

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

February 27, 2026

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

REQUEST FOR APPROVAL TO HOLD PUBLIC HEARINGS ON THE
ADOPTION OF A NEW CHAPTER WITHIN TITLE 13 OF THE HAWAII
ADMINISTRATIVE RULES: CHAPTER 13-60.12, ENTITLED "KA'ŪPŪLEHU
FISHERIES MANAGEMENT AREA, HAWAII", AND AMENDMENTS TO AND
COMPILATION OF CHAPTER 13-60.4, HAWAII ADMINISTRATIVE RULES,
"WEST HAWAII REGIONAL FISHERY MANAGEMENT AREA, HAWAII"

Submitted for your review is a proposal to adopt chapter 13-60.12, Hawaii Administrative Rules (HAR), to designate the Ka'ūpūlehu Fisheries Management Area, Hawai'i (Ka'ūpūlehu FMA), to create, restore, perpetuate, maintain, share, and protect culturally and ecologically important resources and ensure a socially and ecologically sustainable subsistence fishery at Ka'ūpūlehu and Kūki'o that aligns with traditional resource management practices. The proposal also includes amendments to chapter 13-60.4, HAR, "West Hawai'i Regional Fishery Management Area, Hawai'i" to repeal rules for the Ka'ūpūlehu Marine Reserve, to re-establish the Ka'ūpūlehu Fish Replenishment Area, and to make other housekeeping amendments. The proposal as a whole aims to foster a co-management relationship between the department and Hui Kahuwai, the community stewards of the nearshore marine resources of Ka'ūpūlehu and Kūki'o, as reflected in the Ka'ūpūlehu fisheries management plan (Ka'ūpūlehu FMP) and any co-management agreement or other memorandum of agreement or understanding entered into between the Department of Land and Natural Resources (DLNR) and the community stewards of the Ka'ūpūlehu FMA in furtherance of the purposes outlined in the chapter. A summary of the proposed rules as well as responses to some frequently asked questions can be found at the [Hui Kahuwai website](#).¹

The following background information is taken from the [Ka'ūpūlehu Fisheries Management Plan \(2026\)](#)² and the [Ka'ūpūlehu Administrative Record \(2026\)](#)³

¹<https://static1.squarespace.com/static/664f8561ed215d00fe279f70/t/698fcf558346bc44c7e04fbf/1771032405430/Hui+Kahuwai+FMP+Summary+and+FAQs+Website+Version+FINAL.pdf>

²https://static1.squarespace.com/static/664f8561ed215d00fe279f70/t/698fcfb631c38118a2c6e632/1771032502957/Kaupulehu+Fisheries+Management+Plan_Final_+2026-2-12.pdf

³https://static1.squarespace.com/static/664f8561ed215d00fe279f70/t/698fd0516e5607185c40ca79/1771032657089/Kaupulehu+Administrative+Record_Public_+2026-2-12+.pdf

developed and compiled by Hui Kahuwai, a community-led non-profit (501(c)(3)) and the most recent iteration of community organization to mālama (steward) the marine resources of Ka'ūpūlehu and Kūki'o.

HUI KAHUWAI – COMMUNITY STEWARDS OF KA'ŪPŪLEHU AND KŪKI'O

Hui Kahuwai descends from two related organizations, the Marine Life Advisory Committee (MLAC) and the Ka'ūpūlehu Marine Life Advisory Committee (KMLAC) which have their basis in the most recent phase of community reorganization around marine stewardship beginning in the mid-1990s, when proposed developments that could have harmed resources and practices were met with legal and other responses by the community.

The MLAC was created from a 1996 memorandum of agreement addressing disputes among the Army Corps of Engineers, the Advisory Council on Historic Preservation, the State Historic Preservation Office, and Hualālai Development Corporation (HDC). A subsequent lawsuit over proposed development in the area resulted in a [settlement agreement \(Civil No. 96-00571\)](#)⁴ which created a cultural sub-committee (CSC) of the MLAC with specific membership, including the Kona Hawaiian Civic Club and the Office of Hawaiian Affairs.⁵

Growing out of, but distinct from, the earlier MLAC and its CSC, the voluntary group that has met regularly to address marine management and related issues in the area became known as the KMLAC. The voluntary membership of KMLAC evolved with new partners joining the collaborative efforts. The KMLAC included membership from Kamehameha Schools, HDC, native Hawaiian lineal descendants, fee owners and lessees of the Ka'ūpūlehu and Kūki'o ahupua'a, natural resources managers, educators, scientists, and state agency officials. Hui Kahuwai's are the direct result of these previous stewardship efforts.⁶

In 2022, the KMLAC began a series of workshops to discuss internal succession planning and deliberate on the creation of a non-profit entity to build capacity for long-term stewardship. In January 2023, the KMLAC voted to establish a 501(c)(3) non-profit organization to implement CAP strategies, including the Ka'ūpūlehu FMP, while building the capacity to actively co-manage coastal and

⁴ <https://www.dropbox.com/scl/fi/tcoaflyvhgl1eftg2qlyj/Appendix-F-Settlement-Agreement.pdf?rlkey=7rxkza6e6il2ci04c5cb16jxj&e=1&dl=0>

⁵ The settlement agreement states that the CSC "shall have four voting members, but shall welcome and encourage the participation and input of the larger MLAC, HDC staff, and all interested community members". The 1997 Settlement Agreement also stipulated that the CSC "shall continue for at least three years, and as long as the Sub-Committee feels there is a need for its existence."

⁶ The relationships among members of Hui Kahuwai, formerly KMLAC, are grounded in mutual respect for each other's perspectives, a collaborative and thoughtful approach to decision making, and a collective focus to mālama the kai (care for the sea). This stewardship approach is strong due to the reciprocal relationships that are nurtured between members and the 'āina (land, earth) that feeds us.

marine resources in the long term. Hui Kahuwai was formally incorporated on July 31, 2023.⁷ To foster an effective transition and the perpetuation of ‘ike kūpuna, KMLAC members serve on Hui Kahuwai committees, where they offer mana‘o and guidance to the board members and staff. Hui Kahuwai programs are focused on a collaborative and holistic approach to stewardship that elevates the lineal descendants’ generational knowledge into management deliberations with landowners, resource managers, and regulatory agencies. Through their work and this Ka‘ūpūlehu FMP, Hui Kahuwai embraces their kuleana to mālama ‘āina and perpetuate the efforts of their kūpuna, the IRMP, the CAP, the KFRA, and the KMR.

EVOLUTION OF MANAGEMENT INITIATIVES OVER TIME

IRMP and Voluntary Fishery Management

As part of the 1997 settlement agreement that established the MLAC, there was a requirement to develop and implement a sustainable Fishery Management Plan for Ka‘ūpūlehu and Kūki‘o.⁸ Subsequently, the MLAC developed an integrated resources management plan (IRMP) in 1998,⁹ which holistically focused stewardship on the entire ahupua‘a, with an emphasis on the pilina (interrelation) between uka and kai, and the people with the environment. The IRMP identified 5 goals, one of them being: “To preserve and manage sustainable resources throughout the project area to ensure their availability to future generations.” Subsequently, the KMLAC focused the IRMP on voluntary compliance with posted signs and brochures distributed by security at public access locations.

Ka‘ūpūlehu Fish Replenishment Area (KFRA)

To address continued fishery declines, the KMLAC advocated for the establishment of the West Hawai‘i Regional Fishery Management Area in 1998, which also established a network of Fish Replenishment Areas (FRAs).¹⁰ In 2000, the KFRA was created to protect reef fish from commercial aquarium fishing. KMLAC members were instrumental in engaging and informing the community and demonstrating commitment and leadership throughout the KFRA

⁷ Hui Kahuwai was incorporated on Lā Ho‘iho‘i Ea, a recognized holiday of the Kingdom of Hawai‘i to commemorate the reinstatement of the sovereign Kingdom of Hawai‘i after a brief, unsanctioned UK occupation led by Captain George Paulet (referred to as the Paulet Affair), where Kauikeaouli, Kamehameha III, famously proclaimed: “Ua mau ke ea o ka ‘āina i ka pono” (*The sovereignty of the Hawaiian nation is restored in righteousness*).

⁸ Ka‘ūpūlehu Administrative Record, Appendix E, Marine Management Plan for the Hualālai Development (<https://www.dropbox.com/scl/fi/m06zkxdjadjp8q52od621/Appendix-E-HDC-Marine-Management-Plan.pdf?rlkey=nfixw0z fisbu1bha5ehf7mg1f&e=1&st=cx57xb2b&dl=0>).

⁹ IRMP (1998), (https://www.dropbox.com/scl/fi/qqsjiwcme8r0ysleesxz4/Appendix-O-1998-Kaupulehu-IRMP_reduced.pdf?rlkey=c16q8rsfn4gr0cjg7j1ow8c3r&e=1&st=01pnvkft&dl=0).

¹⁰ Act 306 (1998), (https://www.capitol.hawaii.gov/slh/Years/SLH1998/SLH1998_Act306.pdf).

designation process. The establishment of the KFRA prohibits commercial aquarium collection from the shoreline out to 100 fathoms.

Ka'ūpūlehu Marine Reserve (KMR)

In 2009, following ten years of continued decline in fish abundance and limited to zero adherence to the requested voluntary fisheries management guidelines advocated by KMLAC in their IRMP, the KMLAC actively began an initiative to amend the KFRA to improve the health of the fishery to a level where it would be able to sustain traditional fishing and subsistence practices in perpetuity. Subsequently, the KMLAC created its Conservation Action Plan (CAP) in 2015 to reconfirm the members' shared kuleana (responsibility, privilege) and detail their vision, goals, objectives, and actions for the subsequent 10 years.¹¹

In July 2016, the State of Hawai'i, with overwhelming community support, successfully amended the KFRA, creating the KMR for a period of 10 years. Commonly referred to as "Try Wait," the 10-year rest period for nearshore harvest of marine life along the 3.6 miles of coastline of the original KFRA (from Kīkaua Point to Kalaemanō), from the high-water mark out to 20 fathoms (120 feet), was established to give the marine life time to replenish from decades of observed decline. The KMR also outlined the process for the end of the rest period when fishing will resume, noting the closure "...shall be effective until June 30, 2026, or until the effective date of rules implementing a comprehensive fisheries management plan as developed by the department in consultation with the Ka'ūpūlehu community and other interested parties, whichever occurs later."¹²

Ka'ūpūlehu Fisheries Management Plan and Fisheries Management Area

KMLAC continued to monitor the fisheries and in 2018 initiated a planning process to develop a comprehensive Ka'ūpūlehu FMP to support subsistence and sustainable fishing when harvest is intended to resume in July, 2026 (a summary of the data analysis is attached as **Exhibit 1**).¹³ Following extensive analyses of various management options, consultations with 'ohana, fishers, and scientists, and thoughtful deliberation, the group completed its first draft of the

¹¹ The CAP reflects the foundational stewardship tenets of KMLAC through four strategies to achieve the KMLAC vision: 1) Create, restore, perpetuate, maintain, share, and protect pa'akai, mo'olelo, manō, ko'a 'ōpelu, and wai; 2) Ensure a socially and ecologically sustainable fishery at Ka'ūpūlehu and Kūki'o; 3) Create and strengthen partnerships to ensure compliance with rules and regulations, reduce current and future impacts, and build relationships; and 4) Reduce impacts of sea level rise on conservation targets.

¹² HAR § 13-60.4-5(f)

¹³ The data summary can also be found online at

<https://static1.squarespace.com/static/664f8561ed215d00fe279f70/t/698fd37e930a9110516891b4/1771033470716/Kaupulehu+data+analysis+summary+2+pager.pdf>.

Ka'ūpūlehu FMP in 2023. Since the first draft of the Ka'ūpūlehu FMP, Hui Kahuwai and DAR have spent many hours collaboratively refining the management plan based on extensive constructive feedback collected from targeted and public scoping meetings. The plan incorporates cultural, social, and biological information to manage nearshore fishery resources in a way that maintains enough of the gains of the rest period to allow for long-term sustainable harvest within the proposed Ka'ūpūlehu FMA. It also includes strategies for collaborative co-management through outreach, education, enforcement, fisher engagement, and continued monitoring and assessment.

OVERVIEW OF PROPOSED CHAPTER 13-60.12, HAR, "KA'ŪPŪLEHU FISHERIES MANAGEMENT AREA, HAWAII":

The proposed new chapter consists of fifteen sections organized into two subchapters as follows:

Subchapter 1, "General Provisions"

- Section 1:** Describes the area the chapter is applicable to and the purpose for the chapter.
- Section 2:** Provides definitions of relevant terms as used in the chapter.
- Section 3:** Delineates the boundaries of the Ka'ūpūlehu FMA, the Kai Malu Management Area, the Wai a Kāne Cultural Site and Freshwater Spring, and the 'Opihi Rest Area Rotational Zones. See **Figure 1** below for a detailed map of each area.
- Section 4:** Establishes a prohibition on anchoring within the Ka'ūpūlehu FMA to prevent damage to coral, seafloor habitat, and associated marine life except in specific emergency situations.
- Section 5:** Mandates regular monitoring of the status of the aquatic resources reevaluation of the effectiveness of the rules
- Section 6:** Prohibits entry into the Wai a Kāne Cultural Site and Freshwater Spring (See **Figure 1** below).
- Section 7:** Establishes the administrative and criminal penalties that may be imposed for violations of this chapter.
- Section 8:** Recognizes the State's asset forfeiture authority as an enforcement tool for violations of this chapter. This section will facilitate enforcement of this chapter by providing the Department with the appropriate range of tools to deter violations.
- Section 9:** Includes a severability clause, which is a standard inclusion when new administrative rules are proposed to ensure that if any portion of the rules are deemed invalid, the rest of the chapter that is not deemed invalid may still be effective as law.

