

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

April 23, 2021

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

REQUEST FOR APPROVAL TO HOLD A PUBLIC HEARING TO AMEND AND COMPILE
HAWAII ADMINISTRATIVE RULES (HAR) TITLE 13 CHAPTERS 51 AND 95.1 TO
UPDATE RULES RELATING TO THE KAHULUI HARBOR FISHERIES MANAGEMENT
AREA, MAUI, AND RULES RELATING TO THE TAKE AND POSSESSION OF ‘OAMA
ON THE ISLAND OF MAUI

Submitted for your consideration and approval is a request to hold a public hearing to amend and compile Hawaii Administrative Rules (“HAR”) chapters 13-51 and 13-95.1 to update certain regulations relating to the Kahului Harbor Fisheries Management Area (FMA), Maui, and to update rules regulating the take and possession of ‘oama on the island of Maui.

BACKGROUND

Kahului Harbor is primarily a commercial harbor, located on the south side of Kahului Bay, on the north shore of Maui. It is fed by freshwater carried through rivers, streams, seeps and springs; this estuary, or transition zone between freshwater and saltwater, provides vital habitat for a variety of important marine species.

The original Kahului Harbor FMA was established in 1984 and consisted of three special zones. Netting was prohibited in these areas with the exceptions of hand nets for shrimp, crab nets, aquaculture for stocking fishponds, and netting of baitfish under commercial baitfish licenses. Beginning in 1998, the Department was involved in discussions with commercial and recreational fishers to identify and develop mitigating measures to reduce continuing user conflicts within the harbor fisheries. During the course of three years of discussions, a number of issues were identified that eventually resulted in amendments to the rules in 2002. One of the issues occurring at Kahului Harbor involved direct conflict between the commercial akule net and recreational pole fishers. The conflict between these two groups is and has continued to be a consistent problem.

The introduction and passage of Act 218 (SLH 2005) indicated that the 1984 and subsequent 2002 FMA provisions had not adequately resolved these conflicts. This Act prohibited the use of nets in Kahului Harbor in an attempt to resolve these conflicts. Following the passage of Act 218, the Department met with various stakeholders in August 2005 to determine if further progress could be achieved. That discussion indicated that opportunities for further progress did exist. It also indicated that the conflicts were more widespread than just with the akule fishery.

As a result, in 2006 the State Legislature passed Act 241, revising Act 218 by establishing that these no netting laws within the harbor would be repealed upon the adoption of new administrative rules to regulate all the user conflicts within the harbor.

Throughout 2006, the Department held several small meetings with various user groups and developed a new plan to regulate the harbor. This plan was taken back out to the public for general comment and discussion at a meeting on October 6, 2006. Public scoping meetings took place to address fishermen's concerns and proposed regulations regarding netting, check stations, and bag limits. In 2008 a public hearing was held in Kahului regarding these new draft rules. In 2009, Chapter 13-51, Kahului Harbor FMA, became effective. The resulting regulations included: 1) prohibitions on the use of any nets (with some exceptions allowed); 2) the establishment of a total marine species bag limit of no more than 50 pieces per person per day (except for baitfish with a baitfish license or akule with a valid commercial marine license); 3) prohibitions on snagging of any marine life; 4) a two fishing pole limit per person with no more than two hooks per pole and the prohibition on the use of any multiple point hooks; and 5) a requirement for all harbor fishers to check in and out and to report their fishing activity and catch at either of the two fisher check stations located within the Harbor.

In 2014-2016 a local community group organized a series of meetings to look at the harbor fishery and identify ongoing concerns with user conflicts and illegal activities occurring within the FMA. This process identified continued concerns regarding commercial akule net fishers conflicting with shore based recreational fishers, over harvesting of nehu with the use of illegal gathering methods, and concerns with the compliance of the fisher check-in station requirements.

Maui DAR staff were made aware of these conflicts and other ongoing resource management concerns within the harbor and started a scoping process with fisherman, community members, and other stakeholders. Small group scoping meetings and fishers outreach was conducted to address concerns within the FMA. The process was begun in 2018 and ran through February 2019. On February 20, 2019, a general information and scoping meeting was held to present ideas of rule changes and to gather more detailed input from stakeholders in attendance. The main resource management goals and concerns discussed in the process were: 1) ongoing user conflicts between commercial akule net fishers and recreational akule fishers; 2) concerns over overharvest and illegal take of nehu; 3) maintaining the FMA as a safe and productive recreational fishing location; 4) evaluating the appropriateness of any net-based fishery within the harbor; and 5) a re-evaluation of the DAR fisher check-in stations.

