

Amendment and Compilation of Chapter 13-95
Hawaii Administrative Rules

(date of adoption)

1. Chapter 13-95, Hawaii Administrative Rules, entitled "Rules Regulating the Taking and Selling of Certain Marine Resources", is amended and compiled 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 95

RULES REGULATING THE TAKING AND SELLING
OF CERTAIN MARINE RESOURCES

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§13-95-1 Definitions. As used in this chapter, unless otherwise provided:

"`Ahi" means any fish known as *Thunnus albacares* or *Thunnus obesus* or any recognized synonym. `Ahi refers to both yellowfin tuna (*T. albacares*) and bigeye tuna (*T. obesus*).

~~["Āholehole"]~~ "Āholehole" means any fish known as *Kuhlia xenura* or *Kuhlia sandvicensis* or any recognized synonym. Āholehole are also known as āhole, Hawaiian

flagtail, reticulated flagtail, or zebra-head flagtail.

"Akule" means any fish identified as *Selar crumenophthalmus* or [~~ether~~] any recognized synonym. [~~This fish is~~] Akule are also known as [pa'a'a, halalu, hahalalu, and] pā'ā'ā, halalū, hahalalū, goggle-eyed scad, or big-eyed scad.

"'Ama'ama" means any fish known as *Mugil cephalus* or any recognized synonym between eight and twelve inches in length. Individuals of this species at other life stages are known as pua, kahaha, or 'anae. All life stages of this species are generally known as striped mullet.

"'Aanae" means any fish known as *Mugil cephalus* or any recognized synonym greater than twelve inches in length. Individuals of this species at other life stages are known as pua, kahaha, or 'ama'ama. All life stages of this species are generally known as striped mullet.

"Annual catch limit" or "ACL" is the maximum commercial harvest in a given fishing year established for any marine fishery subject to closure. The catch is measured in whole wet weight through cumulative reported landings by commercial marine licensees.

"Aquarium fish permit" means a permit issued by the board pursuant to section 188-31, HRS, for the use of fine mesh nets and traps to take marine fish, freshwater nongame fish, or other aquatic life for aquarium purposes.

"Awa" means any fish known as *Chanos chanos* or any recognized synonym. Awa are also known as milkfish.

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

"Break" means to hit with, or to apply sufficient force to reduce to smaller pieces or to crack without actually separating into pieces.

"Carapace length" means the straight line measurement from the tip of the rostrum to the middle of the trailing edge of the body or carapace, not including the abdomen or tail.

"Commercial kala fishing trip" means a fishing trip where any kala are taken for a commercial purpose, as evidenced by the possession of more than four kala per person. For a trip to be considered a commercial kala fishing trip, each participant must have both a valid commercial marine license and a valid commercial kala fishing permit. For vessel-based fishing trips, each person onboard the vessel is deemed a participant.

"Commercial marine licensee" means a person who has been issued a commercial marine license pursuant to section 13-74-20 and section 189-2, HRS.

"Commercial purpose" means the taking of marine life for profit or gain or as a means of livelihood where the marine life is taken in or outside of the State, or where the marine life is sold, offered for sale, landed, or transported for sale anywhere in the State.

"Commercial uhu fishing trip" means a fishing trip where any uhu are taken for a commercial purpose, as evidenced by the possession of more than two uhu per person. For a trip to be considered a commercial uhu fishing trip, each participant must have both a valid commercial marine license and a valid commercial uhu fishing permit. For vessel-based fishing trips, each person onboard the vessel is deemed a participant.

"Damage" means to scrape, smother, poison, or otherwise cause any physical or physiological harm to the living portion of a stony coral or live rock.

"Day" means a twenty-four hour period.

["He'e"] "He'e" means any mollusk known as *Octopus cyanea*, *Octopus ornatus*, or any recognized synonym. He'e are also known as octopus or tako.

"Hook-and-line" means a fishing line to which one or more hooks or other tackle are attached. A hook-and-line may include a fishing rod or reel or both to cast and retrieve the line.

"'Iao" means any fish known as *Atherinomorus insularum* or any recognized synonym. 'Iao are also known as Hawaiian silverside or Hawaiian Islands silverside.

"Initial-phase uhu" means any uhu characterized by a dull red, brown, or gray body coloration and the absence of bright green or blue markings.

"Kahaha" means any fish known as *Mugil cephalus* or any recognized synonym between four and eight inches in length. Kahaha are also known as pahaha. Individuals of this species at other life stages are known as pua, 'ama'ama, or 'anae. All life stages of this species are generally known as striped mullet.

"Kala" means any fish known as *Naso unicornis*, *Naso brevirostris*, *Naso annulatus*, or any recognized synonym. Kala are also known as bluespine unicornfish, short-nosed unicornfish, spotted unicornfish, or whitemargin unicornfish.

"Kala 'ōpelu" means any fish known as *Naso hexacanthus* or any recognized synonym. Kala 'ōpelu are also known as 'ōpelu kala or sleek unicornfish.

~~["Kona crab" means any crab known as *Ranina ranina* or any recognized synonym.]~~

"Kole" means any fish known as *Ctenochaetus strigosus* or any recognized synonym. Kole are also known as kole tang, spotted surgeonfish, goldring surgeonfish, or yellow-eyed tang.

~~["Kumu"]~~ "Kūmū" means any fish known as *Parupeneus porphyreus* or any recognized synonym. Kūmū are also known as whitesaddle goatfish.