Subchapter 2, "Rules for the Possession and Use of Fishing Gear, the Taking and Possession of Marine Life"

Section 10: Establishes the Ka'ūpūlehu FMA fishing permit, which is required for take of any marine life within the Ka'ūpūlehu FMA, including provisions for permit applications and permit terms and conditions.

Section 11: Exempts possession of restricted gear or species for vessels in active transit through the Ka'ūpūlehu FMA.

Section 12: Prohibits the use or possession of any fishing gear within the Ka'ūpūlehu FMA not specifically allowed in the section as follows:

- 1) Within the Kai Malu Management Area (except the Wai a Kāne Cultural Site and Freshwater Spring) the following gear is allowed (in addition to hand harvest):
 - Hand pole (no reel);
 - Lūhe'e; and
 - Hand or scoop nets (pursuant to section 13-75-14(a)(7)).
- 2) Within the rest of the Ka'ūpūlehu FMA (except the Wai a Kāne Cultural Site and Freshwater Spring), the following gear is allowed:
 - Any gear allowed within the Kai Malu Management Area;
 - Up to two fishing poles per person provided that each fishing pole may only have only one line with up to two hooks, each hook having only one point, provided that double or treble hooks are allowed when using fishing lures;
 - A spear (except at night)
 - An 'opihi picking tool twelve inches or less in length;
 - A throw net; and
 - Traps (may not be left unattended for longer than two hours).

Section 13: Provides the provisions relating to the taking of finfish as follows:

- 1) 'Ama'ama and 'anae (striped mullet), 'ōmilu, kūmū, moano kea (moano ukali ulua), moi, mū, pāku'iku'i, uhu, uku, and ulua aukea are designated as priority management species for their increased vulnerability and ecological and cultural significance.
- 2) An aggregate bag limit of 10 finfish per person per day is established as follows:
 - Up to two of the finfish may be a priority management species or a finfish of any species greater than twelve inches in length, as long as the two finfish are not of the same species.
 - Take of akule, 'ōpelu, 'oama, and non-native fish do not count towards the aggregate bag limit, provided that akule, 'ōpelu, and 'oama each have a bag limit of 20 per person per day.
- 3) It is unlawful to take or possess any:
 - Any kūmū 12 inches or less in length;
 - Any terminal-phase uhu; or
 - Any uhu twenty inches or greater in length.

Section 14: Provides the provisions related to the taking of 'opihi as follows:

- 1) An aggregate bag limit of 15 per person per day for all three 'opihi species is established.
- 2) A five-year rotational closure schedule is established as follows (also see **Table 1** below):

- ‘Opihi Rest Area Rotational Zone A is made up of two separate areas (Zone A-1 and Zone A-2) and ‘Opihi Rest Area Rotational Zone B is made up of two separate areas (Zone B-1 and Zone B-2) (See **Figure 1** below).
- Beginning January 1, 2026, Zone A shall be open and Zone B shall be closed to the take of ‘opihi. The open and closed status of Zones A and B shall alternate every five years thereafter.
- During a zone’s five-year open period, the first four years will have slot limits in effect for the take or possession of each ‘opihi species as follows:
 - No makaiauli or ‘ālinalina whose maximum shell diameter is smaller than the current statewide minimum (1¼ inches) or greater than 2½ inches.
 - No kō‘ele whose maximum shell diameter is less than 2½ inches or greater than 3 inches.
- During the last year of a zone’s five-year open period, only minimum size limits are in effect for the take or possession of each ‘opihi species as follows:
 - No makaiauli or ‘ālinalina whose maximum shell diameter is smaller than 2½ inches.
 - No kō‘ele whose maximum shell diameter is less than 3 inches.

Table 1. Minimum and maximum size limits for each species in each of the rotational zones over the first 10 years of the establishment of the Ka‘ūpūlehu FMA to illustrate the open/closed rotational cycle.

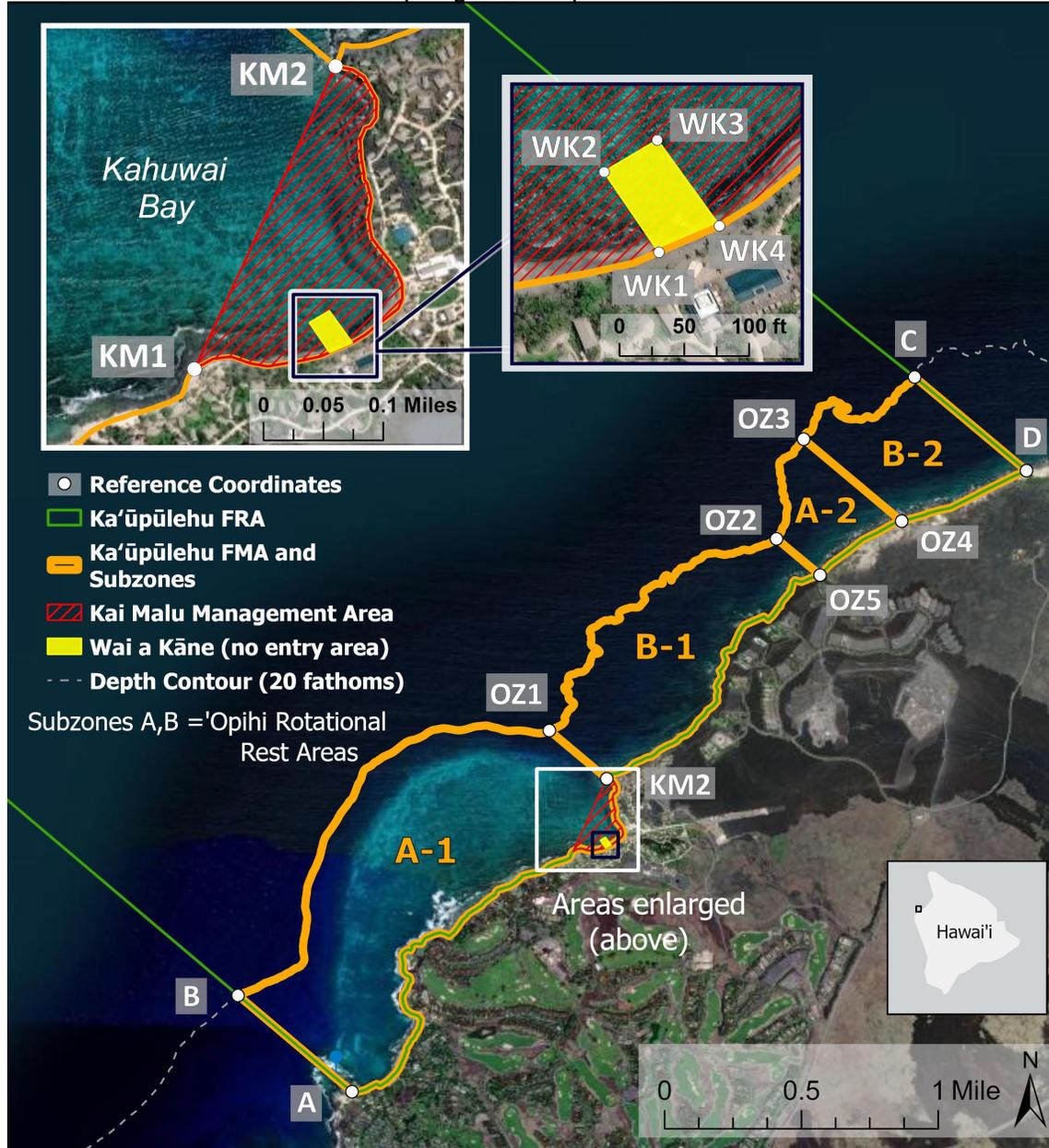
Year #	Zone A Makaiauli/‘Ālinalina	Zone A Kō‘ele	Zone B Makaiauli/‘Ālinalina	Zone B Kō‘ele
1 to 4 (1/1/2026 to 12/31/2029)	Min.: 1¼” Max: 2½”	Min.: 2½” Max: 3”	No Take	No Take
5 (1/1/2030 to 12/31/2030)	Min.: 2½” Max: None	Min.: 3” Max: None	No Take	No Take
6 to 9 (1/1/2031 to 12/31/2034)	No Take	No Take	Min.: 1¼” Max: 2½”	Min.: 2½” Max: 3”
10 (1/1/2035 to 12/31/2035)	No Take	No Take	Min.: 2½” Max: None	Min.: 3” Max: None

Section 15: Provides the provisions related to the taking and possession of invertebrates and limu as follows:

- 1) No take or possession of female ‘a‘ama and a bag limit of 15 male ‘a‘ama per person per day.
- 2) A Bag limit of 2 he‘e per person per day.
- 3) No take or possession of live kūpe‘e.

- 4) A combined bag limit of 2 per person per day for ula and ula pāpapa.
- 5) No take or possession of native limu with a holdfast or roots attached.
- 6) An aggregate bag limit of 15 per person per day for all urchin species (wana, hā'uke'uke, 'ina, hāwa'e, etc.).

Figure 1. Map of Ka'ūpūlehu FMA, Kai Malu Management Area, Wai a Kāne Cultural Site and Freshwater Spring, and 'Opihi Rest Area Rotational Zones



The draft rules in Ramseyer format are attached at the end of this submittal as **Exhibit 2**.

RECOMMENDATIONS:

“That the Board:

1. Authorize and approve the holding of public hearing(s) on the proposed adoption of chapter 13-60.12, HAR, “Ka’ūpūlehu Fisheries Management Area, Hawai’i”, and the proposed amendments to and compilation of chapter 13-60.4, HAR, “West Hawai’i Regional Fishery Management Area, Hawai’i”; and
2. Delegate to the Chairperson the authority to appoint hearing officer(s) to conduct the aforementioned public hearing(s).”

Respectfully submitted,



BRIAN J. NEILSON, Administrator
Division of Aquatic Resources

APPROVED FOR SUBMITTAL



RYAN K.P. KANAKA'OLE, Acting Chairperson
Board of Land and Natural Resources

Attachments:

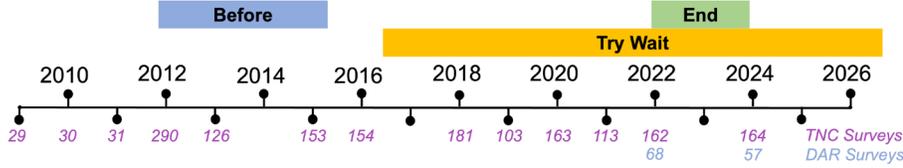
Exhibit 1 – “Try Wait” Data Analysis Summary

Exhibit 2 – Draft Rules in Ramseyer Format (HAR 13-60.12 and 13-60.4)

Measuring and comparing change in resource fishes within the 10-year Try Wait area

Item F-3
Exhibit 1

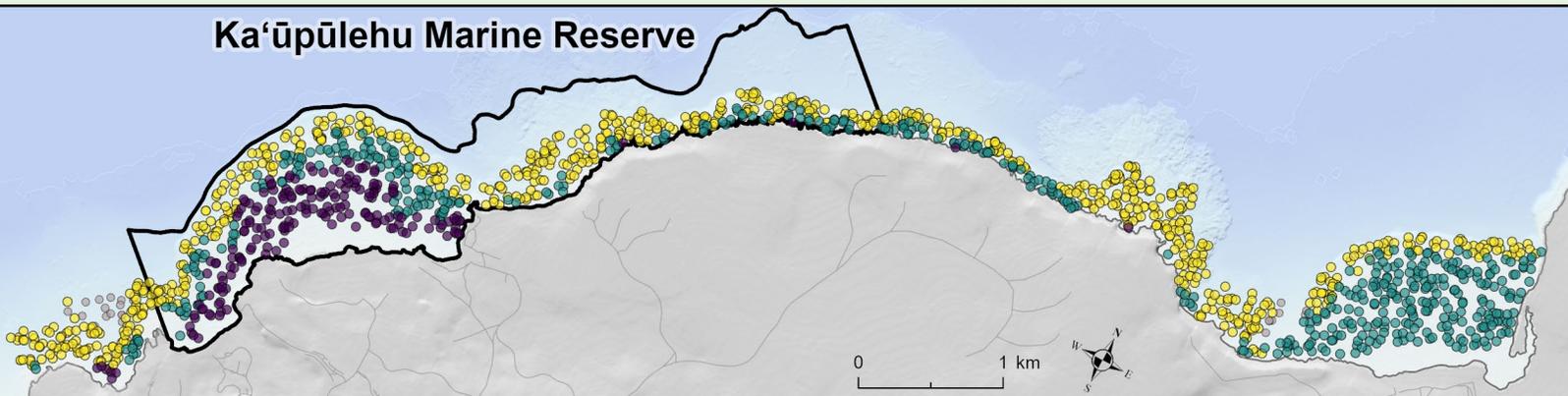
Co-produced results were based on 1622 underwater surveys



An innovative approach to co-production between community stewards, agency biologists, and academic and non-profit partners used 17 years of underwater reef surveys to understand patterns and trends of resource fish biomass (fisheries species of Ka'upulehu). 1497 underwater surveys have been conducted by TNC in Ka'upulehu since 2009, with 125 additional surveys by DAR in the North Kona moku outside the reserve between 2022-2024. Sample sizes are in timeline above and survey points are mapped below by habitat type.

