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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

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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] (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, 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, and Netting Restricted Area Boundaries", dated 12/12/12, located at the end of this chapter):

(1) Ka‘ūpūlehu marine reserve, 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‘omalu 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‘omalu Bay (Kapalaoa);

(4) Kaloko-Honokōhau fish replenishment area, identified on shore to the north by the southern boundary of Wāwāloli 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 Nenue 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) Nenue 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, 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;

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] (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.

"White list" 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] (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. [Eff 12/26/13; comp 3/11/23] (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, 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) 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, and "Table of Reference Coordinates to Netting Restricted Area Boundaries", dated 12/12/12:

(1) Puakō-ʻAnaehoʻomalu fish replenishment area;

(2) Kikaua Point-Mākoleʻā netting restricted area (Kekaha Kai State Park);

(3) Nenue Point(Red Hill fish replenishment area)-Kealakekua Bay netting restricted area;

(4) Hanamalo Point-Kanewaʻa Point netting restricted area;

(5) Kanonohe-Kalīpoa netting restricted area; and

(6) 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 (e), and subject to all other applicable laws, while within the Kaʻūpūlehu 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* (ʻōpakapaka), *Pristipomoides sieboldii* (kalekale), *Aphareus rutilans* (lehi), *Pristipomoides zonatus* (gindai), *Etelis coruscans* (onaga), *Etelis carbunculus* (ehu), *Epinephelus quernus* (hāpuʻupuʻu), *Aprion virescens* (uku), *Lutjanus kasmira* (taʻape), *Cephalopholis argus* (roi), *Lutjanus fulvus* (toau), *Iniistius pavo* (nabeta), *Katsuwonus pelamis* (aku), *Thunnus spp.* (ʻahi and tombo), Family Istiophoridae (aʻu),

Acanthocybium solandri (ʻono), *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.

(e) 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 Kaʻūpūlehu Marine Reserve.

(f) Subsections (d) and (e) 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 Kaʻūpūlehu community and other interested parties, whichever occurs later. [Eff 12/26/13; am 7/29/16; am and comp 3/11/23](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 Hawaiʻi 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] (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 white list. 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] (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] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§187A-12.5, 188-53, 188-70)