"Length" means the straight line measurement from the tip of the snout to the middle of the trailing edge of the tail.

"Live rock" means any natural hard substrate to which marine life is visibly attached or affixed.

"Manini" means any fish known as *Acanthurus triostegus sandvicensis* or any recognized synonym. Manini are also known as convict tang or convict surgeonfish.

"Mitigation" means activities carried out in accordance with this chapter in order to avoid, minimize, restore, or compensate for losses of certain marine resources due to authorized activities.

"Moano" means any fish known as *Parupeneus multifaciatatus* or any recognized synonym. Moano are

also known as banded goatfish, five-barred goatfish, manybar goatfish, or multibarred goatfish.

"Moi" means any fish known as *Polydactylus sexfilis* or any recognized synonym. Moi are also known as six-fingered threadfin or yellowthread threadfin.

~~["Mullet" means any fish known as *Mugil cephalus* or any recognized synonym.]~~

"Nehu" means any fish known as *Encrasicholina purpurea* or any recognized synonym. Nehu are also known as Hawaiian anchovy.

"Net" means any of various fishing devices of mesh material made into various shapes, such as but not limited to, a bag, sack, pouch, or curtain, used to entangle, surround, or concentrate aquatic life.

~~["Ōio"]~~ "'Ō'io" means any fish known as *Albula glossodonta* or *Albula virgata* or any recognized synonym. 'Ō'io are also known as roundjaw bonefish, shortjaw bonefish, Indo-Pacific bonefish, sharpjaw bonefish, or smallmouth bonefish.

~~["Ōpelu kala" means any fish known as *Naso hexacanthus* or any recognized synonym.]~~

"'Ōpakapaka" means any fish known as *Pristipomoides filamentosus* or any recognized synonym. 'Ōpakapaka are also known as Hawaiian pink snapper, pink snapper, kinme himedai, or ohimedai.

"'Ōpelu" means any fish of the genus *Decapterus*. 'Ōpelu are also known as mackerel scad.

"Pāpa'i kualoa" means any crab known as *Ranina ranina* or any recognized synonym. Pāpa'i kualoa are also known as pāpa'i kua loa, Kona crab, frog crab, or spanner crab.

"Pāpa'i kūhonu" means any crab known as *Portunus sanguinolentus* or *Portunus hawaiiensis* or any recognized synonym. Pāpa'i kūhonu are also known as pāpa'i kuahonu, kūhonu, kuahonu, blood-spotted swimming crab, or white crab.

"Pua" means any fish known as *Mugil cephalus* or any recognized synonym between zero and four inches in length. Pua are also known as pua 'ama, pua 'ama'ama, pua po'olā, or pua 'o'olā. Individuals of this species at other life stages are known as kahaha,

'ama'ama, or 'anae. All life stages of this species are generally known as striped mullet.

"Renewable energy projects" means projects developed by renewable energy producers, as the term is defined in section 171-95, Hawaii Revised Statutes, that reduce the consumption of non-renewable energy resources or produce renewable energy.

"Samoa crab" means any crab known as *Scylla serrata* or any recognized synonym. The Samoa crab is a type of swimming crab and is also known as mud crab or mangrove crab.

"Sell" means to solicit and receive an order for; to have, or keep, or offer, or expose for sale; to deliver for value or in any other way than purely gratuitously; to peddle; to keep with intent to sell; and to traffic in.

"Spear" means any device or implement that is designed or used for impaling aquatic life. Spears may include but are not limited to spear gun shafts, arbaletes, arrows, bolts, Hawaiian slings, tridents, or three-prong spears.

"Speared" means [to capture aquatic life by stabbing with a spear or other such pointed device. The presence of any puncture wound on the external surfaces of the aquatic life, which are fresh and does not show signs of healing, shall be evidence that the aquatic life was speared.] pierced, impaled, penetrated, stuck, or run through by a sharp, pointed implement.

~~["Slipper lobster" means any crustacean of the species *Scyllarides squammosus* or *S. haanii*, or recognized synonyms. These animals are also known as rock lobster, mole lobster, shovel-nosed lobster, or ula papapa.~~

~~"Spiny lobster" means any crustacean of the genus *Panulirus*. These animals are also known as lobster, Hawaiian spiny lobster, red lobster, green lobster, or ula.]~~

"Stony coral" means any invertebrate species belonging to the Order Scleractinia, characterized by having a hard, calcareous skeleton, that are native to the Hawaiian Islands.

"Striped mullet" means any fish known as *Mugil cephalus* or any recognized synonym. The various life stages of striped mullet are known as pua, kahaha, 'ama'ama, or 'anae.

"Take" means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, aquatic life. The use of any gear, equipment, tool, or any means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, aquatic life by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be fished for, caught, captured, confined, or harvested, shall be construed as taking.

"Terminal-phase uhu" means any uhu characterized by the presence of bright green or blue markings or a predominantly green or blue body coloration, often with bright pink, orange, or yellow patches.

"Uhu" means any fish [~~known as *Scarus dubius*, *Scarus psittacus*, *Scarus rubroviolaceus*, *Chlorurus sordidus*, *Chlorurus perspicillatus*, or any recognized synonym.~~] belonging to the family Scaridae or any recognized synonyms. Uhu is a general term for parrotfish.

