

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

August 27, 2021

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

REQUEST FOR FINAL APPROVAL 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 final approval is a request to amend and compile Chapters 13-51 and 13-95.1, Hawaii Administrative Rules (HAR), to update the rules regulating the Kahului Harbor Fisheries Management Area (FMA) and the rules relating to the take and possession of ‘oama on the island of Maui.

The primary purpose of the proposed action with regard to the rules relating to the Kahului Harbor FMA (HAR §13-51) is 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;¹
2. Amend the definitions of “landing net,” “snag,” and “take” to clarify the meaning of these terms;²
3. Add a definition for “stretched mesh.”³
4. 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;⁴
5. Remove the exceptions for take of nehu under a commercial bait license, for commercial akule net fishing, for crab netting, and for take of juvenile mullet under an aquaculture license;⁵
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;⁶ and
7. Remove the check-in, check-out, and fisher report requirements.⁷

¹ HAR §13-51-1

² Id.

³ Id.

⁴ HAR §13-51-2

⁵ Id.

⁶ Id.

⁷ HAR §13-51-3; DAR plans to convert the check-in stations into information and education stations where DAR can post updates and rules.

The primary purpose of the proposed action with regard to the rules relating to the take and possession of ‘oama on the island of Maui (HAR § 13-95.1) is 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;⁸
2. Amend the definition of “take” to clarify that the attempt to fish for, catch, capture, confine, or harvest marine life is considered “take;”⁹ and
3. Add definitions for “marine life” and “weke ‘ula.”¹⁰

On August 14, 2020, the Board of Land and Natural Resources (BLNR) approved the proposed action for public hearing.

DAR accepted public testimony on the proposed rules from December 13, 2020 to January 26, 2021 and held a virtual statewide public hearing via Zoom Meetings (Zoom) on January 19, 2021. DAR received no verbal and seven written testimonies. Testimonies received from Kipahulu ‘Ohana, Inc, Maui Nui Makai Network, Kua‘āina Ulu ‘Auamo (KUA), The Nature Conservancy, Maui Nui Marine Resource Center, and Karen Yamada (Maui community member) were in full support.¹¹ One testimony from Josiah Sewell (O‘ahu community member) took no stance on the Kahului Harbor FMA rule amendments, however, did express partial support and partial opposition to the ‘oama rule amendments;¹² The testimony agrees with adding *M. vanicolensis* into the ‘oama definition along with *M. flavolineatus* as being beneficial for the purposes of common stock management, but it opposes the increase in the allowable size of ‘oama from its current five-inch size limit, to the proposed eight-inch size limit.¹³ Contrary to the testimony in opposition, all past evidence suggests that the majority of take will continue to be focused on ‘oama that are less than five inches in size. Therefore, DAR anticipates that the proposed increase from five inches to eight inches will allow for more streamline and user-friendly regulations by giving fishers more leeway with the size of allowable ‘oama without adversely affecting ‘oama fish stocks. However, DAR will continue to monitor the stocks of both species of ‘oama through in-water visual surveys as well as through fisher intercept surveys and, if DAR identifies excessive take of individuals that are between five and eight inches in size, as alluded to in the opposition testimony, DAR will work to adjust the regulations accordingly. The minutes from the public hearing are attached as **Exhibit 1** and the written testimonies are attached as **Exhibit 2**.

Based on the written testimony received, DAR recommends proceeding with the proposed actions. Ramseyer drafts of the proposed amendments and compilations are attached as **Exhibit 3** and **Exhibit 4**, respectively.

⁸ HAR §13.95.1-1

⁹ Id.

¹⁰ Id.

¹¹ See Exhibit 2, Pgs. 1-7

¹² See Exhibit 2, Pgs. 8-11

¹³ Id.

RECOMMENDATION:

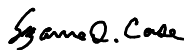
1. "That the Board give final approval to amend HAR §13-51-1 to remove definitions of 'akule,' 'crab net,' 'fishing-related activities,' 'group,' 'mullet,' 'nehu,' and 'push net,' amend definitions of 'landing net,' 'snag,' and 'take,' and add a definition for 'stretched mesh;' to amend HAR §13-51-2 to 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, to remove the exceptions for take of nehu under a commercial bait license, for commercial akule net fishing, for crab netting, and for take of juvenile mullet under an aquaculture license and to 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; to repeal HAR §13-51-3 to remove the check-in, check-out, and fisher report requirements; and to compile Chapter 13-51."
2. "That the Board give final approval to amend HAR §13-95.1-1 to 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, to amend the definition of 'take' to clarify that the attempt to fish for, catch, capture, confine, or harvest marine life is considered 'take,' and to add definitions for 'marine life' and 'weke 'ula;' and to compile HAR §13-95.1."

