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

August 22, 2008

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

Request Approval to Hold Public Hearings to Adopt Hawaii Administrative Rules, Chapter 13-60.7, Kahekili Herbivore Fisheries Management Area, Maui

Submitted for your consideration and approval is a request to hold public hearings to adopt Hawaii Administrative Rules (HAR), Chapter 13-60.7, Kahekili Herbivore Fisheries Management Area, Maui.

This proposed new chapter seeks to control an overabundance of invasive marine algae on coral reefs within this area by increasing the local abundance of herbivorous fishes and sea urchins through protection, thus enabling these species to provide increased ecosystem services in the form of algal grazing. These natural controls on marine algae proliferation are intended to help restore the area's marine ecosystem to a healthy condition.

RECOMMENDATION:

"That the Board approve the holding of public hearings for the proposed adoption of the HAR, Chapter 13-60.7, Kahekili Herbivore Fisheries Management Area, Maui."

Respectfully Submitted,

DAN POLHEMUS
Administrator

APPROVED FOR SUBMITTAL:

LAURA H. THIELEN
Chairperson

Attachment: Chapter 13-60.7 (7/17/08)

RAMSEYER DRAFT
(07/17/08)

DEPARTMENT OF LAND AND NATURAL RESOURCES

Adoption of Chapter 13-60.7
Hawaii Administrative Rules

(date)

1. Chapter 60.7 of Title 13, Hawaii Administrative Rules, entitled "Kahekili Herbivore Fisheries Management Area, Maui" 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 60.7

KAHEKILI HERBIVORE FISHERIES MANAGEMENT AREA, MAUI

§13-60.7-1 Purpose
§13-60.7-2 Definitions
§13-60.7-3 Boundaries
§13-60.7-4 Regulated activities
§13-60.7-5 Exceptions; permits
§13-60.7-6 Penalty

§13-60.7-1 Purpose. The Kahekili Herbivore Fisheries Management Area, Maui is designated to control the overabundance of marine algae on and about coral reefs within this area by increasing the local abundance of certain herbivorous fishes and sea urchins by fisheries management methods. Natural controls of marine algae are intended to help the marine ecosystem in the area return to a healthy balance. [Eff] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §188-53)

§13-60.7-2 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

"Acanthuridae" means the family of fishes commonly referred to as surgeonfish or tangs (including but not limited to 'api, kala, kole, manini, and palani).

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

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

"Kahekili Herbivore Fisheries Management Area" ("area") means the marine managed area of north Kā'anapali, Maui from Keka'a Point to Honokowai Park as described in section 13-60.7-3.

"Kā'anapali Beach" means the north Kā'anapali beach area from Keka'a Point to Honokowai Point.

"Keka'a Point" means the prominent lava rock point that separates Hanaka'ō'ō Beach on the south from Kā'anapali Beach on the north. This point is often referred to as Black Rock.

"Kyphosidae" means the family of fishes commonly referred to as sea chubs, rudderfish, or nenue.

"Herbivore" means any marine organism that feeds primarily on algae (limu).

"Hanaka'ō'ō Beach" means the beach fronting the southern portion of Kā'anapali Beach on the southern side of Keka'a Point (Black Rock).

"Scaridae" means the family of fishes commonly referred to as parrotfish or uhu.

"Sea urchins" are invertebrate marine animals of the class Echinoidea, variously referred to as, but not limited to, wana, hālula, hā'uke'uke, hāwa'e or 'ina. [Eff] (Auth: HRS §187A-5, 188-53) (Imp: HRS §188-53)

§13-60.7-3 <u>Boundaries.</u> (a) The Kahekili Herbivore Fisheries Management Area shall include that portion of submerged lands and overlying waters of the north Kā'anapali area as follows:

(1) The southern boundary shall begin at the highwater mark of the shoreline on

Hanaka'ō'ō Beach and run directly west (90°) to a point offshore along the southern rocky shoreline of Keka'a Point for a distance of 335 yards.

(2) The northern boundary shall begin at the highwater mark of the shoreline on the southern end of Honokowai Beach Park and run directly west (90°) to a point offshore for a distance of 1,292 yards.

(3) A straight line shall then run directly north (0°) and connect offshore points of the southern Hanaka'ō'ō Beach boundary with the northern Honokowai boundary.

(b) Boundaries are further described and include both landward and seaward GPS coordinates in the map entitled "Kahekili Herbivore Fisheries Management Area, Maui, Hawai'i" attached at the end of this chapter and made a part hereof. [Eff] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §188-53)

§13-60.7-4 Regulated activities. (a) No person shall engage in the following activities within the Kahekili Herbivore Fisheries Management Area:

(1) Injure, kill, possess, or remove any fish of the families Kyphosidae (sea chubs, nenue), Scaridae (parrotfish, uhu), or Acanthuridae (surgeonfish, tangs).

(2) Injure, kill, possess, or remove any sea urchins.

(3) Feed or deliberately introduce any food material, substance, or attractant, directly to or in the vicinity of any aquatic organism, by any means or for any purpose except as allowed in subsection (b).

(b) A person may engage in the following activities within the Kahekili Herbivore Fisheries Management Area:

(1) Fish for, injure, kill, possess, or remove any fish or invertebrate not prohibited in subsection (1) and subject to the provisions of all other existing statutes and rules.