"Uhu 'ahu'ula" means any fish known as *Chlorurus perspicillatus* or any recognized synonym that has not reached its terminal phase. Uhu 'ahu'ula have a grayish brown body with reddish fins and a broad white band at the base of the tail. The terminal phase of these fish are known as uhu uliuli. Both uhu 'ahu'ula and uhu uliuli are known as spectacled parrotfish or fantail uhu.

"Uhu 'ele'ele" means any fish known as *Scarus rubroviolaceus* or any recognized synonym that has reached its terminal phase, indicated by a change in coloration from a predominantly brownish-red or yellowish-gray body with reddish fins, to a predominantly green or blue-green body color with a green beak. Both uhu 'ele'ele and uhu pālukaluka are known as redlip or ember parrotfish or whiptail uhu.

"Uhu pālukaluka" means any fish known as *Scarus rubroviolaceus* or any recognized synonym that has not reached its terminal phase. Uhu pālukaluka have a predominantly brownish-red or yellowish gray body with reddish fins. The terminal phase of these fish are known as uhu 'ele'ele. Both uhu pālukaluka and uhu 'ele'ele are known as redlip or ember parrotfish or whiptail uhu.

"Uhu uliuli" means any fish known as *Chlorurus perspicillatus* or any recognized synonym that has reached its terminal phase, indicated by a change in coloration from a grayish brown body with reddish fins and a broad white band at the base of the tail, to a blue-green body with a dark band across the top of the snout and the lack of a white tail band. Both uhu uliuli and uhu 'ahu'ula are known as spectacled parrotfish or fantail uhu.

"Uku" means any fish known as *Aprion virescens* or any recognized synonym. Uku are also known as uku palu, green jobfish, gray jobfish, blue-green snapper, Hawaiian blue-green snapper, gray snapper, slender snapper, or aochibiki.

"Ula" means any spiny lobster of the genus *Panulirus*. Ula are also known as lobster, Hawaiian spiny lobster, spiny lobster, red lobster, or green lobster.

"Ula pāpapa" means any crustacean of the species *Scyllarides squamosus* or *Scyllarides haanii*, or any recognized synonym. Ula pāpapa are also known as ula 'āpapapa, slipper lobster, ridgeback slipper lobster, or shovel-nosed lobster.

"'Ula'ula koa'e" means any fish known as *Etelis coruscans* or any recognized synonym. 'Ula'ula koa'e are also known as koa'e, onaga, long-tail red snapper, ruby snapper, scarlet snapper, or hamadai.

"Ulua" means any fish known as *Caranx ignobilis*, *Caranx lugubris*, *Caranx melampygus*, *Caranx sexfasciatus*, *Carangoides equula*, *Carangoides ferdau*, *Carangoides orthogrammus*, or any recognized synonym. The young of these species are also known as [~~pāpio~~] pāpio.

~~["Weke"]~~ "Weke 'ā" means any fish known as *Mulloidichthys flavolineatus* or any recognized synonym. ~~[These fish]~~ Weke 'ā are also known as ~~[goatfish, yellowstripe goatfish, weke a, and the]~~ goatfish or yellowstripe goatfish. The young of this fish ~~[is]~~ are known as ~~[oama.]~~ 'oama. [Eff 12/03/98; am 1/11/02; am 12/09/02; am 12/19/02; am 5/01/14; am 10/19/18; am and comp 1/31/21; am and comp] (Auth: HRS §§187A-3.5, 187A-5, 190-3) (Imp: HRS §§187A-3.5, 187A-5, 190-3)

§13-95-1.1 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:

- (1) Licenses issued pursuant to sections 187A-3.5, 188-44, 188-57, or 189-6, HRS;
- (2) Permits issued pursuant to sections 187A-6, 188-23, 188-37, 188-68, or 190-4, HRS; or
- (3) As may be otherwise provided by law. [Eff 12/19/02; am 5/01/14; comp 1/31/21; comp] (Auth: HRS §§187A-3.5, 187A-6, 188-44, 188-45, 188-57, 188-68, 190-3) (Imp: HRS §§187A-3.5, 187A-6, 188-23, 188-37, 188-44, 188-45, 188-57, 188-68, 190-4)

§13-95-2 Penalty. (a) A person violating any section of this chapter may be subject to any applicable criminal or administrative penalties or both. 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 this State.

(b) For the purpose of calculating the administrative penalties for violations of this

chapter, if a fine per specimen may be applicable, fines per specimen may be imposed on the following basis:

- (1) For finfish, each individual;
- (2) For invertebrates, not including stony corals or live rock, each individual;
- (3) For solitary (having a single polyp) stony corals, each individual;
- (4) For colonial stony corals:
 - (A) Each damaged head or colony less than one square meter in surface area; or
 - (B) For a colony greater than one square meter in surface area, each square meter of colony surface area and any fraction remaining constituting an additional specimen;
- (5) For live rocks, each individual; but if the violation involves greater than one square meter of bottom area, on the basis of each square meter of bottom area. [Eff 12/03/98; am 5/01/14; comp 1/31/21; comp
] (Auth: HRS §§187A-5, 190-3) (Imp: HRS §§183C-7, 187A-5, 187A-12.5, 187A-13, 188-53, 188-70, 189-4, 190-5)

§13-95-3 Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff 12/3/98; comp 1/31/21; comp
] (Auth: HRS §187A-5) (Imp: HRS §§187A-5, 1-23)