Respectfully submitted,



BRIAN NEILSON, Administrator
Division of Aquatic Resources

APPROVED FOR SUBMITTAL



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

Attachments:

- Exhibit 1 – Public Hearing Minutes
- Exhibit 2 – Written Testimony
- Exhibit 3 – Ramseyer Draft – Kahului Harbor FMA Rule Amendments
- Exhibit 4 – Ramseyer Draft – Maui 'Oama Rule Amendments

Item F-2 – Exhibit 1

Public Hearing Minutes

Amendments and Compilation of Hawaii Administrative Rules
CHAPTER 13-51
Kahului Harbor, Maui
Amendment and Compilation of Hawaii Administrative Rules
CHAPTER 13-95.1
Island-Based Fisheries

Hearing Location: Virtual Meeting via Zoom

Hearing Date: July 14, 2021
5:30 p.m. – 7:30 p.m.

I. **Introduction**

A. **Opening**

1. It is now 05:36 p.m. and this Public Hearing is called to order.
2. This is a formal Public Hearing on the proposed amendment and compilation of Hawaii Administrative Rules (HAR) chapters 13-51, Kahului Harbor Fisheries Management Area (FMA), and 13-95.1, Island-Based Fisheries relating to ‘Oama.
3. As required by law, the proposed rules have been drafted in Ramseyer format, and copies are available online at <http://ltgov.hawaii.gov/the-office/administrative-rules> or at <https://dlnr.hawaii.gov/dar/rules-and-public-notice/>
4. My name is Adam Wong; I am the Maui Education Specialist with the Division of Aquatic Resources and I will be conducting tonight’s public hearing.

B. **Purpose**

1. The purpose of this hearing is to provide the public the opportunity to provide comments in the form of oral and written testimony on these proposed amendments to the administrative rules relating to the Kahului Harbor FMA as well as the administrative rules relating to the harvest of ‘oama.

C. **Approvals and Notice of Public Hearing**

Item F-2 – Exhibit 1

1. Approvals to conduct this public hearing have been obtained from the Board of Land and Natural Resources on May 14, 2021 and Governor Ige on June 15, 2021.
2. The Legal Notice of this public hearing was published in the June 13, 2021, Sunday issue of the Honolulu Star Advertiser.
3. On July 07, 2021, the Department issued a press release regarding this hearing.

D. Hearing Procedures

1. First, I will show you a quick PowerPoint presentation outlining the rule making process and explaining the proposed changes to the administrative rules.
2. Then, I will call on those who have signed up to testify. If you have not already received the zoom link for live video testimony and wish to be put on the list for live video testimony, please email your request to: Edward.L.Kekoa@hawaii.gov (in your email please provide your name, phone number, and affiliation – if any).
3. The on-line public hearing testimony process will proceed as follows:
 - You will follow the link sent to you and provide your name, email, phone number, and affiliation – if any.
 - Once connected, you will be placed into a virtual “Waiting Room.” PLEASE NOTE that while you are waiting to provide testimony, please make sure that your microphone is muted and your video camera is off.
 - We will be letting 5 testifiers into the Zoom meeting at a time.
 - Your microphone will remain muted and your camera will remain off until the host indicates that you are up next.
 - When it is your turn to speak, you will be given full access to the meeting. At that time, if you are watching the YouTube livestream, YOU WILL NEED TO MUTE THE YOUTUBE LIVESTREAM TO AVOID MICROPHONE FEEDBACK.
 - When testifying, please state your first and last name for the record. If you are testifying on behalf of an organization, please include the name of the organization as well.
 - Testimony will be limited to a maximum of three minutes. You will be given notice when 30 seconds remain and asked to wrap up by the 3-minute time limit. If you continue to testify beyond your allotted time, I will kindly ask you to complete your testimony (and, if you continue on, we will mute you and remove you from the Zoom meeting).

Item F-2 – Exhibit 1

E. Present staff and others

1. At this time I would like to introduce the rest of our DAR staff here tonight assisting with this public hearing. We have Russell Sparks, Maui island biologist, Luna Kekoa, CBSFA Coordinator, Oahu office and Keali'i Sagum, our legal fellow also with our Oahu DAR office.

II. **Background and Rule Explanation**

- A. HAR §13-51 creates and establishes rules for the Kahului Harbor Fisheries Management Area and HAR §13-95.1 establishes rules for island-based fisheries.

B. Summary of Draft Administrative Rules

1. The Department proposes to amend the Kahului Harbor FMA rules as follows:
 - 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;
 - Remove the exceptions for take of nehu under a commercial bait license;
 - Remove the exceptions for commercial akule net fishing;
 - Remove the exceptions for crab netting; Remove the exceptions for take of juvenile mullet under an aquaculture license;
 - 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;
 - Repeal the requirement for fisher check station reporting;
 - Update definitions; and
 - Make other non-substantive technical amendments for purposes of clarity and consistency.
2. The Department proposes to amend the ‘Oama rules as follows:
 - Add weke ‘ula (*Mulloidichthys vanicolensis*) as a regulated species in addition to the existing weke ‘ā (*M. flavolineatus*);
 - Redefine ‘oama as these two species when less than eight inches fork length (previously five inches); and
 - Update other various definitions.

