

**PRE-PUBLIC HEARING SMALL BUSINESS IMPACT STATEMENT
TO THE
SMALL BUSINESS REGULATORY REVIEW BOARD**
(Hawaii Revised Statutes §201M-2)

Date: _____

Department or Agency: _____

Administrative Rule Title and Chapter: _____

Chapter Name: _____

Contact Person/Title: _____

E-mail: _____ Phone: _____

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?

Yes No

If "Yes," provide details: _____

I. Rule Description:

New Repeal Amendment Compilation

II. Will the proposed rule(s) affect small business?

Yes No

(If "No," no need to submit this form.)

* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

* "Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?

Yes No

(If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))

Yes No

(If "Yes" no need to submit this form.)

* * *

If the proposed rule affects small business and are not exempt as noted above, please provide a reasonable determination of the following:

1. Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected.

2. In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.

If the proposed rule imposes a new or increased fee or fine:

- a. Amount of the current fee or fine and the last time it was increased.

 - b. Amount of the proposed fee or fine and the percentage increase.

 - c. Reason for the new or increased fee or fine.

 - d. Criteria or methodology used to determine the amount of the fee or fine (i.e., Consumer Price Index, Inflation rate, etc.).
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3. The probable monetary costs and benefits to the agency or other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used.

4. The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or other mitigating techniques.

5. The availability and practicability of less restrictive alternatives that could be implemented in lieu of the proposed rules.

6. Consideration of creative, innovative, or flexible methods of compliance for small businesses. The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules.

7. How the agency involved small business in the development of the proposed rules.
 - a. If there were any recommendations made by small business, were the recommendations incorporated into the proposed rule? If yes, explain. If no, why not.

ATTACHMENT A: Summary of Commercial Catch in Reporting Area 304, and Potential Impacts of the Proposed Kīpahulu Community Based Subsistence Fishing Area on Commercial Fishing

Bryan Ishida, Aquatic Biologist, DLNR-DAR

Area Description

The inshore waters (zero to approximately two nautical miles from shore) surrounding the island of Maui are divided into six Division of Aquatic Resources (DAR) commercial reporting grid areas (300 – 305; Figure 1). The proposed Kīpahulu Community Based Subsistence Fishing Area (CBSFA) falls within area 304 (Figure 2). Area 304 covers approximately 47 square miles whereas the Kīpahulu CBSFA covers roughly 2.6 square miles (unofficial calculation), or 6% of the overlying reporting area.

