

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

DIVISION OF AQUATIC RESOURCES
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LAND
STATE PARKS

Testimony on Proposed West Hawai'i Rules

The Department of Land and Natural Resources (DLNR) is proposing a number of rule changes affecting the West Hawai'i Regional Fishery Management Area (WHRFMA). These changes include:

Repeal of existing chapter 13-60.3 and concurrent adoption of a new chapter (13-60.4) incorporating the following new provisions for the WHRFMA:

1. Establishment of a list of 40 fish species permitted for aquarium take. Only those fish on this "White List" could be collected live for aquarium use. Size and bag limits are proposed for three species on the White List.
2. Prohibition of SCUBA/Rebreather spearfishing and/or possession of such gear with a spear or speared aquatic life.
3. Prohibition of take or possession of nine species of inshore sharks and rays and two invertebrate crown-of-thorns predators.
4. Establishment of a 1,500 foot section of Ka'ohu Bay (Pebble Beach), South Kona, as a Fish Replenishment Area (FRA) where aquarium collecting and/or recreational fish feeding is prohibited.

Several other WHRFMA rule changes are also proposed to enhance enforcement of aquarium collecting regulations and to clarify existing rule provisions. These include the following:

- a. Establishment of a West Hawai'i Aquarium Permit for collectors to take aquarium fish in the WHRFMA. The terms and conditions of this permit are the provisions included in the rule.
- b. Possession of aquarium collecting gear or aquarium fish on a vessel after sunset or before sunrise is permissible only when prior notification is made to the DAR-Kona office.
- c. Nets or containers used to capture or hold aquarium fish must be labeled with the commercial marine license (CML) number(s) of the persons who own or are using such equipment.

In addition to the above provisions there are also proposed rule changes involving updates to two Fisheries Management Areas (FMA) within the WHRFMA and an update to DLNR's lay net rule.

5. Clarification of the boundaries of the Puakō Bay and Puakō Reef FMA (chapter 13-54) and the types of nets prohibited (all except thrownets).
6. Clarification of the no-netting boundaries of the Keauhou Bay FMA (chapter 13-57) to be consistent with the no-netting boundaries established under the WHRFMA rule.
7. Technical amendments to the department's statewide lay net rule (chapter 13-75-12.4) for consistency with the proposed WHRFMA rule (chapter 13-60.4) and to reflect differences between the rules.

The recommended rule changes are the result of over ten years of committee meetings, research and community discussions involving over 550 community members, facilitated by the West Hawai'i Fisheries Council (WHFC). These changes will ensure continued resource sustainability, enhance nearshore resources, and minimize user conflicts in the WHRFMA. See [WHRFMA Rules - WHFC Background.pdf](#) for further details on the process and [WHRFMA Rules Summary.pdf](#) for additional information on the rules including species lists.