Reefs across Ka'upulehu, Kūki'o, and adjacent areas include 3 major habitats, based on quantitative assessment of depth, complexity, and coral cover

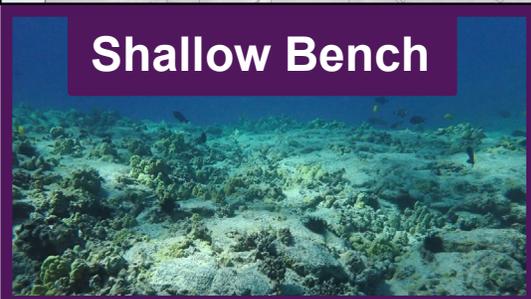
Ka'upulehu Marine Reserve



Shallow Bench

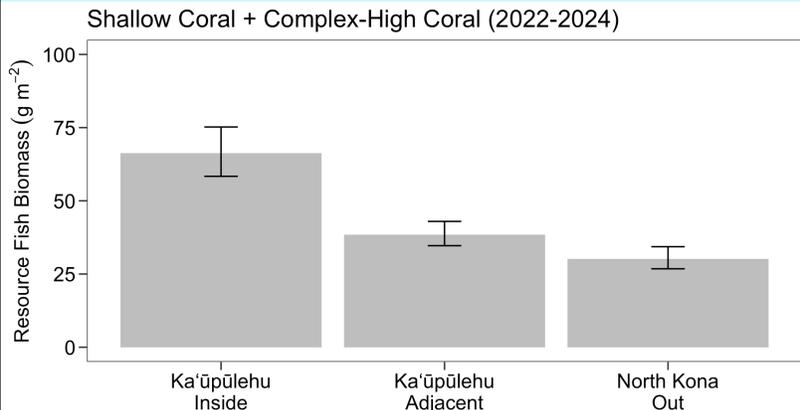
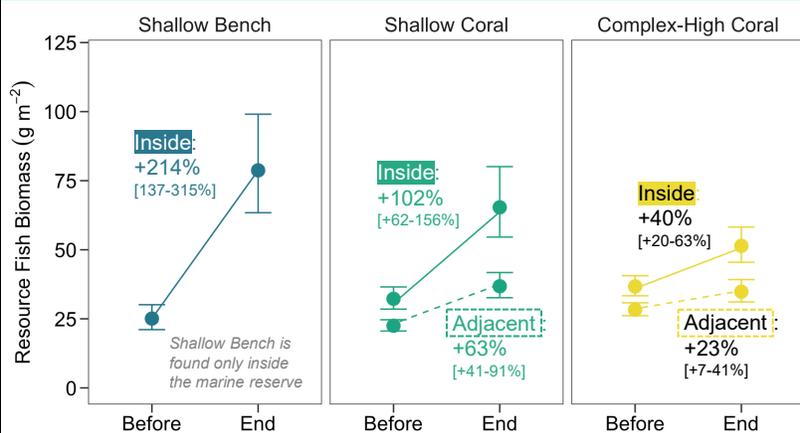
Shallow Coral

Complex-High Coral



Resource biomass increased inside and in adjacent areas for all 3 habitats. Change was greater inside for Shallow Coral

Recent resource biomass inside Ka'upulehu Marine Reserve is greater than surrounding reefs of North Kona



Resource fish biomass increased by 19 g m⁻² [80% CI: 6-34 g m⁻²] more inside the reserve than in adjacent areas for Shallow Coral. Values listed on the graph are estimated mean change in biomass (points) with 80% credible intervals (brackets and vertical lines).

Resource fish biomass inside the Ka'upulehu Marine Reserve is 118% higher [80% CI: 83-163%] than reefs across other areas of the North Kona moku, and 42% [80% CI: 31-51%] higher than reefs adjacent to the reserve of similar habitats. Vertical lines are 80% credible intervals.

Methods: Co-producing research

There are a number of open conversations around how data are incorporated in community-based management process in Hawai'i and elsewhere that include challenges such as how to create pathways for including multiple ways of knowing, and data sovereignty and sharing. Likewise, when, how, and who reports on the data and how this dynamic permeates management processes is unclear, as is who stands behind the conclusions, and how other groups perceive how conclusions were reached. To try and overcome these challenges, the following methods were employed to co-produce this research:

Build trust

Community stewards, state agency, and NGO and academic partners came together in person over 10+ sessions, all data stayed in the room

Shared questions

Everyone's ideas were shared and heard, and common questions/goals were found

Transparent data quality evaluation

Shared understanding of data limitations, filters, and quality corrections were cogenerated and agreed upon

Co-develop data analysis & interpretation

Data were analyzed live in real time and discovery and interpretation was shared by all 4 groups

Methods: Underwater Surveys

SCUBA divers trained in scientific diving conducted transect-based surveys of reefs in Ka'ūpūlehu from 2009 to 2024 with TNC, and across the North Kona moku from 2022-2024 with DAR using similar methods. One or two divers observed all conspicuous reef fish species on a 25x5 meter belt transect and recorded the species and total length. Another diver followed the fish observer and took photos of the benthos at regular intervals along the transect that were later analyzed to quantify percent cover of coral and other benthic groups. All data were checked for quality and errors following established protocols by the Hawai'i Monitoring and Reporting Collaborative. These methods are standard and widely accepted methods used throughout Hawai'i and worldwide as a reliable methodology for assessing reef fish assemblages.



Methods: Choosing an indicator of management effectiveness

Resource fish biomass was identified as an appropriate metric for evaluating the effectiveness of the temporary closure of fishing in the reserve. Resource fish biomass is an estimate of the overall weight of fish per a given area that is comprised of species that are important to the fishery. Resource species were identified by comparing available sources of fisheries dependent data (e.g., creel surveys), with the greatest emphasis given to a creel survey conducted prior to the closure in 2013. In total, 77 species were included.

Methods: Identifying Habitat Types

Each of the 1494 underwater surveys across all years were assigned a value of depth, habitat complexity, and coral cover based on a dataset that is available for the entire West Hawai'i coastline from remotely sensed data and other sources (see Donovan et al. 2023 *Proc B*). All three metrics were considered together in a statistical model (model-based multivariate clustering) that identifies groupings in the data. This method revealed 4 distinct habitat types, with one being relatively less frequent. Subsequent analyses focused on the 3 more dominant habitat types that were named based on their dominant features:

Shallow Bench: shallow (5-18 ft), lower coral cover (26-42%), mid complexity

Shallow Coral: shallow (5-20 ft), moderate coral cover (33-44%), mid complexity

Complex High Coral: all depths (5-65 ft), high coral cover (35-65%), very high complexity

Methods: Evaluating effectiveness of temporary fisheries closure

A 'Before-After-Control-Impact' analysis framework was applied that follows best practice for conservation impact assessment. Data from 2012-2015 was categorized as 'Before' and data from 2022-2024 was categorized as 'End' and was used analogous as 'After' in the impact assessment methodology. The 'Impact' was the temporary closure of the fishery so included the data from inside the reserve, and the 'Control' was the data adjacent to the reserve where it is assumed the adjacent area was subject to the same environmental variation as the reserve. The assessment was conducted as a Bayesian Gamma linear model with resource fish biomass as a response variable and the predictors before-after, control-impact, and their interaction. Flat priors were used and models were run with 3 chains and 4,500 post-warmup samples of the posterior distribution. All models were checked for convergence and assumptions, including posterior predictive checks. Posterior distributions were summarized for plotting with non overlapping 80% intervals used to evaluate evidence for an effect. Relative percent change in biomass between the reserve and adjacent areas were calculated across the entire posterior and then summarized to find the mean and 80% credible interval.

Methods: Comparing recent biomass to adjacent areas

To evaluate how resource fish biomass at the end of the temporary closure compared to the broader North Kona moku, additional surveys conducted by DAR using similar methods were included. Depth, habitat complexity, and coral cover from the remotely sensed data sources were attributed to the DAR survey sites and the habitat type was predicted from the earlier habitat clustering model. Data were then subset to include similar habitats found both inside and outside the reserve. A Bayesian Gamma linear model with resource fish biomass as a response variable and a predictor with three levels: inside the reserve, adjacent areas, and surveys from the remainder of North Kona. Model fitting and checking was the same as the impact assessment, and again non-overlapping 80% intervals of the posterior were used to evaluate evidence of higher biomass within the reserve.

Item F-3
Exhibit 2

DEPARTMENT OF LAND AND NATURAL RESOURCES

Adoption of Chapter 13-60.12
Hawaii Administrative Rules

[INSERT DATE OF FINAL BLNR APPROVAL]

1. Chapter 13-60.12, Hawaii Administrative Rules, entitled "Ka`ūpūlehu Fishery Management Area, Hawai`i", is adopted to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART II MARINE FISHERIES MANAGEMENT AREAS

CHAPTER 60.12

KA`ŪPŪLEHU FISHERY MANAGEMENT AREA, HAWAI`I

SUBCHAPTER 1

GENERAL PROVISIONS

§13-60.12-1	Applicability and purpose
§13-60.12-2	Definitions
§13-60.12-3	Boundaries
§13-60.12-4	Anchoring prohibited

- §13-60.12-5 Adaptive management
- §13-60.12-6 Wai a Kāne cultural site and freshwater spring
- §13-60.12-7 Penalty
- §13-60.12-8 Asset forfeiture
- §13-60.12-9 Severability

SUBCHAPTER 2

RULES FOR THE POSSESSION AND USE OF FISHING GEAR AND THE TAKING OF MARINE LIFE

- §13-60.12-10 Ka'ūpūlehu fishery management area fishing permit
- §13-60.12-11 Transit through the Ka'ūpūlehu Fishery Management Area and Conservation District; possession of restricted gear and species
- §13-60.12-12 Fishing gear
- §13-60.12-13 Finfish
- §13-60.12-14 'Opihi
- §13-60.12-15 Other invertebrates and limu

Subchapter 1 General Provisions

§13-60.12-1 Applicability and purpose. (a)

This chapter applies to the state waters within the boundaries described in section 13-60.12-5.

(b) The purpose of this chapter regarding the Ka'ūpūlehu fishery management area is to:

- (1) Protect, restore, perpetuate, maintain, and share culturally and ecologically important resources;
- (2) Ensure a socially and ecologically sustainable subsistence fishery at Ka'ūpūlehu and Kūki'o that aligns with traditional resource management practices;

- (3) Establish the Kai Malu management area and the Wai a Kāne cultural site and freshwater spring to honor and protect the wahi pana (storied place) of Wai a Kāne; preserve the vital ecological services the freshwater spring of Wai a Kāne and its contributions to Kahuwai Bay and surrounding reefs; and promote culturally appropriate, low-risk, and low-impact fishing practices and other ocean uses in Kahuwai Bay;
- (4) Establish a non-commercial fishing permit with mandatory reporting to enhance compliance, collect catch data, and inform the department about effective and adaptive management for future management responses;
- (5) Foster a co-management relationship between the department and the community stewards of the area as reflected in a fishery management plan developed for the area and any co-management agreement between the department and the community stewards of the area; and
- (6) Support adaptive management in response to changes in resource conditions and patterns of use. [Eff] (Auth: HRS §§187A-5, 190-3) (Imp: HRS §§187A-5, 190-3)

§13-60.12-2 Definitions. As used in this chapter, unless otherwise provided:

"`A`ama" means any individual of the small, intertidal crustacean species known as *Grapsus grapsus tenuicrustatus* or any recognized scientific synonym. `A`ama are also known as rock crab or weak-shelled rock crab.

"Akule" means any individual of the finfish species known as *Selar crumenophthalmus*. The various life stages of akule are known as pā`ā`ā, hahalalū, and halalū. Akule are also known as goggle-eyed scad or big-eyed scad.

"'Ālinalina" means any individual of the limpet species known as *Cellana sandwicensis* or any recognized scientific synonym. 'Ālinalina is also known as yellow-foot 'opihi.

"'Ama'ama" means any individual of the finfish species known as *Mugil cephalus* or any recognized scientific synonym, measuring between eight inches and twelve inches in total 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.

"'Aae" means any individual of the finfish species known as *Mugil cephalus* or any recognized scientific synonym, measuring twelve or more inches in total 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.

"Braided fishing line" means a fishing line constructed by interweaving or braiding multiple strands of fiber or filament into a single line.

"Co-management agreement" means a written agreement between the department and a community steward, meaning a community organization or representative with demonstrated ties to the area, that establishes shared roles, responsibilities, expectations, and duties to be collaboratively carried out in the management of the area established under this chapter.

"Community" means a hoa'āina (ahupua'a tenant) relationship to place as demonstrated through genealogy, practice, or residency.

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

"Deploy" means to place the specified gear in the water, in whole or in part.

"Double hook" means a hook having two points on a common shank.

"Drone fishing" means the use of any aerial vehicle that is operated without the possibility of direct human intervention within or on the aerial

vehicle for the purpose of taking aquatic life. Drone fishing does not include simple reconnaissance.

"Finfish" means any marine fish that uses fins for locomotion, including all species and life stages, but excluding invertebrates, marine mammals, or sea turtles.

"Fisheries management plan" means a document developed or adopted by the department that identifies management objectives, strategies, and measures applicable to a fishery and describes how management decisions will be implemented or evaluated.