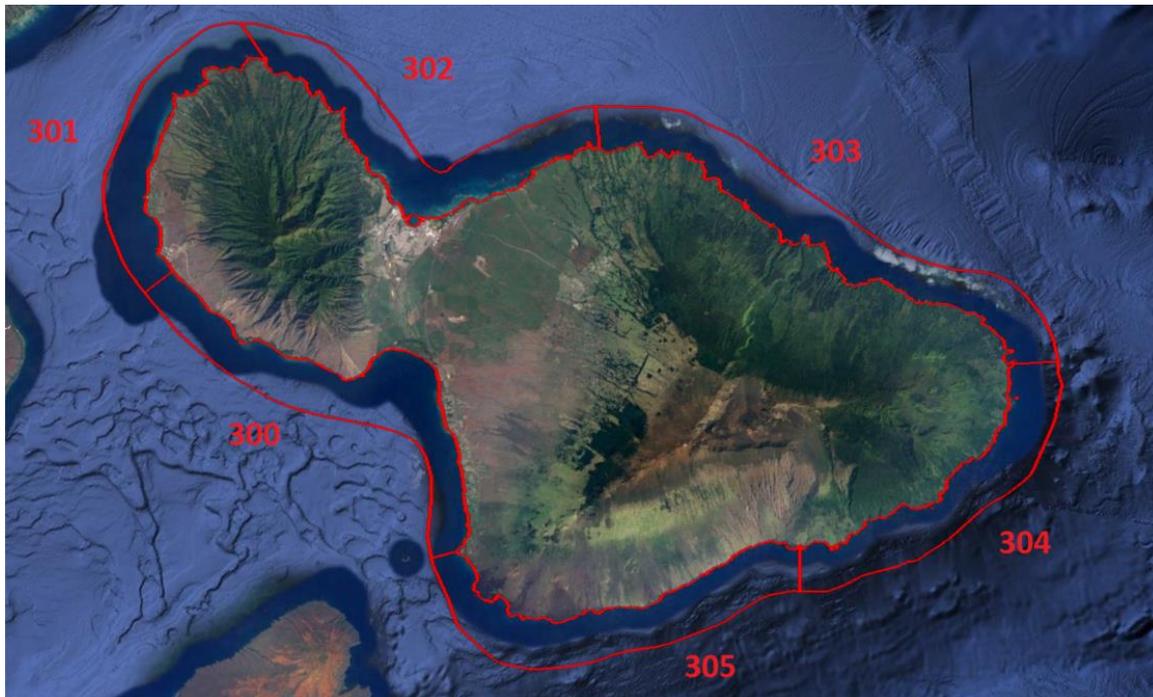


Figure 1. Aerial view of Maui with DAR inshore commercial reporting grid areas.

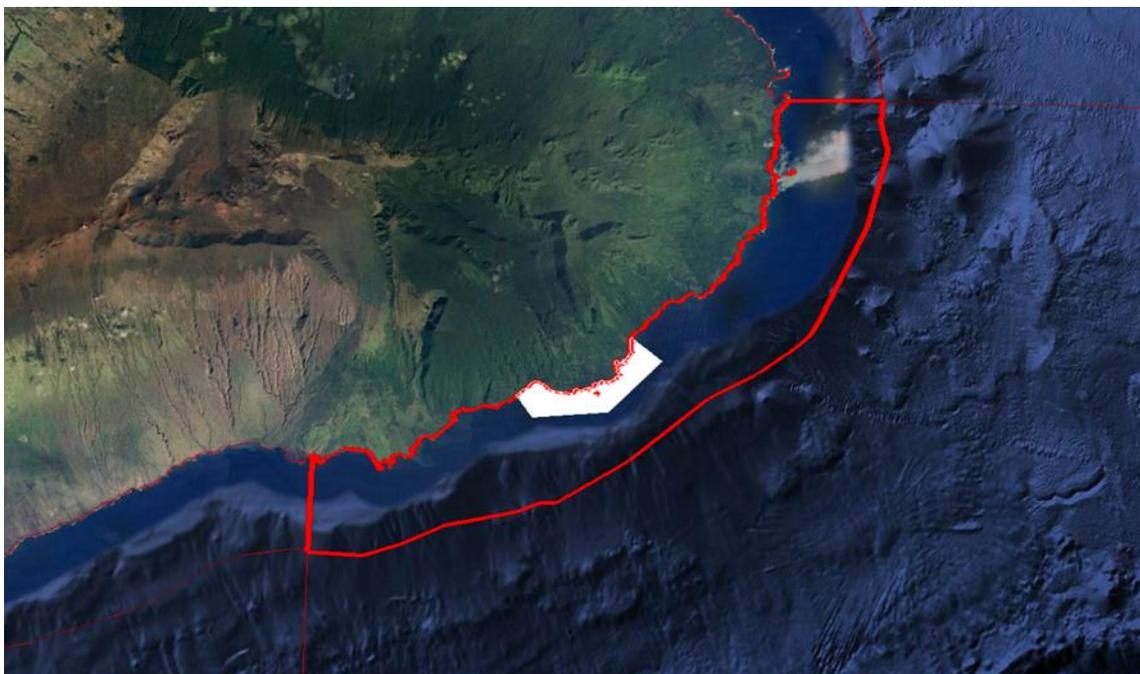


Figure 2. Aerial view of the East Maui coastline with the boundary of commercial reporting area 304 noted by the heavy red line and the proposed Kīpahulu CBSFA noted in white.