III. **Testimonies**

- A. We will now move on to the oral testimony portion of this public hearing. As described at the beginning of this meeting, those of you who have signed up to give live testimony via Zoom should have received a Zoom link and should

Item F-2 – Exhibit 1

have already be joined and waiting in the virtual “Waiting Room.” We will now admit testifiers into the meeting, 5 at a time.

- B. Testifiers – One person signed up to testify however, no one logged in to testify within the window provided.
- C. Late testimonies: Persons unable to attend today or wishing to present additional comments, may mail written testimony to us by July 30, 2021.

Please mail testimonies to:

Department of Land and Natural Resources
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813

Written testimony may also be submitted by email to:

DLNR.aquatics@hawaii.gov

IV. **Decision-Making on the Proposals**

- A. Based on the testimonies presented, the Department will submit its findings and recommendations to the Board of L&NR.
- B. If approved by the Board, the Department of the Attorney General will conduct a final legal review. If approved, the proposed rules will be given to the Governor for his final approval.
- C. Should the Governor grant approval, certified copies will be filed with the Lt. Governor’s office, and after 10 days, it becomes effective as law.
- D. If you have any questions regarding this process, please feel free to email DLNR.Aquatics@hawaii.gov.

V. **Adjournment**

- A. On behalf of the Board of Land and Natural Resources and DAR, thank you for attending this public hearing. This public hearing is now adjourned. Time: 06:03 p.m.
- B. Mahalo for taking time out from your day to attend this hearing.

Subject: Scott Crawford Email Testimony

Date: Thursday, August 5, 2021 at 10:36:28 AM Hawaii-Aleutian Standard Time

From: Kekoa, Edward L

To: Sparks, Russell T

From: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>

Sent: Wednesday, July 28, 2021 1:14 PM

To: Kekoa, Edward L <edward.l.kekoa@hawaii.gov>

Subject: FW: [EXTERNAL] Kahului Harbor Fisheries Management Area rules

-----Original Message-----

From: Scott Crawford - Kipahulu Ohana <ohana@kipahulu.org>

Sent: Wednesday, July 28, 2021 11:28 AM

To: DLNR.AR.DLNR.Aquatics <dlnr.aquatics@hawaii.gov>

Subject: [EXTERNAL] Kahului Harbor Fisheries Management Area rules

Aloha,

On behalf of the Kipahulu Ohana, Inc. we would like to express our support for the proposed Kahului Harbor Fisheries Management Area rules updates.

These rules appear to be well thought through based on input from fishers and community members, reasonable, protective of the resource, and adaptive to new data and changing conditions.

We encourage the adoption of these rule amendments.

Mahalo,

Scott Crawford

Executive Director

Kipahulu Ohana, Inc.

PO Box 454

Hana HI 96713

808-248-8673

ohana@kipahulu.org

[https://urldefense.com/v3/__http://www.kipahulu.org_!!LIYSdFfckKA!gKAmVKha5Jsjt0h4VahtojhS-hzSM2BnnBQVOtKSRjwA6eYj3HDqyfs9kSu5wuDXj_NFFiY\\$](https://urldefense.com/v3/__http://www.kipahulu.org_!!LIYSdFfckKA!gKAmVKha5Jsjt0h4VahtojhS-hzSM2BnnBQVOtKSRjwA6eYj3HDqyfs9kSu5wuDXj_NFFiY$)



Maui Nui Makai Network
121 Apau Place
Makawao, HI 96768

July 29, 2021

Brian Neilson, Administrator
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813

Re: Support for DAR proposal to amend Maui fishing regulations for Kahului Harbor and 'oama

Dear Administrator Neilson,

On behalf of the Maui Nui Makai Network, we would like to express our full support for proposed amended rules relating to the Kahului Harbor Fisheries Management Area (FMA), and to the take and possession of 'oama on the island of Maui.

We are a group of community and partner organizations across Maui Nui who are exerting our kuleana to care for the ocean in a way that honors our kūpuna, and the traditional and cultural practices of our places. We work to protect and restore healthy coastal and marine ecosystems for the people of Maui Nui using powerful place-based, collaborative strategies. Our mission is to connect communities across Maui Nui to care for and restore healthy ecosystems on which Hawai'i's people depend, and the Network is a reminder that each group working hard in their own communities is creating big changes collectively. Our purpose is to share and learn from our diverse experiences, lessons, and best practices to help member sites mālama specific makai areas.

