

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

July 8, 2010

Board of Land
and Natural Resources
Honolulu, Hawaii

Request for Approval to Hold Public Hearings for Amendments to
Hawaii Administrative Rules Chapter 13-95,
Rules Regulating the Taking and Selling of Certain Marine Resources

Submitted for your consideration and final approval are proposed amendments to Chapter 13-95. The amendments are part of a more comprehensive effort statewide to regulate the taking and selling of certain marine species. These amendments are primarily for Oahu with the other islands being separate rules.

RECOMMENDATION:

“That the Board approval the request to hold public hearings to amend Chapter 13-95 Rules Regulating the Taking and Selling of Certain Marine Resources.”

Respectfully submitted,



Francis G. Oishi
Program Manager

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN
Chairperson

Ramseyer Format
(6/23/10)

Rules Amending Title 13
Hawaii Administrative Rules

(Date)

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

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART V PROTECTED MARINE FISHERIES RESOURCES

CHAPTER 95

Rules Regulating the Taking and Selling
of Certain Marine Resources

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Historical Note: Section 13-95-22 is based substantially upon Chapter 87 of Title 13. [Eff 5/26/81; am 1/25/82; R 12/19/02]

Chapter 87 of Title 13 was based substantially upon Regulation 19 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff 3/28/58; am 10/6/58; R 5/26/81]

Historical Note: Sections 13-95-23 and 13-95-24 are based substantially upon Chapter 88 of Title 13. [Eff 5/26/81; am and comp 12/20/86; R 12/19/02]

Chapter 88 of Title 13 was based substantially upon Regulation 20 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff: 3/20/58; am 10/6/58; am 7/9/59; am 5/4/68; R 5/26/81] and Regulation 21 [Eff: 3/28/58; am 10/6/58; am 7/9/59; R 5/26/81]

Historical Note: Section 13-95-55 is based substantially upon Chapter 86 of Title 13 [Eff 5/26/81; R 12/19/02]

Chapter 86 of Title 13 was based substantially upon Regulation 18 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff. 3/28/58; am 10/6/58; R 5/26/81]

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

"Aholehole" means any fish known as *Kuhlia xenura* or *Kuhlia sandvicensis* or any recognized synonym.

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

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

"Bag limit" means a maximum number of individual specimen of aquatic life that one person may take or possess per day.

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

"Butaguchi" means any fish known as *Pseudocaranx cheilio*, *P. dentex* or any recognized synonym.

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

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

"Damage" means to smash, trample, or otherwise cause extensive injury resulting in irreparable harm or death.

"Day" means a twenty-four hour period.

"Dobe" means any fish known as *Uraspis helvola* or any recognized synonym.

"Goatfish" means the following marine fish belonging to the Family Mullidae - kumu, malu, moelua, moana, moana kali, munu, weke a, and weke ula. For the purposes of this chapter, the mimic goatfish, *Mulloidichthys mimicus*, the yellowbarbel goatfish, *Parupeneus chrysonemus*, and the introduced striped goatfish, *Upeneus vittatus*, are not included.

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

"Kagami" means any fish known as *Alectis ciliaris* or any recognized synonym.

"Kala" means any fish known as *Naso unicornis*, *Naso brevirostris*, *Naso annulatus*, or any recognized synonym.

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

"Kumu" means any fish known as *Parupeneus porphyreus* or any recognized synonym.

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

"Live rock" means any rock or coral to which marine life is visibly attached or affixed.

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

"Malu" means any fish known as *Parupeneus pleurostigma* or any recognized synonym.

"Manini" means any fish known as *Acanthurus triostegus sandvicensis* or any recognized synonym.

"Moana kali" means any fish known as *Parupeneus cyclostomus* or any recognized synonym. This fish is also known as moana kea and goldsaddle goatfish.

"Moano" means any fish known as *Parupeneus multifaciatatus* or any recognized synonym.

"Moi" means any fish known as *Polydactylus sexfilis* or any recognized synonym.

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

"Munu" means any fish known as *Parupeneus insularis* or any recognized synonym.

"Oio" means any fish known as *Albula glossodonta* or any recognized synonym.

"Omilu" means any fish known as *Caranx melampygus* or any recognized synonym.