Commercial Catch in Area 304

In the past ten years (2013 to 2022) area 304 has contributed about 8% of all commercial landings reported in area 300 to 305 (Figure 3). In comparison to top producing grid areas (i.e., 300 and 302), landings in area 304 may be relatively low due to several factors including proximity to major populations centers, markets, and available boat ramps. For example, about 50% of trips reporting catch in area 304 originated from the remote Hana boat ramp.

Whereas total commercial catch in area 304 is relatively low, its contribution of offshore species (pelagic species and deep bottomfish) is relatively high at 23% of the landings reported in areas 300 to 305 (Figure 4). Between 2013 and 2022, landings of offshore species in area 304 ranged between 1,131 lbs. and 8,632 lbs., with a ten-year average of 4,976 lbs. (Figure 5). Conversely, landings of inshore species in area 304 is low at 4% of the total inshore Maui reporting areas, though relatively similar to areas 301, 303, and 305 (Figure 6). Between 2013 and 2022, landings of inshore species in area 304 ranged between 1,447 lbs. and 7,910 lbs., with a ten-year average of 3,802 lbs. Low inshore species landings in area 304 are heavily influenced by low and inconsistent reported catch of akule (bigeye scad; *Selar crumenophthalmus*), which typically dominate statewide inshore commercial catch.

Annual value (calculated as pounds caught x average ex-vessel price per pound) of landings reported in area 304 between 2013 and 2022 ranged between \$18,450 and \$86,297, with an average of \$43,615 per year. Value from offshore species ranged between \$7,046 and \$51,524, with an average of \$28,492 per year (Figure 7). Value from inshore landings ranged between \$5,781 and \$34,773, with an average of \$15,123 per year.

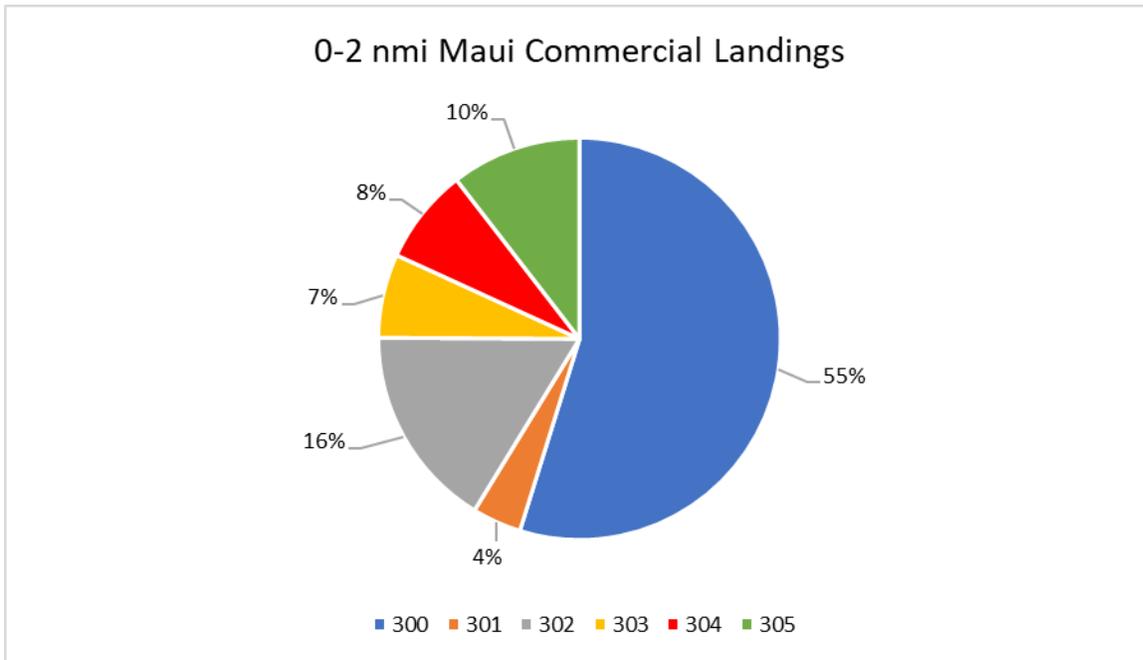


Figure 3. Percent commercial landings (lbs.) reported in the inshore grid areas surrounding Maui.