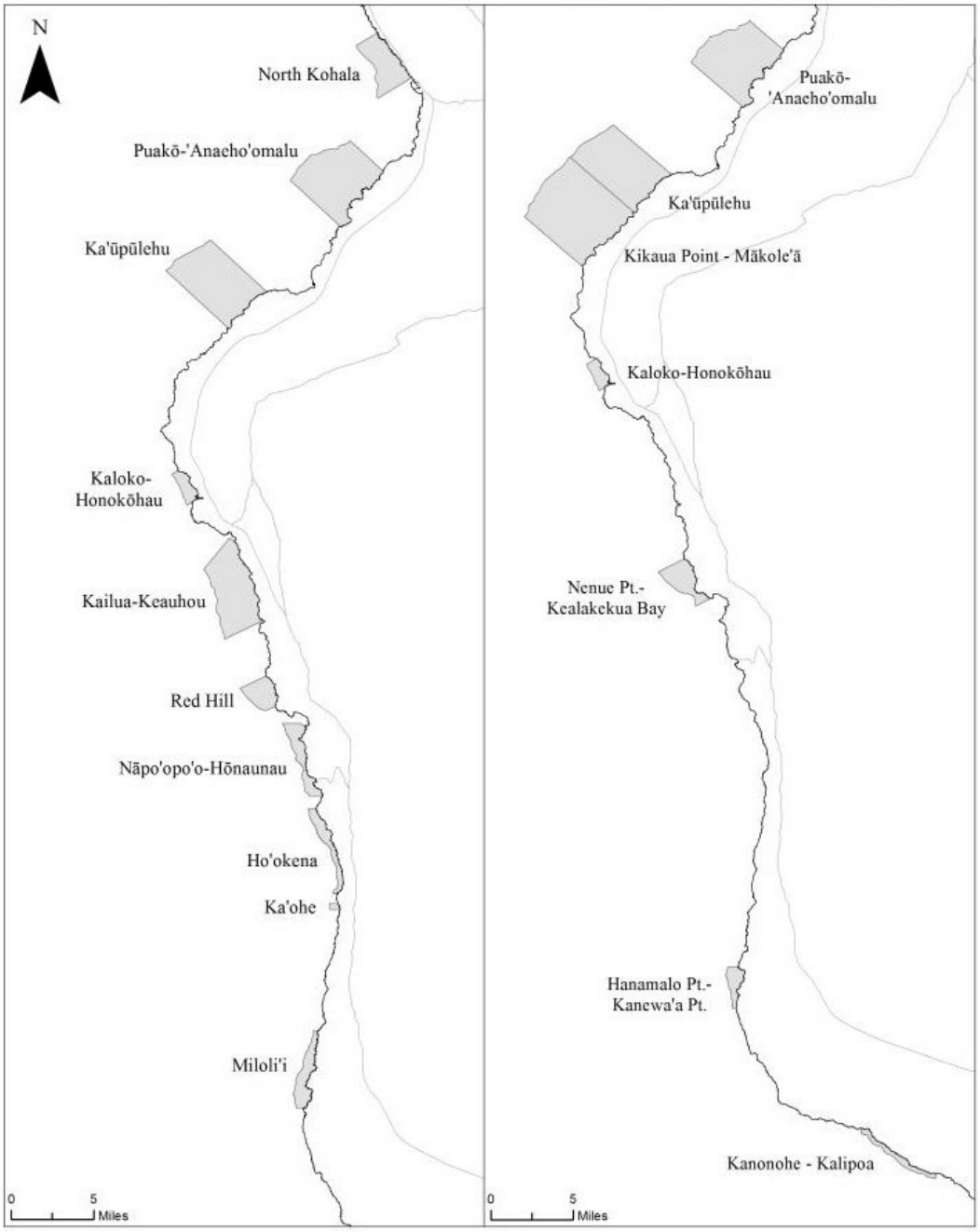
§13-60.4-8.5 Asset forfeiture. Any equipment, article, instrument, aircraft, vehicle, vessel, business record, or natural resource used or taken in violation of this chapter or the terms and conditions of any permit issued as provided by this chapter, may be seized and subject to forfeiture as provided by section 199-7 and chapter 712A, HRS. [Eff and comp 3/11/23] (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] (Auth: HRS §§187A-5, 188-53, 188F-6) (Imp: HRS §§1-23, 187A-5, 188-53, 188F-6)

Map of Marine Reserve, Fish Replenishment Area, and Netting Restricted Area Boundaries* (12/12/12)

Marine Reserves and 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 Marine Reserve and Fish Replenishment Area Boundaries (12/12/12)

Area	Landward dGPS Coordinates		Seaward dGPS Coordinates (600 ft.)				
	Northern Point	Southern Point	Northern Point	D (nm)	Southern Point	D (nm)	@
North Kohala FRA	20° 04.826’ N	20° 02.471’ N	20° 04.378’ N	1.40	20° 01.654’ N	1.94	225°
	155° 51.934’ W	155° 49.988’ W	155° 53.344’ W		155° 51.875’ W		225°
Puakō – ‘Anaeho‘omalu FRA	19° 57.529’ N	19° 54.641’ N	19° 59.206’ N	2.40	19° 57.034’ N	3.54	300°
	155° 51.553’ W	155° 53.893’ W	155° 53.383’ W		155° 56.658’ W		300°
Ka‘ūpūlehu Marine Reserve	19° 51.011’ N	19° 49.209’ N	19° 53.817’ N	3.91	19° 51.724’ N	4.39	300°
	155° 58.111’ W	156° 00.132’ W	156° 00.994’ W		156° 03.947’ W		300°
Kaloko – Honokōhau FRA	19° 41.442’ N	19° 40.059’ N	19° 41.368’ N	0.35	19° 39.844’ N	0.46	240°
	156° 02.350’ W	156° 01.741’ W	156° 03.031’ W		156° 02.169’ W		240°
Kailua – Keauhou FRA	19° 37.903’ N	19° 33.716’ N	19° 37.089’ N	2.02	19° 32.801’ N	2.21	245°
	155° 59.472’ W	155° 57.829’W	156° 01.449’ W		156° 00.004’ W		245°
Red Hill FRA	19° 30.823’ N	19° 29.252’ N	19° 30.166’ N	1.41	19° 28.991’ N	0.51	235°
	155° 57.630’ W	155° 57.068’ W	155° 58.953’ W		155° 57.536’ W		235°
Nāpo‘opo‘o – Hōnaunau FRA	19° 28.230’ N [1]	19° 24.559’ N	19° 28.350’ N [2]	1.13	19° 24.725’ N	0.79	270°
	155° 55.370’ W	155° 54.343’ W	155° 56.898’ W		155° 55.162’ W		270°
Ho‘okena FRA	19° 23.796’ N	19° 19.458’ N	19° 23.690’ N	0.40	19° 19.403’ N	0.25	240°
	155° 54.685’ W	155° 53.426’ W	155° 55.095’ W		155° 53.688’ W		240°
Ka‘ohe FRA	19° 18.954’ N	19° 18.714’ N	19° 18.947’ N	0.44	19° 18.706’ N	0.48	270°
	155° 53.362’ W	155° 53.296’ W	155° 53.824’ W		155° 53.806 W		270°
Miloli‘i FRA	19° 12.179’ N	19° 08.098’ N	19° 12.179’ N	0.15	19° 08.160’ N	0.36	270°
	155° 54.369’ W	155° 55.132’ W	155° 54.599’W		155° 55.510’ W		270°