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

"Paopao" means any fish known as *Gnathanodon speciosus* or any recognized synonym.

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

"Speared" means to capture aquatic life by stabbing with a spear or other such pointed device. The presence of any puncture wound on the external surfaces of the aquatic life, which are fresh and does not show signs of healing, shall be evidence that the aquatic life was speared.

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

"Spiny lobster" means any crustacean of the species *Panulirus penicillatus* or *P. marginatus*, or recognized synonyms. These animals are also known as lobster, Hawaiian spiny lobster, red lobster, green lobster, or ula.

"Stony coral" means any of a variety of invertebrate species belonging to the order *Scleractinia* characterized by having a hard, calcareous skeleton that are native to the Hawaiian islands.

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

"Uhu" means any fish known as *Scarus dubius*, *Scarus psittacus*, *Scarus rubroviolaceus*, *Chlorurus sordidus*, *Chlorurus perspicillatus*, or any recognized synonym. The adult males of this family are characterized by having primarily blue coloration

while the females are primarily red.

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

"Weke a" means any fish known as *Mulloidichthys flavolineatus* or any recognized synonym. These fish are also known as yellowstripe goatfish, white weke, weke [a], and the young of this fish is known as oama.

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

"Weke pueo" means any fish known as *Upeneus arge* or any recognized synonym. These fish are also known as bandtail goatfish and nightmare weke.

"Weke ula" means any fish known as *Mulloidichthys vanicolensis* or any recognized synonym. These fish are also known as yellowfin goatfish or red weke.

"White ulua " means any fish known as *Caranx ignobilis* or any recognized synonym.

[Eff 12/03/98; am 1/11/02; am 12/19/02; am and comp] (Auth: HRS §§187A-3.5, 187A-5) (Imp: HRS §§187A-3.5, 187A-5)

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

- (1) Licenses issued pursuant to section 187A-3.5, HRS;
- (2) Permits issued pursuant to section 187A-6, HRS;
- (3) Permits issued pursuant to section 188-23, HRS;
- (4) Permits issued pursuant to section 188-37, HRS;
- (5) Permits issued pursuant to section 188-44, HRS;
- (6) Permits issued pursuant to section 188-57, HRS;
- (7) Permits issued pursuant to section 188-68, HRS;
- (8) Licenses issued pursuant to section 189-6, HRS; and

(9) As may be otherwise provided by law.

(b) The provisions of this chapter shall apply Statewide; except as provided within those areas established under the following:

- (1) Section 6K-7, HRS, or any rule adopted thereunder;
- (2) Chapter 183D, HRS, wildlife sanctuaries, or any rule adopted thereunder;
- (3) Section 188-22.6, HRS, subsistence fishing area (SFA) or any rule adopted thereunder;
- (4) Section 188-22.7, HRS, Milolii SFA or any rule adopted thereunder;
- (5) Section 188-22.8, HRS, Ewa limu management area, or any rule adopted thereunder;
- (6) Section 188-22.9, HRS, Haena SFA or any rule adopted thereunder;
- (7) Section 188-34, HRS, Honolulu and Hilo harbors, or any rule adopted thereunder;
- (8) Section 188-35, HRS, or any rule adopted thereunder;
- (9) Section 188-36, HRS, Hawaii marine laboratory refuge, or any rule adopted thereunder;
- (10) Section 188-53, HRS, or any rule adopted thereunder;
- (11) Chapter 188F, HRS, west Hawaii regional fisheries management area, or any rule adopted thereunder;
- (12) Chapter 190, HRS, marine life conservation district, or any rule adopted thereunder;
- (13) Chapter 195, HRS, natural area reserve system, or any rule adopted thereunder; or
- (14) As may be otherwise provided by law. [Eff 12/19/02; am] (Auth: HRS §§6K, 183D, 187A-3.5, 187A-5, 187A-6, 188-22.6, 188-22.7, 188-22.8, 188-22.9, 188-23, 188-34, 188-35, 188-36, 188-37, 188-44, 188-45, 188-53, 188-57, 188-68, 188F-6, 189-6, 190-3, 195-5) (Imp: HRS §§6K, 183D, 187A-3.5, 187A-5, 187A-6, 188-22.6, 188-22.7, 188-22.8, 188-22.9, 188-23, 188-34, 188-35, 188-36, 188-37, 188-44, 188-45, 188-53, 188-57, 188-68, 188F-6, 189-6, 190-3, 195-5)

§13-95-1.2 Applicability. (a) Whenever in this chapter a provision or provisions for Oahu, Maui, Lanai, Molokai, or Hawaii is specified, the provision

shall apply only on, in, or around that island or islands and only to those lands or waters under the jurisdiction of the State.