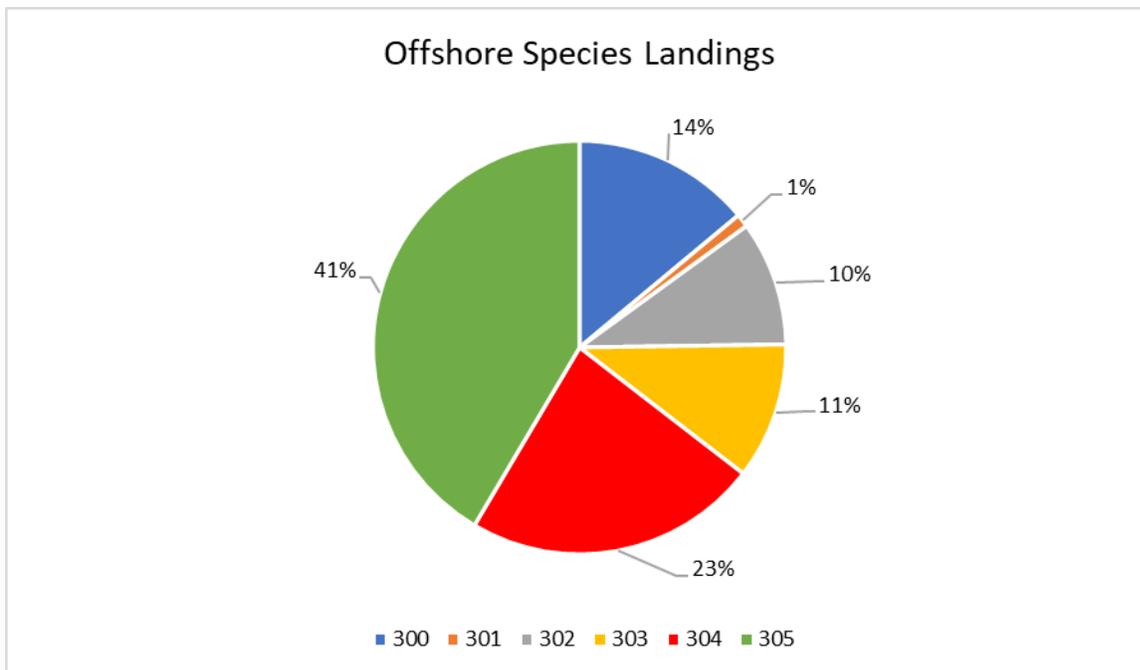


Figure 4. Percent commercial landings (lbs.) of offshore species (pelagics and deep bottomfish) reported in the inshore grid areas surrounding Maui.

