

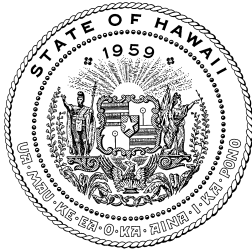
**Small Business Regulatory Review Board Meeting**

**Tuesday, February 26, 2019**

**10:00 a.m.**

**No. 1 Capitol District Building**

**Conference Room 436, 250 South Hotel Street,  
Honolulu, HI 96813**



# SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)  
No. 1 Capitol District Building, 250 S. Hotel Street, Fifth Floor, Honolulu, HI 96813  
Mailing Address: P.O. Box 2359, Honolulu, HI 96804  
Email: [dbedt.sbrrb.info@hawaii.gov](mailto:dbedt.sbrrb.info@hawaii.gov)  
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Tel: 808 586-2594

## AGENDA

Tuesday, February 26, 2019 ★ 10:00 a.m.

No. 1 Capitol District Building

Conference Room 436, 250 South Hotel Street Honolulu, HI 96813

David Y. Ige  
Governor

Michael McCartney  
DBEDT Director

### Members

Anthony Borge  
Chairperson  
O'ahu

Robert Cundiff  
Vice Chairperson  
O'ahu

Garth Yamanaka  
2nd Vice Chairperson  
Hawai'i

Harris Nakamoto  
O'ahu

Nancy Atmospera-Walch  
O'ahu

Mary Albitz  
Maui

William Lydgate  
Kaua'i

Director, DBEDT  
Voting Ex Officio

## I. Call to Order

## II. Introduction of Michael McCartney, Director, Department of Business, Economic Development and Tourism

## III. Approval of January 17, 2019 Meeting Minutes

## IV. Regulation Review Card

- A. Discussion and Fact Finding on Request Received through this Board's Regulation Review Card for Proposed New Rules and Regulations for "Crafting Safe and Sustainable, Commercial Manta Ray Viewing Procedures for Manta Ray Snorkel and Dive Sites" under Department of Land and Natural Resources' (DLNR's) Division of Boating and Ocean Recreations
1. Draft Hawaii Administrative Rules, Title 13 Subtitle 11 Ocean and Coastal Areas, Part 1 Small Business Facilities and Provisions Generally Applicable to All State Navigable Water, Chapter 230 General Provisions, promulgated by DLNR - **Discussion Leader - Mary Albitz / Tony Borge**

## V. Legislative Matters

- A. Discussion on House Bill 539 **Related to the Small Business Regulatory Review Board** – Appropriation for staffing, commissioner inter-island travel, and other related operating expenses associated with the small business regulatory review board under the Department of Business, Economic Development and Tourism
- B. Discussion and Action on Senate Bill 1348 **Relating to the Small Business Regulatory Review Board** - Clarifies the intent of the small business regulatory review board's powers when reviewing state and county administrative rules that impact small business by changing "ordinance" to "rules" when making recommendations to the county council or the mayor for appropriate action
- C. Discussion and Action on Governor's Message 559, Submitting for Consideration of the Gubernatorial Nomination of **Mr. Jonathan Shick** to the Small Business Regulatory Review Board for a term to expire June 30, 2022

## VI. Administrative Matters

- A. Update on the Board's Upcoming Advocacy Activities and Programs in Accordance with the Board's Powers under Section 201M-5, Hawaii Revised Statutes:
1. Discussion and Action on sending Correspondence to State Department Directors to Introduce Board Members Assigned as "Discussion Leaders" when Reviewing Hawaii Administrative Rules for the State Departments

**VII. Next Meeting:** Thursday, March 21, 2019, at 10:00 a.m., 235 S. Beretania St.,  
Leiopapa A Kamehameha Building (State Office Tower), Conf. Room 405,  
Honolulu, HI

**VIII. Adjournment**

If you require special assistance or auxiliary aid and/or services to participate in the public hearing process (i.e., sign language, interpreter, wheelchair accessibility, or parking designated for the disabled), please call (808) 586-2594 at least three (3) business days prior to the meeting so arrangements can be made.