(b) For enforcement purposes, waters of an island shall include all state marine waters extending seaward three miles from the highest wash of the waves on the shore of that island, and further identified as "Map of the Oahu Marine Fisheries Management Area", "Map of the Kauai Marine Fisheries Management Area", "Map of the Maui Marine Fisheries Management Area", "Map of the Molokai Marine Fisheries Management Area", "Map of the Lanai Marine Fisheries Management Area", and "Map of the Hawaii Marine Fisheries Management Area", attached at the end of this chapter and made a part of this section.

(c) If no island is specified, the provision shall apply Statewide. [Eff and comp]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-2 Penalty. (a) A person violating this chapter shall be guilty of a petty misdemeanor, subject to administrative and civil penalties, and punished as provided by law.

(b) For the purpose of calculating the administrative fines for violations of this chapter, where a per specimen fine is applicable, the per specimen fines shall be as follows:

- 1) For finfish, each individual;
 - 2) For mollusks, each individual;
 - 3) For invertebrates not including non-clonal stony coral or live rocks, each individual;
 - 4) For non-clonal stony corals, each individual or in the case of Fungidae, each polyp;
 - 5) For clonal stony corals, each head less than 12 inches in diameter;
 - 6) For clonal stony corals, each head larger than 12 inches, one square meter;
 - 7) For rubble, one square meter;
 - 8) For live rocks, one square meter;
 - 9) For algae, not including crustose coralline algae, one-half wet pound;
 - 10) For crustose coralline algae, one square meter;
 - 11) For loose sand, one gallon; and
 - 12) For consolidated sand, one square meter.
- Diameter is measured in a straight line along the

longest axis. [Eff 12/03/98; am and comp
] (Auth: HRS §§187A-5, 187A-12.5, 187A-13,
188-53, 188-70, 189-4, 199D-7) (Imp: HRS §§187A-5,
187A-12.5, 187A-13, 188-53, 188-70, 189-4, 199D-7)

§13-95-2.1 Administrative sanctions; schedule;
factors to be considered. (a) Persons violating
provisions of this chapter may be processed
administratively in accordance with chapter 13-1 rules
of practice and procedure, hawaii administrative rules,
and subject to administrative sanctions as provided
herein or as otherwise provided by law.

(b) For the purposes of providing guidance in the
assessment of administrative sanctions and promoting
consistency within the department, the board may adopt,
amend, or repeal one or more administrative sanctions
schedules.

(c) The administrator, divisions, or conservation
and resource enforcement officers shall use the
appropriate administrative sanctions schedule relating
to the violation when issuing a notice of civil
resource violation.

(d) The board or its delegates shall set a
sanction for a civil resource violation after
consideration of the administrative sanctions schedule
and other factors that may be deemed appropriate or
relevant. [Eff and comp] (Auth:
HRS §199D-1) (Imp: HRS §199D-1)

§13-95-3 Severability. If any provision of this
chapter, or the application thereof to any person or
circumstance is held invalid, the invalidity does not
affect other provisions or applications of the chapter
which can be given effect without the invalid provision
or application, and to this end the provisions of this
chapter are severable. [Eff 12/03/98; comp
] (Auth: HRS §§1-23, 187A-5, 188-53)
(Imp: HRS §§1-23, 187A-5, 188-53)

§13-95-4 Aholehole. It shall be unlawful for
any person to take, possess, or sell any aholehole
less than five inches in length; except as provided
for Hawaii island refer to chapter 13-60.8, HAR, and
for Maui and Lanai, refer to chapter 13-60.85, HAR.
[Eff 12/03/98; am 12/19/02; am

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

§13-95-5 Manini. It shall be unlawful for any person to take, possess, or sell any manini less than five inches in length; except as provided for Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.85, HAR. [Eff 12/03/98; am 12/19/02; am] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-6 Moano. (a) It [shall be] is unlawful for any person to take, possess, or sell any moano less than seven inches in length, except as provided in (b) or (c).