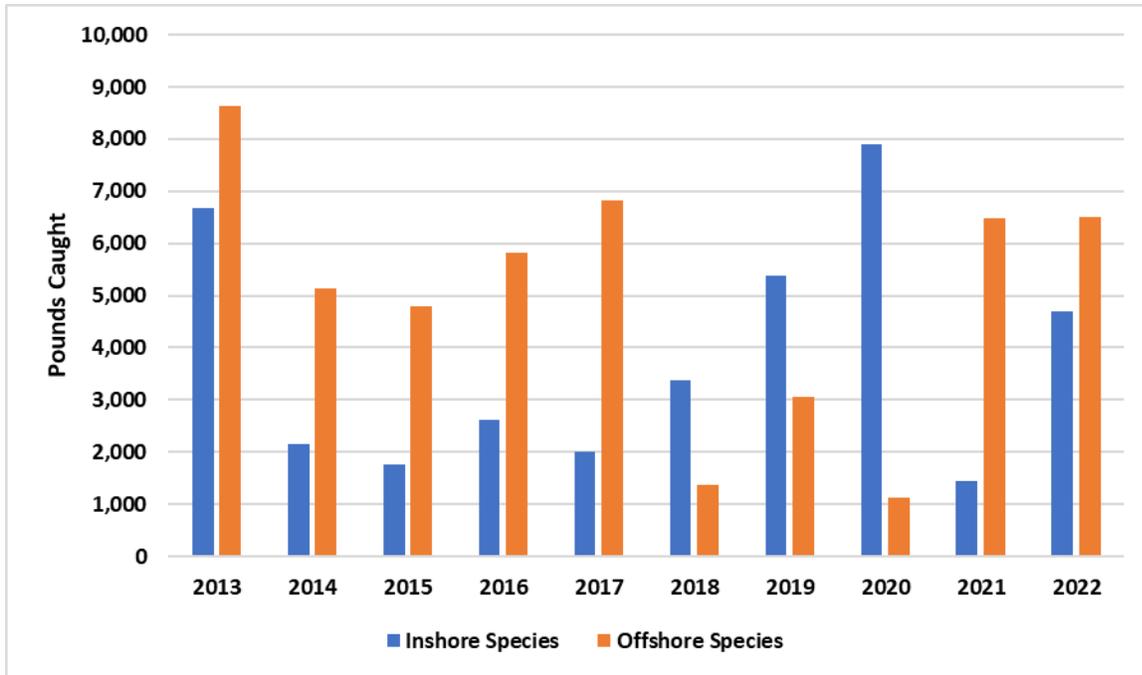


Figure 5. Annual landings of inshore and offshore species reported in grid area 304, 2013-2022.

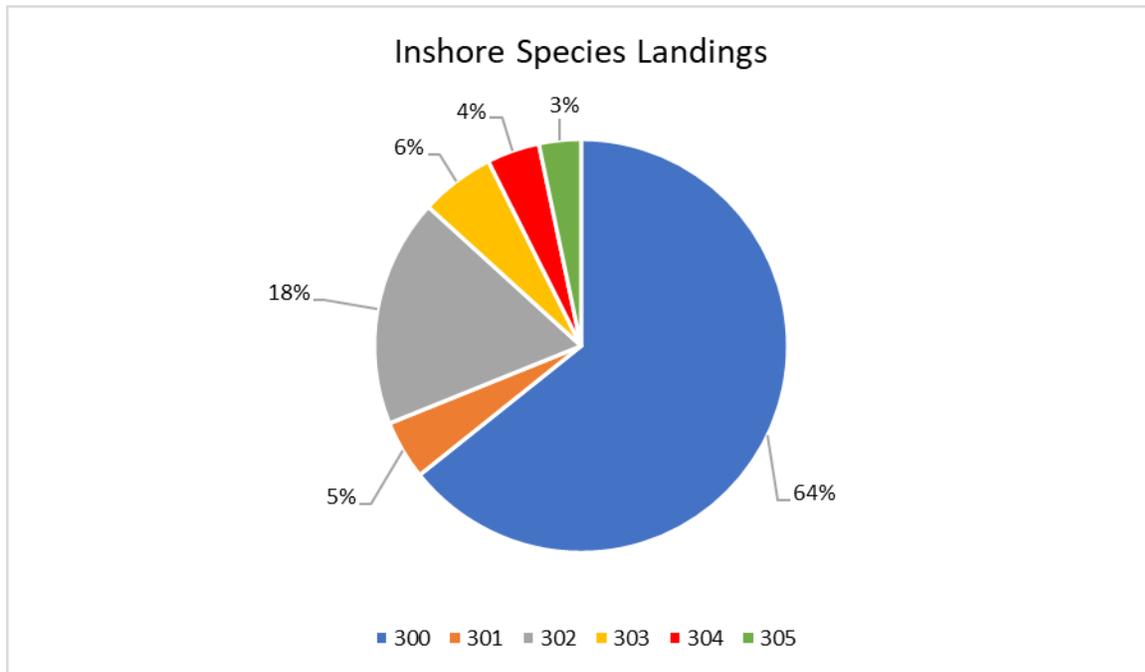


Figure 6. Percent commercial landings (lbs.) of inshore species (non-pelagics and deep bottomfish) reported in the inshore grid areas surrounding Maui.