**II. Introduction of Michael McCartney, Director,  
DBEDT**

*No Attachments*

### **III. Approval of January 17, 2019 Meeting Minutes**

## Small Business Regulatory Review Board

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### MINUTES OF REGULAR MEETING - DRAFT

January 17, 2019

Conference Room 405 - Leiopapa A Kamehameha, State Office Tower, Honolulu, Hawaii

- I. **CALL TO ORDER:** Chair Borge called the meeting to order at 10:00 a.m., with a quorum present.

**MEMBERS PRESENT:**

- Anthony Borge, Chair
- Robert Cundiff, Vice Chair
- Garth Yamanaka, Second Vice Chair
- Nancy Atmospera-Walch
- Mary Albitz
- William Lydgate
- Mark Ritchie

**ABSENT MEMBERS:**

- Harris Nakamoto

**STAFF:** DBEDT

Dori Palcovich

Office of the Attorney General

Jennifer Polk-Waihee

II. **APPROVAL OF DECEMBER 12, 2018 MINUTES**

Vice Chair Cundiff made a motion to accept the December 12, 2018 meeting minutes, as presented. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

III. **OLD BUSINESS – After Public Hearing**

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 8 Chapter 101 Rules Governing the Manufacture and Sale of Intoxicating Liquor of the County of Maui, promulgated by Department of Liquor Control, County of Maui

Discussion leader, Ms. Albitz, stated that Maui’s Department of Liquor Control showed no impact to small businesses on its statement likely due to having no “negative” business impact. Chair Borge reminded the members that the rules benefit small businesses as it related to public benefits where board members of non-profit organizations would have been required to submit background checks to be granted a temporary license; the changes also deal with concessions for condos that operate as hotels serving liquor on the premises.

Chair Borge added that the Department of Liquor Control did a good job at addressing concerns raised by the stakeholders. Ms. Albitz concurred stating that in the past, restaurants had to wait three to six months to prove that thirty percent of business revenue represented food to receive a class 2 restaurant license; in the current proposal, restaurants are not subject to the three to six month waiting period.

Vice Chair Cundiff made a motion to move the proposed rules for adoption. Ms. Atmospera-Walch seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Repeal of HAR Title 11, Chapter 200 and Proposed New Chapter 200.1, Environmental Impact Statement Rules, promulgated by Department of Health (DOH)

Discussion leader and Second Vice Chair Yamanaka expressed an appreciation for the extensive outreach DOH performed while promulgating the rule changes.

Mr. Scott Glenn, Director of DOH's Office of Environmental Quality Control, reminded the members he came before this Board in March 2018 and since then nine public hearings were conducted throughout the state. There was a wide range of turnout but because of the tremendous amount of outreach prior to the public hearings where many of the concerns had been addressed, there was a sense from DOH's Environmental Council (EC) that that was the reason why there was minimal commentary at the hearings; therefore, most of the concerns were already addressed.

Mr. Glenn highlighted seven main concerns discussed at the public hearings and noted EC's response to these concerns, which included changes to the definition of an environmental assessment, statutory triggers not defined in the rules, and the proposal of an exemption for the demolition of buildings that was not possible for buildings' eligibility for historic register. DOH is looking into an implementation phase of the new rules because many stakeholders are not yet ready to comply with some of the internal procedural requirements outlined in the rules. Therefore, DOH will discuss with the Governor's Office specific target dates for the rules; however, it will still be up to the Governor when and if the rules are signed off.

Second Vice Chair Yamanaka made a motion to move the proposed rules to the Governor for adoption. Ms. Atmospera-Walch seconded the motion, and the Board members unanimously agreed.

C. Discussion and Action on Correspondence from Mr. Edward Underwood, Administrator, Division of Boating and Ocean Recreation (DOBOR) at Department of Land and Natural Resources (DLNR), dated January 9, 2019, regarding HAR Title 13, Chapter 231, Operation of Boats, Small Boat Harbors, and Use of Permits for all Navigable Waters, Section 50 through 70

Ms. Albitz stated that Mr. Edward Underwood, DOBOR Administrator at DLNR, responded to this Board's request from the December 12, 2018 board meeting. Chair Borge reminded the members that Mr. Wesley Moore, a small business owner providing surf lessons on the Island of Hawaii, expressed concerns regarding the existing commercial permitting process and the limited number of permits for small businesses to grow and thrive in Hawaii; it was noted that Mr. Moore is interested in expanding his business to surf off the boat ramps.