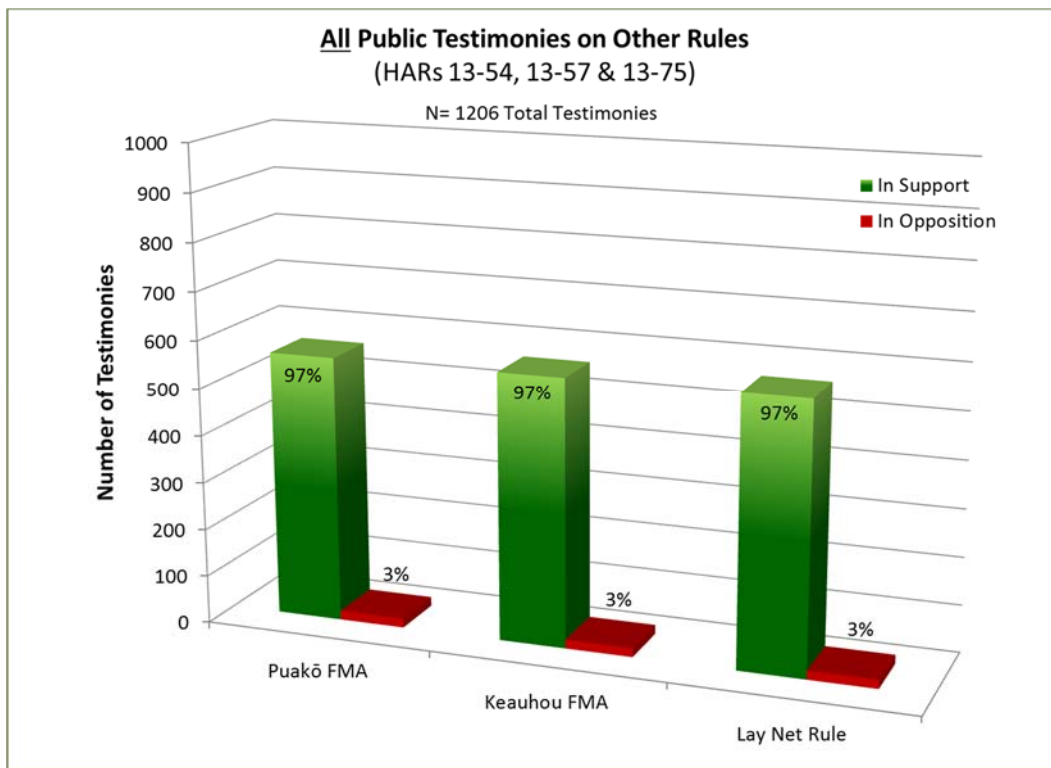
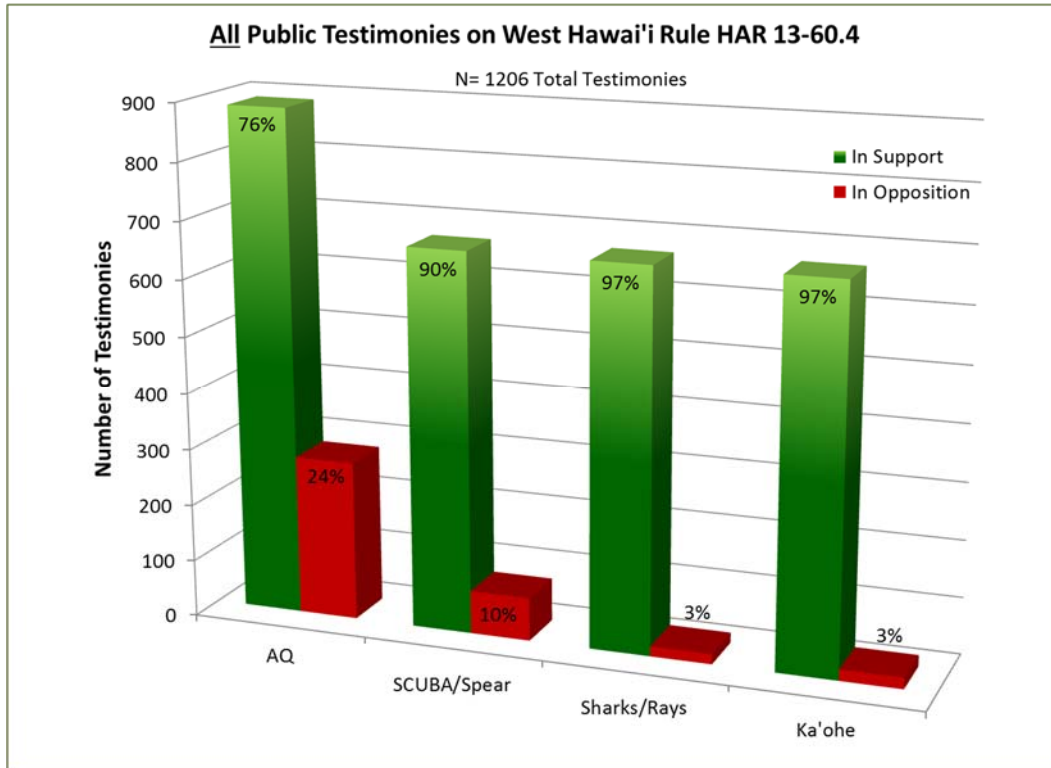
Public Testimony