Through these scoping meetings, fishers also expressed the need to update the Maui Island 'oama fishery regulations to be more user friendly to recreational fishers. HAR chapter 13-95.1, "Island-Based Fisheries Rules", adopted in 2014, prohibits the take or possession of weke under eight inches in length, but allows for the take of up to 50 'oama (juvenile weke) per day, which is consistent with statewide 'oama bag limits. The problem with the rule is its narrow definition of "'oama" as "any juvenile weke'ā or *Mulloidichthys flavolineatus*, which is less than five inches in length." This definition makes it illegal to take or possess any 'oama or weke between five and eight inches in length. The nature of the 'oama fishery makes it difficult to target individual fish under five inches in length, and prohibiting the take of fish between five and eight inches confers no meaningful conservation benefit. The definition also excludes juvenile weke ula or

red weke, *Mulloidichthys vanicolensis*, which are also known as ‘oama and which can be difficult to distinguish from *M. flavolineatus* at the juvenile stage.

PROPOSED RULE CHANGES

HAR Chapter 13-51 – Kahului Harbor FMA Rules

HAR §13-51-1 (Definitions) would be amended to:

1. Remove the definitions of “akule”, “crab net”, “fishing related activities”, “group”, “mullet”, “nehu”, and “push net” as these definitions would no longer be necessary given the amendments to regulated activities described below;
2. Amend the definitions of “landing net”, “snag”, and “take” to clarify the meaning of these terms; and
3. Add a definition for “stretched mesh”.

HAR §13-51-2 (Regulated activities) would be amended to:

1. Prohibit the use of all nets in the harbor with the exception of a “landing net” with a stretched mesh of two inches or greater and a “hand net” no larger than 8 inches in diameter and with a handle that is no more than 14 inches in length;
2. Remove the exceptions for take of nehu under a commercial bait license;
3. Remove the exceptions for commercial akule net fishing;
4. Remove the exceptions for crab netting;
5. Remove the exceptions for take of juvenile mullet under an aquaculture license; and
6. Create an exception to the rule that all hooks must only have one point to allow the use of double or treble hooks when using lures.

HAR §13-51-3 (Fisher check station requirements) would be repealed to remove the check-in, check-out, and fisher report requirements. DAR plans to convert the check-in stations into information and education stations where DAR can post updates and rules.

In addition to the above-mentioned rule changes, the amendment and compilation of HAR Chapter 13-51 contains other non-substantive technical amendments for purposes of clarity and consistency. The proposed Kahului Harbor FMA rules drafted in Ramseyer format are attached as **Exhibit 1**.

HAR Chapter 13-95.1 – Island-Based Fisheries Rules

HAR §13-95.1-1 (Definitions) would be amended to:

1. Amend the definition of “‘oama” to include two species of goatfish (weke‘ā, *Mulloidichthys flavolineatus*, and weke ula, *Mulloidichthys vanicolensis*) and to increase the allowed size from five inches to eight inches in length;
2. Amend the definition of “take” to clarify that the attempt to fish for, catch, capture, confine, or harvest marine life is considered take; and
3. Add definitions for “marine life” and “weke ula”.

In addition to the above-mentioned rule changes, the amendment and compilation of HAR Chapter 13-95.1 contains other non-substantive technical amendments for purposes of clarity and consistency. The proposed island-based fisheries rules drafted in Ramseyer format are attached as **Exhibit 2**.

RECOMMENDATIONS:

That the Board:

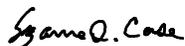
1. Authorize and approve the holding of a public hearing on Maui to amend and compile Hawaii Administrative Rules (“HAR”) chapters 13-51 and 13-95.1 to update certain fishing regulations relating to the Kahului Harbor Fisheries Management Area, Maui, and to update rules regulating the take and possession of ‘oama on the island of Maui.
2. Delegate to the Chairperson the authority to appoint a hearings officer to conduct the aforementioned public hearing.

