

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

February 22, 2013

Board of Land
and Natural Resources
Honolulu, Hawaii

Request for Approval to Hold a Public Hearing to Amend and Compile Hawaii Administrative Rules, Chapter 13-63. Amendments to Chapter 13-63 would be to Prohibit the Use of Stand-Up Paddleboards, Allow Fishing only when the Boat is Anchored, and Prohibit Possession of any Net within the Waiakea Public Fishing Area. Also, Chapter 13-63 would Update Provisions on the Mullet Closed Season and the Taking of Female Samoan Crabs to be Consistent with Existing Regulations within the Waiakea Public Fishing Area, Hilo, Hawaii, Waiakea Public Fishing Area, Hawaii

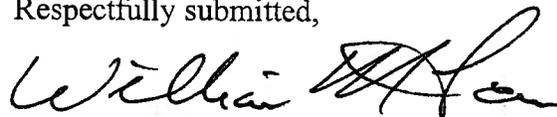
Submitted for your consideration and approval is a request to hold a public hearing to amend Chapter 13-63, Waiakea Public Fishing Area, Hawaii Administrative Rules (HAR) to better manage the activities within the Waiakea Public Fishing Area (PFA) in Hilo, Hawaii. The goals of the proposed rule amendment will be to prohibit the use of stand-up paddleboards, limit boat fishing to only when the boat is anchored, and to prohibit the possession or use of any net within the PFA. Other minor amendments include the updating of provisions on the mullet closed season and the taking of female Samoan crabs to be consistent with existing regulations.

The calm waters of the PFA have attracted stand-up paddleboarders (SUPs) where they conflict with persons who are fishing. The proposed amendment would return the situation to the condition before the SUPs became popular. The provision to limit boat fishing to only when anchored is to prevent drift or troll fishing as the PFA is not large enough to support such activities. The prohibition on the use of nets is to eliminate any conflicts between net and pole fishers.

RECOMMENDATION:

“That the Board approve the holding of a public hearing for the adoption of Chapter 13-63, Waiakea Public Fishing Area, Hawaii.”

Respectfully submitted,



WILLIAM TAM
Acting Administrator

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR.
Chairperson

RAMSEYER DRAFT
(11/21/12)

Rules Amending Title 13
Hawaii Administrative Rules

(Date)

1. Chapter 63 of Title 13, Hawaii Administrative Rules, entitled "Waiakea Public Fishing Area, Hawaii" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART III FRESHWATER FISHERIES MANAGEMENT
AREAS

CHAPTER 63

WAIAKEA PUBLIC FISHING AREA, HAWAII

§13-63-1 Definitions
§13-63-2 Prohibited activities
§13-63-3 Permitted activities
§13-63-4 Penalty

Historical Note. Chapter 63 of Title 13 is based substantially upon Regulation 34 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff. 3/23/70; R 5/26/81]

§13-63-1 Definitions. As used in this chapter, unless otherwise provided:

"Aholehole" means any marine fish [known as] belonging to the genus Kuhlia [~~sandvicensis~~] or a recognized synonym. Also known as, among other names, pua aholehole, ahole, and Hawaiian flagtail.

"Bait purposes" means using any aquatic life, in part, whole or extract, as an attractant, for the same or other species of aquatic life, in such a manner that enables a person or persons to more easily capture other aquatic life.

"Boat" means any small vessel propelled by oars, paddles or by sail or power.

"Dip net" means a hand net used to scoop or capture the crab or shrimp after the crab or shrimp has been lured close enough to be scooped or captured.

"Hand net" means a net consisting of a round hoop with the netting material secured to the hoop attached to a single handle for holding in one hand.

"Landing net" means a hand net used to secure the capture of the fish after the fish has been hooked.

"Mahohuli fish pond" means that body of water bounded by the highest wash of the tidal water on land and further identified as located west of and adjacent to Waiakea fish pond. Also known as Mohouli fish pond and Mohouli pond.

"Mullet" means any fish known as *Mugil cephalus* or a recognized synonym. Also known as, among other names, ama'ama, anaeholo, pua, gray mullet and striped mullet.

"Samoan crab" means any crab known as *Scylla serrata* or a recognized synonym. Also known as, among other names, the serrate swimming crab.

"Spear" means any fishing device consisting of a straight rigid shaft with one or more sharpened points at one end of the shaft, along with, any device that aids in the aiming accuracy or the force of propulsion of the shaft. A spear includes, but is not limited to, spear gun, bow and arrow, Hawaiian sling, and three-prong spear. Also includes any similar device that is capable of impaling aquatic life to allow capture, with or without the aid of artificial propulsion.

"Spearing" means using or attempting to use a

spear, on or near the water where aquatic life may be taken.