One of our founding member groups is the Wailuku Community Managed Makai Area (CMMA). In 2016 they developed the Kahului Harbor Community Action Plan (CAP), and worked to propose improvements to the fishing rules in the Kahului Harbor FMA. The CAP aims to restore a healthy harbor fishery, focusing on enhancing forage fish (small fish like nehu that are eaten by larger fish) and akule. This amended rule supports the CMMA goals, objectives, and actions.

We stand in solidarity with our network members are supportive of the proposed rule amendments to address community needs and ecosystem concerns.

Respectfully,

Claudia Kalaola, 2021 Network Chair

Karin Osuga, Network Coordinator

July 19, 2021

To: DLNR, Division of Aquatic Resources

From: Karen M Yamada

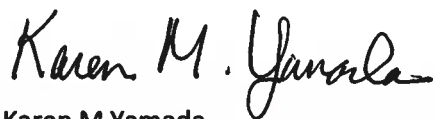
Subject: Testimony for Proposed Rule Amendments for the Kahului Harbor Fisheries Management Area and Maui Oama Fishing

I am writing this testimony in support of the changes proposed for the rule amendments for the Kahului Harbor and the Maui Oama Fishing.

I have long been an advocate to preserve and promote the Kahului Harbor as a recreational fishing area for the residents of Maui. As a Kupuna I have fished in the Harbor for many years and have felt comfortable in the safe environment of Harbor fishing. Throughout my many years fishing in the Harbor I have met and befriended numerous young anglers, many who spend their summer vacations fishing in the harbor while their parents are at work. Their parents drop them off in the morning before work and pick them up on the way home after work. I have been reacquainted with many of these children when they return with their families to enjoy the safe environment fishing in the Kahului Harbor.

I applaud and thank Mr. Russell Sparks for his diligence in overseeing the Harbor for the benefit of Maui's recreational fishers.

Yours truly,

A handwritten signature in black ink that reads "Karen M. Yamada". The signature is written in a cursive, flowing style.

Karen M Yamada
64 Awela Circle, Unit 2902
Wailuku, HI 96793



July 28, 2021

Brian Neilson, Administrator
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813

Re: Support For DAR Proposal To Amend Maui Fishing Regulations For Kahului Harbor And 'Oama

Aloha Administrator Neilson and team,

Kua'āina Ulu 'Auamo (KUA) submits this letter in strong support of the proposed amendments to the regulations for Kahului Harbor and 'oama fishing.

Kua'āina Ulu 'Auamo means “grassroots growing through shared responsibility,” our acronym KUA means backbone. KUA works to empower communities to improve their quality of life through caring for their environmental heritage together. We employ a community-driven approach that currently supports a network of more than 36 mālama 'āina (care for that which feeds) community groups collectively referred to as E Alu Pū (moving forward together), over 40 fishpond restoration projects and practitioners called the Hui Mālama Loko I'ī (HMLI; the group that cares for fishponds), and the Limu (seaweed) Hui made up of limu loea (experts) all from across the state.

Since before KUA's formal founding in 2012 the Wailuku Community Marine Managed Area (CMMA) and its leadership by the Carpio 'ohana, Takeo Miyaguchi and supporting community and NGO partners and many others have long invested great time and labor in this process of outreach, listening and compromise in the development of regulations suitable for their fishery. Indeed, almost a decade ago we walked the shoreline with Takeo and Jay to discuss their passion and outreach that could lead toward caring for the Nehu and the many valued resources of their fishery.

A primary function of KUA includes development of the 'auwai, a stream of resources tools, bridges and networks that help to cultivate and take our communities' work to greater levels. A core reason for KUA is to facilitate, connect and gather community networks that wish to pass on the traditional ecological knowledge, values, and practices of mālama 'āina for and abundant future. Wailuku CMMA in that time not only linked to like-minded communities statewide but more importantly they reached deeply into their own community and founded the Maui Nui Makai Network to empower connections and sharing within Maui Nui. Long term investment in the care for your own community and natural resources -a legacy of Hawai'i's heritage- is dwindling and yet a key to the care of our environment lies within the heart and investment of those who have demonstrated that care and investment in the long term. Passage of these rules affirm our state's constitutional kuleana, and its interest and investment in a citizenry, and Native Hawaiian community and ethic that not only thrived on the abundance of



nature but cares for and works to restore our special places so they once again can be more provident.

Pūpūkahi i holomua e ho'okanaka
(Let us unite to better the human condition)

A handwritten signature in black ink, appearing to read "KJ Chang", with a long horizontal line extending to the right.