Respectfully submitted,



BRIAN J. NEILSON, Administrator
Division of Aquatic Resources

APPROVED FOR SUBMITTAL



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

Attachments:

- Exhibit 1 – Proposed HAR chapter 13-51 (Ramseyer format)
- Exhibit 2 – Proposed HAR chapter 13-95.1 (Ramseyer format)

ITEM F-4 EXHIBIT 1

Amendment and Compilation of Chapter 13-51
Hawaii Administrative Rules

(date adopted)

1. Chapter 13-51, Hawaii Administrative Rules, entitled "Kahului Harbor, Maui", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART II MARINE FISHERIES MANAGEMENT AREAS

CHAPTER 51

KAHULUI HARBOR, MAUI

§13-51-1	Definitions
§13-51-1.1	Boundaries
§13-51-2	Regulated activities
§13-51-3	Repealed
§13-51-4	Penalty
§13-51-5	Severability

§13-51-1 Definitions. As used in this chapter, unless the context clearly indicates [~~otherwise:~~] or is otherwise provided:

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

"Area" means the Kahului Harbor fisheries management area as described in section 13-51-1.1.

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

~~["Crab net" means a type of fishing gear consisting of netting material over a flat, circular hoop frame, specifically designed to entangle or catch crabs as they crawl or swim onto a net set flat on the bottom.]~~

"Department" means the department of land and natural resources.

~~["Fishing related activities" means actions that take marine life.~~

~~"Group" means two or more people, including but not limited to members of the same family, who purposefully fish together for at least a portion of their fishing activity.]~~

"Hand net" means a net consisting of a mesh bag attached to a frame to hold the bag open, and a handle. The net is small enough for use with one hand by one person.

"Kahului Harbor" means the harbor situate at Kahului, Wailuku, Maui, Hawaii.

"Landing net" means a hand net that is used to further secure capture of marine life, after the marine life has been first hooked or otherwise detained, to prevent the marine life from [being released.] becoming unhooked or lost.

"Marine life" means any type or species of saltwater fish, shellfish, mollusks, crustaceans, coral, or other marine animals, including any part, product, egg, or offspring thereof; or seaweed or other marine plants, including any part, product, seed, or holdfast thereof.

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

~~"Nohu" means any fish known as *Engrasicholina purpurea*, *Stolephorus purpureus*, or any recognized synonym.~~

~~"Push net" means a type of fishing gear consisting of netting material in the shape of a flat, rectangular, single panel, with straight handles attached on two opposite sides of the net and designed to be held with both hands.]~~

~~"Snag" means to hook or attempt to hook a fish [on any portion of its body elsewhere than its mouth.], without first waiting for a bite. Any fish hooked on any portion of its body other than its mouth shall be considered snagged.~~

~~"Stretched mesh" means the straight-line distance between two opposite inner edges of each opening (or 'eye') of the net mesh, as measured when the eye is stretched to its maximum length.~~

~~"Take" means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, [aquatic] marine 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] marine life by any person who is in the water, or in a vessel on the water, or on or about the shore where [aquatic] marine life can be fished for, caught, captured, confined, or harvested, shall be construed as taking. This term shall not apply to the temporary capture or confinement of any specimen which is returned to the water as soon as possible after landing. [Eff 3/8/84; am and comp 4/30/09; am and comp] (Auth: HRS §188-53) (Imp: HRS §188-53)~~

§13-51-1.1 Boundaries. The Kahului Harbor fisheries management area shall include that portion of the submerged lands and overlying waters of Kahului Harbor beginning at the upper reaches of the wash of the waves at the shoreline and bounded by an imaginary

§13-51-1.1

straight line drawn between the seaward edges of the two breakwaters forming the harbor entrance channel and further described in the map entitled "Kahului Harbor Fisheries Management Area 10/20/2006" attached at the end of this chapter and made a part of this section. [Eff and comp 4/30/09; comp]
(Auth: HRS §188-53) (Imp: HRS §188-53)

§13-51-2 Regulated activities. (a) It is unlawful for any person, while within the ~~[area,]~~ Kahului Harbor Fisheries Management Area, to:

- (1) Use any net, except that a person may use:
 - ~~[(A) A bait net to take nehu and other baitfish with a valid nehu bait license issued pursuant to section 13-74-22;~~
 - ~~(B) A net, except lay net, to take only akule with a valid commercial marine license issued pursuant to section 13-74-20 and subject to the provisions of section 13-75-12.2;~~
 - ~~(C)]~~ (A) A landing net with a stretched mesh of two inches or greater to secure hooked or otherwise detained marine life; and
 - ~~[(D)]~~ (B) A [push net or] hand net while on the shore to take shrimp and other marine life, provided that the [push net or hand net, including the handle or handles, is not more than three feet in any dimension;] diameter of the net is equal to or less than eight inches and the handle is equal to or less than fourteen inches in length.
 - ~~[(E) A crab net is not more than two feet in diameter to take crabs, provided that no person may use more than ten such crab nets at any time; and~~
 - ~~(F) A net to take mullet less than three inches fork length and other marine life for the purpose of stocking a licensed aquaculture facility, subject~~

~~to the provisions of a valid aquaculture license issued pursuant to section 13-74-43.]~~

- (2) Take or possess a total bag limit of more than fifty specimens of marine life per person per day~~[, except that a person may possess more than the total bag limit:~~
 - ~~(A) Of baitfish with a valid nehu bait license issued pursuant to section 13-74-22; and~~
 - ~~(B) Of akule with a valid commercial marine license issued pursuant to section 13-74-20.];~~
- (3) Snag any marine life; and
- (4) Use more than two poles, provided that each pole may have only one line, and each line may have no more than two hooks, with each hook having only one point, while at or near the shoreline~~[,]~~, except that double or treble hooks are allowed when using lures.

(b) It is unlawful for any person to take, attempt to take, or possess any marine life from the area or use any fishing gear while in the area that may otherwise be prohibited by law.

(c) The department may issue permits to engage in activities prohibited by this section for scientific, propagation, or other purposes, in accordance with section 187A-6, Hawaii Revised Statutes, and as may be otherwise authorized by law, provided that:

- (1) The department may impose terms and conditions it deems necessary to conserve and manage the marine life in the area;
 - (2) The board may revoke any permit and assess a fine or other penalty for any infraction of the terms and conditions of the permit; and
 - (3) A person whose permit was revoked shall not be eligible to apply for another permit for up to one year after the date of revocation.
- (d) Unless prohibited in this section, all other legal fishing gears may be used within the area.

§13-51-2

(e) Nothing in this chapter shall be construed as allowing activities within any portion of Kahului Harbor, which may be otherwise prohibited by law or rules adopted by the department of transportation. [Eff 3/8/84; am and comp 4/30/09; am and comp] (Auth: HRS §§187A-6, 188-53) (Imp: HRS §188-44, 188-45, 188-53)

~~§13-51-3 Fisher check station requirements.~~

~~The department is collecting catch per unit effort information through reporting by all those who voluntarily enter the Kahului Harbor Fisheries Management Area for fishing or fishing-related activities.~~

~~(a) To achieve this purpose, all individuals and groups entering the area to take marine life shall sign their names on a departmental form located at a designated fisher check station in the Kahului Harbor Fisheries Management Area. Designated fisher check stations are located near the boat launch ramp at the northwestern end of the harbor and near Pier 2 at the southeastern end of the harbor.~~

~~(b) When departing the area or at the end of the bout of fishing activity, all individuals and groups should sign out at the same designated fisher check station at which they signed in. All individuals and groups signing out shall also fill out a departmental report form regarding their fishing activity during the fishing trip, including all marine life taken from the area. The fishing reports shall be confidential and used to monitor and manage fishing activity in the area. Groups may submit one fishing report that details the fishing activity of all members of the group, but each individual member may be responsible for the accuracy of the report as to that individual.~~

~~(c) Failure to perform the reporting requirements in the above subsections may result in the assessment of administrative penalties pursuant to chapter 199D, Hawaii Revised Statutes, section 187A-12.5, Hawaii Revised Statutes, or any regulations promulgated in accord with these statutes. Criminal~~

~~penalties will not be assessed for a violation under this section, but shall remain otherwise severable.]~~
[Eff 3/8/84; am and comp 4/30/09; R]
(Auth: HRS §§187A-12.5, 188-53, 199D-1) (Imp: HRS §§187A-12.5, 199D-2)

