

State of Hawai‘i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Aquatic Resources
Honolulu, Hawai‘i 96813

May 12, 2023

Board of Land and Natural Resources
State of Hawai‘i
Honolulu, Hawai‘i

2nd REQUEST FOR APPROVAL TO HOLD PUBLIC HEARINGS ON AMENDMENTS TO
AND COMPILATION OF CHAPTER 13-95, HAWAII ADMINISTRATIVE RULES, “RULES
REGULATING THE TAKING AND SELLING OF CERTAIN MARINE RESOURCES”

Overview of Proposed Amendments

Submitted for reconsideration and approval is a request to hold statewide public hearings on amendments to and compilation of chapter 13-95, Hawaii Administrative Rules (HAR), “Rules Regulating the Taking and Selling of Certain Marine Resources.” The original proposed amendments included:

- 1) Increasing the minimum length of manini (Convict Tang) from five inches to six inches;
- 2) Creating a daily bag limit for kala (Bluespine Unicornfish) of two per person per day and prohibiting the possession of more than two kala at any one time with an exception for commercial marine dealers;¹
- 3) Prohibiting the take of any uhu ‘ele‘ele² or uhu uliuli;³
- 4) Increasing the minimum length for uhu pālupaluka⁴ and uhu ‘ahu‘ula⁵ from twelve to fourteen inches;
- 5) Creating a minimum length of ten inches for all other uhu;
- 6) Creating a daily bag limit of two uhu per person per day and prohibiting the possession of more than two uhu at any one time with an exception of commercial marine dealers;⁶
- 7) Creating a minimum length of five inches for kole (Goldring Surgeonfish);

¹ Commercial marine dealers in compliance with receipt requirements of HRS §189-11.

² "Uhu ‘ele‘ele" means any fish known as *Scarus rubroviolaceus* or any recognized synonym that has reached its terminal phase, indicated by a change in coloration from brownish-red and yellowish-gray, to green and blue.

³ "Uhu uliuli" means any fish known as *Chlorurus perspicillatus* or any recognized synonym that has reached its terminal phase, indicated by a change in coloration from a grayish brown body with 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.

⁴ "Uhu pālupaluka" means any fish known as *Scarus rubroviolaceus* or any recognized synonym that has not reached its terminal phase. Uhu pālupaluka are also known as redlip or ember parrotfish. The terminal phase of these fish are known as uhu ‘ele‘ele.

⁵ "Uhu ‘ahu‘ula" means any fish known as *Chlorurus perspicillatus* or any recognized synonym that has not reached its terminal phase. Uhu ‘ahu‘ula are also known as spectacled parrotfish. The terminal phase of these fish are known as uhu uliuli.

⁶ Commercial marine dealers in compliance with receipt requirements of HRS §189-11.

- 8) Extending the current closed season (May-August) for pāpa'i kualoa (Kona Crab) to May-September;
- 9) Allowing the take of female pāpa'i kualoa; and
- 10) Making other minor housekeeping amendments for clarity and consistency with other chapters including adding new definitions, amending old definitions, and other stylistic and grammatical corrections throughout the chapter.

At the December 8, 2022 Board of Land and Natural Resources (Board) meeting, the Board received public testimony on these proposed amendments from commercial uhu and kala fishers. In response to the testimony that was received, the Board deferred voting on the measure and requested that the Division of Aquatic Resources (DAR) update the proposed amendments to include accommodations addressing the concerns raised by the commercial uhu and kala fishers in order to allow further discussion on the issues throughout the public hearing process pursuant to chapter 91, Hawaii Revised Statutes (HRS). DAR has since revised the proposal, in consultation with the commercial uhu and kala fishers and dealers, to include separate uhu and kala rules for Commercial Marine License (CML) holders and commercial marine dealers, in addition to the originally proposed uhu and kala rules that will apply to all recreational and subsistence fishers. The revised proposed amendments to HAR §13-95 include the following rules to allow for limited commercial harvest and sale of uhu and kala:

Commercial Take and Sale of Uhu

Fishers:

- 1) Only uhu pālupaluka allowed for commercial harvest and sale.
- 2) Commercial daily bag limit of thirty uhu pālupaluka per CML holder.
- 3) Slot limit of fourteen to twenty inches for commercial harvest and sale.
- 4) No commercial harvest or sale during peak spawning months of February through May.
- 5) Must possess a valid Commercial Uhu Fishing Permit.
- 6) Commercial Uhu Fishing Permits shall be issued to any individual who:
 - a) Holds a valid CML;
 - b) Submits a valid application and pays the permit fee (\$100.00);
 - c) Provides proper identification (e.g. valid driver's license, state ID, etc.); and
 - d) Has caught and sold at least 340 pounds of uhu within the past twelve months as verified through commercial catch reports and/or commercial marine dealer reports (Only applicable if they held a permit within the past year).
- 7) Commercial Annual Catch Limit (ACL) of 34,000 pounds of uhu per year.
 - a) This represents approximately 75% of the average annual reported commercial uhu catch over the past 5 years.
 - b) Catch is tallied annually beginning in June to correspond with the open season.