Kevin K.J. Chang
Executive-Director

July 28, 2021

Brian Neilson, Administrator
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813

Re: Support for DAR proposal to amend Maui fishing regulations for Kahului Harbor and 'oama

Dear Administrator Neilson,

On behalf of The Nature Conservancy (TNC), I would like to express our full support for proposed amended rules relating to the Kahului Harbor Fisheries Management Area (FMA), and to the take and possession of 'oama on the island of Maui.

In 2016, TNC supported the Wailuku Community Managed Makai Area (CMMA) to develop the Kahului Harbor Community Action Plan (CAP), and had the privilege of working with the Carpio 'ohana, Takeo Miyaguchi, and many others as they worked to propose improvements to the fishing rules in the Kahului Harbor FMA. The CAP aims to restore a healthy harbor fishery, focusing on enhancing forage fish (small fish like nehu that are eaten by larger fish) and akule. This amended rule supports the CMMA goals, objectives, and actions.

Takeo, who passed away last year, was an unflagging champion of protecting nehu and akule at the Kahului Harbor FMA. A former biology teacher, he would elegantly explain the importance of the forage fish to the ecosystem and protecting akule from commercial take within the FMA. Like Takeo, we are supportive of the proposed rule amendments that protect forage fish. These species are sought after by larger predator fish and fishermen and are important for both a healthy ecosystem and fishery. By restricting the take of forage fish by small landing net, maintaining the 50 fish limit on take, and eliminating the take of nehu under a commercial bait license, fewer fish will be taken. More forage fish will attract predator fish that recreational fishers favor when fishing in the FMA.

We also support the proposed rule amendments that protect akule. Akule use protected estuarine bays like Kahului Harbor to aggregate and spawn during the summer months where they are vulnerable to overharvest by commercial fishers. By removing the exception for commercial akule net fishing, this rule will allow akule to aggregate and spawn unimpeded, thus allowing akule populations to grow, improving regional persistence of the species, and improving recreational pole and line fishing in the FMA. In addition, we agree with all amendments included in this proposal protecting crabs, juvenile mullet, and weke ula (*Mulloidichthys vanicolensis*).

Mahalo for addressing community concerns and producing proposed rule amendments to address ecosystem and fisheries needs.

Respectfully,



Emily J. Fielding
Maui Marine Program Director

BOARD OF TRUSTEES

Duke E. Ah Moo Paul D. Alston (Chair) Kris Billeter Dr. C. Tana Burkert Anne S. Carter Richard A. Cooke III Ka'iulani de Silva
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Brett MacNaughton Kathy M. Matsui Janet Montag Alicia Moy Dustin E. Sellers Peter K. Tomozawa Richard N. Zwern



Testimony in support of DAR Proposed Rule Amendments for Kahului Harbor

July 28, 2021

Robin Newbold

Maui Nui Marine Resource Council

My name is Robin Newbold, 20-year marine science professor and current Chair of Maui Nui Marine Resource Council. (MNMRC). Fourteen years ago, I co-founded Maui Nui Marine Resource Council with my friend and mentor, Uncle Ed Lindsey.

The very first \$1,000 donation received by Maui Nui Marine Resource Council arrived in 2010 and was used by our young organization to learn about an old but effective “community-based” approach to protecting local coral reefs and fish populations. We used this funding to send six Maui residents to O’ahu to meet with representatives of Fiji’s Locally Managed Marine Areas Networks. We’d heard about Fiji’s success in reversing the decline of fish populations and believed Maui Nui could benefit from a similar approach. From the visiting Pacific Islanders the group learned how communities throughout Fiji had worked collaboratively to create fishing regulations, coral and fish protection measures, and beneficial behavioral norms. They reported that this bottoms-up approach inspired Fijian communities to build a stronger, more resolute marine protection ethic throughout the island nation.

The proposed Department of Aquatic Resources rules updates for the Kahului Harbor Fisheries Management Area reflect how this community-based model has become established and grown in Maui, thanks to groups such as the Wailuku Community Managed Makai Area, residents including Takeo Miyaguchi and supporting organizations including The Nature Conservancy and the Maui Nui Makai Network.

During 2018, Maui DAR staff worked with the Wailuku Community Managed Makai Area, fishers, community members, and other stakeholders to gather input and exchange ideas regarding updates to the rules relating to the Kahului Harbor Fishing Management Area, which was established in 1984. We believe the proposed rules update reflects traditional Hawaiian knowledge, careful thought and input by the Wailuku Community Managed Makai Area and the community. Maui Nui Marine Resource Council supports the resulting proposed rule amendments. We urge that these proposed rule amendments be accepted and incorporated into the Department of Land and Natural Resources Fisheries Administrative Rules for Marine Fisheries Management Areas in Kahului Harbor.

Thank you.

A handwritten signature in black ink, appearing to read "Robin Newbold".