An October 17, 2012 DLNR press release began the public notification process to solicit relevant information, opinion and testimonies on the proposed rule and amendments. A Notice of Public Hearing was published on October 28, 2012 in the West Hawaii Today, Hilo Tribune-Herald and Honolulu Star Advertiser newspapers. Testimony was to be accepted until December 19, 2012. Additional testimonies and comments received after that date were accepted by directive of the acting DAR Administrator.

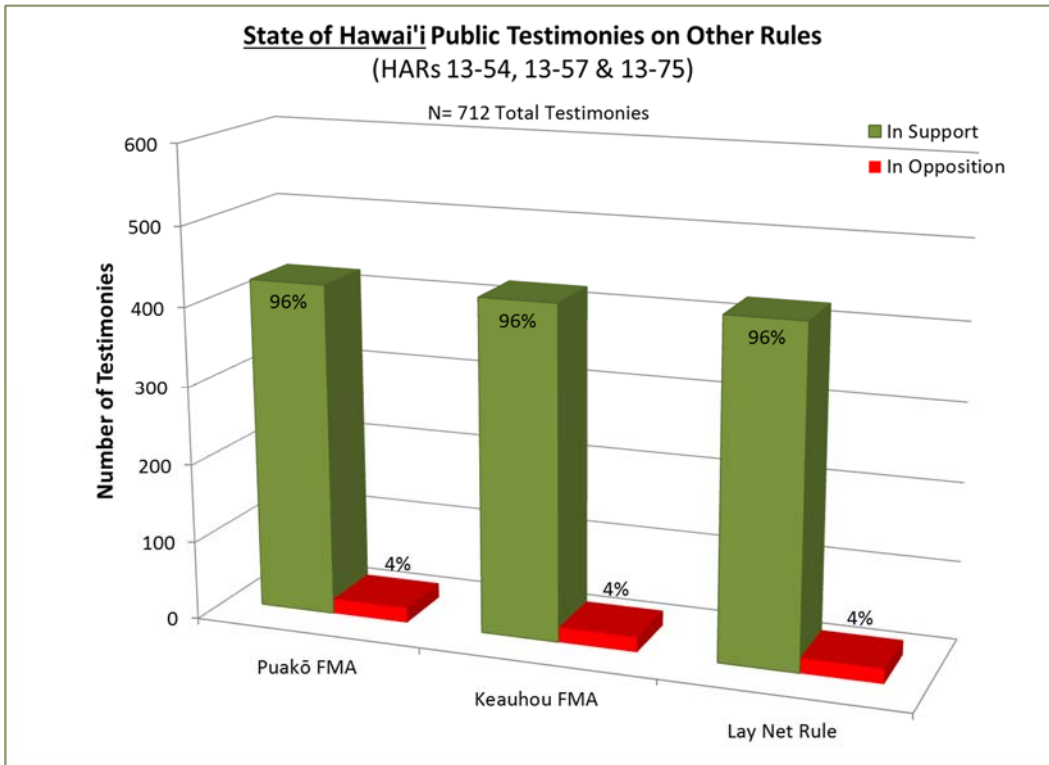
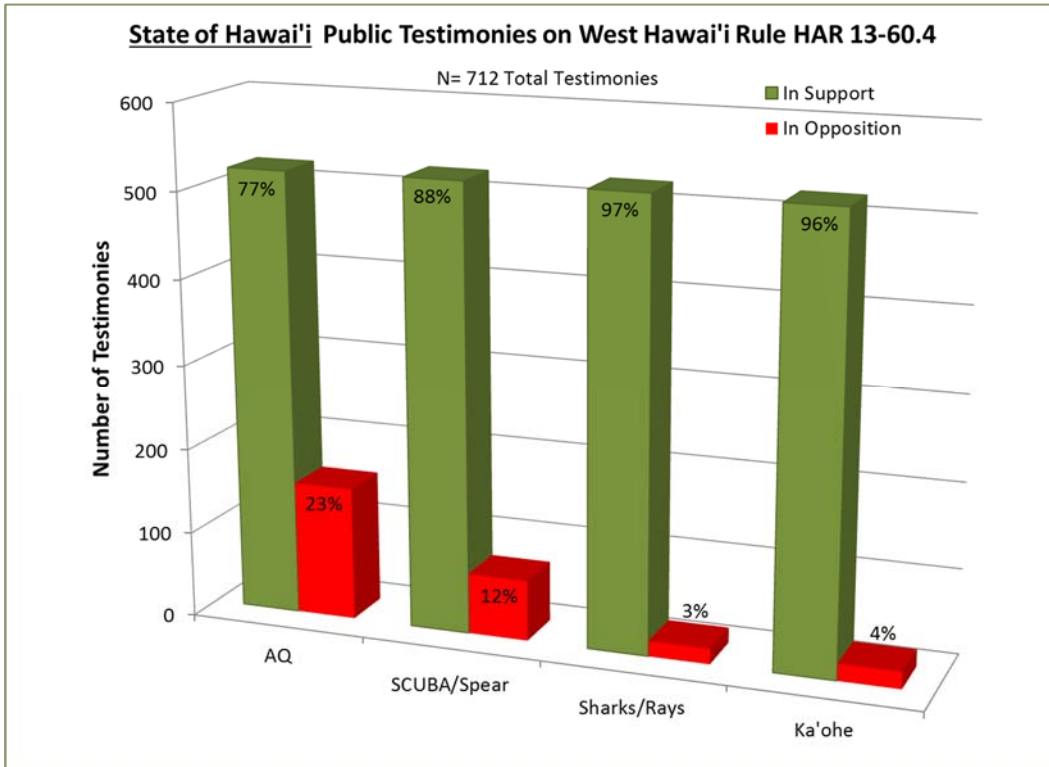
A total of 1206 testimonies (written and oral) were received by DLNR. Approximately 250 people attended the December 05, 2012 Public Hearing in West Hawai'i and the 52 oral testimonies presented at the Hearing were transcribed by Ralph Rosenberg Court Reporters, Inc. Oral testimonies are included with written testimonies in this summary document. Testimonies were grouped as [In Support](#), [Partial Support](#) and [In Opposition](#). Within each section individual testimonies were generally organized by testimony length (word count) from longest to shortest.