"Fishing gear" means any device or equipment, including but not limited to any net, spear, rod, reel, hook-and-line, or slurp gun, that is adapted, designed, or commonly used to take aquatic life.

"Fishing lure" means any artificial device incorporating one or more fishing hooks that is attached to a fishing line.

"Hāwa'e" means any individual of the sea urchin species known as *Tripnuestes gratilla*, or any recognized scientific synonym.

"Hā'uke'uke" means any individual of the sea urchin species known as *Colobocentrotus atratus* or any recognized scientific synonym, also known as the shingle urchin.

"Hand net" means a net consisting of a mesh bag attached to a rigid frame to hold the bag open, and a single handle for manual use by one person.

"He'e" means any mollusk known as *Octopus cyanea*, *Octopus ornatus*, or any recognized scientific synonym.

"Holdfast" means the portion of limu by which it attaches to a rock reef, or other substrate.

"'Ina" means any individual of the sea urchin species known as *Echinometra mathaei*, *Echinometra oblonga*, or any recognized scientific synonym. 'Ina are further categorized as 'ina 'ula (red 'ina), 'ina kea or ke'oke'o (whitish 'ina), and 'ina 'ele'ele or uli (black or dark 'ina).

"Kite fishing" means the use of a kite, parachute, or other airborne object or device used to suspend, carry, or deploy fishing gear over the water.

"Kō'ele" means any individual limpet of the species *Cellana talcosa*, or any recognized scientific synonym. Kō'ele are also known as giant 'opihi, talc limpet, or turtle limpet.

"Kūmū" means any individual of the finfish species known as *Parupeneus porphyreus* or any scientific synonym.

"Kūpe'e" means any individual marine snail of the species *Nerita polita* or any recognized scientific synonym.

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

"Limu" means any marine alga, including all species and life stages occurring in the intertidal and subtidal zones.

"Lūhe'e" means the use of a fishing line and lure configured to catch he'e, in which the lure consists of a hook attached to a cowry shell and a weighted stone weight (pōhaku lūhe'e) or other weight.

"Makaiāuli" means any individual of the limpet species known as *Cellana exarata* or any recognized scientific synonym. Makaiāuli are also known as blackfoot 'opihi or Hawaiian blackfoot.

"Marine life" means any species of saltwater fish, shellfish, mollusk, crustacean, coral, marine animal, or marine plant or algae, and includes any part, product, egg, offspring, seed, holdfast, or root thereof.

"Moano kea" means any individual of the finfish species known as *Parupeneus cyclostomus* or any recognized scientific synonym. Moano kea are also known as moano ukali, moano ukali ulua, moana kali, blue goatfish, or goldsaddle goatfish.

"Moi" means any individual of the finfish species known as *Polydactylus sexfilis* or any recognized scientific synonym. Moi are also known as six-fingered threadfin or yellowthread threadfin.

"Mū" means any individual of the finfish species known as *Monotaxis grandoculis* or any recognized scientific synonym. Mū are also known as bigeye emperor.

"Native limu" means any species of limu that occurs naturally in Hawai'i. Native limu includes, but is not limited to, the species identified in Exhibit D entitled "Common Native Limu Species of Hawai'i", dated 1/31/26, located at the end of this chapter, incorporated by reference.

"Non-native species" means any species that did not occur naturally in Hawai'i and whose presence in Hawai'i is the result of human activity, whether intentional or accidental. Non-native species are also referred to as introduced species, alien species, or exotic species.

"`Oama" means any juvenile weke `ā or juvenile weke `ula measuring less than seven inches in total length.

"`Ōmilu" means any individual of the finfish species known as *Caranx melampygus* or any recognized scientific synonym. `Ōmilu are also known as bluefin trevally, blue ulua, bluefin jack, bluefin kingfish, bluefinned crevalle, and spotted trevally.

"`Ōpelu" means any individual of the finfish species known as *Decapterus macarellus* or any recognized scientific synonym.

"`Opihi" means any mollusk of the genus *Cellana* or any recognized scientific synonym. In Hawai'i, commonly recognized `opihi species include kō`ele, `ālinalina, and makaiiauli. `Opihi are also known as limpets.

"`Opihi picking tool" means any tool, implement, or device used to pry, detach, or remove `opihi from a rock or other substrate.

"Pāku`iku`i" means any individual finfish of the species known as *Acanthurus achilles* or any recognized scientific synonym. Pāku`iku`i are also known as Achilles tang.

"Scoop net" means a hand net consisting of a bag of mesh material attached to a frame to hold the bag open, and attached to a single handle no more than three feet in length.

"Spear" means any fishing device consisting of a straight rigid shaft with one or more sharpened points at one end of the shaft, including any integrated

mechanism that aids in the aiming accuracy or the force of propulsion of the shaft. A spear includes, but is not limited to, a spear gun, Hawaiian sling, or three-prong spear, and any similar device configured to impale aquatic life for capture, with or without the aid of artificial propulsion. For purposes of this chapter, a spear does not include a bow and arrow rig used for bow fishing.

"State" means the state of Hawai'i.

"Subsistence" means the customary and traditional native Hawaiian use of renewable ocean resources for direct personal or family consumption or non-commercial sharing, and not for sale, trade, or barter.

"Take" means to fish for, catch, injure, kill, remove, capture, confine, or harvest, or to attempt any of those acts.

"Terminal-phase uhu" means any uhu exhibiting the adult male coloration and morphological characteristics typical of the terminal phase, including predominantly bright green or blue markings or a predominantly green or blue body coloration, often with bright pink, orange, or yellow patches, and a more pronounced or elongated head profile; provided that identification may be based on external visual characteristics in the field.

"Throw net" means a circular net with a weighted outer perimeter that is deployed by manually casting or throwing the net over fish or other aquatic life. This gear is also known as a cast net.

"Treble hook" means a hook having three points on a common shank.

"Uhu" means any individual finfish belonging to the family Scaridae or any recognized scientific synonym, commonly known as parrotfish, and typically characterized by large scales and fused, beak-like teeth.

"Uku" means any individual finfish of the species known as *Aprion virescens* or any recognized scientific synonym, commonly known as Hawaiian blue-green snapper, green jobfish, or gray snapper.

"Ula" means any spiny lobster of the genus *Panulirus*, or any recognized scientific synonym, commonly known as lobster, Hawaiian spiny lobster, spiny lobster, red lobster, or green lobster.

"Ula pāpapa" means any individual crustacean known as *Scyllarides squamosus*, *Scyllarides haanii*, or any recognized scientific synonym, commonly known as ula 'āpapapa, slipper lobster, ridgeback slipper lobster, or shovel-nosed lobster.

"Ulua aukea" means any individual finfish of the species known as *Caranx ignobilis* or any recognized scientific synonym, commonly known as ulua aukea or ulua kea, and also known as giant trevally, barrier trevally, or giant kingfish.

"Urchins" means any echinoderms in the class *Echinoidea*, or any recognized scientific synonym. Common urchins found in Hawai'i include, but are not limited to wana, hā'uke'uke, 'ina, and hāwa'e.

"Vessel" means any craft used or capable of being used as a means of transportation on or in the water.

"Wana" means any of the long-spined urchins of the genus *Echinothrix* or the species *Diadema paucispinum*, or any recognized scientific synonym.

"Weke 'ā" means any individual finfish of the species known as *Mulloidichthys flavolineatus* or any other recognized scientific synonym. Juvenile weke 'ā measuring less than seven inches in total length are commonly referred to as 'oama.

"Weke 'ula" means any individual finfish of the species known as *Mulloidichthys vanicolensis* or any recognized scientific synonym. Juvenile weke 'ula measuring less than seven inches in total length are commonly referred to as 'oama. [Eff]
(Auth: HRS §§187A-5, 190-3) (Imp: HRS §§187A-5, 190-3)

§13-60.12-3 Boundaries. (a) The Ka'ūpūlehu fishery management area and associated subzones ('opihi rest area rotational zones, Kai Malu management area, and Wai a Kāne cultural site and freshwater spring) include all state waters and

submerged lands along the west coast of the island of Hawai'i from Kīkaua Point in the south to Kalaemanō in the north, from the shoreline out to the twenty fathom (one hundred twenty feet) depth contour. The boundaries of the Ka'ūpūlehu fishery management area are described by southern and northern boundary lines, landward and seaward boundary lines, and four reference points (A, B, C, and D) identified by their latitude and longitude coordinates as follows:

- (1) The southern boundary of the Ka'ūpūlehu fishery management area is an imaginary straight line drawn from Point A (19.818165°, -156.000207°) on the shoreline of Kīkaua Point to Point B (19.823261°, -156.006224°) on the twenty-fathom depth contour.
- (2) The seaward boundary of the Ka'ūpūlehu fishery management area is an imaginary line drawn along the twenty-fathom depth contour from Point B to Point C (19.855964°, -155.970486°).
- (3) The northern boundary of the Ka'ūpūlehu fishery management area is an imaginary straight line drawn from Point C to the shoreline of Kalaemanō at Point D (19.850995°, -155.964564°).
- (4) The landward boundary of the Ka'ūpūlehu fishery management area is an imaginary line drawn along the shoreline from Point D to Point A.

The foregoing boundaries and reference points are shown on Exhibit A entitled "Map of the Ka'ūpūlehu fishery management area, Hawai'i and 'Ōpihi Rest Area Rotational Zones", dated 1/31/26 ("Exhibit A"), located at the end of this chapter, incorporated by reference.

(b) The Ka'ūpūlehu fishery management area is divided for harvest management purposes into four 'opihi rest area rotational zones as follows:

- (1) The 'opihi rest area rotational zone A-1 consists of all state waters and submerged

lands bounded by the southern boundary of the Ka'ūpūlehu fishery management area (Point A to Point B), the twenty fathom depth contour from Point B to Point OZ1 (19.837268°, -155.989776°), an imaginary straight line drawn from Point OZ1 to Mahewalu Point at Point KM2 (19.834714°, -155.986737°), and the landward boundary of the Ka'ūpūlehu fishery management area from Point KM2 to Point A.

- (2) The 'opihi rest area rotational zone A-2 consists of all state waters and submerged lands bounded by an imaginary straight line drawn from the shoreline at Point OZ5 (19.845471°, -155.975472°) to Point OZ2 (19.847397°, -155.977767°) on the twenty-fathom depth contour, the twenty-fathom depth contour from Point OZ2 to Point OZ3 (19.852663°, -155.976336°), an imaginary straight line drawn from Point OZ3 to the shoreline boundary of the Ka'ūpūlehu fishery management area at Point OZ4 (19.848326°, -155.97117°).
- (3) The 'opihi rest area rotational zone B-1 consists of all state waters and submerged lands bounded by an imaginary straight line drawn from the shoreline at Point KM2 to the twenty fathom depth contour at Point OZ1, the twenty-fathom depth contour from Point OZ1 to Point OZ2, an imaginary straight line drawn from Point OZ2 to Point OZ5, and the shoreline boundary of the Ka'ūpūlehu fishery management area from Point OZ5 to Point KM2.
- (4) The 'opihi rest area rotational zone B-2 consists of all state waters and submerged lands bounded by an imaginary straight line drawn from the shoreline at Point OZ4 to the twenty-fathom depth contour at Point OZ3, the twenty-fathom depth contour from Point OZ3 to Point C (the northern boundary of the Ka'ūpūlehu fishery management area), the northern boundary of the Ka'ūpūlehu fishery

management area (Point C to Point D), and the landward boundary of the Ka'ūpūlehu fishery management area from Point D to Point OZ4.

The foregoing boundaries and reference points are shown on Exhibit A.

(c) The following special management and cultural protection sub-zones are established within the Ka'ūpūlehu fishery management area:

- (1) The Kai Malu management area, which includes all state waters and submerged lands bounded by an imaginary straight line drawn from the southern point of Kahuwai Bay at Point KM1 (19.83087°, -155.988527°) to Mahewalu Point at Point KM2, and an imaginary line drawn along the shoreline from Point KM2 to Point KM1; as shown on Exhibit B entitled "Map of the Kai Malu Management Area and Wai a Kāne Cultural Site and Freshwater Spring", dated 1/31/26 ("Exhibit B"), located at the end of this chapter, incorporated by reference.
- (2) The Wai a Kāne cultural site and freshwater spring, located within the Kai Malu management area, which includes all state waters and submerged lands bounded by an imaginary straight line drawn from Point WK1 (19.83087°, -155.988527°) to Point WK2 (19.83146°, -155.98707°), an imaginary straight line drawn from Point WK2 to Point WK3 (19.83161°, -155.986819°), an imaginary straight line drawn from Point WK3 to the shoreline at Point WK4 (19.831207°, -155.986528°), and an imaginary line drawn along the shoreline from Point WK4 to Point WK1; as shown on Exhibit B entitled "Map of the Kai Malu Management Area and Wai a Kāne Cultural Site and Freshwater Spring", dated 1/31/26, located at the end of this chapter.