Robin Newbold, Co-Founder and Chair
Maui Nui Marine Resource Council

Department of Land and Natural Resources
Proposed Amendments to Kahului Harbor Fisheries Management Area and Maui `Oama Rules
Virtual Hearing - July 14, 2021

Written Testimony

Josiah Sewell
1200 Queen Emma St., #1506
Honolulu, HI 96813
808-391-6972
josiahse@hawaii.edu

Chairperson Suzanne D. Case,
Administrator Brian Neilson,
and
Committee Members,

Thank you for the opportunity to provide written testimony regarding the proposed amendments concerning Maui's `oama rules. I am a long-time resident of O`ahu with a Master's degree in Zoology from the University of Hawai'i. As a licensed scientific SCUBA diver, over the past two decades I have spent countless hours diving recreationally and contributing to professionally-produced underwater documentary films and television programs¹, scientific studies, and conservation initiatives. While my own research was on the ecology of Hawaiian shark species, I maintain a passionate interest in the ecology and sustainability of Hawai'i's marine ecosystems and ocean health. Currently, I am enrolled in the William S. Richardson School of Law, with the intention of pursuing a combination of Administrative, Conservation, and Ocean Policy Law.

On the two questions pertaining to Maui's `oama rules, it is my position that (1) expanding the definition of "`oama" to include juveniles of the goatfish species *Mulloidichthys vanicolensis* (weke`ula) with the existing designation of juvenile *Mulloidichthys flavolineatus* (weke`a) is beneficial for the purposes of common stock management, and (2) increasing the maximum size for all `oama from five inches to eight inches is ill-advised and detrimental to the long-term reproductive health and ecology of both species.

Currently, `oama refers to all juvenile *weke`a*. Hawaii Administrative Rules ("HAR") § 13-95-1.1. Anecdotal and relative to O`ahu, schools of both *weke`a* and *weke`ula* have been observed at the same reefs and shallow water sites, though particular sites may exhibit a greater abundance or frequency of one species over the other. Off Oah`u, both species are plentiful, and both can be found as juveniles schooling in large numbers. Studies throughout the 2000's at the University of Hawai'i have shown that reproductive season for both species overlaps, from February/March through June². The species have a similar diet, habitat, and distribution. Absent any significant distinguishing ecological

¹ Produced by HDunderH2O. For select excerpts from a PBS Studios web program, see <https://www.youtube.com/user/UnderH2Oshow>

² Leba, H. July 30, 2008. *Reproductive biology of three Hawaiian goatfishes* [PowerPoint presentation]. Hawai'i Conservation Conference, Honolulu, Hawai'i. https://www.hawaiiconservation.org/wp-content/uploads//leba_opt.pdf

characteristics, I believe it makes sense to consolidate the juveniles of both species under the *ʻoama* banner for managerial purposes.

However, increasing the maximum permissible length for *ʻoama*, from five inches to eight inches, carries potentially significant and detrimental management implications, particularly regarding the reproductive health of both species. First, at present, individuals of either species that are between five and 12 inches in length may not be taken or possessed by law. HAR § 13-95.1-20. Only *ʻoama*, juveniles less than five inches in length, may be taken in large numbers, i.e. the “daily bag limit” of 50 fish per fisherperson, per day. HAR § 13-95.1-20(f). Increasing the *ʻoama* maximum size obviously renders a larger subset of the population susceptible to the “daily bag limit.” Amendment of this rule, as proposed, would therefore allow the daily taking of up to 50 individuals (“daily bag limit”) up to eight inches in size.

This is critical because, secondly, this would negatively impact the reproductive fecundity of the populations of both species. Goatfish increase in reproductive fecundity with size, as an indicator of age. They may reach up to 20” in length, but sexual maturity occurs at approximately one-third that size. The length at which half of a fish population may be able to spawn is designated “ L_{50} ”. For both *wekeʻa* and *wekeʻula*, the L_{50} is 6-7”³. As individuals grow beyond this length, they are more and more likely to be reproductively mature. Currently, *ʻoama* are classified as *weke* less than five inches, all but ensuring that non-mature juveniles are the only individuals subject to the daily bag limit. If the *ʻoama* designation is expanded to include a permissible length up to 8”, those individuals will also be permissible in the daily bag limit. A DLNR study found that 100% of *wekeʻa* and *wekeʻula* were sexually mature at 7.9 inches⁴. Thus, inclusion of individuals up to eight inches, as proposed, would mean the “daily bag limit” of 50 fish would include reproductively mature individuals with absolute certainty. For context, a gravid, sexually mature female *weke* of approximately 7” in length (roughly L_{50}) contains approximately 20,000 eggs. This figure increases linearly and steeply with length: at approximately 10 inches, a mature female has 150,000 eggs; at approximately 11 inches, the number doubles to 300,000 eggs. The frequency of such large females is rare. By permitting an expansion of the rules that allow the large-scale taking of individuals who have just reached sexual maturity, it is likely to remain so.

