

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

October 11, 2019

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

REQUEST FOR APPROVAL TO HOLD PUBLIC MEETINGS AND HEARINGS TO  
REPEAL HAWAII ADMINISTRATIVE RULES (HAR) TITLE 13 CHAPTERS 84  
AND 89 AND TO AMEND AND COMPILE HAR TITLE 13 CHAPTER 95, TO  
UPDATE AND CONSOLIDATE RULES AND STATUTORY PROVISIONS  
REGULATING THE TAKE, POSSESSION, AND SALE OF SAMOAN CRAB, KONA  
CRAB, AND LOBSTER

Submitted for your consideration and approval is a request to hold public meetings and hearings to repeal Hawaii Administrative Rules (HAR) chapters 13-84 and 13-89 and to amend and compile HAR chapter 13-95 to update and consolidate rules and statutory provisions regulating the take, possession, and sale of Samoan crab, Kona crab, and lobster.

BACKGROUND

Regulations for the take, possession, and sale of Samoan crab, Kona crab, and certain species of lobster are found in various sections of the HAR and Hawaii Revised Statutes (HRS). These regulations are summarized below.

*Samoan crab regulations*

HAR chapter 13-84, "Samoan Crab", was adopted in 1981 based substantially upon regulations of the Department's former Division of Fish and Game. It prohibits the taking, killing, possession, or sale of any Samoan crab carrying eggs externally, or less than six inches in carapace width.

HAR §13-95-52, adopted in 1998, also prohibits the take, killing, possession, or sale of any Samoan crab with eggs. In addition, it prohibits the take or killing of any Samoan crab with a spear, as well as sale of any speared Samoan crab.

HRS §188-58.5, enacted in 2006, prohibits the taking or killing of any female Samoan crab.

Kona crab regulations

HAR §13-95-51, adopted in 1998, prohibits the take, possession, or sale of any Kona crab less than four inches in carapace length; during the months of May, June, July, and August; while with eggs; or with a spear.

HRS §188-58.5, enacted in 2006, prohibits the taking or killing of any female Kona crab.

Lobster regulations

HAR chapter 13-89, “Spiny Lobster or Ula and Slipper Lobster or Ula Papapa”, was adopted in 1981 based substantially upon regulations of the Department’s former Division of Fish and Game. It regulates the take, killing, possession, and sale of spiny lobster or ula (*Panulirus penicillatus* and *P. marginatus*) and slipper lobster or ula papapa (*Scyllarides squammosus* and *S. haanii*). The rule contains different sets of regulations for waters adjacent to the main Hawaiian islands and waters adjacent to the Northwestern Hawaiian islands. For waters adjacent to the main Hawaiian islands, the rule prohibits the take, killing, possession, or sale of spiny lobster less than three and one-fourth inches in carapace length and slipper lobster less than two and three-fourths inches in tail width. Additionally, lobsters shall not be in a condition where the body is mutilated or the carapace and tail are separated. For waters adjacent to the Northwestern Hawaiian islands, the rule establishes minimum size limits based on tail width, restrictions on where lobster may be caught, and gear specifications. These rules regulate the NWHI commercial lobster fishery, which no longer exists.

HAR §13-95-53, adopted in 1998, prohibits the take, killing, possession, or sale of any spiny lobster during the months of May, June, July, and August; while with eggs; with a spear, or the sale of speared spiny lobster.

HAR §13-95-54, adopted in 1998, prohibits the take, killing, possession, or sale of slipper lobster during the months of May, June, July, and August; while with eggs; with a spear; or the sale of any speared slipper lobster.

HRS §188-58.5, enacted in 2006, prohibits the taking or killing of any female spiny lobster.

PURPOSE

DAR proposes to repeal HAR chapters 13-84 and 13-89 and to amend and compile HAR chapter 13-95 to update and consolidate rules regulating the take and possession of Samoan crab, Kona crab, and lobster. Consolidating these rules into one rule chapter will facilitate compliance by making it easier for the public to find all applicable regulations on these crustacean species.

DAR also proposes to adopt a comparable administrative rule provision to the statutory provisions in HRS §188-58.5. Statutory provisions are difficult to amend as they require

legislative action. Transferring these provisions into administrative rules and eventually requesting the repeal of the corresponding statutory provisions would enable the Department to amend regulations through rulemaking to adaptively manage these resources based on the best available scientific information.

HAR chapter 13-84, "Samoaan Crab", would be repealed and the substantive provisions transferred to HAR chapter 13-95.

HAR chapter 13-89, "Spiny Lobster or Ula and Slipper Lobster or Ula Papapa", would be repealed and the substantive provisions relating to lobster regulations in the main Hawaiian Islands would be transferred to HAR chapter 13-95. The provisions relating to the lobster fishery in the northwestern Hawaiian Islands would be repealed.

HAR §13-95-1 (Definitions) would be amended to:

1. Add the definition of "Samoaan crab", based on the scientific name provided in HRS §188-58.5;
2. Amend the definition of "slipper lobster" to correct the spelling of the scientific name *S. haanii*; and
3. Amend the definition of "spiny lobster" to include all species in the genus *Panulirus*, based on the genus name provided in HRS §188-58.5.

HAR §13-95-51 (Kona crab) would be amended to incorporate the existing provision in HRS §188-58.5 that makes it unlawful for any person to take or kill any female Kona crab.

HAR §13-95-52 (Samoaan crab) would be amended to:

1. Incorporate the existing provision in HAR §13-84-1 that makes it unlawful for any person to take, possess, or sell any Samoaan crab less than six inches in carapace width; and
2. Incorporate the existing provision in HRS §188-58.5 that makes it unlawful for any person to take or kill any female Samoaan crab.

HAR §13-95-53 (Spiny lobster) would be amended to:

1. Incorporate the existing provision in HAR §13-89-1(1)(A) that makes it unlawful for any person to take, kill, possess, or sell any spiny lobster less than three and one-fourth inches in carapace length;
2. Incorporate the existing provision in HAR §13-89-1(1)(C) that makes it unlawful for any person to possess or sell any spiny lobster in a condition where the body is mutilated, or the carapace and tail are separated; and

3. Incorporate the existing provision in HRS §188-58.5 that makes it unlawful for any person to take or kill any female spiny lobster.

HAR §13-95-54 (Slipper lobster) would be amended to:

1. Incorporate the existing provision in HAR §13-89-1(1)(B) that makes it unlawful for any person to take, kill, possess, or sell any slipper lobster less than two and three-fourths inches in tail width; and
2. Incorporate the existing provision in HAR §13-89-1(1)(C) that makes it unlawful for any person to possess or sell any slipper lobster in a condition where the body is mutilated, or the carapace and tail are separated.

The proposed administrative rulemaking actions would not result in any substantive changes to existing laws, so the taking, possession, or sale of these resources will not be affected. The proposed rules drafted in Ramseyer format are attached as **Exhibit 1**.

RECOMMENDATIONS:

That the Board:

1. Authorize and approve the holding of statewide public meetings and hearings to repeal HAR chapters 13-84 and 13-89 and to amend and compile HAR chapter 13-95 to update and consolidate rules and statutory provisions regulating Samoan crab, Kona crab, and lobster.
2. Delegate to the Chairperson the authority to appoint hearings officers to conduct the aforementioned public meetings and hearings.

Respectfully submitted,



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BRIAN J. NEILSON, Administrator  
Division of Aquatic Resources

APPROVED FOR SUBMITTAL



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SUZANNE D. CASE, Chairperson  
Board of Land and Natural Resources

Attachment:

Exhibit 1 – Proposed rules (Ramseyer format)