(b) For Oahu, it is unlawful for any person:

(1) Without a commercial marine license to:

(A) Take or possess any moano less than eight inches in length; or

(B) Take or possess more moano than the bag limit as provided in section 13-95-7.6; or

(2) With a commercial marine license to take, possess, or sell any moano less than seven inches in length.

(c) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.9, HAR. [Eff 12/03/98; am 12/19/02; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-6.1 Weke nono. (a) For Oahu, it is unlawful for any person:

(1) Without a commercial marine license to take or possess more weke nono than the bag limit as provided in section 13-95-7.6; or

(2) With a commercial marine license to take, possess, or sell any weke nono less than ten inches in length.

(c) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.85, HAR. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-6.2 Malu. (a) For Oahu, it is unlawful

for any person:

- (1) Without a commercial marine license to take or possess more malu than the bag limit as provided in section 13-95-7.6; or
- (2) With a commercial marine license to take, possess, or sell any malu less than ten inches in length.
- (c) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.9, HAR. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-7 Kumu. (a) It [shall be] is unlawful for any person to take, possess, or sell any kumu less than ten inches in length, except as provided in (b) or (c).

- (b) For Oahu, it is unlawful for any person:
 - (1) Without a commercial marine license to:
 - (A) Take or possess any kumu less than twelve inches in length; or
 - (B) Take or possess more than the bag limit as provided in section 13-95-7.5; or
 - (2) With a commercial marine license to:
 - (A) Take, possess, or sell any kumu less than ten inches in length; or
 - (B) Sell any kumu during January, February, March, and April.
- (c) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.9, HAR. [Eff 12/03/98; am 12/19/02; am and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-7.1 Moana kali. (a) For Oahu, it is unlawful for any person:

- (1) Without a commercial marine license to:
 - (A) Take or possess any moana kali less than twelve inches in length; or
 - (B) Take or possess more than the bag limit as provided in section 13-95-7.5; or
- (2) With a commercial marine license to:
 - (A) Take, possess, or sell any moana kali less than ten inches in length; or
 - (B) Sell any moana kali during January, February, March, and April.

(b) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.9, HAR. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-7.2 Munu. (a) For Oahu, it is unlawful for any person:

- (1) Without a commercial marine license to:
 - (A) Take or possess any munu less than twelve inches in length; or
 - (B) Take or possess more than the bag limit as provided in section 13-95-7.5; or
- (2) With a commercial marine license to:
 - (A) Take, possess, or sell any munu less than ten inches in length; or
 - (B) Sell any munu during January, February, March, and April.

(c) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.9, HAR. [Eff 12/03/98; am 12/19/02; comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-7.3 Weke ula. (a) For Oahu, it is unlawful for any person:

- (1) Without a commercial marine license to take or possess more weke ula than the bag limit as provided in section 13-95-7.4; or
- (2) With a commercial marine license to take, possess, or sell any weke ula less than eight inches in length.

(b) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.9, HAR. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-7.4 Goatfish, generally. (a) For Oahu, it is unlawful for any person without a commercial marine license to take or possess more than a bag limit of ten goatfish; including and subject to the bag limits provided in sections 13-95-7.5 and 13-95-7.6, but not including the bag limit provided in section 13-95-24.

(b) For Hawaii island refer to chapter 13-60.8,

HAR, and for Maui and Lanai, refer to chapter 13-60.9,
HAR. [Eff and comp] (Auth: HRS §187A-
5) (Imp: HRS §187A-5)

§13-95-7.5 Goatfish, group 1, Oahu. For Oahu,
goatfish group 1 shall consist of kumu, moana kali,
and munu. It is unlawful for any person without a
commercial marine license to take or possess more than
a goatfish group 1 bag limit of:

- (1) Two kumu or two moana kali or two munu; or
- (2) A total of two kumu, moana kali, and munu
combined. [Eff and comp]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-7.6 Goatfish, group 2, Oahu. For Oahu,
goatfish group 2 shall consist of moana, weke nono,
and malu. It is unlawful for any person without a
commercial marine license to take or possess more than
a goatfish group 2 bag limit of:

- (1) Three moana or three moelua or three malu; or
- (2) A total of three moana, weke nono, and malu
combined. [Eff and comp]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-8 Mullet. (a) It shall be unlawful
for any person to take, possess, or sell any mullet
less than eleven inches in length.