A map of the entire fisheries management area with all of its associated subzones and corresponding points as described above is attached at the end of this chapter as Exhibit C entitled, "Map of the

Ka'ūpūlehu Fisheries Management Area, Hawai'i and Associated Subzones", dated 1/31/26, incorporated by reference. [Eff] (Auth: HRS §§187A-5, 190-3) (Imp: HRS §§187A-5, 190-3)

§13-60.12-4 Anchoring prohibited. It shall be unlawful to deploy an anchor to prevent damage to coral, seafloor habitat, and associated marine life, except in cases of emergency involving an immediate threat to life, vessel safety, or the prevention of serious property damage. [Eff] (Auth: HRS §§187A-5, 190-3) (Imp: HRS §§187A-5, 190-3)

§13-60.12-5 Adaptive management. The department shall periodically reevaluate the status of the aquatic resources within the Ka'ūpūlehu fishery management area and the effectiveness of the rules established in this chapter as informed by a fishery management plan for the area and co-management agreement between the department and the community stewards of the area. When the department determines that revisions to the provisions of this chapter are necessary to further its purpose, the department shall initiate rulemaking pursuant to sections 91-3 and 187A-5, Hawaii Revised Statutes. Nothing in this section shall be construed to authorize the modification of any requirement, restriction, or prohibition established in this chapter except through rulemaking as provided by law. [Eff] (Auth: HRS §§187A-5, 188-53, 188F-6, 190-3) (Imp: HRS §§187A-5, 188-53, 188F-6, 190-3)

§13-60.12-6 Wai a Kāne cultural site and freshwater spring. It is unlawful for any person to enter the Wai a Kāne cultural site and freshwater spring as described in §13-60.12-5(c)(2), except with

a special activity permit issued by the department pursuant to section 187A-6, HRS, under such terms and conditions allowing such entry and as deemed necessary for educational, scientific, cultural, or resource-management purposes consistent with sections 187A-6 and 188-53, HRS, provided that:

- (1) The board may revoke any permit for violation of the terms and conditions of the permit; provided that revocation shall be in accordance with chapter 91, HRS, where applicable; and
- (2) A person whose permit was revoked shall not be eligible to apply for another permit until one year after the date of revocation unless otherwise authorized by the board for good cause. [Eff _____] (Auth: HRS §§187A-5, 188-53, 190-3) (Imp: HRS §§187A-5, 188-53, 190-3)

§13-60.12-7 Penalty. (a) Any person who violates any provision of this chapter or the terms and conditions of any permit required by or issued pursuant to this chapter shall be subject to:

- (1) Administrative penalties as provided by section 187A-12.5, HRS;
 - (2) Criminal penalties as provided by section 187A-13, HRS; and
 - (3) Any other penalty authorized by applicable state law.
- (b) 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.

[Eff _____] (Auth: HRS §§187A-5, 187A-12.5, 187A-13, 190-3) (Imp: HRS §§187A-12.5, 187A-13, 190-5)

§13-60.12-8 Asset forfeiture. Any equipment, article, instrument, aircraft, vehicle, vessel, business record, or natural resource used or taken in violation of this chapter, may be seized and subject to forfeiture as provided by section 199-7 and chapter 712A, HRS. [Eff] (Auth: HRS §§187A-5, 190-3) (Imp: HRS §199-7, ch. 712A)

§13-60.12-9 Severability. If any provision of this chapter, or the application thereof, to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff] (Auth: HRS §1-23) (Imp: HRS §§187A-5, 190-3, 1-23)

Subchapter 2

Rules for the Possession and Use of Fishing Gear and the Taking of Marine Life

§13-60.12-10 Ka'ūpūlehu fishery management area fishing permit. (a) Within the Ka'ūpūlehu fishery management area, it is unlawful to take marine life or use fishing gear without a valid Ka'ūpūlehu fishery management area fishing permit issued by the department.

(b) Applications for the issuance or renewal of Ka'ūpūlehu fishery management area fishing permits shall be submitted online or by alternative means approved by the department upon request.

(c) Permit applications may require the permittee's:

- (1) Full legal name;
- (2) Contact information including telephone number, home and mailing addresses, and electronic mail address, if available;

- (3) Emergency contact information including telephone number, home and mailing addresses, and electronic mail address, if available;
- (4) Date of birth and a form of government-issued identification to verify identity, height, weight, and color of hair and eyes;
- (5) Acknowledgment that the applicant has read and understands all applicable fishing laws and rules that apply to the Ka'ūpūlehu fishery management area, Hawai'i, including but not limited to this chapter, chapter 13-60.4, and section 13-256-159; and
- (6) Any other information reasonably necessary and directly related to the administration or enforcement of the permit, as determined by the department.

(d) In addition to the general license and permit provisions in ch. 13-74, subchapter 1, the following requirements apply to all Ka'ūpūlehu fishery management area fishing permits:

- (1) Permits shall be valid for one year from the date of issuance;
- (2) Permits are non-transferable;
- (3) Permits may not be used by anyone other than the permittee named on the permit;
- (4) Permittees shall check in and check out for every fishing trip as specified by the department;
- (5) Upon check-out, permittees shall submit a catch report to the department indicating the species, size, and any other relevant information the department requires, for each specimen of marine life taken during the fishing trip using a form provided by the department;
- (6) The department may add or amend terms and conditions to a permit upon at least thirty (30) days' notice to all permittees with active permits; provided that no addition or amendment shall modify any requirement,

restriction, or prohibition, except through rulemaking pursuant to chapter 91, Hawaii Revised Statutes.

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

§13-60.12-11 Transit through Ka`ūpūlehu fishery management area. Prohibited gear and restricted species as described in this chapter may be possessed while onboard a vessel continuously proceeding through the area without stopping to fish or deploy gear, provided that no prohibited gear is deployed or set in the water during the transit. Vessels that are adrift, anchored, or moored are not considered to be in active transit. [Eff _____] (Auth: HRS §§187A-5, 188-53, 188F-6, 190-3) (Imp: HRS §§187A-5, 188-53, 188F-6, 190-3)

§13-60.12-12 Fishing gear. (a) It is unlawful to use or possess any fishing gear except as provided in subsections (b) and (c).

(b) Except within the Kai Malu management area and Wai a Kāne cultural site and freshwater spring, a person may use or possess:

- (1) Up to two fishing poles, provided that each fishing pole may have only one line, and each line may have no more than two hooks, with each hook having only one point, while at or near the shoreline, except that double or treble hooks are allowed when using fishing lures, provided further that kite fishing, drone fishing, and fishing using braided fishing line are prohibited;
- (2) A spear, provided that during the time period beginning thirty minutes after sunset until thirty minutes before sunrise, it is unlawful to possess a spear on, at, in, or and near the water where fish may be caught;

- (3) An 'opihi picking tool twelve inches or less in any dimension; provided that possession of both 'opihi and an 'opihi picking tool may be considered evidence of use that the tool was used to pick the 'opihi;
- (4) A throw net;
- (5) Traps, provided that no trap may be left unattended for more than two hours; and
- (6) Any fishing gear or method allowed in section 13-60.12(5)(c).

(c) Within the Kai Malu management area, except for the Wai a Kāne cultural site and freshwater spring as established in section 13-60.12(5)(c), a person may use or possess hand poles, lūhe'e, and hand or scoop nets pursuant to section 13-75-14(a)(7), provided that hand harvest of marine life is allowed.

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

§13-60.12-13 Finfish. (a) The following fish species are designated priority management species for their increased vulnerability and ecological and cultural significance:

- (1) 'Ama'ama and 'anae (striped mullet)
- (2) 'Ōmilu
- (3) Kūmū
- (4) Moano kea (moano ukali)
- (5) Moi
- (6) Mū
- (7) Pāku'iku'i
- (8) Uhu
- (9) Uku
- (10) Ulua aukea

(b) It is unlawful to take or possess more than ten finfish per person per day provided that:

- (1) No more than two of the ten finfish in total may be either:
 - (A) a priority species listed in subsection (a);
 - or

- (B) a specimen of any finfish species greater than twelve inches in total length;
 provided further that the two finfish may not be of the same species, all finfish are of legal size, and no pāku`iku`i may be taken as provided in section 13-60.4-4(7); and
- (2) In addition to the ten finfish limit, any person may take:
- (A) Up to twenty akule per person per day;
 - (B) Up to twenty `ōpelu per person per day;
 - (C) Up to twenty `oama per person per day; and
 - (D) Any amount of a non-native species as defined in section 13-60.12-2.
- (c) It is unlawful to take or possess:
- (1) Any kūmū twelve inches or less in total length; and
 - (2) Any terminal-phase uhu or any uhu twenty inches or greater in total length.
 [Eff _____] (Auth: HRS §§187A-5, 188-53, 190-3) (Imp: HRS §§187A-5, 188-53, 190-3)

§13-60.12-14 `Opihi. (a) It is unlawful to take or possess more than fifteen `opihī of any species combined per person per day.

(b) Beginning January 1 of every year ending with a "6" through December 31 of the following year ending with a "9", it is unlawful to take within the `opihī rest area rotational zones A-1 and A-2:

- (1) Any makaiāuli or `ālinalina less than the statewide minimum size established in chapter 13-92 or greater than two and a half inches in shell diameter measured at its widest width; or
- (2) Any kō`ele less than two and a half inches or greater than three inches in shell diameter measured at its widest width.

(c) Beginning January 1 through December 31 of every year ending with a "0", it is unlawful to take

or possess within the 'opihi rest area rotational zones A-1 and A-2:

- (1) Any makaiauli or 'ālinalina less than two and a half inches in shell diameter measured at its widest width; or
- (2) Any kō'ele less than three inches in shell diameter measured at its widest width.

(d) Beginning January 1 of every year ending with a "6" through December 31 of the following year ending with a "0", it is unlawful to take or possess any 'opihi within the 'opihi rest area rotational zones B-1 and B-2.

(e) Beginning January 1 of every year ending with a "1" through December 31 of the following year ending with a "4", it is unlawful to take or possess within the 'opihi rest area rotational zones B-1 and B-2:

- (1) Any makaiauli or 'ālinalina less than the statewide minimum size established in chapter 13-92 or greater than two and a half inches in shell diameter measured at its widest width; or
- (2) Any kō'ele less than two and a half inches or greater than three inches in shell diameter measured at its widest width.

(f) Beginning January 1 through December 31 of every year ending with a "5", it is unlawful to take or possess within the 'opihi rest area rotational zones B-1 and B-2:

- (1) Any makaiauli or 'ālinalina less than two and a half inches in shell diameter measured at its widest width; or
- (2) Any kō'ele less than three inches in shell diameter measured at its widest width.

(g) Notwithstanding subsection (b) and (c), beginning January 1 of every year ending with a "1" through December 31 of every year ending with a "5", it is unlawful to take or possess any 'opihi within the 'opihi rest area rotational zones A-1 and A-2.

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

§13-60.12-15 Invertebrates and limu. It is unlawful to take or possess:

- (1) Any female 'a'ama;
- (2) More than fifteen 'a'ama per person per day;
- (3) More than two he'e per person per day;
- (4) Any live kūpe'e or any kūpe'e with meat attached to the shell;
- (5) More than two ula and ula pāpapa combined per person per day;
- (6) Any native limu species with a holdfast or basal attachment; or
- (7) More than fifteen urchins per person per day. [Eff _____] (Auth: HRS §§187A-5, 188-53, 190-3) (Imp: HRS §§187A-5, 188-53, 190-3)

Exhibit A: Map of the Ka'ūpūlehu fishery management area, Hawai'i and 'Opihi Rest Area Rotational Zones, dated 1/31/26



Exhibit B: Map of the Kai Malu Management Area and Wai a Kāne Cultural Site and Freshwater Spring, dated 1/31/26



Exhibit C: Map of the Ka'ūpūlehu fisheries management area, Hawai'i and associated subzones, dated 1/31/26



Exhibit D:

Common Native Limu Species of Hawai'i, dated 1/31/26

Phylum	Species	Hawaiian/Common Name
Rhodophyta	<i>Ahnfeltiopsis flabelliformis</i>	Nei, kō'ele'ele, kō'ele
Rhodophyta	<i>Ahnfeltiopsis concinna</i>	'Aki'aki, 'eleau (Maui)
Rhodophyta	<i>Asparagopsis taxiformis</i>	Kohu, līpehe, līpehu, līpa'akai
Rhodophyta	<i>Gracilaria coronopifolia</i>	Manauea, short ogo (Japanese)
Rhodophyta	<i>Gracilaria parvispora</i>	Manauea loloa, long ogo (Japanese)
Rhodophyta	<i>Grateloupia filicina</i>	Huluhuluwaena, pakeleawa'a
Rhodophyta	<i>Halymenia hawaiiiana</i>	Lepe-o-Hina, lehelehe'īlio, lepelepe-o-Hina, limu-pepe-o-Hina, pā'ū-o-Hi'iaka
Rhodophyta	<i>Laurencia dotyi</i>	Līpe'epe'e, līpēpē
Rhodophyta	<i>Laurencia nidifica</i>	Māne'one'o
Rhodophyta	<i>Laurencia succisa</i>	Līpe'epe'e, līpēpē
Rhodophyta	<i>Pyropia vietnamensis</i>	Pāhe'ehe'e, līpahe'e, līpahe'ehe'e, līpāhoe, pahe'e
Chlorophyta	<i>Codium edule</i>	Wāwae'iole
Chlorophyta	<i>Codium reediae</i>	'A'ala'ula
Chlorophyta	<i>Ulva lactuca</i>	Pālahalaha
Chlorophyta	<i>Ulva prolifera</i>	'Ele'ele
Ochrophyta (Class: Phaeophyceae)	<i>Dictyopteris australis</i>	Līpoa
Ochrophyta (Class: Phaeophyceae)	<i>Dictyopteris plagiogramma</i>	Līpoa
Ochrophyta (Class: Phaeophyceae)	<i>Sargassum aquifolium</i>	Kala

