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HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART I MARINE LIFE CONSERVATION DISTRICTS

CHAPTER 34

PUPUKEA MARINE LIFE CONSERVATION DISTRICT, OAHU

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§13-34-1 Boundaries. (a) The Pupukea Marine Life Conservation District includes that portion of the submerged lands and overlying waters bounded by a line beginning at Kulalua Point at approximately 21.654826°, -158.063347°, then extending due west for one hundred yards to a point at approximately 21.654826°, -158.064036°, then in a straight line in a southwesterly direction to the western edge of the westernmost Wananapaoa Islet at approximately 21.638840°, -158.070270°, then in a straight line in a southeasterly direction to shore at approximately

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21.637475°, -158.068906°, then northerly along the shoreline to the point of origin, as shown in "Exhibit A. Map of the Pupukea Marine Life Conservation District", dated July 1, 2019, incorporated herein, and located at the end of this chapter.

(b) For the purposes of this chapter, Waimea Bay includes that portion of the district lying to the south of an imaginary line drawn between Waimea Point at approximately 21.643299°, -158.064967° and a point directly offshore at approximately 21.644580°, -158.068032°, as shown in "Exhibit A. Map of the Pupukea Marine Life Conservation District", dated July 1, 2019, incorporated herein, and located at the end of this chapter.

(c) For the purposes of this chapter, the shoreline shall be determined by the upper reaches of the wash of the waves on shore. Should there be a stream or river flowing into the ocean, the shoreline shall be determined by an imaginary straight line drawn between the upper reaches of the wash of the waves on either side of the stream or river. [Eff 1/13/83; am and comp 3/25/02; am and comp 9/8/03; am and comp 8/27/21] (Auth: HRS §190-3) (Imp: HRS §§190-1, 190-2, 190-3)

§13-34-1.1 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

"Akule" means any fish of the species known as *Selar crumenophthalmus*. This also includes the various life stages known as pa'a'a, hahalalu, halalu, and mau.

"District" means the Pupukea Marine Life Conservation District.

"Finfish" means any of various species of marine life that uses fins to swim, not including marine mammals or sea turtles.

"Hook-and-line" means a type of fishing gear consisting of a length of fishing line, to which is attached one or more hooks or other device for

capturing marine life. A weight and a pole may also be used to aid in the placement of the fishing line in the water.

"Limu kohu" means any seaweed known as *Asparagopsis taxiformis* or a recognized synonym.

"Limu lipe'epe'e" means any seaweed known as *Chondrophyucus dotyi*, *C. succisus*, *C. undulatus*, *Palisada parvipapillata*, or a recognized synonym.

"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.

"Opelu" means any fish of the species known as *Decapterus macarellus* or a recognized synonym.

"Opihi" means any mollusk of the genus *Cellana* or a recognized synonym. The animal is also known as ko'ele, alinalina, maka-ia-uli, and limpet.

"Personal safety" means any defensive action that a person or persons may engage in to prevent life threatening injury or death.

"Snag" means to engage in the act of pulling on a line that is attached to one or more hooks quickly enough across a fish for the purpose of hooking the fish anywhere except by the mouth.

"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. A spear also includes any similar device that is capable of impaling aquatic life to allow capture, with or without the aid of artificial propulsion.

"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

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shore where aquatic life can be fished for, caught, captured, confined, or harvested, shall be construed as taking.

"Trap" means any of various fishing devices of mesh, perforated, or solid material made into the shape of a box, container, or enclosure, with one or more openings that allow aquatic life to enter into the interior of the box, container, or enclosure, but restrict exit out, thereby capturing the aquatic life within. [Eff and comp 3/25/02; am and comp 9/8/03; am and comp 8/27/21] (Auth: HRS §190-3) (Imp: HRS §§190-1, 190-2, 190-3)

§13-34-2 Prohibited activities. It is unlawful for any person to engage in the following activities within the Pupukea Marine Life Conservation District, except as may be allowed under sections 13-34-3 and 13-34-4, or other applicable law:

- (1) Fish for, catch, take, injure, kill, possess, or remove any finfish, crustacean, mollusk including sea shell and 'opihi, live coral, or other marine life, or eggs thereof;
- (2) Take, alter, deface, destroy, possess, or remove any sand, coral, rock, or other geological feature, or specimen;
- (3) Have or possess in the water, any spear, trap, net, crowbar or other device that may be used for the taking, injuring, or killing of marine life, or the altering of a geological feature; or
- (4) Introduce any food, substance, or chemical into the water to attract marine life for any purpose other than the taking and removing of such marine life as permitted under section 13-34-3. [Eff 1/13/83; comp 3/25/02; am and comp 9/8/03; am and comp 8/27/21] (Auth: HRS §190-3) (Imp: HRS §§190-1, 190-3)

§13-34-3 Permitted activities. In compliance with all other state laws and rules, a person may:

- (1) Take and possess any finfish with hook-and-line only from the shore of Waimea Bay; provided that no person may snag any akule and further provided that no person may use more than two poles with one line per pole and with no more than two hooks per line;
- (2) Take and possess any opelu with nets from Waimea Bay only during August and September;
- (3) Take and possess any akule with nets from Waimea Bay only during November and December;
- (4) Possess within the district any knife for the sole purpose of personal safety; and
- (5) Take and possess limu kohu and limu lipe'epe'e within the district by hand harvesting only; provided that no person shall take limu kohu and limu lipe'epe'e with the holdfast or roots attached and no person shall take or possess more than two pounds (squeezed dry) of either limu kohu or limu lipe'epe'e or a combined total of two pounds of both per day. [Eff 1/13/83; am and comp 3/25/02; am and comp 9/8/03; am and comp 8/27/21] (Auth: HRS §190-3) (Imp: HRS §§190-1, 190-3)

§13-34-4 Exceptions; permits. The department may issue permits to engage in activities within the district, that may be otherwise prohibited by law and section 13-34-2, provided that:

- (1) The permits may be issued for scientific, propagation, or other purposes as provided by law, or as reasonably necessary to protect the public health, safety, and welfare;
- (2) The board may impose terms and conditions it deems necessary to carry out the purposes of chapter 190, HRS;

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- (3) The board may revoke any permit for any infraction of the terms and conditions of the permit; and
- (4) A person whose permit is revoked shall not be eligible to apply for another permit until the expiration of a specified period from the date of revocation as provided by law. [Eff 1/13/83; am and comp 3/25/02; am and comp 9/8/03; am and comp 8/27/21] (Auth: HRS §190-3) (Imp: HRS §§187A-6, 190-4)

§13-34-5 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 section 190-5, 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: 1/13/83; am and comp 3/25/02; am and comp 9/8/03; am and comp 8/27/21] (Auth: HRS §190-3) (Imp: HRS §§187A-12.5, 190-5)

§13-34-6 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 and comp 8/27/21] (Auth: HRS §190-3) (Imp: HRS §199-7, ch. 712A)

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to and compilation of chapter 13-34, Hawaii Administrative Rules, on the Summary page dated June 10, 2021, were adopted on June 10, 2021, following a public hearing held on January 19, 2021, after public notice was given in the Honolulu Star-Advertiser on December 13, 2020.

These rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/ Suzanne D. Case

SUZANNE D. CASE
Chairperson
Board of Land and Natural
Resources

/s/ David Y. Ige

DAVID Y. IGE
Governor
State of Hawaii

August 27, 2021
Dated: _____

APPROVED AS TO FORM:

/s/ Colin J. Lau

Deputy Attorney General

August 27, 2021

Filed