For summary analyses, testimonies were categorized with regard to the individual rules and rule amendments. The four major components of the WHRFMA rule (chapter 13-60.4) were addressed separately. They were noted as AQ (refers to 1. and a., b., and c. above), Scuba/Spear (2.), Sharks/Rays (3.) and Ka'ohe (4.). Summary figures for testimonies are presented separately for the WHRFMA rule (and its four components) and the other three rule amendments. Testimonies were grouped into four classes: All testimony, State of Hawai'i testimony, Big Island testimony and West Hawai'i testimony.

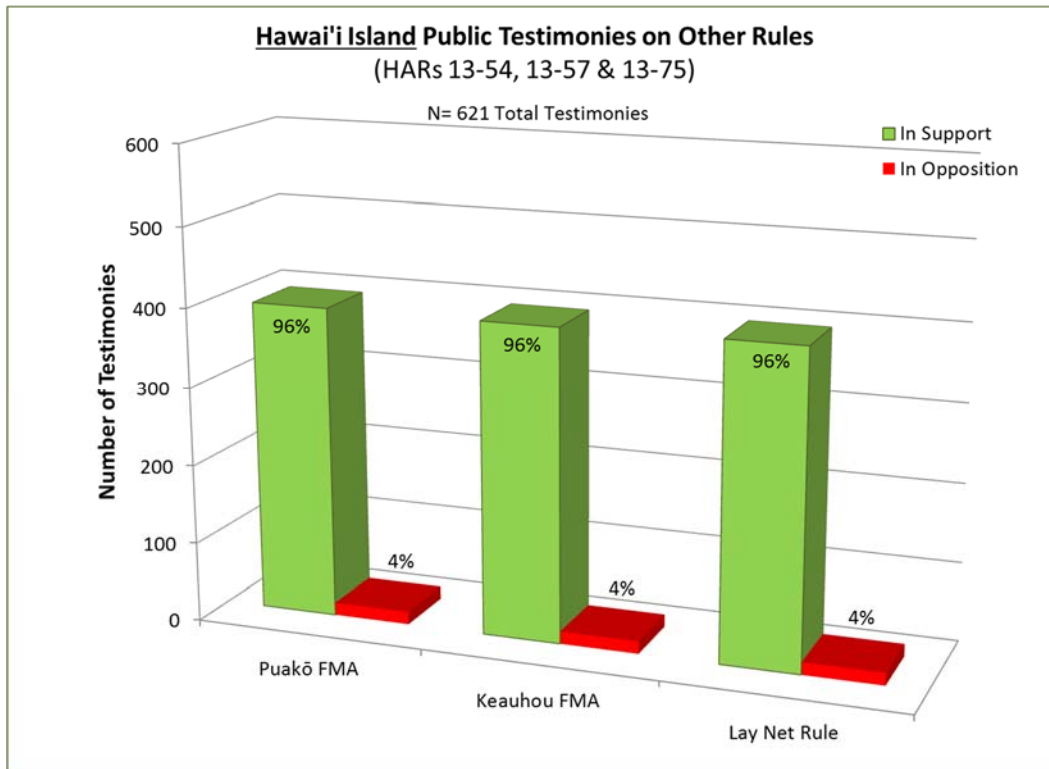
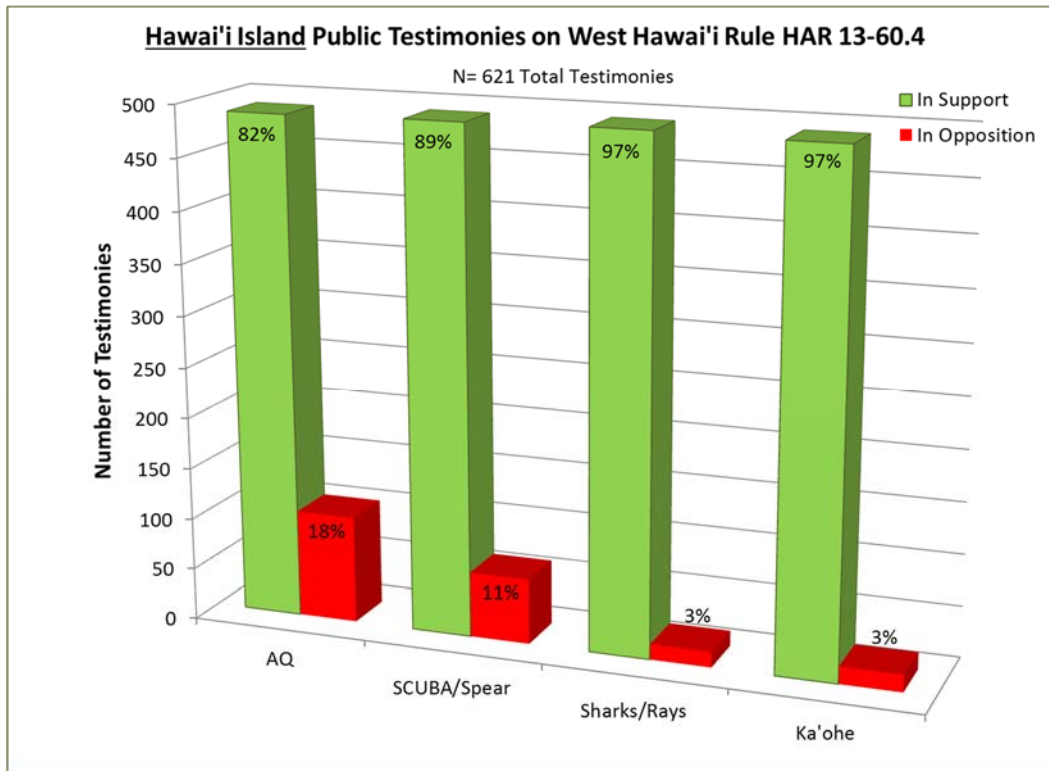
All testimony considered together (N = 1206) showed overwhelming support for all of the rule provisions.