"Ulua" means any fish belonging to the genera Gnathanodon, Alectis, Carangoides, and Caranx or recognized synonyms. Also including the young known as papio, papiopio, and pau u'u. Also known as, among other names, omilu, ulua aukea, ulua ele'ele, jacks, and trevallys.

"Vessel" means all description of watercraft used as or capable of being used as a means of transportation on or in the water.

"Waiakea public fishing area" means that portion of the Waiakea fish pond in the Wailoa river state park south of the footbridge over the Wailoa river, including the Wailoa river flood control channel to the highest wash of the tidal water in the channel and including that body of water known as the Mahohuli fishpond as delineated in "Map of Waiakea Public Fishing Area, Hawaii 4/24/98," attached at the end of and incorporated into this chapter.

"Width" means the widest measured straight line distance between the right and left edges of the crab's carapace or back shell, excluding the legs.
[Eff 5/26/81; am and comp 1/15/99; am and comp
] (Auth: HRS §188-53) (Imp: HRS §188-53)

§13-63-2 Prohibited activities. (a) [~~No person shall engage in the following activities~~] It is unlawful for any person within the Waiakea public fishing area to:

(1) Operate boats:

(A) For purposes other than fishing; provided that a person may only fish from an anchored boat that is stationary;

(B) Constructed of material other than wood unless provided with floatation to render the boat unsinkable, provided that any juvenile under the age of thirteen shall not be allowed to

- operate any boat; unless accompanied by an adult eighteen years of age or older;
- (C) Propelled by any fossil fuel motor;
 - (D) Between the hours of 7:30 p.m. and 6:30 a.m.; or
 - (E) Without a life preserver for each occupant; or
- (2) ~~[Permanently moor]~~ Anchor or moor any boat during the hours provided in subsection (a) (1) (D);
 - (3) Swim, water ski, use a surfboard or stand up paddle board or other activity requiring immersion;
 - (4) ~~[Fish for mullet during the closed season months of December, January and February;~~
 - ~~(5)] Snag any fish;~~
 - ~~[(6) Enter into or fish in any area posted as fishing reserves or prohibited fishing zones;~~
 - ~~(7) Take or possess more than three Samoan crabs per day, or take or possess any Samoan crab less than six inches (15.24 centimeters) in width; or~~
 - ~~(8)] (5) Possess a spear or engage in spearing[.] ;~~
 - (6) Possess or use any net; except a landing net to land marine life after they are hooked as provided in section 13-63-3(1) or a dip net as provided in section 13-63-3(2); or
 - (7) Possess, use or attempt to use any fishing gear that is prohibited statewide by the department by law.
- (b) It is unlawful for any person on or about the water within the Waiakea public fishing area to take, possess, or kill:
- (1) More than three Samoan crabs per day, or take or possess any Samoan crab less than six inches (15.24 centimeters) in width, or take or possess any female Samoan crab;
 - (2) Any mullet during December, January, February, and March, or any mullet less than

- eleven inches in length;
- (3) An overall total of more than twenty per day of the following fishes:
- (A) Aholehole;
 - (B) Papiro, including ulua; and
 - (C) Mullet; providing such mullet shall not comprise more than ten of the overall total of twenty fishes; or
- (4) Any marine life that is prohibited statewide by the department by law.
- (c) Except as provided in section 13-63-3, it is unlawful for any person, while in or on the waters of the Waiakea Public Fishing Area to:
- (1) Possess or use any spear, net, or fishing gear prohibited under sections 13-63-2(a)(5), 13-63-2(a)(6), or 13-63-2(a)(7) or other law; or
 - (2) Possess any marine life prohibited under section 13-63-2(b) or other law. [Eff 5/26/81; am and comp 1/15/99; am and comp] (Auth: HRS §188-53) (Imp: HRS §188-53)

§13-63-3 Permitted activities. A person may:

- (1) Fish for finned fish with hook-and-line, provided that each fisherman shall not fish with more than one line with a single lure, or two single hooks in tandem and more than two inches (5.08 centimeters) apart; or
- (2) Use a dip net not exceeding eighteen inches (45.72 centimeters) in diameter, to:
 - (A) Land crabs lured by bait attached to lines; or
 - (B) Take shrimp for bait purposes only[;].
- ~~+(3) Fish for, catch, take, possess, or remove an overall total of twenty of the following fishes:~~
 - ~~(A) Aholehole;~~
 - ~~(B) Papiro, including ulua; and~~
 - ~~(C) Mullet; providing such mullet shall not comprise more than ten of the overall~~

~~total of twenty fishes; and
(4) Fish for, catch, take, possess, or remove
any introduced freshwater gamefish with a
valid State of Hawaii freshwater game
fishing license, subject to open seasons,
bag limits and size limits as provided in
sections 13-99-1 and 13-99-2.] [Eff 5/26/81;
am and comp 1/15/99; am and comp
] (Auth: HRS §188-53) (Imp:
HRS §§188-50, 188-53)~~