§13-95-4 [~~Aholehole.~~] Āholehole. It [~~shall be~~] is unlawful for any person to take, possess, or sell any [~~aholehole~~] āholehole less than five inches in

length. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am
and comp] (Auth: HRS §187A-5) (Imp:
HRS §187A-5)

§13-95-5 Manini. It [~~shall be~~] is unlawful for
any person to take, possess, or sell any manini less
than [~~five~~] six inches in length. [Eff 12/03/98; am
12/19/02; comp 1/31/21; am and comp]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-6 Moano. It [~~shall be~~] is unlawful for
any person to take, possess, or sell any moano less
than seven inches in length. [Eff 12/03/98; am
12/19/02; comp 1/31/21; am and comp]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-7 [~~Kumu-~~] Kūmū. It [~~shall be~~] is
unlawful for any person to take, possess, or sell any
[~~kumu~~] kūmū less than ten inches in length. [Eff
12/03/98; am 12/19/02; comp 1/31/21; am and comp
] (Auth: HRS §187A-5) (Imp: HRS
§187A-5)

§13-95-8 [~~Mullet-~~] 'Ama`ama (striped mullet).
(a) It [~~shall be~~] is unlawful for any person to take,
possess, or sell any [~~mullet~~] pua, kahaha, or `ama`ama
less than eleven inches in [~~length-~~] length except as
provided in subsection (b) of this section.

(b) It is unlawful for any person to wilfully
fish for, or attempt to take by any means whatsoever,
from any of the waters within the jurisdiction of the
State, or to sell, or have in possession any [~~mullet~~]
pua, kahaha, `ama`ama, or `anae during the months of
December, January, February, and March; provided that

any owner or operator of a fish pond may lawfully catch [~~the young mullet known as~~] pua during the closed season, for the purpose of stocking the owner's or operator's pond; and provided further that any owner or operator of a fish pond or any commercial marine dealer may lawfully sell [~~pond raised mullet~~] pond-raised pua, kahaha, 'ama'ama, or 'anae during the closed season after first procuring a license to do so pursuant to sections 13-74-40 or 13-74-43. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-9 Awa. It [~~shall be~~] is unlawful for any person to take, possess, or sell any awa less than nine inches in length. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-10 [~~Oie.~~] 'Ō'io. It [~~shall be~~] is unlawful for any person to take, possess, or sell any [~~oie~~] 'ō'io less than fourteen inches in length. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-11 Kala. (a) It [~~shall be~~] is unlawful for any person to take, possess, or sell any kala less than fourteen inches in length.

(b) Subject to subsections (e) and (g), it is unlawful for any person to take more than four kala per day or possess more than four kala at any one time.

(c) It is unlawful for any person to take kala for a commercial purpose without a valid commercial kala fishing permit.

(d) The department shall, upon receipt of a valid application and appropriate fee payment, issue a commercial kala fishing permit to any individual who possesses a valid commercial marine license. The fee for the issuance or renewal of a commercial kala fishing permit shall be \$100. A commercial kala fishing permit shall be valid from the date of issuance and shall expire on the expiration date of the permittee's commercial marine license.

(e) A commercial kala fishing permittee participating in a commercial kala fishing trip may take more than four kala per day, and possess more than four kala at any one time, provided that:

- (1) Commercial harvest or sale of kala shall be prohibited when the commercial kala fishing season is closed pursuant to subsection (h);
and
- (2) The department may establish additional restrictions on the commercial take or possession of kala pursuant to adaptive management authority under §187A-5(b), HRS.

(f) It is unlawful for any commercial marine dealer to purchase, obtain, exchange, transfer, possess, or sell kala unless the commercial marine dealer has registered with the department as a commercial kala dealer.

(g) A registered commercial kala dealer may purchase, obtain, exchange, transfer, possess and sell more than four kala if in compliance with section 189-11, HRS, provided that no kala may be purchased, obtained, exchanged, transferred, possessed, or sold when the commercial kala fishing season is closed pursuant to subsection (h), provided further that kala legally obtained prior to the date of closure may be possessed and sold after the date of closure.

(h) There is established an annual catch limit (ACL) of 15,000 pounds for the commercial kala fishery. Commercial kala catch shall be tallied beginning in August of each year. When the ACL is reached, the department shall notify commercial kala fishing permittees and registered commercial kala dealers that the commercial kala fishing season will

close. Notice shall be made in writing by mail or email to the address on file with the department no less than three days prior to the closure of the season. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §§187A-5, 190-3) (Imp: HRS §§187A-5, 188-53, 190-4)

§13-95-12 [~~Opelu kala.~~] **Kala 'ōpelu.** It [~~shall be~~] is unlawful for any person to take, possess, or sell any [~~opelu kala~~] kala 'ōpelu less than sixteen inches in length. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-13 [~~Opakapaka.~~] **'Ōpakapaka.** (a) It [~~shall be~~] is unlawful for any person to possess with the intent to sell, or offer for sale, any [~~opakapaka~~] 'ōpakapaka less than one pound in weight. (b) It [~~shall be~~] is unlawful for any person to take with spear or possess any speared [~~opakapaka~~] 'ōpakapaka less than one pound in weight. [Eff 12/3/98; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-14 [~~Onaga.~~] **'Ula 'ula koa 'e (onaga).** (a) It [~~shall be~~] is unlawful for any person to possess with the intent to sell, or offer for sale, any [~~onaga~~] 'ula 'ula koa 'e less than one pound in weight. (b) It [~~shall be~~] is unlawful for any person to take with spear or possess any speared [~~onaga~~] 'ula 'ula koa 'e less than one pound in weight. [Eff 12/3/98; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-15 Uku. (a) It [~~shall be~~] is unlawful for any person to possess with the intent to sell, or offer for sale, any uku less than one pound in weight.