Dealers:

- 1) Commercial marine dealers must register as commercial uhu dealers to purchase, possess, and sell uhu.

- 2) Purchase, possession, and sale by dealers prohibited within the closed season of February through May.
- 3) If the uhu season closes early due to the ACL being reached, dealers may continue to possess and sell uhu legally obtained prior to the closure;
- 4) No bag limit for registered uhu dealers with proper purchase receipts.

Commercial Take and Sale of Kala

Fishers:

- 1) Commercial daily bag limit of fifty kala per CML holder.
- 2) Minimum size of fourteen inches (same as non-commercial size limit).
- 3) No commercial harvest or sale during peak spawning months of April through July.
- 4) Must possess a valid Commercial Kala Fishing Permit.
- 5) Commercial Kala Fishing Permits shall be issued to any individual who:
 - a) Holds a valid CML;
 - b) Submits a valid application and pays the permit fee (\$100.00);
 - c) Provides proper identification (e.g. valid driver's license, state ID, etc.); and
 - d) Has caught and sold at least 100 pounds of kala within the past twelve months as verified through commercial catch reports and/or commercial marine dealer reports (Only applicable if the applicant held a permit within the last year).
- 6) Commercial ACL of 10,000 pounds of kala per year.
 - a) This represents approximately 75% of the average annual reported commercial kala catch over the past 5 years.
 - b) Catch is tallied annually beginning in August to correspond with the open season.

Dealers:

- 1) Commercial marine dealers must register as commercial kala dealers to purchase, possess, and sell kala.
- 2) Purchase, possession, and sale by dealers prohibited within the closed season of April through July.
- 3) If the kala season closes early due to the ACL being reached, dealers may continue to possess and sell kala legally obtained prior to the closure;
- 4) No bag limit for registered kala dealers with proper purchase receipts.

Additionally, DAR has revised the proposed kole regulations to allow the commercial aquarium harvest of kole less than five inches in length pursuant to the terms and conditions of a valid aquarium fish permit and other aquarium fishing regulations.

Discussion on the Revisions Made Subsequent to the Board's Request to Include Accommodations for Commercial Uhu and Kala Fishers

The goal of this updated proposal is to balance the concerns raised by commercial uhu and kala fishers regarding profitability with the need to reduce fishing pressure on crucial herbivore fish

species to ensure the overall health of the nearshore reefs throughout the State. Through direct outreach with fishers, it became apparent that regulations would need to focus on achieving harvest reductions at a time scale greater than the trip level.

Setting Commercial Annual Catch Limits

The backbone of these restrictions is the cap on total commercial catch set by the commercial ACLs. The commercial ACLs that are currently proposed are intended to effectively contain both the commercial uhu and the commercial kala fisheries at levels below the historic short- and long-term average annual harvest totals. Though the proposed catch limits are based on previous reported catch, as opposed to the Hawai'i Deep-7 bottomfish and uku fisheries which are based on stock assessments, this proposal leaves the door open for future management via stock assessment.

Balancing Competing Interests: Reducing Fishing Pressure vs. the Need for Profitability

Although ACLs are an effective management tool, DAR understands that, in addition to commercial uhu and kala ACLs, there is also a need for reasonable daily commercial bag limits to ensure that take is spread out throughout the year while also maintaining profitability for commercial fishers. The proposed bag limits intend to place a total daily cap on take per CML, but not be restrictive to the point that activity at the trip level is drastically altered.

Benefits of the Kapu Season

A closed season can have several benefits. First, closed fishing during the spawning period will protect spawning aggregations from being targeted or disturbed by fishing activity. Allowing spawning to occur undisturbed improves reproductive success. Second, a closed season (along with concurrent prohibited sales) can lead to a decrease in overall effort. Though closed fishing seasons can cause influxes in catch at their beginning and end, DAR believes that, given the nature of the uhu and kala fisheries and the markets they supply, control by markets to avoid oversaturation may prevent such pulses at a larger scale. Additionally, all influxes in catch will count toward the ACL and move the fishery closer to closure. Lastly, a kapu season with uniform prohibitions on catch and sale simplifies enforcement greatly during the closed period.