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

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

§13-95-10 Oio. It shall be unlawful for any person to take, possess, or sell any oio less than fourteen inches in length. [Eff 12/03/98; am 12/19/02; am] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-11 Kala. It shall be unlawful for any person to take, possess, or sell any kala less than fourteen inches in length. [Eff 12/03/98; am 12/19/02; am] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

§13-95-13 Opakapaka. It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any opakapaka less than one pound in weight.
(b) It shall be unlawful for any person to take with spear or possess any speared opakapaka less than one pound in weight. [Eff 12/03/98; am] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-14 Onaga. It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any onaga less than one pound in weight.
(b) It shall be unlawful for any person to take with spear or possess any speared onaga less than one pound in weight. [Eff 12/03/98; am] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-15 Uku. (a) It shall be unlawful for any

person to possess with the intent to sell, or offer for sale, any uku less than one pound in weight.

(b) It shall be unlawful for any person to take with spear or possess any speared uku less than one pound in weight. [Eff 12/03/98; am]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-16 Uhu. (a) It shall be unlawful for any person to take, possess, or sell any uhu less than twelve inches in length; except as provided in subsection (b) and (c) and sections 13-95-16.1, 13-95-16.2, and 13-95-16.3.

(b) For Oahu, it is unlawful for any person without a commercial marine license to take or possess more than a bag limit of five uhu; including and subject to the bag limits provided in sections 13-95-16.3.

(c) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.85, HAR.

[Eff 12/03/98; am 12/19/02; am

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

§13-95-16.1 Palukaluka. (a) For Oahu, it is unlawful for any person:

(1) Without a commercial marine license to:

(A) Take or possess any palukaluka less than fourteen inches in length; or

(B) Take or possess more palukaluka than the bag limit as provided in section 13-95-16.3; or

(2) With a commercial marine license to:

(A) Take, possess, or sell any palukaluka less than twelve inches in length; or

(B) Sell any palukaluka during January, February, March, and April.

(c) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.85, HAR. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-16.2 Uliuli. (a) For Oahu, it is unlawful for any person:

(1) Without a commercial marine license to:

- (A) Take or possess any uliuli less than fourteen inches in length; or
- (B) Take or possess more uliuli than the bag limit as provided in section 13-95-16.3; or
- (C) Take or possess any male uliuli; or
- (2) With a commercial marine license to:
 - (A) Take, possess, or sell any uliuli less than twelve inches in length; or
 - (B) Sell any uliuli during January, February, March, and April; or
 - (C) Take, possess, or sell any male uliuli.
- (c) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.85, HAR. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-16.3 Parrotfish, group 1, Oahu. For Oahu, parrotfish group 1 shall consist of palukaluka and uliuli. It is unlawful for any person without a commercial marine license to take or possess more than the parrotfish group 1 bag limit of:

- (1) Two palukaluka or two uliuli; or
- (2) A total of two palukaluka and uliuli combined. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

(b) It shall be unlawful for any person to take with spear or possess any speared ahi less than three pounds in weight. [Eff 12/03/98; am] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-18 Opelu. It shall be unlawful for any person at any time, to fish for or take, or be engaged in fishing or taking opelu with fish or animal bait within the waters off the coast of South Kona, island of Hawaii, between the Kiilae-Keokea boundary and the Kapua-Kaulanamauna boundary, except with hook and line. [Eff 12/03/98; am] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

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

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

(b) It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any iao; provided that the department may issue licenses pursuant to section 13-74-22, to take iao for use as bait only. [Eff 12/03/98; am] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

(b) It is unlawful for any person to fish for, catch, or take in or from any of the waters within the jurisdiction of the State any nehu; provided that the department may issue licenses pursuant to section 13-74-22, to take nehu for use as bait only and as maybe otherwise allowed under chapter 13-90. [Eff 12/03/98; am] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-22 Ulua. (a) It is unlawful for any person to take or possess any ulua less than ten inches in length; except as provided in sections 13-95-22.1 and 13-95-22.2.