Chair Borge acknowledged that overall it is very difficult to start up a business, particularly on neighbor islands due to limited available permits. He reminded the members that at last month's meeting, Mr. Underwood stated that there are a limited number of commercial

permits, and that a statute change may likely be necessary to accomplish Mr. Moore's concerns; Ms. Albitz also noted that there are currently more permits than required.

Regarding what the Board may be able to do under its statute, Deputy Attorney General Polk-Waihee explained that the Board can make a recommendation to an agency or the legislature regarding the need for a rule change or legislation. Given that, Mr. Ritchie suggested that a recommendation by this Board should mention Mr. Moore's concerns, in general, and that while DLNR may be unable to address the concerns through rule changes, a legislative amendment may be needed.

Ms. Albitz made a motion to send a letter to Ms. Suzanne Case, Chairperson of the Board of Land and Natural Resources and to Mr. Edward Underwood, Administrator, DOBOR / DLNR, with copies sent to Governor David Ige, Senate President Ronald Kouchi and House Speaker Scott Saiki expressing the Board's concerns. Chair Borge seconded the motion, and the Board members unanimously agreed.

#### **IV. LEGISLATIVE MATTERS**

##### **A. Discussion on the Status of the Board's current budget request for fiscal years 2019 and 2020**

Chair Borge recently attended a hearing of Ways and Means for a briefing of DBEDT's divisions and attached agencies to discuss DBEDT's current budget requests. Although many questions were posed from some of the legislatures to the other agencies and divisions, there were no questions posed to Chair Borge who was requesting \$10,000. The following day, Mr. Carl Nagasako, DBEDT ASO Administrator, represented this Board at a briefing held by the State's Finance Committee.

As the Board's request goes through the legislative process, members are encouraged to provide testimony.

##### **B. Discussion and Action on Upcoming 2019 Legislation regarding "zero-based budgeting" in which state agencies would start each two-year budget cycle from scratch and justify every dollar requested**

Second Vice Chair Yamanaka attended a chamber meeting recently where House Representative Kyle Yamashita explained that the legislature will be attempting to lay the groundwork this year on legislation regarding "zero-based budgeting." He expressed how it might relate to this Board, such as when the Board receives administrative rules from agencies for fee increases and how it might relate to an overall effectiveness and efficiency. However, at this point in time, there appears to be no such legislation for this Board to review.

Chair Borge added that judging from the budget briefings that were conducted prior to the opening of the legislative session, there will likely be many concerns over accountability of the requested monies by the agencies. Deputy Director Polk-Waihee cautioned the members to think generally about concerns of "small business" and/or if the request ties into this Board.



- C. Update on the Legislative Proposal to Chapter 201M, HRS, for the 2019 Hawaii Legislative Session – Clarify the powers of the Small Business Regulatory Review Board by adding that the Board may consider any request from small business owners for review of a rule that is proposed and amended as well as adopted by a state agency, and to change “ordinance” to “rules” when making recommendations to the county council or the mayor for appropriate action

Chair Borge reminded the members that when this bill was heard last year, at the end of the legislative session, the chair of the judiciary committee did not place it on the agenda for a hearing; so, the bill died.

The Governor did not include the bill this year in his administrative package; no reason was given. If the members are interested in having the bill re-introduced as there are no funds being requested, any legislator may be approached to introduce it.

Vice Chair Cundiff made a motion to approach a State legislator to introduce the same bill that was introduced last year. Ms. Albitz seconded the motion, and the Board members unanimously agreed.

## **V. ADMINISTRATIVE MATTERS**

- A. Update on the Board’s Upcoming Advocacy Activities and Programs in Accordance with the Board’s Powers under Section 201M-5, HRS

DBEDT staff announced that a new, temporary employee (89-days) is in the process of being approved and expected to begin work on February 1, 2019.

The Board has still not gotten any updates on the nomination of new board members from the Governor.

It was noted that Mr. Ford Fuchigami is now the Governor’s Chief of Staff and Mr. Mike McCartney is DBEDT’s Director.