§13-51-4 Penalty. Unless specifically provided, any person violating the provisions of this chapter may be punished as provided by sections 187A-12.5, 188-70, or chapter 199D, Hawaii Revised Statutes, and as may be otherwise provided by law. [Eff 3/8/84; am and comp 4/30/09; comp] (Auth: HRS §§187A-5, 188-53, 199D-1) (Imp: HRS §§187A-12.5, 188-70, 199D-1 to 199D-2)

§13-51-5 Severability. The provisions of this chapter are declared to be severable, and if any portion, or the application thereof, to any person or property is held invalid for any reason, the validity or application of the remainder of these rules to other persons or property shall not be affected." [Eff and comp 4/30/09; comp] (Auth: HRS §188-53) (Imp: HRS §§1-23, 188-53)

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. The amendments to and compilation of chapter 13-51, 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 section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

SUZANNE D. CASE
Chairperson, Board of Land
and Natural Resources

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General

ITEM F-4 EXHIBIT 2

Amendment and Compilation of Chapter 13-95.1
Hawaii Administrative Rules

(Date adopted)

1. Section 13-95.1-1, Hawaii Administrative Rules, entitled "Island-Based Fisheries Rules", 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 95.1

ISLAND-BASED FISHERIES RULES

Subchapter 1 General Provisions

§13-95.1-1	Definitions
§13-95.1-2	Penalty
§13-95.1-3	Scope
§13-95.1-4	Exceptions
§13-95.1-5	Severability

§13-95.1-1

Subchapter 2 Maui Island Fisheries

§13-95.1-20 Goatfish

§13-95.1-21 Uhu

SUBCHAPTER 1

GENERAL PROVISIONS

§13-95.1-1 Definitions. As used in this chapter, unless otherwise provided:

"Commercial marine dealer" means any person who sells or exchanges, or who is an agent in the transfer of marine life obtained directly from a commercial marine licensee, or any commercial marine licensee who sells or exchanges marine life at retail.

"Department" means the department of land and natural resources.

"Goatfish" means any fish in the family Mullidae, or any recognized synonym.

"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.

"Marine life" means any type or species of saltwater fish, shellfish, mollusks, crustaceans, coral, or other marine animals, including any part, product, egg, or offspring thereof; or seaweed or other marine plants, including any part, product, seed, or holdfast thereof.

"Moano kea" means any fish known as *Parupeneus cyclostomus* or any recognized synonym. Moano kea are also known as moano kali, moano ukali ulua, blue goatfish, or goldsaddle goatfish.

"Munu" means any fish known as *Parupeneus insularis* or any recognized synonym. Munu are also known as doublebar goatfish.

"'Oama" means any juvenile weke'ā [~~or~~], Mulloidichthys flavolineatus, or juvenile weke ula, Mulloidichthys vanicolensis, which is less than [~~five~~] eight inches in length.

"Possess" means to procure, receive, hold, or control for a sufficient period to have had the opportunity to release or relinquish control.

"Take" means to fish for, catch, capture, confine, or harvest, or attempt to fish for, catch, capture, confine, or harvest, [~~aquatic~~] marine life. This term shall not apply to the temporary capture or confinement of any specimen which is returned to the water as soon as possible after landing.

"Uhu" means any fish 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. Uhu 'ahu'ula are also known as spectacled parrotfish. The terminal phase of these fish is also known as "uhu uliuli".

"Uhu 'ele'ele" is any *Scarus rubroviolaceus* which has reached its terminal phase, indicated by a change in coloration from brownish-red and yellowish-gray, to green and blue. A predominantly green or blue-green body color and a green beak on a specimen of *Scarus rubroviolaceus* is prima facie evidence that the specimen is an uhu 'ele'ele. Both uhu 'ele'ele and uhu pālukaluka are known as redlip or ember parrotfish.

"Uhu pālukaluka" means any fish known as *Scarus rubroviolaceus* or any recognized synonym. Uhu pālukaluka are also known as redlip or ember parrotfish. The terminal phase of these fish is also known as "uhu 'ele'ele".

"Uhu uliuli" is any *Chlorurus perspicillatus* which has reached its terminal phase, indicated by a change in coloration from a grayish brown body with 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. A predominantly blue-green body color and the lack of a white tail band on a specimen of *Chlorurus*

§13-95.1-1

perspicillatus is prima facie evidence that the specimen is an uhu uliuli. Both uhu uliuli and uhu 'ahu'ula are known as spectacled parrotfish.