(b) It [~~shall be~~] is unlawful for any person to take with spear or possess any speared uku less than one pound in weight. [Eff: 12/3/98; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-16 Uhu[-] (parrotfish). (a) It [~~shall be~~] is unlawful for any person to take, possess, or sell any uhu 'ele'ele, uhu uliuli, uhu pālukaluka, or uhu 'ahu'ula less than [~~twelve~~] fourteen inches in length.

(b) Any other department size restriction notwithstanding, subject to subsection (a), it is unlawful for any person to take, possess, or sell any other uhu less than ten inches in length.

(c) Subject to subsections (f) and (h), it is unlawful for any person to take more than two uhu of any variety per day or possess more than two uhu of any variety at any one time.

(d) It is unlawful for any person to take uhu for commercial purposes without a valid commercial uhu fishing permit.

(e) The department shall, upon receipt of a valid application and appropriate fee payment, issue a commercial uhu fishing permit to any individual who possesses a valid commercial marine license. The fee for the issuance or renewal of a commercial uhu fishing permit shall be \$100. A commercial uhu fishing permit shall be valid from the date of issuance and shall expire on the expiration date of the permittee's commercial marine license.

(f) A commercial uhu fishing permittee participating in a commercial uhu fishing trip may take more than two uhu per day, and possess more than two uhu at any one time, provided that:

- (1) No species of uhu other than uhu pālukaluka and uhu 'ele'ele may be taken or possessed on a commercial uhu fishing trip;
- (2) Commercial harvest or sale of uhu shall be prohibited when the commercial uhu fishing season is closed pursuant to subsection (i); and
- (3) The department may establish additional restrictions on the commercial take or possession of uhu pursuant to adaptive management authority under §187A-5(b), HRS.

(g) It is unlawful for any commercial marine dealer to purchase, obtain, exchange, transfer, possess, or sell uhu unless the commercial marine dealer has registered with the department as a commercial uhu dealer.

(h) A registered commercial uhu dealer may purchase, obtain, exchange, transfer, possess, and sell more than two uhu if in compliance with section 189-11, HRS, provided that:

- (1) No species of uhu other than uhu pālukaluka and uhu 'ele'ele may be purchased, obtained, exchanged, transferred, possessed, or sold; and
- (2) No uhu may be purchased, obtained, exchanged, transferred, possessed, or sold when the commercial uhu fishing season is closed pursuant to subsection (i), provided further that uhu legally obtained prior to the date of closure may be possessed and sold after the date of closure.

(i) There is established an annual catch limit (ACL) of 30,000 pounds for the commercial uhu fishery. Commercial uhu catch shall be tallied beginning in June of each year. When the ACL is reached, the department shall notify commercial uhu fishing permittees and registered commercial uhu dealers that the commercial uhu fishing season will close. Notice shall be made in writing by mail or email to the address on file with the department no less than three days prior to the closure of the season. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp

] (Auth: HRS §§187A-5, 190-3) (Imp:
HRS §§187A-5, 188-53, 190-4)

§13-95-17 [~~Ahi.~~] 'Ahi. (a) It [~~shall be~~] is unlawful for any person to possess with the intent to sell, or offer for sale, any [~~ahi~~] 'ahi less than three pounds in weight.

(b) It [~~shall be~~] is unlawful for any person to take with spear or possess any speared [~~ahi~~] 'ahi less than three pounds in weight. [Eff: 12/3/98; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-18 [~~Opelu.~~] 'Ōpelu. It [~~shall be~~] is unlawful for any person at any time, to fish for or take, or be engaged in fishing or taking [~~opelu~~] 'ōpelu with fish or animal bait, also known as "chop-chop", within the waters off the coast of South Kona, [~~island of Hawaii,~~] Hawai'i Island, between the [~~Kiilae-Keokea~~] Ki'ilae-Keokea boundary and the [~~Kapua-Kaulanamauna~~] Kapu'a-Kaulanamauna boundary, except with [~~hook and line.~~] hook-and-line. [Eff 12/3/98; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-19 Akule. (a) It [~~shall be~~] is unlawful for any person to take any akule measuring less than eight and one-half inches in length, with a net during the months of July, August, September, and October.

(b) It is unlawful for any person, other than marine seafood dealers, to possess or sell more than two hundred pounds of akule measuring less than eight and one-half inches in length per day during July, August, September, and October; except as may be otherwise provided by law. [Eff 12/03/98; am 1/11/02;

comp 1/31/21; am and comp] (Auth: HRS
§187A-5) (Imp: HRS §187A-5)

§13-95-20 [~~iao.~~] 'iao. (a) It [~~shall be~~] is unlawful for any person at any time to sell, offer for sale, or trade, any dried or cured [~~iao~~] 'iao taken from the waters within the jurisdiction of the State.