2. Chapter 13-60.4, Hawaii Administrative Rules, entitled "West Hawai'i Regional Fishery Management Area, Hawai'i", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART II MARINE FISHERIES MANAGEMENT AREAS

CHAPTER 60.4

WEST HAWAI'I REGIONAL FISHERY MANAGEMENT AREA, HAWAI'I

§13-60.4-1	Intent and purpose
§13-60.4-2	Geographical jurisdiction of chapter provisions
§13-60.4-3	Definitions
§13-60.4-4	Activities prohibited within the West Hawai'i regional fishery management area
§13-60.4-5	Activities prohibited within selected areas
§13-60.4-6	Lay net permit and use requirements
§13-60.4-7	Aquarium collecting permit and vessel registration requirements
§13-60.4-8	Penalty
§13-60.4-8.5	Asset forfeiture
§13-60.4-9	Severability

Historical note: Chapter 13-60.4 is based substantially upon chapter 13-60.3 and is simultaneously adopted upon repeal of that chapter. All rights, duties, penalties, and responsibilities incurred under chapter 13-60.3 are intended to be transferred to chapter 13-60.4 upon its adoption. [Eff 12/31/99; am, ren, and comp 8/1/05; R 12/26/13]

§13-60.4-1 Intent and purpose. (a) The intent and purpose of this chapter regarding the West Hawai'i regional fishery management area shall be to:

- (1) Establish the West Hawai'i regional fishery management area for improved management of consumptive and nonconsumptive uses of aquatic resources;
- (2) Ensure the sustainability of the State's nearshore ocean resources;
- (3) Identify areas with resource and use conflicts;
- (4) Minimize user conflicts and resource depletion in the West Hawai'i regional fishery management area, by designating fish replenishment areas and identifying other regulated areas where aquarium fish collecting is prohibited, areas where the use of gill nets as set nets is prohibited, and establishing a portion of the fish replenishment areas as fish reserves where no fishing of reef-dwelling fish is allowed;
- (5) Establish a system of day-use mooring buoys in high-use coral reef areas and prohibit anchoring in some of these areas to prevent anchor damage to corals;
- (6) Identify areas and resources of statewide significance for protection;
- (7) Facilitate scientific research and monitoring of the nearshore resources and environment; and
- (8) Facilitate the substantive involvement of

the community in resource management decisions for the West Hawai'i regional fishery management area through dialogue with community residents and resource users.

(b) Native Hawaiian traditional and customary rights with regard to marine resources for subsistence, cultural, and religious purposes are recognized. Claims for traditional and customary rights will be decided by appropriate agencies when a claims procedure is established. [Eff 12/26/13; comp 3/11/23; comp] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-2, 188F-3, 188F-4, 188F-6)

§13-60.4-2 Geographical jurisdiction of chapter provisions. (a) The provisions of this chapter shall apply to the West Hawai'i regional fishery management area, bounded by the west coast of Hawai'i Island, from Ka Lae, Ka'ū (South Point) to 'Upolu Point, North Kohala, and extending from the upper reaches of the wash of the waves on shore, seaward to the limit of the State's police power and management authority.

(b) The following [~~marine reserves,~~] fish replenishment [~~areas,~~] areas and netting restricted areas shall be established within the boundaries of the West Hawai'i regional fishery management area (as depicted in the exhibit entitled "Map of [~~Marine Reserve,~~] Fish Replenishment [~~Area,~~] Area and Netting Restricted Area Boundaries", dated [~~12/12/12,~~] 1/31/26 (Exhibit ""), incorporated by reference located at the end of this chapter):

- (1) Ka'ūpūlehu [~~marine reserve,~~] fish replenishment area identified on shore to the north by the northern boundary of the Ka'ūpūlehu ahupua'a and to the south by the southern side of Kikaua Point (south of Kūki'o Bay);
- (2) North Kohala fish replenishment area, identified on shore to the north by Kamilo Gulch and to the south by the Kawaihae Lighthouse;

- (3) Puakō-`Anaeho`omalū fish replenishment area, identified on shore to the north by the southern end of the Puakō Bay and Puakō Reef fisheries management area and to the south by the southern side of `Anaeho`omalū Bay (Kapalaoa);
- (4) Kaloko-Honokōhau fish replenishment area, identified on shore to the north by the southern boundary of Wāwālolī Zone (a Kona Coast fisheries management area defined in section 13-58-2) at Wawahiwa`a Point and to the south by Noio Point;
- (5) Kailua-Keauhou fish replenishment area, identified on shore to the north by the southern boundary of Kailua Bay Zone, Kona Coast fisheries management area defined in section 13-58-2, and to the south by the northern boundary of the Keauhou Bay fisheries management area defined in section 13-57-1;
- (6) Red Hill fish replenishment area, identified on shore to the north at Nenuē Point and to the south by Keawakāheka Point;
- (7) Nāpo`opo`o-Hōnaunau fish replenishment area, identified on shore to the north by the southern boundary of Kealakekua Bay marine life conservation district (Manini Beach Point) and to the south by the southern boundary of Pu`uhonua o Hōnaunau (Ki`ilae);
- (8) Ho`okena fish replenishment area, identified on shore to the north by Loa Point and to the south by Ka`ū Loa Point;
- (9) Ka`ohe Beach fish replenishment area (Pebble Beach), identified on shore to the north by signage south of Ka`ū Loa Point, and to the south by signage north of `Au`au Point;
- (10) Miloli`i fish replenishment area, identified on shore to the north by Makahiki Point and to the south by Kāki`o Point;
- (11) Kikaua Point-Mākole`ā Point netting restricted area, identified on shore to the north by Kikaua Point (Kalae o Kikaua) and

- to the south by Mākole`ā Point (near Kekaha Kai State Park);
- (12) Nenu Point-Kealakekua Bay netting restricted area, identified on shore to the north by the northern boundary of the Red Hill fish replenishment area and to the south by the northern boundary of the Kealakekua Bay marine life conservation district;
 - (13) Hanamalo Point-Kanewa`a Point netting restricted area, identified on shore to the north by Hanamalo Point, inclusive of Okoe Bay and Kapu`a Bay, and to the south by Kanewa`a Point, South Kona; and
 - (14) Kanonone-Kalīpoa netting restricted area, identified on shore to the north by Kanonone, inclusive of Pōhue Bay, Kahakahakea, and identified to the south by Kalīpoa, Ka`ū.

Unless otherwise described, any area described in this chapter shall be described by four reference points identified by their latitude and longitude coordinates, as provided in the tables located at the end of this chapter entitled "Table of Reference Coordinates to [~~Marine Reserve and~~] Fish Replenishment Area Boundaries", dated [~~12/12/12,~~] 1/31/26, and "Table of Reference Coordinates to Netting Restricted Area Boundaries", dated 12/12/12, and as may be further indicated by signage on or about the shoreline. The four points shall be identified as the landward northern point, the landward southern point, the seaward northern point, and the seaward southern point. The landward boundary for each of these areas shall be an imaginary line drawn along the highest wash of the waves between the landward northern point and the landward southern point. Should there be a stream or river flowing into the ocean, the landward boundary shall be an imaginary straight line drawn between the shoreline on either side of the stream or river, as if the stream or river was not there. Imaginary straight lines drawn through the landward and seaward northern points, and through the landward

and seaward southern points, shall constitute the northern and southern boundary lines of each area. The seaward boundary of each area shall be determined by an imaginary line drawn along the one hundred fathom (six hundred feet) depth contour, between the intersection of the one hundred fathom depth contour and the northern and southern boundary lines. Seaward GPS reference points are for guidelines and the one hundred fathom depth contour otherwise controls the seaward boundary. Any area designated in this chapter shall include the submerged lands and overlying waters within these four boundaries.

(c) The following areas, designated and subject to additional regulations in other chapters, shall also be considered and regulated as part of the West Hawai'i regional fishery management area:

- (1) Lapakahi marine life conservation district, as described in chapter 13-33;
- (2) Kawaihae Harbor fisheries management area, as described in chapter 13-55;
- (3) Wailea Bay marine life conservation district, as described in chapter 13-35;
- (4) Old Kona Airport marine life conservation district, as described in chapter 13-37;
- (5) Kealakekua Bay marine life conservation district, as described in chapter 13-29;
- (6) Puakō Bay and Puakō Reef fisheries management area, as described in chapter 13-54;
- (7) Kīholo Bay fisheries management area, as described in chapter 13-60;
- (8) Kailua Bay fisheries management area, as described in chapter 13-52;
- (9) Keauhou Bay fisheries management area, as described in chapter 13-57;
- (10) Kona Coast fisheries management area, as described in chapter 13-58; [~~and~~]
- (11) Miloli'i community-based subsistence fishing area, Hawai'i, as described in chapter 13-60.10[-]; and
- (12) Ka'ūpūlehu fisheries management area, as described in chapter 13-60.12.

Except for the area encompassed by the Kawaihae Harbor fisheries management area, Kawaihae commercial harbor shall not be regulated as part of the West Hawai'i regional fishery management area.

(d) Nothing in this chapter shall be construed as allowing within the West Hawai'i regional fishery management area any activity otherwise prohibited by law or rules adopted by the department of land and natural resource or any other department of the State. [Eff 12/26/13; am 7/29/16; comp 3/11/23; am and comp] (Auth: HRS §§187A-5, 188-53, 188F-6, 190-3) (Imp: HRS §§187A-5, 188-53, 188F-2, 188F-3, 188F-4, 188F-6, 190-3)

§13-60.4-3 Definitions. As used in this chapter unless otherwise provided:

"Aquarium collecting gear" means any equipment or gear adapted, designed, or commonly used to collect, capture or maintain aquatic life alive in a state of captivity, including but not limited to hand nets, fence or barrier nets, fiberglass, plastic, wood or metal 'tickle sticks' (including spears or similar implements used to manipulate the movement of aquarium fish or animals), catch buckets, keeps, baskets or venting needles.

"Aquarium collecting vessel" means any motorized or non-motorized vessel used by any person to collect, ferry, or scout for aquarium fish or animals.

"Aquarium purposes" means to hold aquatic life alive in a state of captivity, whether as pets, for scientific study, for public exhibition, for public display, or for sale for these purposes. Aquatic life collected under a valid aquarium permit may not be used for human consumption, for bait, or for other consumptive purposes.

"Aquatic life" means any type or species of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral, or other animal that inhabits the freshwater or marine environment and includes any part, product, egg, or offspring thereof; or freshwater or marine plants, including seeds,

roots, products, and other parts thereof.

"Commercial purpose" means the taking of aquatic life for profit, gain, sale, purchase, barter, exchange, to offer for sale, or upon any offer to purchase.

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

"Deploy" means to place the specified gear in the water, in whole or in part.

"Fish feeding" means deliberately introducing into the water any food material, substance, or device used as an attractant, for any purpose except catching and removing marine life.

"Fishing gear" means any net, spear, rod, reel, hook-and-line, slurp gun, or any other equipment or gear adapted, designed, or commonly used to take or capture aquatic life.

"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 deploy and retrieve the line, and the use of a landing net to land hooked fish.

"Kona crab net" means a mesh net encircled by a rigid frame no more than three feet in length in any direction.

"Lay net" means a panel of net mesh that is suspended vertically in the water with the aid of a float line that supports the top edge of the net upward towards the water surface and a lead line that keeps the bottom edge of the net downward towards the ocean bottom.

"Lay net fishing" or to "lay net fish" means deploying or attempting to deploy a lay net in a set location and in an open configuration, and retrieving the lay net from the same location after a certain time period has passed. This fishing method is also known as set netting, cross netting, pa`ipa`i, and moemoe netting. This term does not apply to the use of a lay net to completely encircle a pre-identified school of fish, where the net is constantly attended at all times while in the water, such as in the practice of surround netting.

~~["Marine reserve" means an area where any and all extraction of reef-related marine life, either alive or dead, or any portion of the reef structure, including coral, rocks, plants, algae, sand, shells, or any feature of the natural reef, shall be prohibited, except as allowed in this chapter.]~~

"Multi-panel lay net" means a lay net consisting of two or more layers of netting, usually of different mesh size. This gear is also known as a trammel net.

"Natural fibers" means fibers derived wholly from plant materials including, olonā, linen, cotton, hemp, and sisal.

"SCUBA gear" means any equipment adapted, designed, or commonly used to enable a diver to breathe while underwater, including but not limited to SCUBA regulators, high pressure cylinders, rebreathers, SNUBA, and hookah rigs.

"SCUBA spearfishing" means to take or to attempt to take aquatic life through the combined use of a spear and SCUBA gear.

"Set" when used as a noun with respect to the use of lay nets, means a sequential act beginning from when the lay net is fully deployed in the water and ending on the next complete removal of the lay net from the water.

"Spear" means any device or implement which is designed or used for impaling marine life. Spears may include but are not limited to spear gun shafts, arbaletes, arrows, bolts, Hawaiian slings, tridents, or three-prong spears. A dive knife is not considered to be a spear.

"Speared" means pierced, impaled, penetrated, stuck, or run through by a sharp, pointed implement.

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

"Total length" means the length of a fish measured from the tip of the snout to the tip of the longer lobe of the caudal (tail) fin. The length measurement shall be a straight-line measure, not measured over the curvature of the body of the fish.