- VI. NEXT MEETING** – The next meeting is scheduled for Thursday, February 21, 2019, Conference Room 405, 235 South Beretania Street, Leiopapa A Kamehameha Building (State Office Tower), Honolulu, Hawaii at 10:00 a.m.
- VII. ADJOURNMENT** – Vice Chair Cundiff made a motion to adjourn the meeting and Ms. Albitz seconded the motion; the meeting adjourned at 10:50 a.m.

## **IV. Regulation Review Card**

**A. Discussion and Fact Finding on Request Received through this Board's Regulation Review Card for Proposed New Rules and Regulations for "Crafting Safe and Sustainable, Commercial Manta Ray Viewing Procedures for Manta Ray Snorkel and Dive Sites" under Department of Land and Natural Resources' Division of Boating and Ocean Recreations**

**1. Draft HAR Title 13, Subtitle 11 Ocean and Coastal Areas, Part 1 Small Boat Facilities and Provisions Generally Applicable to All State Navigable Water, Chapter 230 General Provisions**

## Palcovich, Dori

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**From:** DBEDT SBRRB  
**Sent:** Tuesday, February 05, 2019 6:15 AM  
**To:** DBEDT SBRRB  
**Subject:** FW: New submission from Regulation Review Card

**From:** Keller Laros <keller@mantapacific.org>  
**Sent:** Friday, February 01, 2019 12:04 PM  
**To:** DBEDT SBRRB <dbedt.sbrrb.info@hawaii.gov>  
**Subject:** New submission from Regulation Review Card

### Name

Keller Laros

### Company Name

Manta Pacific Research Foundation

### Email Address

[keller@mantapacific.org](mailto:keller@mantapacific.org)

### Phone Number

(808) 895-1791

### Address

P.O. Box 3227  
Kailua-Kona, HI 96745  
United States  
[Map It](#)

### What is the title of the rule or regulation negatively impacting your business?

Proposed Manta Ray snorkel and dive site rules and regs.

### How does this rule or regulation affect your business?

I've been working w DOBOR since 2013 to craft rules to insure safe and sustainable, commercial manta ray viewing procedures. As of yet there have been no new rules of regs and industry continues to grow in unsafe and unsustainable manner.

### Suggestions as to how this rule or regulation can lessen the impact on your business

1. Cap number of commercial operators.
2. Create permitting process that current commercial operators can apply for and be granted based on their past history. i.e. like applying for college.
3. Award a 2 year permit based on quality of applicant.  
Possible qualifications should include:
  1. How many years have you been conducting commercial manta trips?
  2. How many passengers have to taken on manta trips?
  3. What professional training and qualifications do your captains and crew hold that creates a safe and sustainable manta tour experience? (i.e. all crew are Life Guard certified. Boats have AEDs and emergency O2, Naturalist briefs passengers on manta ray cultural and ecological place in Hawaii)  
Business must prove their past history by providing documentation of fees paid that reflect their claimed history of this commercial activity. If they claim 10 years experience and only have 4 yeas of payments of fees then they are not being honest and would be rejected.

### Agency or staff member you worked with on this matter; if applicable. What was the outcome?

## **Manta Tour Operator Standards**

**3-12-13**

The purpose of the Manta Tour Operator Standards is to increase the safety of manta rays and their habitat as well as the safety of the users and participants of the manta tour experience. The goal is to establish community practices and to educate those people involved.

Definitions in this document:

- **Users** include but are not limited to: owners of manta tour operations, boat captains and crew, snorkel or scuba diving guides, professional videographers or photographers, etc.
- **Participants** include but are not limited to: passengers, kayakers, paddle boarders, snorkelers, scuba divers, recreational videographers or photographers, etc.

### **1) Manta Tour Conduct**

- a) All users and participants are expected to work cooperatively as a community at the manta viewing sites with the existing best practices for the area.
- b) Improving existing practices are encouraged, but should be a cooperative effort.
- c) Professional and courteous conduct expected among all users and participants.