(b) It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any [~~iao~~] 'iao; provided that the department may issue licenses pursuant to section 13-74-22, to take [~~iao~~] 'iao for use as bait only. [Eff: 12/3/98; comp 1/31/21; am and comp
] (Auth: HRS §187A-5) (Imp: HRS
§187A-5)

§13-95-21 Nehu. (a) It [~~shall be~~] is unlawful for any person at any time to sell, offer for sale, or trade, any dried or cured nehu taken from the waters within the jurisdiction of the State.

(b) It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any nehu; provided that the department may issue licenses pursuant to section 13-74-22, to take nehu for use as bait only and as [~~maybe~~] may be otherwise allowed under chapter 13-90. [Eff 12/3/98; comp 1/31/21; am and comp
] (Auth: HRS §187A-5) (Imp: HRS
§187A-5)

§13-95-22 Ulua. (a) It is unlawful for any person to take or possess any ulua less than ten inches in length.

(b) It is unlawful for any person to sell any ulua less than sixteen inches in length.

(c) It is unlawful for any person to take or possess more than twenty ulua measuring more than ten inches in length per day; provided that a commercial marine licensee may take, possess, and sell more than twenty such ulua; and further provided that a commercial marine dealer may possess and sell more than twenty such ulua with receipts issued for the purchase pursuant to section 189-11, [~~Hawaii Revised Statutes.~~] HRS. [Eff 12/19/02; comp 1/31/21; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Section 13-95-22 is based substantially upon Chapter 87 of Title 13. [Eff 5/26/81; am 1/25/82; R 12/19/02] Chapter 87 of Title 13 was based substantially upon Regulation 19 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff 3/28/58; am 10/6/58; R 5/26/81]

§13-95-23 Moi. (a) It is unlawful for any person to take, possess, or sell any moi less than eleven inches in length.

(b) It is unlawful for any person to take, possess, or sell more than fifteen moi per day during September through May; provided that a commercial marine dealer may possess and sell more than fifteen moi with receipts issued for the purchase pursuant to section 189-11, [~~Hawaii Revised Statutes.~~] HRS.

(c) It is unlawful for any person to take, possess, or sell any moi during June, July, and August. [Eff 12/19/02; comp 1/31/21; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Section 13-95-23 is based substantially upon Chapter 88 of Title 13. [Eff 5/26/81; am and comp 12/20/86; R 12/19/02] Chapter 88 of Title 13 was based substantially upon Regulation 20 [Eff: 3/20/58; am 10/6/58; am 7/9/59; am 5/4/68; R

5/26/81] and Regulation 21 [Eff: 3/28/58; am 10/6/58; am 7/9/59; R 5/26/81] of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii.

§13-95-24 [~~Weke.~~] **Weke 'ā.** (a) It is unlawful for any person to take or possess more than fifty [~~weke~~] weke 'ā less than seven inches in length per day.

(b) It is unlawful for any person to sell any [~~weke~~] weke 'ā less than seven inches in length. [Eff 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Section 13-95-24 is based substantially upon Chapter 88 of Title 13. [Eff 5/26/81; am and comp 12/20/86; R 12/19/02] Chapter 88 of Title 13 was based substantially upon Regulation 20 [Eff: 3/20/58; am 10/6/58; am 7/9/59; am 5/4/68; R 5/26/81] and Regulation 21 [Eff: 3/28/58; am 10/6/58; am 7/9/59; R 5/26/81] of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii.

§13-95-25 **Kole.** It is unlawful to take, possess, or sell any kole less than five inches in length. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§§13-95-26 to 13-95-49 (Reserved)

§13-95-50 [~~Kuhonu crab.~~] **Pāpa'i kūhonu (white crab).** (a) It [~~shall be~~] is unlawful for any person

to possess with the intent to sell, or offer for sale, any [~~kuhonu crab~~] pāpa`i kūhonu less than four inches in length or in width across or along its back.

(b) It is unlawful for any person to [~~catch or take from any bays, harbors, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill,~~] take, possess, or sell any [~~kuhonu crab~~] pāpa`i kūhonu [~~while~~] with eggs. Any [~~kuhonu crab~~] pāpa`i kūhonu with eggs caught must immediately be returned to the waters from which the crab was taken. The possession of any [~~kuhonu crab,~~] pāpa`i kūhonu, showing indications of [~~the~~] its eggs having been scraped or removed [~~therefrom, shall be~~] is prima facie evidence of [~~the~~] a violation of this section.

(c) [~~No person shall~~] It is unlawful for any person to pursue, take, or kill any [~~kuhonu crab~~] pāpa`i kūhonu in the State with a spear.

(d) [~~No person shall~~] It is unlawful for any person to offer for sale any speared [~~kuhonu crab.~~] pāpa`i kūhonu. [Eff 12/3/98; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-51 [~~Kona crab.~~] Pāpa`i kualoa (Kona crab). (a) It is unlawful for any person to take, possess, or sell any [~~Kona crab~~] pāpa`i kualoa less than four inches in carapace length.

(b) It is unlawful for any person to take, possess, or sell any [~~Kona crab~~] pāpa`i kualoa taken from the waters within the jurisdiction of the State [~~during the months of~~] from May[, June, July, and August.] through September.

(c) The possession of any [~~Kona crab~~] pāpa`i kualoa from May through September by any person [~~during the months of May, June, July, and August shall be~~] is prima facie evidence that the person is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house may serve

~~[Kona crab]~~ pāpa`i kualoa lawfully caught during the open season by first procuring a license to do so pursuant to section 13-74-41.