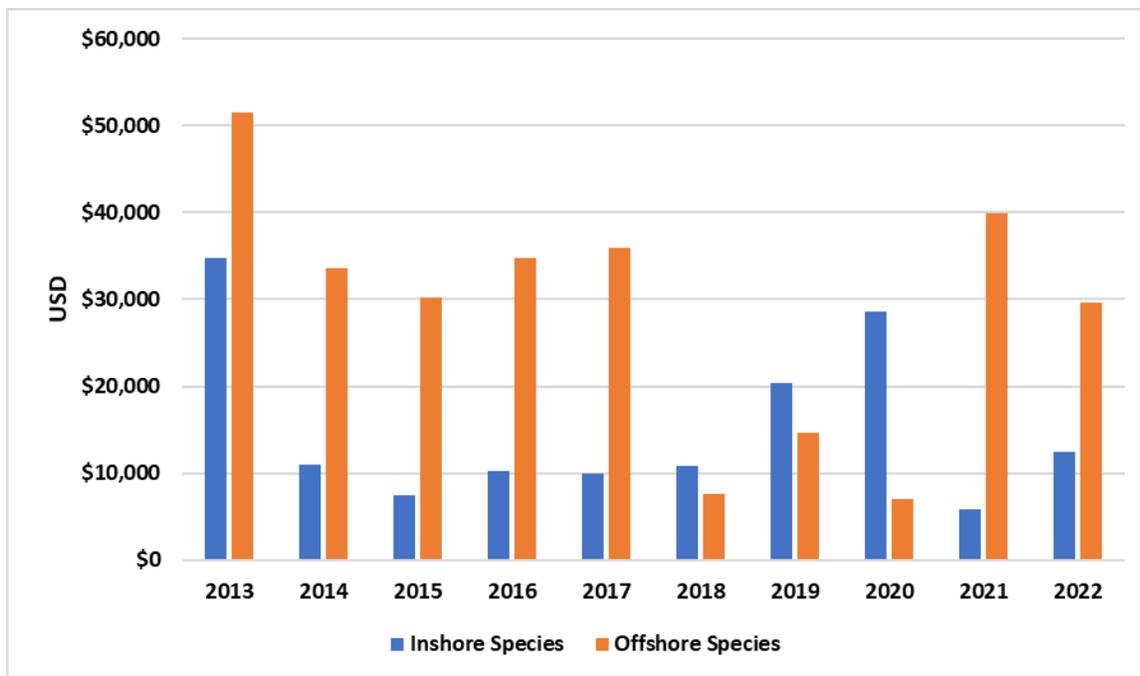


Figure 7. Estimated annual value of inshore and offshore species reported in area 304, 2013-2022.

Commercial Catch in the Proposed Kīpahulu CBSFA and Potential Impacts

Quantifying commercial catch within the bounds of the proposed Kīpahulu CBSFA cannot be confidently estimated using commercial reports alone given that DAR does not collect data at a finer scale than the overlaying reporting grid. Additionally, inshore and offshore commercial fisheries both tend to be area-specific and not spread equally across the ocean. Therefore, commercial catch in the proposed CBSFA may not be accurately expressed as simple fraction total area 304 landings.

Because the proposed Kīpahulu CBSFA only extends out to a depth of 60 meters (197 feet), impacts to offshore fisheries will likely be low given they typically occur in deeper waters. For commercial fishers that currently fish for inshore species in the proposed CBSFA area (again, which we cannot at this time quantify), the proposed rules will likely be impactful. Though the prohibition on commercial take of akule is the only rule that directly specifies a ban on a commercial activity, proposed bag limits and gear restrictions will likely diminish the ability to fish profitably in the CBSFA.