(2) Use bait and other fish attractants in the process of fishing for any marine life not prohibited in paragraph (1) or other statutes or rules. [Eff] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §188-53)

§13-60.7-5 Exceptions; permits. The department may issue permits to engage in activities otherwise prohibited by law and section 13-60.7-4, in accordance with sections 187A-6 and 190-4, Hawai'i Revised Statutes, provided that:

(1) The board may impose terms and conditions it deems necessary to carry out the purpose of this chapter, including requiring a report or reports of any marine life taken from the area;

(2) The board may revoke any permit for any infraction of the terms and conditions of the permit;

(3) A person whose permit was revoked shall not be eligible to apply for another such permit until one year after the date of revocation; and

(4) The department may limit permits to purposes of public health, safety, and welfare; for resource management, or as described in section 187A-6, Hawai'i Revised Statutes.

[Eff] (Auth: HRS §§187A-5, 187A-6, 188-53) (Imp: HRS §§187A-6, 188-53)

§13-60.7-6 Penalty. Any person violating the provisions of this chapter may be punished as provided by sections 187A-12.5, 188-70, or chapter 199D, Hawai'i Revised Statutes, and as may be otherwise provided by law." [Eff] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§188-53, 188-70, 199D)

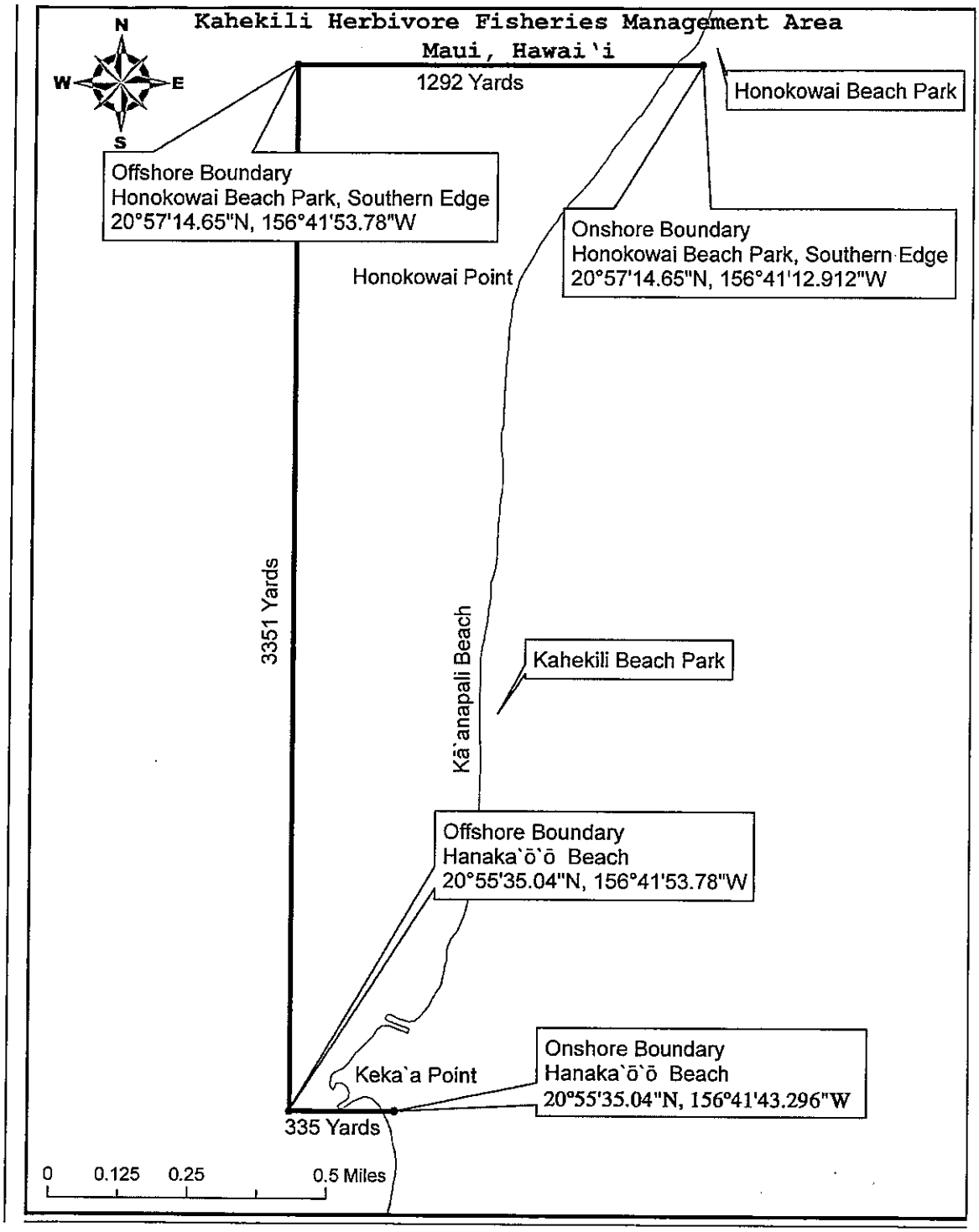
2. The adoption of chapter 13-60.7, Hawai'i Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

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

_____
LAURA H. THIELEN, Chairperson
Board of Land and Natural
Resources

APPROVED FOR PUBLIC HEARING:

_____
Deputy Attorney General


Kahekili Herbivore Fisheries Management Area
Maui, Hawai`i
N
W
E
S
1292 Yards
Honokowai Beach Park
Offshore Boundary
Honokowai Beach Park, Southern Edge
20°57'14.65"N, 156°41'53.78"W
Onshore Boundary
Honokowai Beach Park, Southern Edge
20°57'14.65"N, 156°41'12.912"W
Honokowai Point
3351 Yards
Kā`anapali Beach
Kahekili Beach Park
Offshore Boundary
Hanaka`ō`ō Beach
20°55'35.04"N, 156°41'53.78"W
Onshore Boundary
Hanaka`ō`ō Beach
20°55'35.04"N, 156°41'43.296"W
Keka`a Point
335 Yards
0
0.125
0.25
0.5 Miles