Commercial Uhu and Kala Permits and Dealer Registration

Establishing a permit requirement for commercial uhu and kala fishers and a registration requirement for uhu and kala dealers has a number of benefits. It enables DAR to more closely monitor commercial catch reports and dealer purchase reports for tracking toward ACLs. It enhances DOCARE's ability to identify authorized commercial uhu and kala fishers and dealers when enforcing bag limits. It enables DAR to quickly and directly notify all uhu or kala fishery participants in the event the ACL is reached and the season must be closed. Finally, the conditions for qualifying for a commercial uhu or kala fishing permit allow anyone to enter the fishery, but require actual participation in the fishery (through catch and sale of at least 1% of the ACL) in order to remain in the fishery. This discourages persons from obtaining a permit to benefit from higher bag limits but not reporting their catch to be counted toward the total ACL.

Statewide Rules as a Stepping Stone for Place-Based Management

Statewide rules are not usually meant to address the detailed nuances of a fishery on the island, moku, ahupua'a, or finer scale; rather, they are meant as a foundational baseline rule for the State that can be built upon with further place-based regulations that address the specific and diverse needs of the various communities across the State. Subsequently, the proposed statewide commercial uhu and kala rules within this proposal were specifically tailored to provide the foundation for further regulation at the island (or finer) scale to address area-specific concerns regarding low uhu and kala biomass and varying sentiments toward commercial fishing.

The proposed revised amendment and compilation of HAR Chapter 13-95 drafted in Ramseyer format is attached as **Exhibit 1**. A redlined document showing the changes between the original version from the December 8, 2022 Board meeting and the revised version submitted today is attached as **Exhibit 2**.

LEGAL AUTHORITY:

HRS § 187A-5, as amended by Act 45 (SLH 2021), authorizes the Department of Land and Natural Resources (Department) to conduct rulemaking, pursuant to HRS chapter 91, “for and concerning. . . the conservation and allocation of the natural supply of aquatic life in any area.

The rules may include:

- 1) Size limits;
- 2) Bag limits;
- 3) Open and closed fishing seasons;
- 4) Permits for the use and possession of lay nets, including reasonable permit fees and provisions for revocation, suspension, and withholding of permits for noncompliance with lay net rules;
- 5) Specifications and numbers of fishing or taking gear that may be used or possessed; and
- 6) Prescriptions and limits on the kind and amount of bait that may be used in taking aquatic life and the conditions for entry into areas for taking aquatic life.”

HRS § 188-53 provides that “the Department may make, adopt, and amend rules and may issue permits as it deems necessary for managing the fishing reserves, refuges, public fishing areas, and other waters or lands under the jurisdiction or control of the State.”

RECOMMENDATIONS:

- 1) “That the Board approve the proposed amendments to HAR §13-95, “Rules Regulating the Taking and Selling of Certain Marine Resources,” for statewide public hearings;” and
- 2) “That the Board delegate to the Chairperson the authority to appoint hearings officers to conduct the aforementioned public hearings.”

Respectfully submitted,



BRIAN J. NEILSON, Administrator
Division of Aquatic Resources

APPROVED FOR SUBMITTAL



DAWN N. S. CHANG, Chairperson
Board of Land and Natural Resources

Attachments:

- Exhibit 1 – Proposed HAR chapter 13-95 (Ramseyer format)
- Exhibit 2 – Proposed HAR chapter 13-95 (Redline version showing changes)

ITEM F-2 Exhibit 1

Amendment and Compilation of Chapter 13-95 Hawaii Administrative Rules

(date of adoption)

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

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART V PROTECTED MARINE FISHERIES RESOURCES

CHAPTER 95

RULES REGULATING THE TAKING AND SELLING OF CERTAIN MARINE RESOURCES

§13-95-1	Definitions
§13-95-1.1	Licenses, permits, and other exemptions
§13-95-2	Penalty
§13-95-3	Severability
§13-95-4	Āholehole
§13-95-5	Manini

§13-95-6	Moano
§13-95-7	Kūmū
§13-95-8	`Ama`ama (striped mullet)
§13-95-9	Awa
§13-95-10	`Ō`io
§13-95-11	Kala
§13-95-12	Kala `ōpelu
§13-95-13	`Ōpakapaka
§13-95-14	`Ula`ula koa`e (onaga)
§13-95-15	Uku
§13-95-16	Uhu (parrotfish)
§13-95-17	`Ahi
§13-95-18	`Ōpelu
§13-95-19	Akule
§13-95-20	`Iao
§13-95-21	Nehu
§13-95-22	Ulua
§13-95-23	Moi
§13-95-24	Weke `ā
§13-95-25	Kole
§§13-95-26 to 49	(Reserved)
§13-95-50	Pāpa`i kūhonu (white crab)
§13-95-51	Pāpa`i kualoa (Kona crab)
§13-95-52	Samoan crab
§13-95-53	Ula (spiny lobster)
§13-95-54	Ula pāpapa (slipper lobster)
§13-95-55	He`e (tako)
§§13-95-56 to 69	(Reserved)
§13-95-70	Stony corals
§13-95-71	Live rocks

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

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

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

flagtail, reticulated flagtail, or zebra-head flagtail.