(d) It is unlawful for any person to take, possess, or sell any ~~[Kona crab]~~ pāpa`i kualoa with eggs. Any ~~[Kona crab]~~ pāpa`i kualoa with eggs caught must immediately be returned to the waters from which the crab was taken. The possession of any ~~[Kona crab]~~ pāpa`i kualoa showing indications of ~~[the]~~ its eggs having been scraped or removed ~~[therefrom, shall be]~~ is prima facie evidence of ~~[the]~~ a violation of this section.

(e) It is unlawful for any person to pursue, take, or kill any ~~[Kona crab]~~ pāpa`i kualoa in the State with a spear.

(f) It is unlawful for any person to possess or sell any speared ~~[Kona crab.]~~ pāpa`i kualoa.

~~[(g) It is unlawful for any person to take or kill any female Kona crab.]~~ [Eff 12/03/98; am 12/19/02; am and comp 1/31/21; am and comp

] (Auth: HRS §187A-5) (Imp: HRS §§187A-5, 188-57)

§13-95-52 Samoan crab. (a) It is unlawful for any person to take, possess, or sell any Samoan crab less than six inches in width measured across the carapace or back.

(b) It is unlawful for any person to take, kill, possess, or sell any Samoan crab with eggs. Any Samoan crab with eggs caught must immediately be returned to the waters from which the Samoan crab was taken. The possession of any Samoan crab, showing indications of ~~[the]~~ its eggs having been scraped or removed ~~[therefrom, shall be]~~ is prima facie evidence of ~~[the]~~ a violation of this section.

(c) It is unlawful for any person to pursue, take, or kill any Samoan crab in the State with a spear.

(d) It is unlawful for any person to possess or sell any speared Samoan crab.

(e) It is unlawful for any person to take or kill any female Samoan crab. [Eff 12/3/98; am and comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical note: Subsection 13-95-52(a) is based substantially upon chapter 84 of title 13. [Eff 5/26/81; am 1/25/82; R 1/31/21] Chapter 84 of Title 13 was based substantially upon Regulation 14 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff 11/25/41 (Governor's approval date); am 7/28/47; am and ren 3/28/58; R 5/26/81]

§13-95-53 [~~Spiny lobster~~] Ula (spiny lobster).

(a) It is unlawful for any person to take, kill, possess, or sell any [~~spiny lobster~~] ula less than three and one-fourth inches in carapace length, measured in a straight line along the carapace or head, from the ridge between the two largest spines above the eyes to the rear edge of the carapace.

(b) It is unlawful for any person to take, kill, possess, or sell any [~~spiny lobster~~] ula taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

(c) The possession of any [~~spiny lobster~~] ula by any person during the months of May, June, July, and August [~~shall be~~] is prima facie evidence that the person is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house may serve [~~spiny lobster~~] ula lawfully caught during the open season by first procuring a license to do so pursuant to section 13-74-41.

(d) It is unlawful for any person to take, kill, possess, or sell any [~~spiny lobster~~] ula with eggs. Any [~~spiny lobster~~] ula with eggs caught must immediately be returned to the waters from which the [~~spiny lobster~~] ula was taken. The possession of any [~~spiny lobster~~,] ula showing indications of [~~the~~] its

eggs having been scraped or removed [~~therefrom, shall be~~] is prima facie evidence of [~~the~~] a violation of this section.

(e) It is unlawful for any person to pursue, take, or kill any [~~spiny lobster~~] ula in the State with a spear.

(f) It is unlawful for any person to possess or sell any speared [~~spiny lobster.~~] ula.

(g) It is unlawful for any person to possess or sell any [~~spiny lobster~~] ula in a condition where the body is mutilated, or the carapace and tail are separated.

(h) It is unlawful for any person to take or kill any female [~~spiny lobster.~~] ula. [Eff 12/3/98; am and comp 1/31/21; am and comp]
(Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-57)

Historical note: Subsections 13-95-53(a) and (g) are based substantially upon Chapter 89 of Title 13. [Eff 5/26/81; am 6/6/83; am 6/25/84; am and comp 2/6/87; am and comp 5/5/88; am and comp 8/14/89; R 1/31/21] Chapter 89 of Title 13 was based substantially upon Regulation 22 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff 3/28/58; am 10/6/58; am 7/9/59; am 7/18/59 (Governor's approval date); am 9/17/60 (Governor's approval date); am 8/4/78; R 5/26/81]

§13-95-54 [~~Slipper lobster.~~] Ula pāpapa (slipper lobster). (a) It is unlawful for any person to take, kill, possess, or sell any [~~slipper lobster~~] ula pāpapa less than two and three-fourths inches in tail width, measured in a straight line across the widest spot of the tail between the first and second abdominal segments.

(b) It is unlawful for any person to take, kill, possess, or sell any [~~slipper lobster~~] ula pāpapa taken from the waters within the jurisdiction of the

State during the months of May, June, July, and August.

(c) The possession of any [~~slipper lobster~~] ula pāpapa by any person during the months of May, June, July, and August [~~shall be~~] is prima facie evidence that the person is guilty of a violation of this section; provided that any commercial marine dealer may sell, or any hotel, restaurant, or other public eating house may serve [~~slipper lobster~~] ula pāpapa lawfully caught during the open season by first procuring a license to do so pursuant to section 13-74-41.