"Weke'ā" means any fish known as *Mulloidichthys flavolineatus* or any recognized synonym. Weke'ā are also known as white goatfish. The young of these fish are also known as 'oama.

"Weke nono" means any fish known as *Mulloidichthys pfluegeri* or any recognized synonym. Weke nono are also known as Pflueger's goatfish or moelua.

"Weke ula" means any fish known as *Mulloidichthys vanicolensis* or any recognized synonym. Weke ula are also known as red weke. The young of these fish are also known as 'oama. [Eff 11/1/14; am and comp
] (Auth: HRS §§187A-5, 189-2, 189-6)
(Imp: HRS §§187A-1, 187A-5, 189-2, 189-6)

§13-95.1-2 Penalty. (a) Any person who violates any provision of this chapter shall be subject to administrative fines as provided by chapter 187A, HRS.

(b) Any administrative fine imposed under this section for any violation of a provision of this chapter shall not preclude the imposition of criminal penalties pursuant to section 188-70, HRS, or as may be otherwise provided by law. [Eff 11/1/14; comp
] (Auth: HRS §§187A-5, 188-53) (Imp:
HRS §§187A-5, 187A-12.5, 188-53, 188-70)

§13-95.1-3 Scope. (a) Unless expressly provided otherwise, the scope of jurisdiction for subchapter 2 shall be as follows:

Subchapter 2 shall apply to the take or possession of [~~aquatic~~] marine life from, in, or on the lands or waters of Maui island subject to state jurisdiction or control. For purposes of this section, "waters of Maui island" means all ocean waters within three nautical miles seaward from the highest wash of the waves on the shores of Maui,

excluding all waters within two nautical miles from the shores of Kaho'olawe island, as shown on Exhibit 1 entitled "Map of Maui Island Fisheries", dated May 19, 2014, and located at the end of this chapter.

(b) Nothing in this chapter shall restrict the State's claims to jurisdiction and authority over its marine waters.

(c) The take and possession provisions of this chapter supersede any conflicting take or possession provisions in chapter 13-95. [Eff 11/1/14; am and comp] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-1.5, 188-22.5, 187A-5, 188-53)

§13-95.1-4 Exceptions. (a) The prohibitions of this chapter shall not apply to authorized employees of the department when acting in the course of their official duties, departmental agents and contractors engaged in authorized departmental activities, or to any persons conducting activities permitted under a valid license or permit listed under section 13-95-1.1 that expressly refers to this chapter.

(b) Native Hawaiian traditional and customary rights recognized under article XII, section 7, of the Hawaii State Constitution shall not be abridged.

(c) For the purposes of this chapter, any commercial marine dealer may possess more than the allowed number of aquatic specimens, only if the specimens were purchased from other individual(s) with:

(1) A valid commercial marine license[+] pursuant to section 189-2, HRS; or

(2) A valid special marine product license; and has receipts issued for each purchase pursuant to section 189-11, HRS. Receipts shall include the first and last name and license number of the person to whom the receipt is issued. [Eff 11/1/14; am and comp] (Auth: HRS §§187A-3.5, 187A-5, 187A-6, 189-2, 189-6) (Imp: HRS §§187A-3.5, 187A-5, 187A-6, 188-53, 189-2, 189-6, 189-11)

§13-95.1-5

§13-95.1-5 Severability. If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remaining provisions, or application of the provisions which can be given effect without the invalid provision or application, shall not be affected. [Eff 11/1/14; comp] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-53)

SUBCHAPTER 2

MAUI ISLAND FISHERIES

§13-95.1-20 Goatfish. (a) No person may take or possess any kūmū, moano kea, or weke nono less than twelve inches in length.

(b) Except as provided in subsection (f), no person may take or possess any other goatfish less than eight inches in length.

(c) No person may take more than one kūmū per day, or possess more than one kūmū at any one time.

(d) No person may take more than two moano kea per day, or possess more than two moano kea at any one time.

(e) No person may take more than two munu per day, or possess more than two munu at any one time.