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

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

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

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

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

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

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

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

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

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

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

"Day" means a twenty-four hour period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Moano" means any fish known as *Parupeneus multifaciatus* or any recognized synonym. Moano are also known as banded goatfish, five-barred goatfish, manybar goatfish, or multibarred goatfish.

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

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

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

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

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

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

"Ōpakapaka" means any fish known as *Pristipomoides filamentosus* or any recognized synonym.

'Ōpakapaka are also known as Hawaiian pink snapper, pink snapper, kinme himedai, or ohimedai.

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

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

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

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

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

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

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

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

~~"Speared" means [to capture aquatic life by stabbing with a spear or other such pointed device. The presence of any puncture wound on the external~~

~~surfaces of the aquatic life, which are fresh and does not show signs of healing, shall be evidence that the aquatic life was speared.]~~ pierced, impaled, penetrated, stuck, or run through by a sharp, pointed implement.

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

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

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

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

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

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

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

recognized synonyms. Uhu is a general term for parrotfish.

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

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

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

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

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

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

spiny lobster, spiny lobster, red lobster, or green lobster.

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

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

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

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

] (Auth: HRS §§187A-3.5, 187A-5, 190-3) (Imp: HRS §§187A-3.5, 187A-5, 190-3)

§13-95-1.1 Licenses, permits, and other exemptions. Notwithstanding the provisions of this chapter, the department may issue the following licenses and permits to exempt persons from the provisions of this chapter:

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

] (Auth: HRS §§187A-3.5, 187A-6, 188-44, 188-45, 188-57, 188-68, 190-3) (Imp: HRS §§187A-3.5, 187A-6, 188-23, 188-37, 188-44, 188-45, 188-57, 188-68, 190-4)

§13-95-2 Penalty. (a) A person violating any section of this chapter may be subject to any applicable criminal or administrative penalties or both. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.

(b) For the purpose of calculating the administrative penalties for violations of this chapter, if a fine per specimen may be applicable, fines per specimen may be imposed on the following basis:

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

] (Auth: HRS §§187A-5, 190-3) (Imp: HRS §§183C-7, 187A-5, 187A-12.5, 187A-13, 188-53, 188-70, 189-4, 190-5)

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

§13-95-4 [~~Aholehole.~~] Āholehole. It [~~shall be~~] is unlawful for any person to take, possess, or sell any [~~aholehole~~] āholehole less than five inches in length. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

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

§13-95-7 [~~Kumu.~~] Kūmū. It [~~shall be~~] is unlawful for any person to take, possess, or sell any

[~~kumu~~] kūmū less than ten inches in length. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-8 [~~Mullet.~~] 'Ama`ama (striped mullet).

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

(b) It is unlawful for any person to wilfully fish for, or attempt to take by any means whatsoever, from any of the waters within the jurisdiction of the State, or to sell, or have in possession any [~~mullet~~] pua, kahaha, `ama`ama, or `anae during the months of December, January, February, and March; provided that any owner or operator of a fish pond may lawfully catch [~~the young mullet known as~~] pua during the closed season, for the purpose of stocking the owner's or operator's pond; and provided further that any owner or operator of a fish pond or any commercial marine dealer may lawfully sell [~~pond-raised mullet~~] pond-raised pua, kahaha, `ama`ama, or `anae during the closed season after first procuring a license to do so pursuant to sections 13-74-40 or 13-74-43. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

§13-95-10 [~~0ie.~~] 'Ō'io. It [~~shall be~~] is unlawful for any person to take, possess, or sell any [~~0ie~~] 'Ō'io less than fourteen inches in length. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

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

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

(d) The department shall, upon receipt of a valid application and appropriate fee payment, issue a commercial kala fishing permit to any individual who:

- (1) Possesses a valid commercial marine license;
- (2) Provides proof of identity; and
- (3) Has caught and sold at least 100 pounds of kala during the prior kala fishing season, if the individual held a commercial kala fishing permit for the prior kala fishing season.

The fee for the issuance or renewal of a commercial kala fishing permit shall be \$100. A commercial kala fishing permit shall be valid for the duration of the kala fishing season, which extends from August 1 of a given year through March 31 of the following calendar year.

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

- (1) Commercial harvest or sale of kala shall be prohibited from April through July; and

(2) Commercial harvest or sale of kala shall be prohibited when the commercial kala fishing season is closed pursuant to subsection (h).