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

(c) [It] Except as provided in sections 13-95-22.1, 13-95-22.2, 13-95-22.7, and 13-95-22.8 it is unlawful for any person to take or possess more than twenty ulua measuring more than ten inches in length per day; provided that a commercial marine licensee may take, possess, and sell more than twenty such ulua; and further provided that a commercial marine dealer may possess and sell more than twenty such ulua with receipts issued for the purchase pursuant to section 189-11, Hawaii Revised Statutes.

(d) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.85, HAR. [Eff 12/19/02; am] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-22.1 White ulua. (a) For Oahu, it is unlawful for any person:

- (1) Without a commercial marine license to:
 - (A) Take or possess any white ulua less than seven inches in length; or
 - (B) Take or possess more white ulua than the bag limit as provided in sections 13-95-22 or 13-95-22.7; or
 - (C) Take or possess more than two white ulua longer than twenty-four inches in length; or
- (2) With a commercial marine license to take, possess, or sell any white ulua less than sixteen inches in length.

(c) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.85, HAR. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-22.2 Omilu. (a) For Oahu, it is unlawful for any person:

- (1) Without a commercial marine license to:
 - (A) Take or possess any omilu less than seven inches in length; or
 - (B) Take or possess more omilu than the bag limit as provided in sections 13-95-22 or 13-95-22.7; or
- (2) With a commercial marine license to take,

possess, or sell any omilu less than sixteen inches in length.

(c) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.85, HAR. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-22.3 Dobe. (a) For Oahu, it is unlawful for any person:

(1) Without a commercial marine license to:

(A) Take or possess any dobe less than ten inches in length; or

(B) Take or possess more dobe than the bag limit as provided in sections 13-95-22; or

(2) With a commercial marine license to take, possess, or sell any dobe less than ten inches in length.

(c) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.85, HAR. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-22.4 Kagami. (a) For Oahu, it is unlawful for any person:

(1) Without a commercial marine license to take or possess more than a bag limit of five kagami; or

(2) With a commercial marine license to take, possess, or sell any kagami less than sixteen inches in length.

(c) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.85, HAR. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-22.5 Paopao. (a) For Oahu, it is unlawful for any person:

(1) Without a commercial marine license to take or possess more than a bag limit of five paopao; or

(2) With a commercial marine license to take, possess, or sell any paopao less than sixteen inches in length.

(c) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.85, HAR. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-22.6 Butaguchi. (a) For Oahu, it is unlawful for any person:

- (1) Without a commercial marine license to:
 - (A) Take or possess any butaguchi less than ten inches in length; or
 - (B) Take or possess more butaguchi than the bag limit as provided in sections 13-95-22; or
- (2) With a commercial marine license to take, possess, or sell any butaguchi less than sixteen inches in length. [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-22.7 Jacks, group 1, Oahu. For Oahu, jacks group 1 shall consist of white ulua and omilu. It is unlawful for any person without a commercial marine license to take or possess more than the jacks group 1 bag limit of:

- (1) Three white ulua or three omilu; or
 - (2) A total of three of both white ulua and omilu combined; and
 - (3) Measuring no less than seven inches nor more than ten inches in length. [Eff and comp] (Auth: HRS §187A-5)
- (Imp: HRS §187A-5)

§13-95-22.8 Jacks bag limit; Oahu. For Oahu, the jacks bag shall consist of ulua, dobe, kagami, paopao, and butaguchi. It is unlawful for any person without a commercial marine license to take or possess a jacks bag limit of more than a total of five fish of all species in the jacks bag combined; not including the bag limits as provided in sections 13-95-22.7 and 13-95-22.1(a)(1)(C). [Eff and comp] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

eleven inches in length.

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

(c) It is unlawful for any person to take, possess, or sell any moi during June, July, and August; except as provided for Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.85, HAR. [Eff 12/19/02; am]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-24 Weke a. (a) It is unlawful for any person to take or possess more than fifty weke less than seven inches in length per day; except as provided in (c) or (d).

(b) It is unlawful for any person to sell any weke less than seven inches in length; except as provided in (c) or (d).