(d) It is unlawful for any person to take, kill, possess, or sell any [~~slipper lobster~~] ula pāpapa with eggs. Any [~~slipper lobster~~] ula pāpapa with eggs caught must immediately be returned to the waters from which the [~~slipper lobster~~] ula pāpapa was taken. The possession of any [~~slipper lobster,~~] ula pāpapa showing indications of [~~the~~] eggs having been scraped or removed [~~therefrom, shall be~~] is prima facie evidence of [~~the~~] a violation of this section.

(e) It is unlawful for any person to pursue, take, or kill any [~~slipper lobster~~] ula pāpapa in the State with a spear.

(f) It is unlawful for any person to possess or sell any speared [~~slipper lobster.~~] ula pāpapa.

(g) It is unlawful for any person to possess or sell any [~~slipper lobster~~] ula pāpapa in a condition where the body is mutilated, or the carapace and tail are separated. [Eff 12/3/98; am and comp 1/31/21; am and comp] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-57)

Historical note: Subsections 13-95-54(a) and (g) are based substantially upon chapter 89 of title 13 [Eff 5/26/81; am 6/6/83; am 6/25/84; am and comp 2/6/87; am and comp 5/5/88; am and comp 8/14/89; R 1/31/21] Chapter 89 of title 13 was based substantially upon regulation 22 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff 3/28/58; am 10/6/58; am 7/9/59; am

7/18/59 (Governor's approval date); am 9/17/60
(Governor's approval date); am 8/4/78; R 5/26/81]

§13-95-55 [~~He'e.~~] **He'e (tako)**. It [~~shall be~~] is
unlawful for any person to take, possess, or sell any
[~~he'e~~] he'e less than one pound in weight. [Eff
12/19/02; comp 1/31/21; am and comp]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

Historical Note: Section 13-95-55 is based
substantially upon Chapter 86 of Title 13. [Eff
5/26/81; R 12/19/02] Chapter 86 of Title 13 was based
substantially upon Regulation 18 of the Division of
Fish and Game, Department of Land and Natural
Resources, State of Hawaii. [Eff 3/28/58; am 10/6/58;
R 5/26/81]

§13-95-70 Stony corals. (a) Except as
otherwise provided in this section or authorized by
law:

- (1) Subject to subsections (b) and (c), it is
unlawful for any person to take, break, or
damage any stony coral, except as provided
in sections 171-58.5 and 205A-44, HRS;
- (2) It is unlawful for any person to damage any
stony coral by any intentional or negligent
activity causing the introduction of
sediment, biological contaminants, or
pollution into state waters;
- (3) It is unlawful for any person to sell any
stony coral; except that stony coral rubble
pieces or fragments imported for the
manufacture and sale of coral jewelry, or
dead stony coral obtained through legal
dredging operations in Hawaii for
agricultural or other industrial uses, may
be sold.

(b) No liability shall be imposed under subsection (a)(1) of this section for inadvertent breakage, damage, or displacement of an aggregate area of less than one half square meter of coral if caused by:

- (1) A vessel with a single anchor damage incident, in an area where anchoring is not otherwise prohibited, and not more frequently than once per year; or
- (2) Accidental physical contact by an individual person.

(c) The [~~Department~~] department may authorize damage to stony corals for the development or operation of renewable energy projects and shall require mitigation to offset any stony coral losses.

(d) Any person found in violation of any provision of this section pursuant to a criminal prosecution shall be subject to penalty as provided under section 187A-13, HRS. Any person found in violation of any provision of this section pursuant to civil or administrative action shall be subject to penalty as provided under section 187A-12.5, HRS. [Eff 12/03/98; am 12/09/02; am 5/01/14; am 10/19/18; comp 1/31/21; am and comp] (Auth: HRS §§187A-5, 189-6, 190-3) (Imp: HRS §§187A-6, 187A-12.5, 187A-13, 188-68, 189-6, 190-1, 190-3, 190-5)

§13-95-71 Live rocks. (a) Except as otherwise provided in this section or authorized by law:

- (1) Subject to subsections (b) and (c), it is unlawful for any person to take, break, or damage any live rock;
- (2) Subject to subsection (b), it is unlawful for any person to damage any live rock by any intentional or negligent activity causing the introduction of sediment, biological contaminants, or pollution into state waters; and
- (3) It is unlawful for any person to sell any live rock.

(b) No liability shall be imposed under subsections (a)(1) or (a)(2) of this section for inadvertent breakage, damage, or displacement of an aggregate area of less than one square meter of live rock bottom cover.

(c) The [~~Department~~] department may authorize damage to live rock for the development or operation of renewable energy projects and shall require mitigation to offset any live rock losses.

(d) Any person found in violation of any provision of this section pursuant to a criminal prosecution shall be subject to penalty as provided under section 187A-13, HRS. Any person found in violation of any provision of this section pursuant to civil or administrative action shall be subject to penalty as provided under section 187A-12.5, HRS." [Eff 12/03/98; am 12/09/02; am 5/01/14; am 10/19/18; comp 1/31/21; am and comp] (Auth: HRS §§187A-5, 189-6, 190-3) (Imp: HRS §§187A-6, 187A-12.5, 187A-13, 188-68, 189-6, 190-1, 190-3, 190-5)

2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material is underscored.

3. Additions to update source notes and other notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 13-95, 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 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