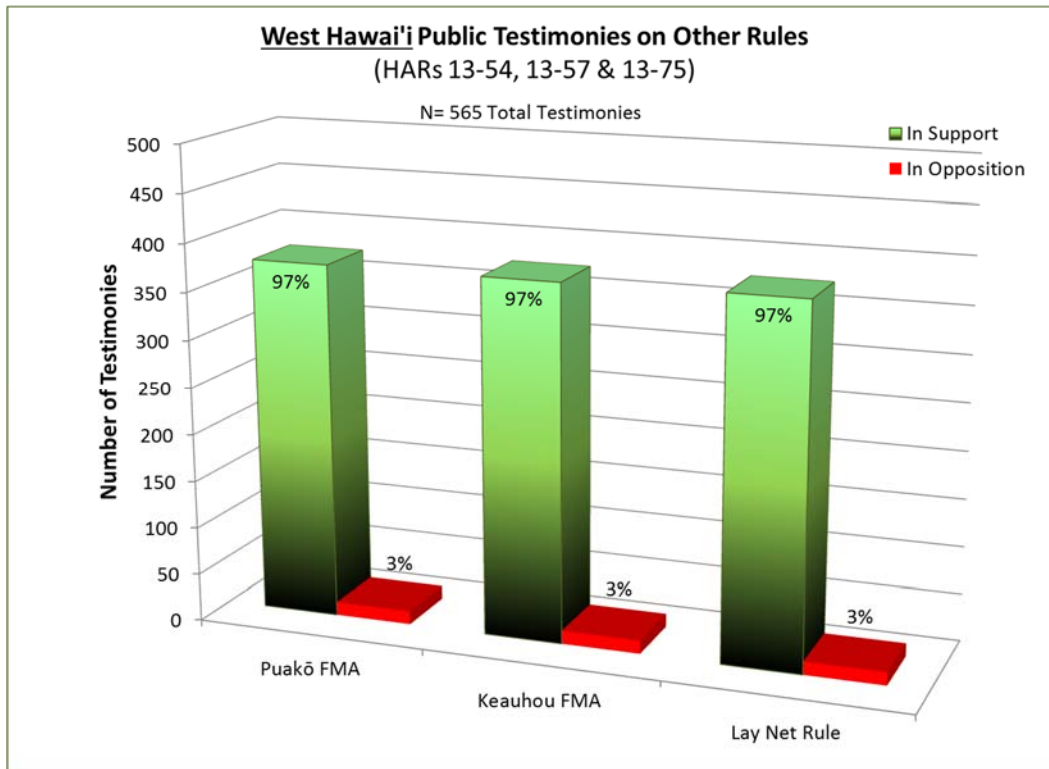
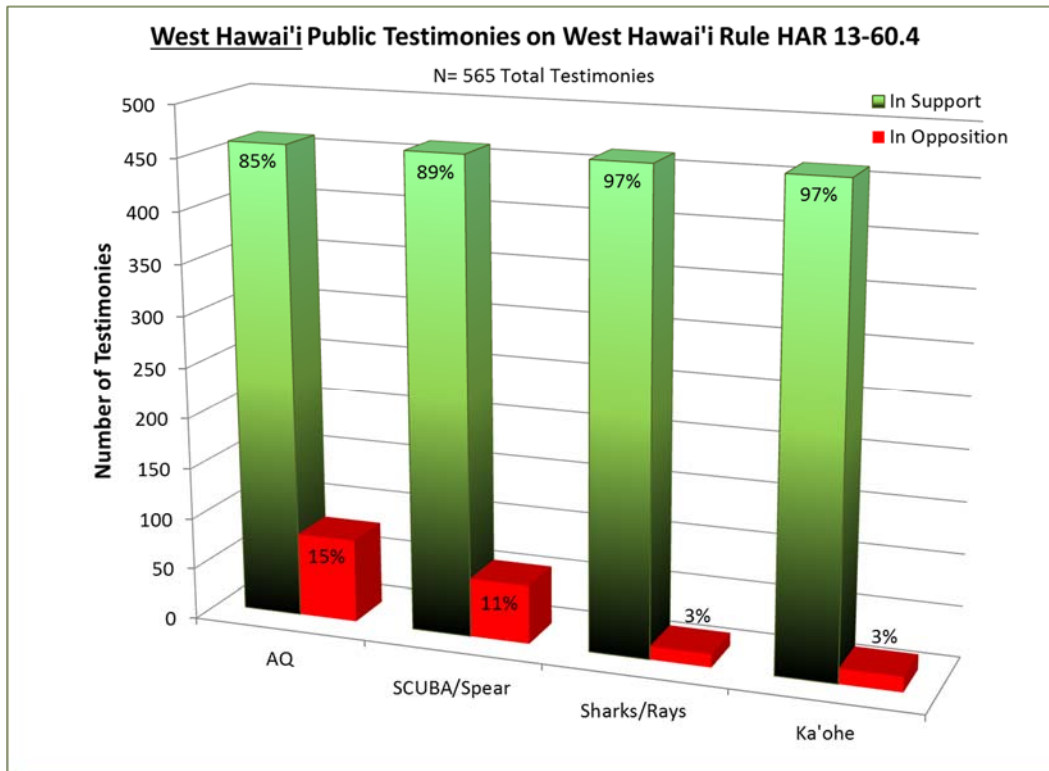
State of Hawai'i testimony (N = 712) showed overwhelming support for all of the rule provisions.