(c) For Oahu, it shall be unlawful for any person:

(1) Without a commercial marine license to:

(A) Take or possess more than fifty weke less than seven inches in length; or

(B) Take or possess more than 10 weke a larger than seven inches in length; or

(2) With a commercial marine license to take, possess, or sell any weke less than eight inches in length.

(d) For Hawaii island refer to chapter 13-60.8, HAR, and for Maui and Lanai, refer to chapter 13-60.9, HAR. [Eff 12/19/02; am and comp]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-50 Kuhonu crab. (a) It shall be unlawful for any person to possess with the intent to sell, or offer for sale, any kuhonu crab less than four inches in length or in width across or along its back.

(b) It is unlawful for any person to catch or take from any bays, harbors, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for

sale, or to kill, any kuhonu crab while with eggs. Any kuhonu crab with eggs caught must immediately be returned to the waters from which the crab was taken. The possession of any kuhonu crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(c) No person shall pursue, take, or kill any kuhonu crab in the State with a spear.

(d) No person shall offer for sale any speared kuhonu crab. [Eff 12/03/98; am]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-51 Kona crab. (a) It shall be unlawful for any person to take, possess, or sell any Kona crab less than four inches in carapace length.

(b) It is unlawful for any person to take, possess, or sell any Kona crab taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

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

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

(e) No person shall pursue, take, or kill any Kona crab in the State with a spear.

(f) No person shall possess or sell any speared Kona crab. [Eff 12/03/98; am 12/19/02; am]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-52 Samoa crab. (a) It is unlawful for any person to catch or take from any bay, harbor, or

other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any samoan crab while with eggs. Any samoan crab with eggs caught must immediately be returned to the waters from which the samoan crab was taken. The possession of any samoan crab, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(b) No person shall pursue, take, or kill any samoan crab in the State with a spear.

(c) No person shall offer for sale any speared samoan crab. [Eff 12/03/98; am] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-53 Spiny lobster. (a) It is unlawful for any person to take, kill, sell, or offer for sale, or have in possession any spiny lobster taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

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

(c) It is unlawful for any person to catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any spiny lobster while with eggs. Any spiny lobster with eggs caught must immediately be returned to the waters from which the spiny lobster was taken. The possession of any spiny lobster, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(d) No person shall pursue, take, or kill any spiny lobster in the State with a spear.

(e) No person shall offer for sale any speared spiny lobster. [Eff 12/03/98; am] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-54 Slipper lobster. (a) It is unlawful for any person to take, kill, sell, or offer for sale, or have in possession any slipper lobster taken from the waters within the jurisdiction of the State during the months of May, June, July, and August.

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

(c) It is unlawful for any person to catch or take from any bay, harbor, or other waters of the State, or to expose or offer for sale, or to hold in possession with the intent of exposing or offering for sale, or to kill, any slipper lobster while with eggs. Any slipper lobster with eggs caught must immediately be returned to the waters from which the slipper lobster was taken. The possession of any slipper lobster, showing indications of the eggs having been scraped or removed therefrom, shall be prima facie evidence of the violation of this section.

(d) No person shall pursue, take, or kill any slipper lobster in the State with a spear.

(e) No person shall offer for sale any speared slipper lobster. [Eff 12/03/98; am]
(Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

§13-95-70 Stony corals. (a) It is unlawful for any person to take stony coral, or to break or damage any stony coral with a crowbar, chisel, hammer, or any other implement.

(b) It is unlawful for any person to sell any stony coral; except that stony coral rubble pieces or

fragments imported for the manufacture and sale of coral jewelry or stony coral obtained through legal dredging operations in Hawaii for agricultural or other industrial uses may be sold. [Eff 12/03/98; am 12/09/02; am] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-71 Live rocks. (a) It is unlawful for any person to take live rock, or to break or damage with crowbar, chisel, or any other implement, any rock or coral to which marine life is visibly attached or affixed.

(b) It is unlawful for any person to sell any rock or coral to which marine life is visibly attached or affixed. [Eff 12/03/98; am 12/09/02; am] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

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

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

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

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

Laura H. Thielen, Chairperson
Board of Land and Natural Resources

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General