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

(g) A registered commercial kala dealer may possess and sell more than two kala if in compliance with section 189-11, HRS, provided that:

(1) No kala may be purchased, possessed, or sold when the commercial kala fishing season is closed pursuant to subsection (h), provided that kala legally obtained prior to the closure may be possessed and sold after the closure; and

(2) Paragraph (1) notwithstanding, no kala may be purchased, possessed, or sold from April through July.

(h) There is established an annual catch limit (ACL) of 10,000 pounds for the commercial kala fishery. Commercial kala catch shall be tallied beginning in August of each year. When the ACL is reached, the department shall notify commercial kala fishing permittees and registered commercial kala dealers that the commercial kala fishing season will close. Notice shall be made in writing by mail or email to the address on file with the department no less than three days prior to the closure of the season. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §§187A-5, 190-3) (Imp: HRS §§187A-5, 188-53, 190-4)

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

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

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

§13-95-14 [~~Onaga.~~] 'Ula'ula koa'e (onaga). (a) It [~~shall be~~] is unlawful for any person to possess with the intent to sell, or offer for sale, any [~~onaga~~] 'ula'ula koa'e less than one pound in weight.

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

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

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

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

(b) It is unlawful for any person to take, possess, or sell 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), it is unlawful for any person to take, possess, or sell any other uhu less than ten inches in length.

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

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

(f) The department shall, upon receipt of a valid application and appropriate fee payment, issue a commercial uhu fishing permit to any individual who:

- (1) Holds a valid commercial marine license;
- (2) Provides proof of identity; and
- (3) Has caught and sold at least 340 pounds of uhu during the prior uhu fishing season, if the individual held a commercial uhu fishing permit for the prior uhu fishing season.

The fee for the issuance or renewal of a commercial uhu fishing permit shall be \$100. A commercial uhu fishing permit shall be valid for the duration of the uhu fishing season, which extends from June 1 of a given year through January 31 of the following calendar year.

(g) A commercial uhu fishing permittee participating in a commercial uhu fishing trip may take up to thirty uhu pālupaluka per day, and possess up to thirty uhu pālupaluka at any one time, provided that:

- (1) Only uhu pālupaluka under twenty inches in length may be taken or possessed on a commercial fishing trip;
- (2) No other species of uhu may be taken or possessed on a commercial fishing trip;
- (3) Commercial harvest or sale of uhu shall be prohibited from February through May; and

(4) Commercial harvest or sale of uhu shall be prohibited when the commercial uhu fishing season is closed pursuant to subsection (j).

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

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

(1) Only uhu pālukaluka less than twenty inches may be purchased, possessed, or sold;

(2) No other species of uhu may be purchased, possessed, or sold;

(3) No uhu may be purchased, possessed, or sold when the commercial uhu fishing season is closed pursuant to subsection (j), provided that uhu legally obtained prior to the closure may be possessed and sold after the closure; and

(4) Paragraph (3) notwithstanding, no uhu may be purchased, possessed, or sold from February through May.

(j) There is established an annual catch limit (ACL) of 34,000 pounds for the commercial uhu fishery. Commercial uhu catch shall be tallied beginning in June of each year. When the ACL is reached, the department shall notify commercial uhu fishing permittees and registered commercial uhu dealers that the commercial uhu fishing season will close. Notice shall be made in writing by mail or email to the address on file with the department no less than three days prior to the closure of the season. [Eff

12/03/98; am 12/19/02; comp 1/31/21; am and comp

] (Auth: HRS §§187A-5, 190-3) (Imp:

HRS §§187A-5, 188-53, 190-4)

§13-95-17 [~~Ahi.~~] 'Ahi. (a) It [~~shall be~~] is unlawful for any person to possess with the intent to

sell, or offer for sale, any [~~ahi~~] 'ahi less than three pounds in weight.

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

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

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

(b) It is unlawful for any person, other than marine seafood dealers, to possess or sell more than two hundred pounds of akule measuring less than eight and one-half inches in length per day during July, August, September, and October; except as may be otherwise provided by law. [Eff 12/03/98; am 1/11/02; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-20 [~~Iao.~~] 'Iao. (a) It [~~shall be~~] is unlawful for any person at any time to sell, offer for

sale, or trade, any dried or cured [~~iao~~] 'iao taken from the waters within the jurisdiction of the State.