"Whitelist" means a list of species of marine life that may be taken for aquarium purposes. [Eff 12/26/13; am 7/29/16; am and comp 3/11/23; am and comp] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6)

§13-60.4-4 Activities prohibited within the West Hawai'i regional fishery management area. While within the West Hawai'i regional fishery management area, no person shall:

- (1) Take, kill, possess, sell, or offer for sale, any specimen of the following species: *Aetobatus narinari* (spotted eagle ray), *Carcharhinus amblyrhynchos* (gray reef shark), *Carcharhinus melanopterus* (blacktip reef shark), *Cassis cornuta* (horned helmet), *Charonia tritonis* (Triton's trumpet), *Dasyatis hawaiiensis* (Hawaiian stingray), *Dasyatis lata* (broad stingray), *Pteroplatytrygon violacea* (pelagic stingray), *Galeocerdo cuvier* (tiger shark), *Rhincodon typus* (whale shark), or *Triaenodon obesus* (whitetip reef shark);
- (2) Possess more than five *Zebrasoma flavescens* (yellow tang) larger than 4.5 inches in total length, or possess more than five *Zebrasoma flavescens* smaller than two inches in total length;
- (3) Possess aquarium collecting gear, or take or possess any specimen of aquatic life for aquarium purposes:
- (A) Between sunset and sunrise, provided that collecting gear or collected aquatic life may be possessed after sunset or before sunrise if notification by phone is made to the Division of Aquatic Resources West

Hawai'i (DAR-Kona) office prior to sunset. The notification shall include the names of individuals who plan to possess the gear or aquatic life and the location where the possession will take place;

- (B) Without holding a valid West Hawai'i aquarium permit issued pursuant to section 13-60.4-7(a);
- (C) In violation of the terms and conditions of a West Hawai'i aquarium permit issued to that person; or
- (D) While occupying any vessel that does not conform to the registration and marking requirements of section 13-60.4-7(d);
- (4) Possess or use any net or container employed underwater to capture or hold aquatic life alive for aquarium purposes, that is not labeled with the commercial marine license number or numbers of the person or persons owning, possessing or using the equipment;
- (5) Possess a lay net or engage in lay net fishing in violation of the requirements of section 13-60.4-6; or
- (6) Engage in or attempt to engage in SCUBA spearfishing, possess both SCUBA gear and a spear at the same time, or possess SCUBA gear and any specimen of speared aquatic life at the same time.
- (7) Take or possess any pāku'iku'i before December 18, 2026. [Eff 12/26/13; comp 3/11/23; comp] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-3)

§13-60.4-5 Activities prohibited within selected areas. (a) No person may engage in fish feeding while within any of the [~~marine reserves,~~] fish replenishment areas[~~7~~] or netting restricted areas described in section 13-60.4-2(b) or any of the other areas listed in section 13-60.4-2(c).

(b) While within the fish replenishment areas

described in section [~~13-60.4-2(b)(2)~~] 13-60.4-2(b)(1) to (10), or while within any of the areas listed in section 13-60.4-2(c) other than the Kīholo Bay fisheries management area, no person may:

- (1) Collect aquatic life for aquarium purposes; or
- (2) Possess any aquarium collecting gear, or take or possess any specimen of aquatic life for aquarium purposes, except that aquarium collecting gear or aquatic life collected for aquarium purposes may be possessed while onboard a vessel in active transit through the areas, provided that no collecting gear is in the water during the transit. Boats that are adrift, anchored, or moored are not considered to be in active transit.

(c) No person may lay net fish while within the following areas, as described in section 13-60.4-2(b) and in the tables located at the end of this chapter entitled "Table of Reference Coordinates to [~~Marine Reserve and~~] Fish Replenishment Area Boundaries", dated [~~12/12/12,~~] 1/31/26, and "Table of Reference Coordinates to Netting Restricted Area Boundaries", dated 12/12/12:

- (1) Ka'ūpūlehu fish replenishment area;
 - (2) Puakō-'Anaeho'omalu fish replenishment area;
 - [~~(2)~~] (3) Kikaua Point-Mākole'ā netting restricted area (Kekaha Kai State Park);
 - [~~(3)~~] (4) Nenuē Point (Red Hill fish replenishment area)-Kealakekua Bay netting restricted area;
 - [~~(4)~~] (5) Hanamalo Point-Kanewa'a Point netting restricted area;
 - [~~(5)~~] (6) Kanonohe-Kalīpoa netting restricted area; and
 - [~~(6)~~] (7) Kaloko-Honokōhau fish replenishment area, except that a person may lay net fish in the Kaloko-Honokōhau fish replenishment area using only a locally-constructed, handmade lay net of natural fibers, that is used in compliance with section 13-60.4-6.
- [~~(d)~~] ~~Except as provided in subsection (c), and~~

~~subject to all other applicable laws, while within the Ka'ūpūlehu marine reserve no person may:~~

- ~~(1) Take or attempt to take any specimen of aquatic life, provided that the following species may be taken by hook and line seaward of the twenty fathom (120 feet) depth contour: *Pristipomoides filamentosus* ('ōpakapaka), *Pristipomoides sieboldii* (kalekale), *Aphareus rutilans* (lehi), *Pristipomoides zonatus* (gindai), *Etelis eoruscans* (onaga), *Etelis carbunculus* (ehu), *Epinephelus guernus* (hāpu'upu'u), *Aprion virescens* (uku), *Lutjanus kasmira* (ta'ape), *Cephalopholis argus* (roi), *Lutjanus fulvus* (toau), *Iniistius pavo* (nabeta), *Katsuwonus pelamis* (aku), *Thunnus spp.* ('ahi and tombo), Family Istiophoridae (a'u), *Acanthocybium solandri* ('ono), *Coryphaena spp.* (mahimahi); and provided further that *Ranina ranina* (kona crab) may be taken by kona crab nets only, while seaward of the twenty fathom (120 feet) depth contour;~~
- ~~(2) Possess any specimen of marine life other than the species listed in subsection (d) (1) above;~~
- ~~(3) Possess or use any fishing gear other than hook and line or kona crab nets or both; or~~
- ~~(4) Deploy any fishing gear (including hook and line or kona crab nets) shoreward of the twenty fathom (120 feet) depth contour.~~

~~(c) The department may issue permits in accordance with sections 187A-6 and 188-53, Hawaii Revised Statutes, for the take of non-native or invasive species of fish and invasive algae from the Ka'ūpūlehu Marine Reserve.~~

~~(f) Subsections (d) and (c) of this section shall be effective until June 30, 2026, or until the effective date of rules implementing a comprehensive fisheries management plan as developed by the department in consultation with the Ka'ūpūlehu community and other interested parties, whichever occurs later.] [Eff 12/26/13; am 7/29/16; am and comp~~

3/11/23; am and comp] (Auth: HRS
§§187A-5, 188-53, 188F-6, 190-3) (Imp: HRS §§187A-5,
188-53, 188F-6, 190-3)

§13-60.4-6 Lay net permit and use requirements.

(a) It is unlawful for any person within the West Hawai'i regional fishery management area to:

- (1) Possess or use a lay net without first obtaining a lay net permit pursuant to section 13-75-12.4;
- (2) Possess or use more than one lay net;
- (3) Possess or use a lay net:
 - (A) Longer than one hundred twenty-five feet in length or more than seven feet in stretched height;
 - (B) With less than two and three-fourths inches stretched mesh; and in Kailua Bay fisheries management area, with less than three inches stretched mesh; or
 - (C) With two or more joined lay nets with a combined total length of more than two hundred fifty feet;
- (4) Possess or use a multi-panel lay net; or
- (5) Possess or use a lay net that does not have at least four identification tags as specified by the department. Each identification tag must legibly display the lay net permit number of the person possessing or using the net. One identification tag must be attached at each end of both the net float line and the net lead line for a total of four attachment points on each lay net.

(b) It is unlawful for any person lay net fishing to:

- (1) Use a lay net that is not marked by buoys as specified by the department. The buoys shall legibly display the lay net permit number of the person using the lay net, be marked with reflective tape, and be visible

above the surface of the water. The buoys shall be attached to each end of the float line for a total of two buoys for each lay net;

- (2) Use a lay net within one thousand two hundred feet of any other lay net; provided that two or more individuals working together and using the lay net fishing method may use a joined net;
- (3) Use a lay net in water that is more than eighty feet in depth;
- (4) Use a lay net for more than four hours during any one set; provided that the same person shall not set any other lay net within twenty-four hours after the ending of the set;
- (5) Leave a lay net unattended for any amount of time, provided that a lay net shall be considered unattended if the lay net or surface buoys are not within eyesight of the person using the lay net;
- (6) Retrieve a lay net in such a manner as to cause coral to break from its attachment to the bottom or to break into smaller pieces. Any coral brought to the surface in the net shall be considered prima facie evidence of a violation of this section;
- (7) Fail to complete inspection of an entire lay net within two hours after the beginning of the set. The person lay net fishing shall inspect the lay net and release any threatened, endangered, prohibited, or unwanted species; or
- (8) Discard, abandon, or leave any lay net, or portion thereof, in the water for longer than four hours.

(c) It is unlawful for any person to falsely identify any lay net.

(d) Persons using a vessel or float may use a total maximum of two hundred fifty feet of lay net, provided that at least two persons are present and associated with the same vessel or float.

(e) Any lay net within the West Hawai'i regional fishery management area that does not have proper identification tags, as required in subsection (a)(1) and (a)(5), shall be subject to immediate seizure according to section 199-7, HRS, and subject to forfeiture by the department under procedures similar to chapter 712A, Hawaii Revised Statutes.

(f) This section shall not apply to panel mesh nets with a stretched mesh size of less than two and three-fourths inches that are marked with commercial marine license numbers as required under section 13-60.4-4(4), and permitted for use and possession under an aquarium permit and a West Hawai'i aquarium permit issued under section 13-60.4-7(a). [Eff 12/26/13; am and comp 3/11/23; am and comp] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-6, 199-7, 712A-6)

§13-60.4-7 Aquarium collecting permit and vessel registration requirements. (a) West Hawai'i aquarium permit. The department may issue West Hawai'i aquarium permits authorizing persons to engage in aquarium collecting activities for species listed in subsection (b) and to use fine meshed traps and nets (other than throw nets) to collect those species in the West Hawai'i regional fishery management area, notwithstanding section 13-75-14, subject to terms and conditions the department deems necessary for the management of the area and its resources. No person, unless exempted from provisions of this chapter by the issuance and possession of a valid special activity permit under section 187A-6, Hawaii Revised Statutes, shall engage in aquarium collecting activities within the West Hawai'i regional fishery management area without first having been issued and possessing a West Hawai'i aquarium permit in addition to a valid State of Hawai'i aquarium fish permit. Permits shall be valid for one year from the date of issuance unless revoked sooner, and are non-transferable. In addition to applying any other penalties provided by law, the department may revoke any West Hawai'i aquarium permit

for any infraction of these rules or the terms and conditions of the permit, and any person whose permit has been revoked shall not be eligible to apply for another West Hawai'i aquarium permit until the expiration of one year from the date of revocation.

(b) Aquarium species whitelist. In addition to other regulations deemed necessary for the management of the West Hawai'i regional fishery management area, an aquarium permit holder may only take or possess specimens of the following species of fish for aquarium purposes while within the West Hawai'i regional fishery management area: *Acanthurus achilles* (Achilles tang), *Acanthurus dussumieri* (eyestripe surgeonfish), *Acanthurus nigricans* (goldrim surgeonfish), *Acanthurus nigrofuscus* (brown surgeonfish), *Acanthurus olivaceus* (orangeband surgeonfish), *Acanthurus thompsoni* (Thompson's surgeonfish), *Anampses chrysocephalus* (psychedelic wrasse), *Canthigaster jactator* (whitespotted Toby), *Centropyge fisheri* (Fisher's angelfish), *Centropyge potteri* (Potter's angelfish), *Cephalopholis argus* (peacock grouper), *Chaetodon kleinii* (blacklip butterflyfish), *Chaetodon miliaris* (milletseed butterflyfish), *Chaetodon multicinctus* (multiband butterflyfish), *Chaetodon quadrimaculatus* (fourspot butterflyfish), *Chaetodon tinkeri* (Tinker's butterflyfish), *Cirrhilabrus jordani* (flame wrasse), *Cirrhitops fasciatus* (redbarred hawkfish), *Coris gaimard* (yellowtail Coris), *Ctenochaetus hawaiiensis* (chevron tang), *Ctenochaetus strigosus* (goldring surgeonfish, kole), *Dascyllus albisella* (Hawaiian Dascyllus), *Forcipiger flavissimus* (forcepsfish), *Gomphosus varius* (bird wrasse), *Halichoeres ornatissimus* (ornate wrasse), *Hemitaurichthys polylepis* (pyramid butterflyfish), *Lutjanus kasmira* (bluestripe snapper), *Macropharyngodon geoffroy* (shortnose wrasse), *Melichthys niger* (black Durgon), *Naso lituratus* (orangespine unicornfish), *Ostracion meleagris* (spotted boxfish), *Paracirrhites forsteri* (blackside hawkfish), *Pseudanthias hawaiiensis* (Hawaiian longfin Anthias), *Pseudocheilinus octotaenia* (eightline wrasse), *Pseudocheilinus tetrataenia*

(fourline wrasse), *Pseudojuloides cerasinus* (smalltail wrasse), *Sufflamen bursa* (lei triggerfish), *Thalassoma duperrey* (saddle wrasse), *Xanthichthys auromarginatus* (gilded triggerfish), and *Zebrasoma flavescens* (yellow tang); provided further that:

- (1) No *Zebrasoma flavescens* (yellow tang) may be taken or possessed in violation of section 13-60.4-4(2);
 - (2) No more than five *Ctenochaetus strigosus* (goldring surgeonfish or kole) larger than four inches in total length may be taken per day or possessed at any time; and
 - (3) No more than ten *Acanthurus achilles* (Achilles tang) may be taken per day, or possessed at any time.
- (c) Aquarium collecting vessel registration and marking requirements. All aquarium collecting vessels shall:

- (1) Be registered every year with the Division of Aquatic Resources West Hawai'i (DAR-Kona) office to take aquatic life for aquarium purposes within the West Hawai'i regional fishery management area. Each registration shall be valid for one year from the date of registration. The current vessel identification number issued by either the department or the United States Coast Guard shall serve as the registration number for each vessel;
- (2) Clearly display the capital letters "AQ" permanently affixed to both sides of the vessel, either near the top of the gunwales or on the superstructure. Unless otherwise specified, the "AQ" letters shall be no less than six inches high and three inches wide in either black or a color that contrasts with the background;
- (3) Fly a "stiffened" flag or pennant from the vessel with the letter "A" as specified by the department. The flag or pennant shall be provided at cost to aquarium permittees as specified by the department. The flag or

pennant shall be displayed and clearly visible from both sides of the vessel at all times while aquarium collecting gear or collected aquarium marine life or both are onboard;

- (4) Display a dive flag at all times when divers are in the water; and
- (5) In the event an aquarium collecting vessel becomes inoperable, the operator of the vessel shall immediately notify the department's division of conservation and resources enforcement or United States Coast Guard or both by VHF radio or by cellular phone or both.