Island of Hawai'i testimony (N = 621) showed overwhelming support for all of the rule provisions.



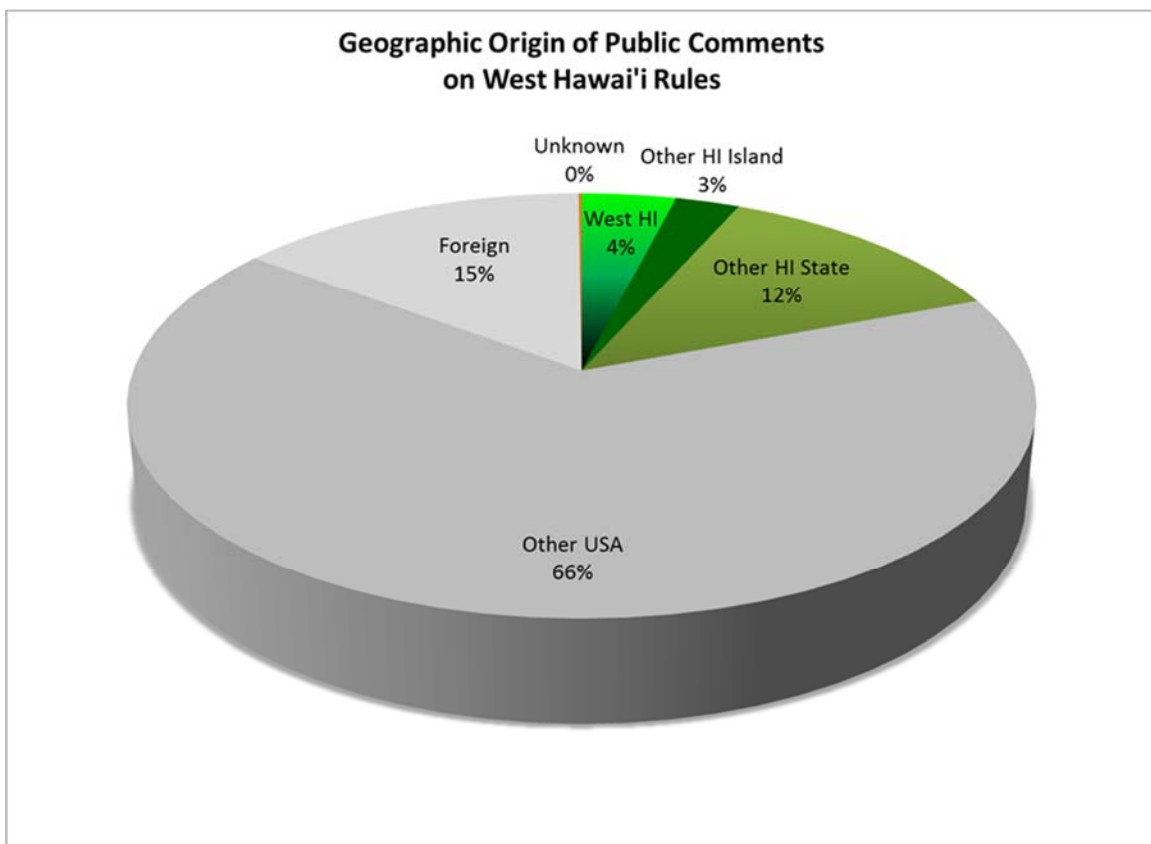
West Hawai'i testimonies (N = 565) showed overwhelming support for all of the rule provisions.