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

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

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

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

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

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

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

(c) It is unlawful for any person to take or possess more than twenty ulua measuring more than ten inches in length per day; provided that a commercial marine licensee may take, possess, and sell more than twenty such ulua; and further provided that a commercial marine dealer may possess and sell more than twenty such ulua with receipts issued for the

purchase pursuant to section 189-11, Hawaii Revised Statutes. [Eff 12/19/02; comp 1/31/21; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

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

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

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

Historical Note: Section 13-95-23 is based substantially upon Chapter 88 of Title 13. [Eff 5/26/81; am and comp 12/20/86; R 12/19/02] Chapter 88 of Title 13 was based substantially upon Regulation 20 [Eff: 3/20/58; am 10/6/58; am 7/9/59; am 5/4/68; R 5/26/81] and Regulation 21 [Eff: 3/28/58; am 10/6/58; am 7/9/59; R 5/26/81] of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii.

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

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

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

§13-95-25 **Kole.** (a) Subject to subsection (b), it is unlawful to take, possess, or sell any kole less than five inches in length.

(b) Any person holding a valid aquarium fish permit may take, possess, or sell kole less than five inches in length, provided that the take, possession, or sale is in compliance with section 13-60.4-7, section 13-77-6, and all terms and conditions of the aquarium fish permit. [Eff and comp]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

§§13-95-26 to 13-95-49 (Reserved)

§13-95-50 [~~Kuhonu crab.~~] **Pāpa 'i kūhonu (white crab).** (a) It [~~shall be~~] is unlawful for any person to possess with the intent to sell, or offer for sale,

any [~~kuhōnu-crab~~] pāpa`i kūhōnu less than four inches in length or in width across or along its back.

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

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

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

§13-95-51 [Kona-crab.] Pāpa`i kualoa (Kona crab).

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

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

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

open season by first procuring a license to do so pursuant to section 13-74-41.

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

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

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

~~[(g) It is unlawful for any person to take or kill any female Kona crab.]~~ [Eff 12/03/98; am 12/19/02; am and comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §§187A-5, 188-57)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. These amendments to and compilation of chapter 13-95, Hawaii Administrative Rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

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

DAWN N.S. CHANG
Chairperson, Board of Land
and Natural Resources

APPROVED AS TO FORM:

Deputy Attorney General

ITEM F-2 Exhibit 2

Amendment and Compilation of Chapter 13-95
Hawaii Administrative Rules

(date of adoption)

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

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART V PROTECTED MARINE FISHERIES RESOURCES

CHAPTER 95

RULES REGULATING THE TAKING AND SELLING
OF CERTAIN MARINE RESOURCES

§13-95-1	Definitions
§13-95-1.1	Licenses, permits, and other exemptions
§13-95-2	Penalty
§13-95-3	Severability
§13-95-4	Āholehole
§13-95-5	Manini

§13-95-6	Moano
§13-95-7	Kūmū
§13-95-8	`Ama`ama (striped mullet)
§13-95-9	Awa
§13-95-10	`Ō`io
§13-95-11	Kala
§13-95-12	Kala `ōpelu
§13-95-13	`Ōpakapaka
§13-95-14	`Ula`ula koa`e (onaga)
§13-95-15	Uku
§13-95-16	Uhu (parrotfish)
§13-95-17	`Ahi
§13-95-18	`Ōpelu
§13-95-19	Akule
§13-95-20	`Iao
§13-95-21	Nehu
§13-95-22	Ulua
§13-95-23	Moi
§13-95-24	Weke `ā
§13-95-25	Kole
§§13-95-26 to 49	(Reserved)
§13-95-50	Pāpa`i kūhonu (white crab)
§13-95-51	Pāpa`i kualoa (Kona crab)
§13-95-52	Samoan crab
§13-95-53	Ula (spiny lobster)
§13-95-54	Ula pāpapa (slipper lobster)
§13-95-55	He`e (tako)
§§13-95-56 to 69	(Reserved)
§13-95-70	Stony corals
§13-95-71	Live rocks

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

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

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

flagtail, reticulated flagtail, or zebra-head flagtail.

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

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

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

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

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

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

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

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

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

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

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

"Day" means a twenty-four hour period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Moano" means any fish known as *Parupeneus multifaciatus* or any recognized synonym. Moano are also known as banded goatfish, five-barred goatfish, manybar goatfish, or multibarred goatfish.

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

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

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

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

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

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

"Ōpakapaka" means any fish known as *Pristipomoides filamentosus* or any recognized synonym.

'Ōpakapaka are also known as Hawaiian pink snapper, pink snapper, kinme himedai, or ohimedai.

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

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

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

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

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

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

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

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

~~"Speared" means [to capture aquatic life by stabbing with a spear or other such pointed device. The presence of any puncture wound on the external~~

~~surfaces of the aquatic life, which are fresh and does not show signs of healing, shall be evidence that the aquatic life was speared.]~~ pierced, impaled, penetrated, stuck, or run through by a sharp, pointed implement.