### **2) Boat Procedures and Mooring Use**

- a) When approaching or departing the manta viewing area, make safe speed with no wake and post a look out. Watch for snorkelers, divers, mantas, and other marine life. Avoid driving through area of human and marine life activity.
- b) Captains must monitor marine radio channel 16 per United States Coast Guard requirements and should use channel 14 for manta site communication.
- c) Work cooperatively with other boaters when using moorings to safely maximize utilization of the site. Choose a mooring that will enhance the safety and experience of all participants at the site.
- d) Mooring ball located subsurface. Boat crew expected to enter water with a line from the boat, dive down to the ball, thread the line through the eye on the mooring ball, and swim the line back up to boat where it will be secured.
- e) The crew must check that the mooring is adequate and usable. Moorings in need of repair must be reported immediately.
- f) Although discouraged, if anchoring, observe State rules and regulations. Have a crew member in the water when deploying the anchor to avoid

- people, coral, and other marine life.
- g) Avoid live boating, but when necessary avoid driving through the area of human and marine life activity.
- h) All vessels (boats, kayaks, paddle boards, surf boards, etc.) must display required navigation lights. Please reference USCG rules.
- i) All boats must comply with applicable federal and state rules and regulations. All commercial operators must have a commercial operating permit from the State of Hawaii.

### **3) To prevent manta injury or entanglement**

- a) Lights from boats must be used in a manner to be safe for manta rays and other marine life.
- b) All operators/users must eliminate in-water light use near boat ladders, rudders, propellers, or other harmful boat apparatus where manta contact may occur. This includes, but is not limited to: hull lights, snorkel raft lights, or lights from videographers.
- c) Subsurface lights from boats may only be used if lights are more than 30 feet from boat ladders, rudders, propellers, or other harmful boat apparatus where manta contact may occur.
- d) Operators must not attract mantas near their boats if other users and participants are at the site.
- e) Boat operators may use deck lighting. Topside lights used to shine into the water must have a beam aimed at a minimum distance of 30 feet from the boat. Topside lights such as this may be used only if it's conducive to cooperative manta viewing for all users and participants during the experience.
- f) Operators must remove skegs from rafting apparatus.
- g) Boat and tour operators must minimize line use in the water other than for mooring or anchoring purposes.
- h) After sunset or when mantas are present, descent lines must not be used.
- i) Lines between vessels must not be allowed to sink.
- j) If using lines, kayaks, rafting apparatus, etc. must use buoyant lines.

### **4) Dive and Snorkel Guide Standards**

- a) Operators with in-water activities must have in-water guides for each activity - surface and underwater.
- b) In-water guides must have in-water supervision training and rescue certifications. For example, snorkel guides must be Lifeguard, Skin Diving Guide, or Rescue Diver certified.
- c) Scuba diving guides must have current professional level certifications from agencies recognized by the Recreational Scuba Training Council. Professional level certifications include dive supervisors such as Divemasters or Scuba Instructors. All scuba professionals must carry personal liability insurance.

- d) All guides must have CPR/First Aid training and access to an Emergency Oxygen system (on boat or EMS).
- e) After sunset, all divers and snorkelers not in direct contact with their vessel must display one marker light. All guides and working professionals must identify themselves with two marker lights.
- f) After sunset, all participants must stay with their guide.
- g) Each operator must have an emergency recall procedure.
- h) Snorkel guides must have a visible surface float during daylight.
- i) Snorkelers and divers must not go beneath live boats.

**5) Participant Standards** (first established in 1993)

- a) Observe Only: No touching. Resist the urge to “pet” the mantas. This will only rub off their protective mucus coating. Do not chase, grab, or try to ride the mantas. This does not benefit the animal in any way.
- b) Diver Position: Divers must stay on or near the sand, rubble, or boulder bottom. An open water column is necessary for the mantas to maneuver. Avoid contact with the coral, sea urchins, or other marine life. Form a semi-circle with your group.
- c) Snorkeler Position: Snorkelers must stay on the surface and keep legs horizontal. Do not dive down into the water column.
- d) Lights: Divers shine lights up into the water column to attract plankton. Snorkelers shine lights down.
- e) Bubbles: Divers try to time your breathing so that you do not blow bubbles up into the manta if it passes over your head.
- f) Taking photos or video: When taking underwater photos or video, be considerate of people and mantas. Minimize your equipment in the water column and let the mantas come to you.

