities permitted by the department of land and natural resources and containing a description of specific activities to be conducted in the fishing area, including evaluation and monitoring processes and methods of funding and enforcement;
- (3) Limits on the harvest of aquatic life, as those terms are defined in section 187A-1, in the fishing area;
- (4) The establishment of no harvesting zones within the fishing area without depriving ahupua`a inhabitants of access to traditional sources of subsistence; and

(5) A process for the expansion of the fishing area to include other ahupua‘a.

The department of land and natural resources shall adopt rules pursuant to chapter 91 necessary for the purpose of this section. [L 2006, c 241, §3]

Law Journals and Reviews

Propagating Cultural Kipuka: The Obstacles and Opportunities of Establishing a Community-Based Subsistence Fishing Area. 31 UH L. Rev. 193.

Method is Irrelevant: Allowing Native Hawaiian Traditional and Customary Subsistence Fishing to Thrive. 32 UH L. Rev. 203.

[Previous](#)

[Vol03_Ch0121-0200D](#)

[Next](#)