(f) Notwithstanding subsection (b), any person may take up to fifty 'oama per day, or possess up to fifty 'oama at any one time, provided that no 'oama may be taken by any means other than hook-and-line fishing.

(g) No person may sell any 'oama at any time. [Eff 11/1/14; comp] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-53)

§13-95.1-21 Uhu. (a) No person may take or possess any uhu 'ele'ele or uhu uliuli at any time.

(b) No person may take or possess any uhu pālukaluka or any uhu 'ahu'ula less than fourteen inches in length.

(c) Any other department size restriction notwithstanding, subject to subsections (a) and (b), any person may take any other uhu greater than ten inches in length.

(d) No person may take more than two uhu of any variety per day, or possess more than two uhu of any variety at any one time." [Eff 11/1/14; comp] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-53)

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. The amendments to and compilation of chapter 13-95.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

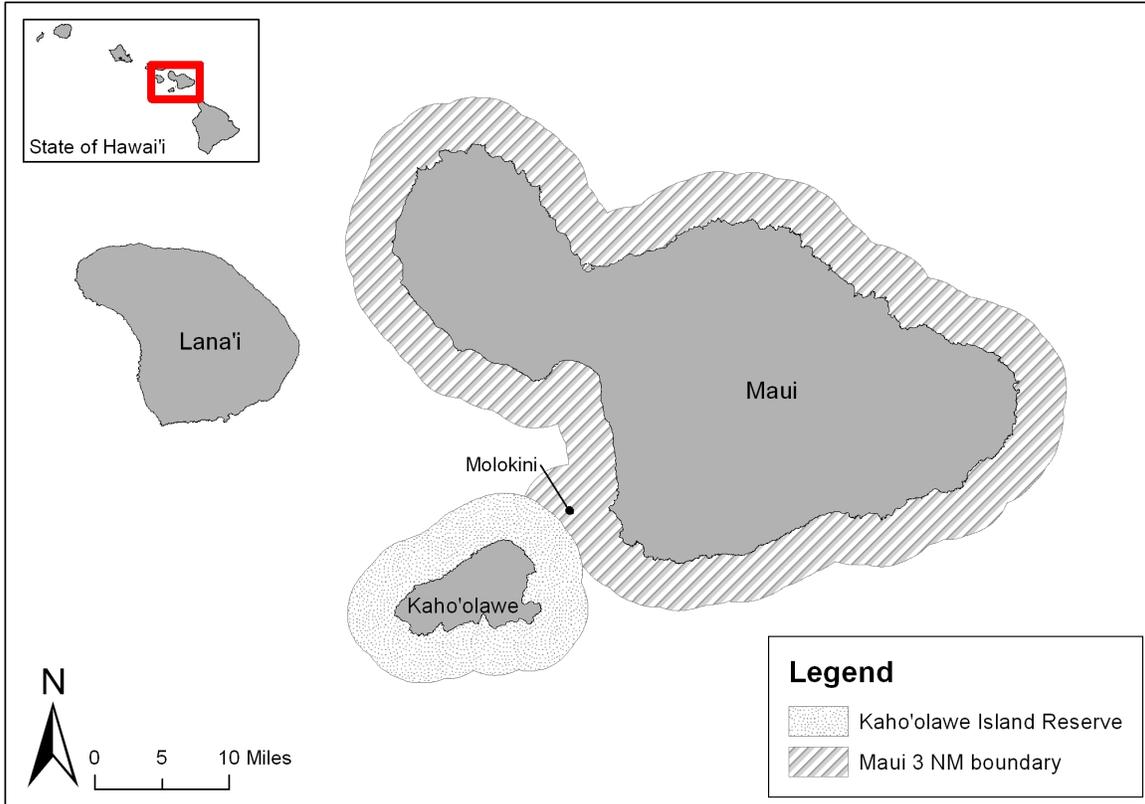
I certify that the foregoing are copies of the rules, drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

SUZANNE D. CASE
Chairperson, Board of Land
and Natural Resources

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General

Exhibit 1. Map of Maui Island Fisheries (May 19, 2014)



NOTE: The Maui Island Fisheries rules do NOT apply to waters within two nautical miles of Kaho'olawe island (which are governed by the Kaho'olawe Island Reserve Commission's separate authority, Hawaii Administrative Rules chapter 13-261).