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

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

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

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

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

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

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

recognized synonyms. Uhu is a general term for parrotfish.

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

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

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

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

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

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

spiny lobster, spiny lobster, red lobster, or green lobster.

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

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

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

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

] (Auth: HRS §§187A-3.5, 187A-5, 190-3) (Imp: HRS §§187A-3.5, 187A-5, 190-3)

§13-95-1.1 Licenses, permits, and other exemptions. Notwithstanding the provisions of this chapter, the department may issue the following licenses and permits to exempt persons from the provisions of this chapter:

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

] (Auth: HRS §§187A-3.5, 187A-6, 188-44, 188-45, 188-57, 188-68, 190-3) (Imp: HRS §§187A-3.5, 187A-6, 188-23, 188-37, 188-44, 188-45, 188-57, 188-68, 190-4)

§13-95-2 Penalty. (a) A person violating any section of this chapter may be subject to any applicable criminal or administrative penalties or both. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.

(b) For the purpose of calculating the administrative penalties for violations of this chapter, if a fine per specimen may be applicable, fines per specimen may be imposed on the following basis:

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

] (Auth: HRS §§187A-5, 190-3) (Imp: HRS §§183C-7, 187A-5, 187A-12.5, 187A-13, 188-53, 188-70, 189-4, 190-5)

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

§13-95-4 [~~Aholehole.~~] Āholehole. It [~~shall be~~] is unlawful for any person to take, possess, or sell any [~~aholehole~~] āholehole less than five inches in length. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

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

§13-95-7 [~~Kumu.~~] Kūmū. It [~~shall be~~] is unlawful for any person to take, possess, or sell any

[~~kumu~~] kūmū less than ten inches in length. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-8 [~~Mullet.~~] 'Ama`ama (striped mullet).

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

(b) It is unlawful for any person to wilfully fish for, or attempt to take by any means whatsoever, from any of the waters within the jurisdiction of the State, or to sell, or have in possession any [~~mullet~~] pua, kahaha, `ama`ama, or `anae during the months of December, January, February, and March; provided that any owner or operator of a fish pond may lawfully catch [~~the young mullet known as~~] pua during the closed season, for the purpose of stocking the owner's or operator's pond; and provided further that any owner or operator of a fish pond or any commercial marine dealer may lawfully sell [~~pond-raised mullet~~] pond-raised pua, kahaha, `ama`ama, or `anae during the closed season after first procuring a license to do so pursuant to sections 13-74-40 or 13-74-43. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

§13-95-10 [~~010.~~] 'Ō'io. It [~~shall be~~] is unlawful for any person to take, possess, or sell any [~~010~~] 'Ō'io less than fourteen inches in length. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp ___] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

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

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

(d) The department shall, upon receipt of a valid application and appropriate fee payment, issue a commercial kala fishing permit to any individual who:

- (1) Possesses a valid commercial marine license;
- (2) Provides proof of identity; and
- (3) Has caught and sold at least 100 pounds of kala during the prior kala fishing season, if the individual held a commercial kala fishing permit for the prior kala fishing season.

The fee for the issuance or renewal of a commercial kala fishing permit shall be \$100. A commercial kala fishing permit shall be valid for the duration of the kala fishing season, which extends from August 1 of a given year through March 31 of the following calendar year.

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

- (1) Commercial harvest or sale of kala shall be prohibited from April through July; and

(2) Commercial harvest or sale of kala shall be prohibited when the commercial kala fishing season is closed pursuant to subsection (h).

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

(g) ~~provided that~~ a registered commercial marine kala dealer may possess and sell more than two kala if in compliance with section 189-11, HRS, provided that:

(1) No kala may be purchased, possessed, or sold when the commercial kala fishing season is closed pursuant to subsection (h), provided that kala legally obtained prior to the closure may be possessed and sold after the closure; and

(2) Paragraph (1) notwithstanding, no kala may be purchased, possessed, or sold from April through July.

(h) There is established an annual catch limit (ACL) of 10,000 pounds for the commercial kala fishery. Commercial kala catch shall be tallied beginning in August of each year. When the ACL is reached, the department shall notify commercial kala fishing permittees and registered commercial kala dealers that the commercial kala fishing season will close. Notice shall be made in writing by mail or email to the address on file with the department no less than three days prior to the closure of the season. [Eff 12/03/98; am 12/19/02; comp 1/31/21; am and comp] (Auth: HRS §§187A-5, 190-3) (Imp: HRS §§187A-5, 188-53, 190-4)

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

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

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

§13-95-14 [~~Onaga.~~] 'Ula 'ula koa 'e (onaga). (a) It [~~shall be~~] is unlawful for any person to possess with the intent to sell, or offer for sale, any [~~onaga~~] 'ula 'ula koa 'e less than one pound in weight.

