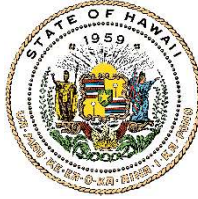


JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



DEPT. COMMISSIONER

SUZANNE D. CASE

CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES  
ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I  
DEPARTMENT OF LAND AND NATURAL RESOURCES

P.O. BOX 621  
HONOLULU, HAWAII 96809

December 16, 2022

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
32<sup>nd</sup> State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki, Speaker  
and Members of the House of  
Representatives  
32<sup>nd</sup> State Legislature  
State Capitol Room, Room 431  
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Report on Actions & Findings on the Temporary Adoption, Amendment, & Repeal of Certain Natural Resource Rules Through Formal Action at Public Meetings Over the Past Two Years, as required by Act 49, Session Laws of Hawai'i 2021. In accordance with Section 93-16, Hawaii Revised Statutes, a copy of this report has been transmitted to the Legislative Reference Bureau and may be viewed electronically at <https://files.hawaii.gov/dlnr/reports-to-the-legislature/2023/AR23-Act-49-Report-FY22.pdf>.

Sincerely,

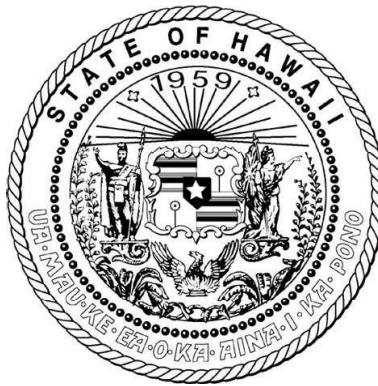
A handwritten signature in black ink that reads "Suzanne D. Case".

SUZANNE D. CASE  
Chairperson

Enclosure

Report to the Thirty-Second Legislature  
2023 Regular Session

**Report on Actions & Findings on the Temporary Adoption, Amendment, & Repeal  
of Certain Natural Resource Rules Through Formal Action at Public Meetings  
Over the Past Two Years**



Prepared by the

State of Hawaii  
Department of Land and Natural Resources  
Division of Aquatic Resources

In response to Act 49, Session Laws of Hawaii 2021 (Section 4)

December 2022

## **I. Introduction**

The Department of Land and Natural Resources (“Department”) is responsible for managing and administering the aquatic and terrestrial wildlife resources of the State. These natural resources are impacted by a variety of environmental and anthropogenic factors, some of which may change rapidly and frequently. The administrative rulemaking process prescribed by chapter 91, Hawaii Revised Statutes, serves the important function of providing opportunity for public review and input. However, it is not designed for implementation of adaptive management measures in response to rapidly changing resource conditions.

Act 49, Session Laws of Hawai‘i 2021, authorized the Board of Land and Natural Resources (“Board”) to temporarily adopt, amend, and repeal certain natural resource rules by formal Board action at a publicly noticed meeting if the Board finds that the timely adoption, amendment, or repeal of the rule is necessary to implement effective and adaptive management measures in response to rapidly changing resource conditions.<sup>1</sup> Pursuant to Section 4, the Department is required to submit a report to the Legislature no later than twenty days prior to the convening of the Regular Session of 2023, regarding its actions and findings on the temporary adoption, amendment, and repeal of certain natural resource rules through formal action at public meetings over the past two years. Accordingly, the Department submits this report to the Legislature.

## **II. Report**

### **West Hawaii Pāku‘iku‘i Replenishment**

At its meeting on December 9, 2022, the Board considered and adopted rules, effective for an initial period of two years, to establish a new chapter under Hawaii Administrative rules (HAR) Title 13, Chapter 60.41, “West Hawai‘i Pāku‘iku‘i Replenishment” through adaptive management rulemaking pursuant to Section 187A-5(b), Hawaii Revised Statutes (HRS). The rules prohibit the take of any pāku‘iku‘i (Achilles Tang) within the West Hawai‘i Regional Fishery Management Area (WHRFMA), Hawai‘i to allow for replenishment of dangerously depleted pāku‘iku‘i fish populations in the area.

Notice of the Board’s rulemaking meeting was published in the Legals/Public Notices section of both the Honolulu Star-Advertiser and the West Hawai‘i Today on Wednesday, November 9, 2022. The notice was subsequently published on the State of Hawai‘i Legals/Public Notices webpage.<sup>2</sup> Additionally, an announcement was posted on the Draft Rules and Public Notices page of the DAR website that included a link to the draft rules for viewing by interested parties. The public notice included a description of the proposed rule to be adopted and information on how the proposed rule could be viewed by interested parties. The public notice also provided the date, time, and location of the Board meeting where this proposal would be heard, as well as instructions on the various opportunities for interested parties to provide testimony.

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<sup>1</sup> See § 187A-5, HRS

<sup>2</sup> <https://statelegals.staradvertiser.com/2022/11/09/0001393145-02/>

The Board considered the submittal prepared by the Division of Aquatic Resources (DAR), which provided evidence of a recent alarming decline in the West Hawai'i populations of pāku'iku'i.<sup>3</sup> DAR staff noted that a two-year moratorium of taking any pāku'iku'i across West Hawai'i will allow for a short reprieve for the species while DAR collaborates with the broader West Hawai'i community to develop long-term rules promoting the long-term sustainability of pāku'iku'i. DAR is currently working with coastal communities, the University of Hawai'i at Hilo, the United States Geological Survey, and the National Oceanic and Atmospheric Administration to better understand pāku'iku'i life history traits that will support a more robust understanding of their stocks. Additionally, the DAR – Kona office has recently begun a new broad coverage monitoring program that should shed additional light on future population trends of pāku'iku'i in West Hawai'i.

The Board found that the timely adoption of Chapter 13-60.41, "West Hawai'i Pāku'iku'i Replenishment" was necessary to implement effective and adaptive management measures in response to the ongoing rapid decline in pāku'iku'i population size within the West Hawai'i Regional Fishery Management Area. The rules take effect on December 19, 2022 and will be posted on DAR's Administrative Rules website<sup>4</sup> for the duration of time they are in effect.

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<sup>3</sup> The full submittal, Item F-1 on the 12/9/22 BLNR Meeting agenda, along with exhibits can be viewed online at: <https://dlnr.hawaii.gov/wp-content/uploads/2022/12/F-1-1.pdf>

<sup>4</sup> <https://dlnr.hawaii.gov/dar/administrative-rules/>