Third, the Hawaiian designation of *ʻoama* is culturally and practically significant in its reference to juvenile *wekeʻa* (and now, potentially *wekeʻula*). “Fingerling” (i.e. finger-length individuals, up to 4”) are traditionally caught in the mid to late summer⁵. The juveniles are plentiful and used as a food source (fried ‘til crispy) or a bait for other, larger fish (e.g. *papio*, aka juvenile jacks and trevallies) that follow the *ʻoama* school. Amending the rule to include larger individuals flies in the face of the traditional fishing custom which was cognizant and mindful of utilizing the smaller juveniles so as to protect stock health.

Fourth, goatfish are broadcast spawners. Their larvae spend 30-60 days drifting in the ocean waters and currents, more than enough time to transit from Maui to neighboring islands. Changes in regulation to the taking of Maui’s stock will have a temporal and spatial “trickle down effect” throughout the archipelago. Maui currently has more stringent take requirements, rendering it a sanctuary for individual fish that reach sexual maturity. This refuge should be preserved, not equalized.

³ Leba, H. July 30, 2008. *Reproductive biology of three Hawaiian goatfishes* [PowerPoint presentation]. Hawaiʻi Conservation Conference, Honolulu, Hawaiʻi. https://www.hawaiiconservation.org/wp-content/uploads/leba_opt.pdf

⁴ Cole, K. July 24, 2009. *Size-dependent and age-based female fecundity and reproductive output for three Hawaiian goatfish (Family Mullidae) species, Mulloidichthys flavolineatus (yellowstripe goatfish), M. vanicolensis (yellowfin goatfish), and Parupeneus porphyreus (whitesaddle goatfish)*. Report to the Division of Aquatic Resources Dingell-Johnson Sport Fish Restoration. https://dlnr.hawaii.gov/coralreefs/files/2015/02/Size-dependent-and-age-based-female-fecundity-and-reproductive-output-for-Mulloidichthys-flavolineatus-M.-vanicolensis-P.porphyreus_July-2009.pdf

⁵ <https://www.waikikiaquarium.org/experience/animal-guide/fishes/goatfishes/goatfishes/>

For efficiency, I support the expansion of the *`oama* designation to include juveniles of both species, *M. vanicolensis* (weke`ula) and *M. flavolineatus* (weke`a). However, I believe expanding the size classification of *`oama* up to 8 inches in length will have serious negative impacts on the species' populations due to an increased number of takings of reproductively viable females, individuals which are protected by the current regulation. Currently, up to 50 individual fish can be taken daily, but the size constraint assures that none are likely to be sexually mature. If the *`oama* designation is expanded to include individuals up to eight inches, the same daily bag limit will then have the potential and likely effect of removing sexually mature females from the population. As culturally and commercial important fish species, this is ill-advised.