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

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

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

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

unlawful for any person to take, possess, or sell any uhu 'ele'ele or uhu uliuli at any time.

(b) It is unlawful for any person to take, possess, or sell 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), it is unlawful for any person to take, possess, or sell any other uhu less than ten inches in length.

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

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

(f) The department shall, upon receipt of a valid application and appropriate fee payment, issue a commercial uhu fishing permit to any individual who:

- (1) Holds a valid commercial marine license;
- (2) Provides proof of identity; and
- (3) Has caught and sold at least 340 pounds of uhu during the prior uhu fishing season, if the individual held a commercial uhu fishing permit for the prior uhu fishing season.

The fee for the issuance or renewal of a commercial uhu fishing permit shall be \$100. A commercial uhu fishing permit shall be valid for the duration of the uhu fishing season, which extends from June 1 of a given year through January 31 of the following calendar year.

(g) A commercial uhu fishing permittee participating in a commercial uhu fishing trip may take up to thirty uhu pālupaluka per day, and possess up to thirty uhu pālupaluka at any one time, provided that:

- (1) Only uhu pālupaluka under twenty inches in length may be taken or possessed on a commercial fishing trip;
- (2) No other species of uhu may be taken or possessed on a commercial fishing trip;

- (3) Commercial harvest or sale of uhu shall be prohibited from February through May; and
- (4) Commercial harvest or sale of uhu shall be prohibited when the commercial uhu fishing season is closed pursuant to subsection (j).

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

(i) ~~provided that a~~ registered commercial marine uhu dealer may purchase, possess, and sell more than two uhu if in compliance with section 189-11, HRS, provided that:

- (1) Only uhu pālupaluka less than twenty inches may be purchased, possessed, or sold;
- (2) No other species of uhu may be purchased, possessed, or sold;
- (3) No uhu may be purchased, possessed, or sold when the commercial uhu fishing season is closed pursuant to subsection (j), provided that uhu legally obtained prior to the closure may be possessed and sold after the closure; and
- (4) Paragraph (3) notwithstanding, no uhu may be purchased, possessed, or sold from February through May.

(j) There is established an annual catch limit (ACL) of 34,000 pounds for the commercial uhu fishery. Commercial uhu catch shall be tallied beginning in June of each year. When the ACL is reached, the department shall notify commercial uhu fishing permittees and registered commercial uhu dealers that the commercial uhu fishing season will close. Notice shall be made in writing by mail or email to the address on file with the department no less than three days prior to the closure of the season. [Eff

12/03/98; am 12/19/02; comp 1/31/21; am and comp
] (Auth: HRS §§187A-5, 190-3) (Imp:
HRS §§187A-5, 188-53, 190-4)

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

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

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

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

(b) It is unlawful for any person, other than marine seafood dealers, to possess or sell more than two hundred pounds of akule measuring less than eight and one-half inches in length per day during July, August, September, and October; except as may be otherwise provided by law. [Eff 12/03/98; am 1/11/02; comp 1/31/21; am and comp —] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

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

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

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

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

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

(c) It is unlawful for any person to take or possess more than twenty ulua measuring more than ten inches in length per day; provided that a commercial marine licensee may take, possess, and sell more than twenty such ulua; and further provided that a commercial marine dealer may possess and sell more

than twenty such ulua with receipts issued for the purchase pursuant to section 189-11, Hawaii Revised Statutes. [Eff 12/19/02; comp 1/31/21; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

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

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

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

Historical Note: Section 13-95-23 is based substantially upon Chapter 88 of Title 13. [Eff 5/26/81; am and comp 12/20/86; R 12/19/02] Chapter 88 of Title 13 was based substantially upon Regulation 20 [Eff: 3/20/58; am 10/6/58; am 7/9/59; am 5/4/68; R 5/26/81] and Regulation 21 [Eff: 3/28/58; am 10/6/58; am 7/9/59; R 5/26/81] of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii.

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

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

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

§13-95-25 **Kole.** (a) Subject to subsection (b), it is unlawful to take, possess, or sell any kole less than five inches in length.

(b) Any person holding a valid aquarium fish permit may take, possess, or sell kole less than five inches in length, provided that the take, possession, or sale is in compliance with section 13-60.4-7, section 13-77-6, and all terms and conditions of the aquarium fish permit. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§§13-95-26 to 13-95-49 (Reserved)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. These amendments to and compilation of chapter 13-95, Hawaii Administrative Rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

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

SUZANNE D. CASEDAWN N.S.
CHANG
Chairperson, Board of Land
and Natural Resources

APPROVED AS TO FORM:

Deputy Attorney General