
A BILL FOR AN ACT

RELATING TO COMMUNITY-BASED SUBSISTENCE FISHING AREAS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that it has been more
2 than two decades since the department of land and natural
3 resources was given the statutory authority under Act 271,
4 Session Laws of Hawaii 1994, to establish community-based
5 subsistence fishing areas by rule. Since that time, the
6 department has adopted rules for only one such area, Ha'ena
7 community-based subsistence fishing area, and only after being
8 specifically required to do so pursuant to Act 241, Session Laws
9 of Hawaii 2006. The department did not adopt rules for the
10 Ha'ena community-based subsistence fishing area until ten years
11 after its establishment by the legislature.

12 The legislature finds that the statutory process for
13 designation of and rulemaking for community-based subsistence
14 fishing areas provides a unique opportunity for local
15 communities to participate in the management of natural
16 resources for the benefit of the local community, the State, and
17 the environment as a whole. This process, created under Act 271



1 and codified as section 188-22.6, Hawaii Revised Statutes,
2 relies on collaboration between the department and grassroots
3 community organizations to designate and develop resource
4 management policies for special fisheries management areas.
5 Both the process for area designation and the rules for resource
6 management are designed to reaffirm and protect fishing
7 practices customarily and traditionally exercised for purposes
8 of native Hawaiian subsistence and culture.

9 The legislature further finds that near-shore-based fishing
10 practices need to be supported to ensure that the State
11 maintains a sustainable ecosystem that provides food and
12 resources to the State.

13 The purpose of this Act is to require the department of
14 land and natural resources to adopt rules within two years of
15 receiving a proposal for a community-based subsistence fishing
16 area.

17 SECTION 2. Section 188-22.6, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[+]§188-22.6[+] **Designation of community-based**
20 **subsistence fishing area.** (a) The department of land and
21 natural resources may designate community-based subsistence



1 fishing areas and carry out fishery management strategies for
2 such areas, through administrative rules adopted pursuant to
3 chapter 91, for the purpose of reaffirming and protecting
4 fishing practices customarily and traditionally exercised for
5 purposes of native Hawaiian subsistence, culture, and religion.

6 (b) Proposals may be submitted to the department of land
7 and natural resources for the department's consideration. The
8 proposal shall include:

9 (1) The name of the organization or group submitting the
10 proposal;

11 (2) The charter of the organization or group;

12 (3) A list of the members of the organization or group;

13 (4) A description of the location and boundaries of the
14 marine waters and submerged lands proposed for
15 designation;

16 (5) Justification for the proposed designation, including
17 the extent to which the proposed activities in the
18 fishing area may interfere with the use of the marine
19 waters for navigation, fishing, and public recreation;
20 and



(6) A management plan containing a description of the specific activities to be conducted in the fishing area, evaluation and monitoring processes, methods of funding and enforcement, and other information necessary to advance the proposal.

Proposals shall meet community-based subsistence needs and judicious fishery conservation and management practices. The department shall adopt rules pursuant to subsection (a) no later than two years from the date of receipt of a proposal. If the department fails to adopt rules within the required time, the department shall include that fact, including an explanation of why rules could not be timely adopted, in the annual report required under subsection (d).

(c) For the purposes of this section:

~~[-(1)-]~~ "Native Hawaiian" means any descendant of the races inhabiting the Hawaiian Islands prior to 1778~~[-and]-~~.

~~[-(2)-]~~ "Subsistence" means the customary and traditional native Hawaiian uses of renewable ocean resources for direct personal or family consumption or sharing.

(d) The department of land and natural resources shall submit an annual report to the legislature of the department's



1 progress in complying with this section no later than twenty
2 days prior to the convening of each regular session, beginning
3 with the regular session of 2018."

4 SECTION 3. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 4. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect on July 1, 2030.



Report Title:

Community-Based Subsistence Fishing Areas; DLNR

Description:

Requires DLNR to adopt rules for a community-based subsistence fishing area within two years of receipt of a proposal.
Establishes annual reporting requirement. Effective 7/1/2030.
(SD1)

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