(d) Control date. A control date was established in August 1, 2005 to possibly limit participation in the West Hawai'i regional fishery management area commercial aquarium fishery. Persons who begin fishing in the West Hawai'i regional fishery management area commercial aquarium fishery on or after the control date will not be assured continued participation if the department establishes an aquarium limited entry program in the future.

(e) Nothing in this chapter shall prevent the department from establishing another control date.

[Eff 12/26/13; comp 3/11/23; comp _____]

(Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-5, 188-53, 188F-3)

§13-60.4-8 Penalty. (a) Any person violating any provision of this chapter or the terms and conditions of any permit issued as provided by this chapter, shall be subject to:

- (1) Administrative penalties as provided by section 187A-12.5, HRS;
- (2) Criminal penalties as provided by sections 187A-13 and 188-70, HRS; and
- (3) Any other penalty as provided by law.

(b) 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. [Eff 12/26/13; am and comp 3/11/23; comp] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-12.5, 188-53, 188-70)

§13-60.4-8.5 Asset forfeiture. Any equipment, article, instrument, aircraft, vehicle, vessel, business record, or natural resource used or taken in violation of this chapter or the terms and conditions of any permit issued as provided by this chapter, may be seized and subject to forfeiture as provided by section 199-7 and chapter 712A, HRS. [Eff and comp 3/11/23; comp] (Auth: HRS §188-53) (Imp: HRS §199-7, ch. 712A)

§13-60.4-9 Severability. If any provision of this chapter, or the application thereof, to any person or circumstance is held invalid, the invalidity shall 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 12/26/13; comp 3/11/23; comp] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§1-23, 187A-5, 188-53, 188F-6)

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

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

5. The adoption of chapter 13-60.12 and amendments to and compilation of chapter 13-60.4, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant

Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on [INSERT DATE OF BLNR FINAL APPROVAL] and filed with the Office of the Lieutenant Governor.

RYAN K.P. KANAKA`OLE
Acting Chairperson
Board of Land and Natural
Resources

APPROVED AS TO FORM:

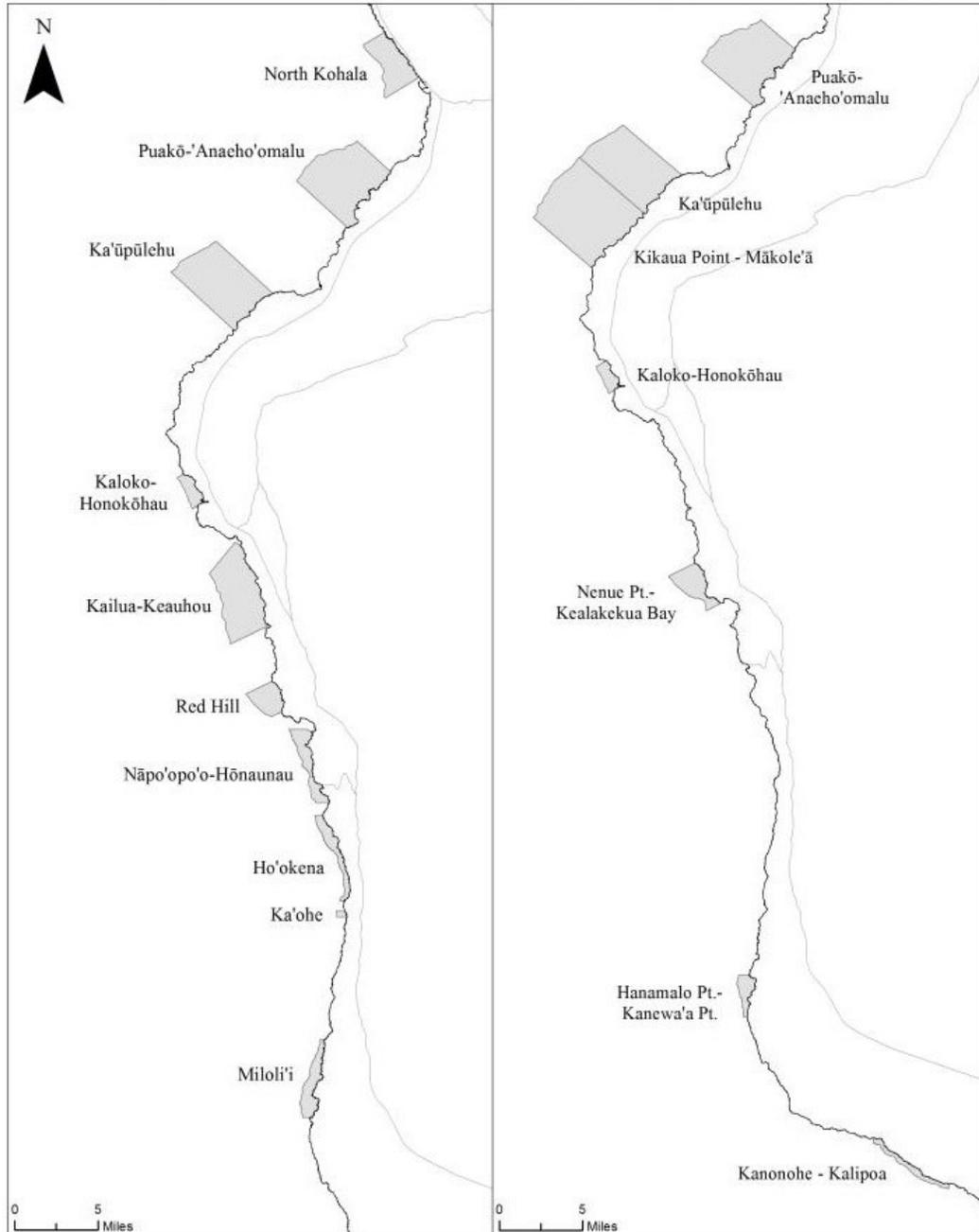
Alyssa Maui Yukiko Kaw

Deputy Attorney General

Map of Fish Replenishment Area and Netting Restricted Area Boundaries* (1/31/26)

Fish Replenishment Areas

Netting Restricted Areas



*Maps and tables do not reflect regulated areas and their specific prohibitions (including gear restrictions) that are defined in other chapters, as described in section 13-60.4-5(c)

Table of Reference Coordinates to Fish Replenishment Area Boundaries (1/31/26)

Area Name	Northern Landward Points (dGPS Coordinates)	Southern Landward Points (dGPS Coordinates)	Northern Seaward Points at 100 fathoms (dGPS Coordinates)	D (nm)	Southern Seaward Points at 100 fathoms (dGPS Coordinates)	D (nm)	@
North Kohala FRA	20° 04.826' N, 155° 51.934' W	20° 02.471' N, 155° 49.988' W	20° 04.378' N, 155° 53.344' W	1.40	20° 01.654' N, 155° 51.875' W	1.94	225°
Puakō - 'Anaeho'omalu FRA	19° 57.529' N, 155° 51.553' W	19° 54.641' N, 155° 53.893' W	19° 59.206' N, 155° 53.383' W	2.40	19° 57.034' N, 155° 56.658' W	3.54	300°
Ka'ūpūlehu FRA	19° 51.011' N, 155° 58.111' W	19° 49.209' N, 156° 00.132' W	19° 53.817' N, 156° 00.994' W	3.91	19° 51.724' N, 156° 03.947' W	4.39	300°
Kaloko - Honokōhau FRA	19° 41.442' N, 156° 02.350' W	19° 40.059' N, 156° 01.741' W	19° 41.368' N, 156° 03.031' W	0.35	19° 39.844' N, 156° 02.169' W	0.46	240°
Kailua - Keauhou FRA	19° 37.903' N, 155° 59.472' W	19° 33.716' N, 155° 57.829' W	19° 37.089' N, 156° 01.449' W	2.02	19° 32.801' N, 156° 00.004' W	2.21	245°
Red Hill FRA	19° 30.823' N, 155° 57.630' W	19° 29.252' N, 155° 57.068' W	19° 30.166' N, 155° 58.953' W	1.41	19° 28.991' N, 155° 57.536' W	0.51	235°
Nāpo'opo'o - Hōnaunau FRA	19° 28.230' N, ¹ 155° 55.370' W	19° 24.559' N, 155° 54.343' W	19° 28.350' N, ² 155° 56.898' W	1.13	19° 24.725' N, 155° 55.162' W	0.79	270°
Ho'okena FRA	19° 23.796' N, 155° 54.685' W	19° 19.458' N, 155° 53.426' W	19° 23.690' N, 155° 55.095' W	0.40	19° 19.403' N, 155° 53.688' W	0.25	240°
Ka'ohe FRA	19° 18.954' N, 155° 53.362' W	19° 18.714' N, 155° 53.296' W	19° 18.947' N, 155° 53.824' W	0.44	19° 18.706' N, 155° 53.806' W	0.48	270°
Miloli'i FRA	19° 12.179' N, 155° 54.369' W	19° 08.098' N, 155° 55.132' W	19° 12.179' N, 155° 54.599' W	0.15	19° 08.160' N, 155° 55.510' W	0.36	270°

FRA = Fish Replenishment Area

D (nm) = distance in nautical miles from the landward points to the seaward points

@ = compass heading from landward coordinates to seaward coordinates

¹ Northern Boundary runs 0.25nm along existing Kealakekua Bay MLCD southern boundary to 19° 28.443' N/155° 55.708' W and then 270° to seaward northern point.

² See Footnote 1.

Table of Reference Coordinates to Netting Restricted Area Boundaries (1/31/26)

Netting Restricted Area**	Northern Landward Points (dGPS Coordinates)	Southern Landward Points (dGPS Coordinates)	Northern Seaward Points at 100 fathoms (dGPS Coordinates)	D (nm)	Southern Seaward Points at 100 fathoms (dGPS Coordinates)	D (nm)	@
Puakō - 'Anaeho'omalū	19° 57.529' N, 155° 51.553' W	19° 54.641' N, 155° 53.893' W	19° 59.206' N, 155° 53.383' W	2.40	19° 57.034' N, 155° 56.658' W	3.54	300°
Ka'ūpūlehu	19° 51.011' N, 155° 58.111' W	19° 49.209' N, 156° 00.132' W	19° 53.817' N, 156° 00.994' W	3.91	19° 51.724' N, 156° 03.947' W	4.39	300°
Kikaua Point - Mākole'ā	19° 49.130' N, 156° 00.063' W	19° 46.356' N, 156° 03.024' W	19° 52.100' N, 156° 03.566' W	4.41	19° 49.000' N, 156° 06.164' W	3.98	300°
Kaloko - Honokōhau	19° 41.442' N, 156° 02.350' W	19° 40.059' N, 156° 01.741' W	19° 41.368' N, 156° 03.031' W	0.35	19° 39.844' N, 156° 02.169' W	0.46	240°
Nenuē Pt. - Kealakekua Bay	19° 30.823' N, 155° 57.630' W	19° 28.699' N, 155° 56.114' W	19° 30.166' N, 155° 58.953' W	1.41	19° 28.316' N, 155° 56.983' W	0.90	235°
Hanamalo Pt. - Kanewa'a Pt.	19° 09.273' N, 155° 54.973' W	19° 07.091' N, 155° 55.115' W	19° 09.275' N, 155° 55.564' W	0.55	19° 07.093' N, 155° 55.313' W	0.18	260°
Kanonone - Kalīpoa	19° 00.662' N, 155° 48.302' W	18° 58.180' N, 155° 44.182' W	19° 00.409' N, 155° 48.302' W	0.25	18° 57.941' N, 155° 44.183' W	0.24	200°

****Netting restrictions may also apply in marine reserves and fish replenishment areas (see map entitled "Fish Replenishment and Netting Restricted Area Boundaries", dated 1/31/26) and in areas designated under separate chapters, as described in section 13-60.4-2(c)**

D (nm) = distance in nautical miles from the landward points to the seaward points
 @ = compass heading from landward coordinates to seaward coordinates