Respectfully submitted,



Josiah K. Sewell

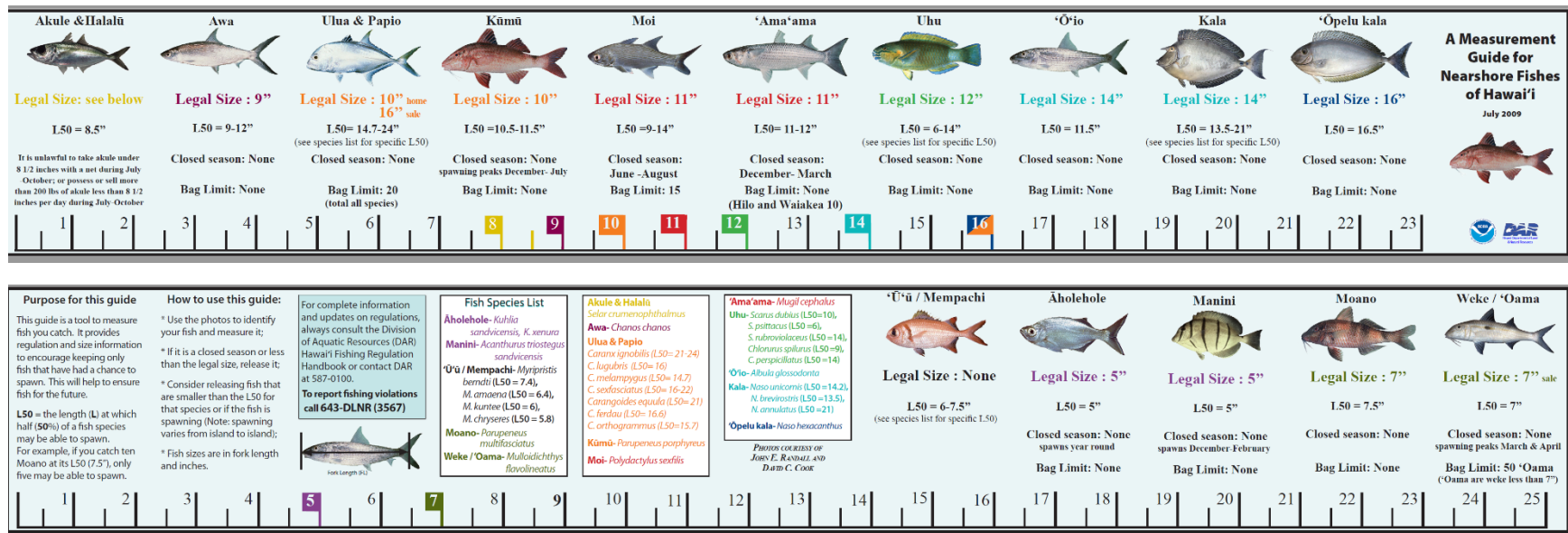


Exhibit A

ITEM F-2 - EXHIBIT 3

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

ITEM F-2 - EXHIBIT 3

§13-51-1

§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 erumenophthalmus* 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.

ITEM F-2 - EXHIBIT 3

§13-51-1.1

~~["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

ITEM F-2 - EXHIBIT 3

§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~~

ITEM F-2 - EXHIBIT 3

§13-51-2

~~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.

ITEM F-2 - EXHIBIT 3

§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~~

ITEM F-2 - EXHIBIT 3

§13-51-5

~~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.

ITEM F-2 - EXHIBIT 3

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 AS TO FORM:

Deputy Attorney General

ITEM F-2 - EXHIBIT 4

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 [~~o~~], 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 pālupaluka 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.

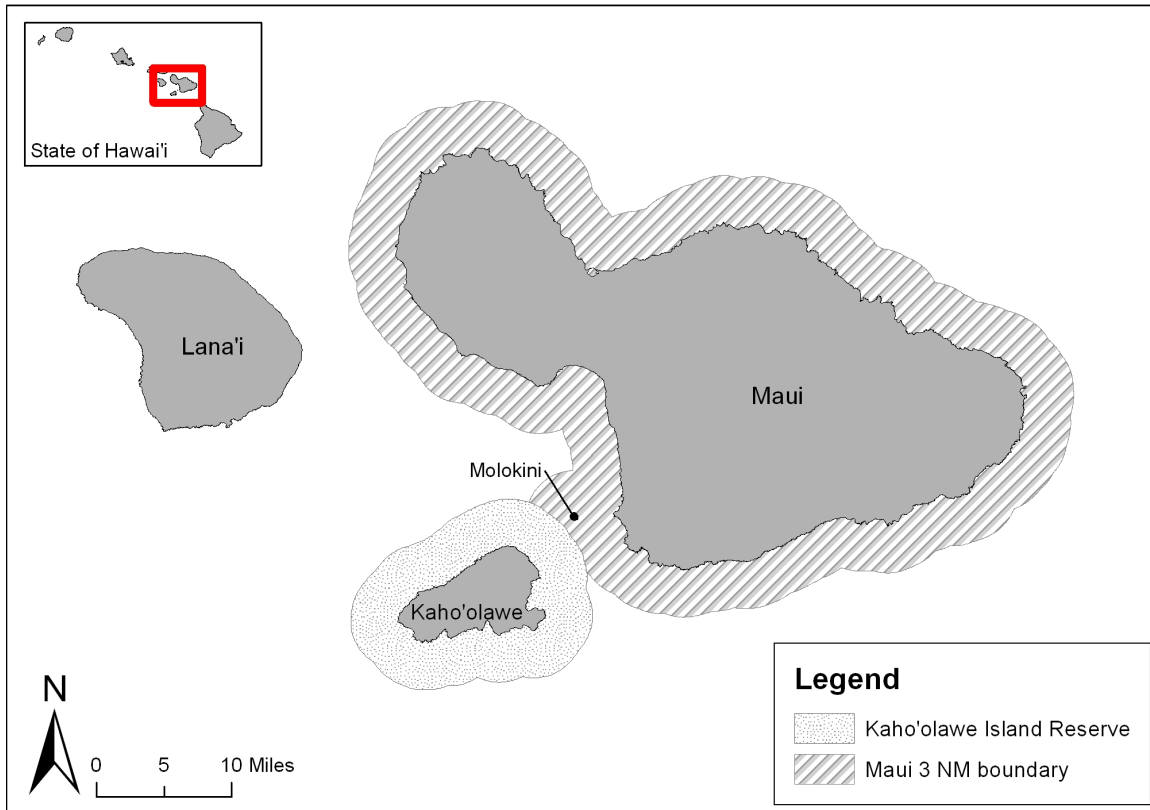
4. The amendments to and compilation of chapter 13-95.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

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 AS TO FORM:

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).