§13-63-4 Penalty. A person violating the provisions of this chapter shall be guilty of a petty misdemeanor, subject to civil and administrative penalties, and punished as provided by law. [Eff 5/26/81; am and comp 1/15/99; am and comp] (Auth: HRS §§187A-12.5, 188-53, 188-70, 199D-2) (Imp: HRS §§187A-12.5, 188-53, 188-70, 199D-2)

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

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

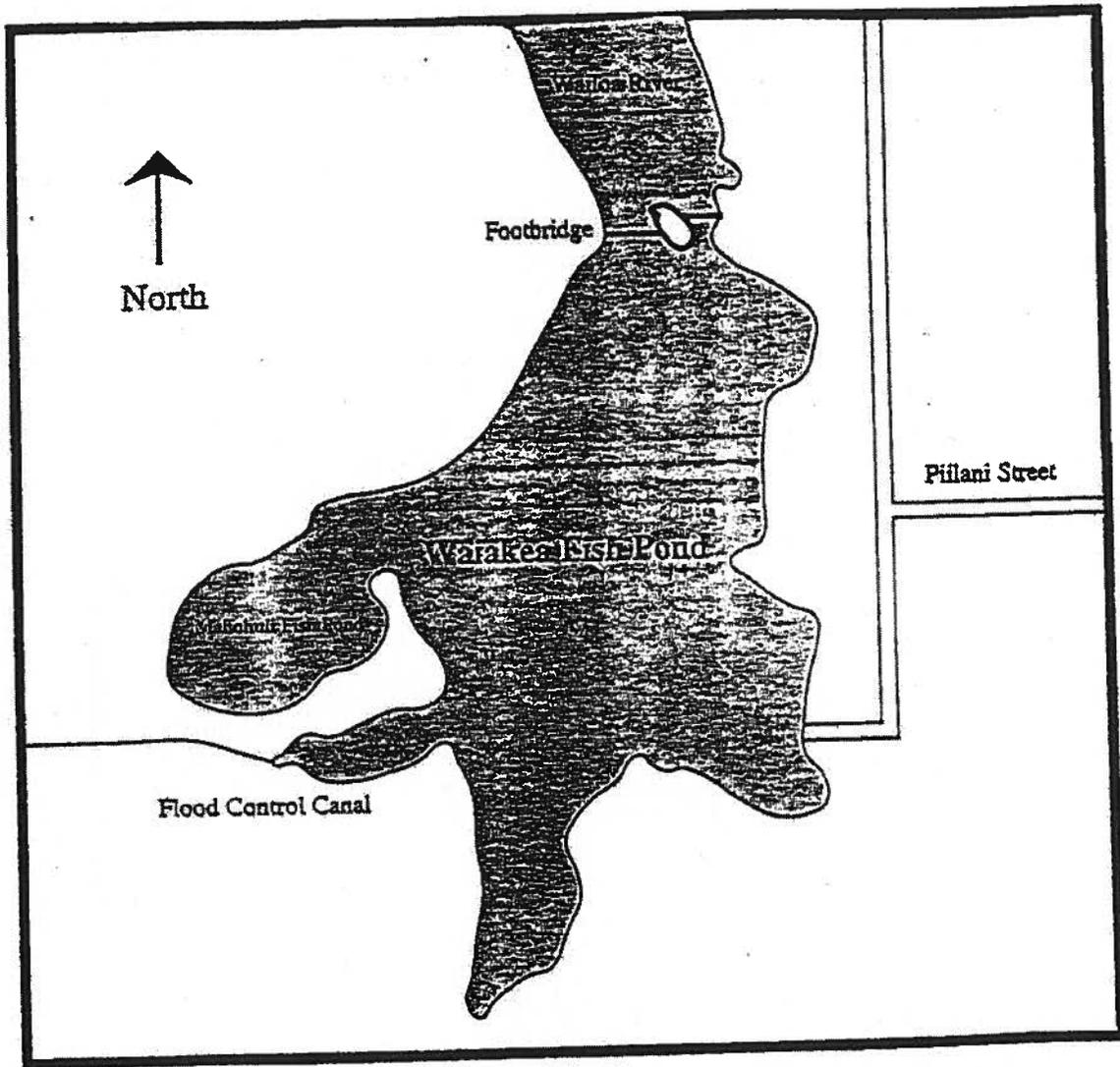
4. These amendments to and compilation of chapter 13-63, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

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.

WILLIAM J. AILA, JR.,
Chairperson
Board of Land and Natural
Resources

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General



Map of Waiakea Public Fishing Area, Hawaii 4/24/98