[1, 2] 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.

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

Table of Reference Coordinates to Netting Restricted Area Boundaries (12/12/12)

Netting Restricted Area**	Landward dGPS Coordinates		Seaward dGPS Coordinates (600 ft.)				
	Northern Point	Southern Point	Northern Point	D (nm)	Southern Point	D (nm)	@
Puakō - ‘Anaeho‘omalu	19° 57.529’ N	19° 54.641’ N	19° 59.206’ N	2.40	19° 57.034’ N	3.54	300°
	155° 51.553’ W	155° 53.893’ W	155° 53.383’ W		155° 56.658’ W		300°
Ka‘ūpūlehu	19° 51.011’ N	19° 49.209’ N	19° 53.817’ N	3.91	19° 51.724’ N	4.39	300°
	155° 58.111’ W	156° 00.132’ W	156° 00.994’ W		156° 03.947’ W		300°
Kikaua Point - Mākole‘ā	19° 49.130’ N	19° 46.356’ N	19° 52.100’ N	4.41	19° 49.000’ N	3.98	300°
	156° 00.063’ W	156° 03.024’ W	156° 03.566’ W		156° 06.164’ W		300°
Kaloko - Honokōhau	19° 41.442’ N	19° 40.059’ N	19° 41.368’ N	0.35	19° 39.844’ N	0.46	240°
	156° 02.350’ W	156° 01.741’ W	156° 03.031’ W		156° 02.169’ W		240°
Nenue Pt. - Kealakekua Bay	19° 30.823’ N	19° 28.699’ N	19° 30.166’ N	1.41	19° 28.316’ N	0.90	235°
	155° 57.630’ W	155° 56.114’ W	155° 58.953’ W		155° 56.983’ W		235°
Hanamalo Pt. - Kanewa‘a Pt.	19° 09.273’ N	19° 07.091’ N	19° 09.275’ N	0.55	19° 07.093’ N	0.18	260°
	155° 54.973’ W	155° 55.115’ W	155° 55.564’ W		155° 55.313’ W		260°
Kanonone - Kalīpoa	19° 00.662’ N	18° 58.180’ N	19° 00.409’ N	0.25	18° 57.941’ N	0.24	200°
	155° 48.302’ W	155° 44.182’ W	155° 48.302’ W		155° 44.183’ W		200°

****Netting restrictions may also apply in marine reserves and fish replenishment areas (see map entitled “Map of Marine Reserve, Fish Replenishment, and Netting Restricted Area Boundaries”, dated 12/12/12) 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

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to and compilation of chapter 13-60.4, Hawaii Administrative Rules, on the Summary Page dated November 10, 2022, were adopted on November 10, 2022, following a public hearing held on August 24, 2022, after public notice was given in the Honolulu Star-Advertiser on July 17, 2022.

The 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.

/s/ SUZANNE D. CASE

SUZANNE D. CASE
Department of Land and
Natural Resources

/s/ JOSH GREEN, M.D.

JOSH GREEN, M.D.
Governor
State of Hawai‘i

Dated: 3/1/23

APPROVED AS TO FORM:

/s/ JULIE H. CHINA

JULIE H. CHINA
Deputy Attorney General

3/1/23

Filed