In the breakdown of testimony for the aquarium related provisions of the WHRFMA rule, it is noteworthy that the rule received the strongest support in West Hawai'i.

Public Comments

In addition to testimony on the rules, a large number of general comments (N = 2390) were received, primarily in response to Email-Blasts, from Earthjustice, The Center for Biological Diversity and the Conservation Council for Hawai'i. 81% of all comments received were from outside of Hawai'i including comments from people in 42 countries and every state of the union except New Mexico. Geographic origins of comments are shown in the following figure.



The largest group of comments (N = 1923 - all with essentially the same verbiage) was in response to The Center for Biological Diversity's Email-Blast. 98% of these comments were from outside of Hawai'i. The comments focused solely on aquarium collecting with the main points urging the Department of Land and Natural Resources (DLNR) to:

- strengthen the proposed rules for aquarium collection of Hawaii's reef fish
- adopt much stronger protections for coral reef ecosystems

- reduce the bag limits for reef fish
- include limits on collection of many other reef fish and animals
- limit aquarium collection permits
- conduct a review of the environmental impacts of aquarium collection

Earthjustice solicited comments (N=379) were much more localized with all but one coming from within the state of Hawai'i. 16% were from West Hawai'i. Similarly these comments urged DLNR to:

- comply with the environmental review procedures mandated by the Hawai'i Environmental Policy Act before issuing administrative rules regarding marine aquarium collection and;
- rules that DLNR enacts should be based on sound science and allow for meaningful public input
- DLNR should have as much scientific information as possible about aquarium collection before finalizing any administrative rules
- DLNR should only approve rules that value the health of our reefs and that are based on good, scientific information after a thorough environmental review
- The proposed West Hawai'i rules do not limit the number of aquarium collection permits
- There are species on the proposed "White List" that DLNR would continue to allow to be collected in unlimited numbers under these rules
- The rules would also still allow unlimited collection of species that are endemic to Hawai'i

All testimonies and comments received by DLNR as well as supporting documentation are available on the 'WHAT'S NEW' page on the DAR website: <http://hawaii.gov/dlnr/dar/>
The following WHRFMA rule-related documents can be downloaded at the website:

Draft Rules

Background on Proposed Rules

Small Business Impact Statement

Rules Summary

Rules Comments

Summary of Testimony and Comments

Testimony in Support

Testimony in Opposition

After an assessment of the necessity and utility of the rules and in response to overwhelming supportive public testimony, DLNR's Division of Aquatic Resources (DAR) will recommend to the Board of Land and Natural Resources (BLNR) that the West Hawaii rules be approved in their entirety.