**6) Professional Videographer and Photographer Standards**

- a) Professional videographers and photographers must identify themselves with two marker lights.
- b) When shooting video or taking photos of mantas or divers, professional videographers and photographers must stay on or near the bottom. Stay out of the water column in the area of manta ray activity.
- c) When shooting video or taking photos of mantas and snorkelers, professional videographers or photographers must stay on or near the surface. Stay out of the water column in the area of manta ray activity.
- d) When descending or ascending, professional videographers or photographers must stay out of the water column in the area of manta ray activity.
- e) Professional videographers or photographers must be aware of their proximity to the campfire, scuba divers, snorkelers, boats, moorings, and the bottom - especially when setting up for or taking a shot.
- f) Professional videographers or photographers must not shine video lights or deploy camera flashes into the faces of those who are not their designated customers. Be aware of the field of the beam of light and

- narrow it when necessary.
- g) Work from the outside of the area of manta activity shooting in to concentrate plankton and mantas. Do not shine lights in other areas that attract mantas away from the main area of activity – intentionally or unintentionally.

Please see Appendix for more detailed information in how to meet these standards.

## **APPENDIX**

The following information is based on the “tribal knowledge” of manta tour operators, scuba diving guides, snorkel guides, and boat captains from decades of experience in the manta tour industry. This information is in the form of guidelines to educate users in best practices to meet the Manta Tour Operator Standards.

### **General Information for all Users:**

**COMMUNICATION:** Good communication is essential. Thoroughly brief guests to increase their understanding of best applicable practices in the water including safety protocol and courteous behavior. In addition, communicate with other snorkel guides, scuba diving guides and boat captains to share information, coordinate in water activities, and assist each other if appropriate. Captains encouraged to share mobile phone numbers whenever possible for communication.

**CAMPFIRE METHOD:** The “campfire” is created by using a light system on the bottom shining up to attract plankton that in turn attracts manta rays. Configurations vary. It’s also designed to gather users and participants to a specific location with a rubble or sand bottom. This is important because divers are asked to stay on the bottom when observing manta rays. A single campfire location concentrates light, plankton and professional supervision in a manageable area. Divers and snorkelers congregate around the underwater campfire location and help to enhance the concentration of plankton and manta rays. Multiple campfires can create a dispersal of manta ray feeding, resulting in a diminished experience for everyone. In the case a campfire needs to be moved during a dive, snorkel and scuba diving guides work together to avoid splintering into multiple locations. Reasons for moving a campfire include but are not limited to: higher concentrations of plankton, environmental conditions, and mantas rays feeding in another area.

### **Snorkel Guides:**

**LIGHTS:** If guests have individual lights instruct in proper light etiquette. While snorkeling, snorkelers shine lights down and avoid shining their lights in eyes of those around them.

**SURFACE FLOATS:** Surface floats and rafting devices are used to keep customers together and provide additional floatation for participants. Guides will actively reposition surface float devices to keep manta rays and guests away from mooring lines, boats, hazards and other groups.

**SNORKELER SURROUNDINGS:** Be aware of shifting boat positions and keep snorkelers away from boats when possible. If snorkelers are struggling with



mask or snorkel, pull them back from the area where manta rays are feeding until they are comfortable lying flat on the surface.

ADDITIONAL BUOYANCY: Provide additional buoyancy to snorkelers to keep legs on surface – wet suits, noodles under legs, or buoyant fins.

**Scuba Diving Guides:**

LIGHTS: Instruct divers in proper light etiquette. While diving, scuba divers shine lights up and avoid shining their lights in eyes of those around them.

DIVER ETIQUETTE: Brief guests on proper weighting for the manta ray dive. To avoid uncontrolled descents impacting mantas or other divers, descend at a comfortable distance from other groups and approach the campfire along the bottom. Divers should perform proper buoyancy when swimming from boat to campfire location. Find a suitable area for divers to position themselves in a spot to prevent them from making contact with other divers or marine life. Keep your divers together and allow for comfortable space between groups for control, repositioning, or extracting guests.

MOORINGS: Crew encouraged to scrub mooring balls whenever possible to make them easier to find for all members of the community.

**Boat Captains:**

TRAINING: Conduct vessel specific training and drills for crew on recall, evacuation, and missing guest procedures.

POSITION OF VESSEL: Monitor position of vessel. Avoid engaging propellers in proximity to campfire. If conditions alter the position of vessels during the manta ray activity use good judgment in repositioning vessel.

MOORING USE: When tying to a vessel on a mooring, take into consideration timing of the activity. If your group needs longer on the mooring, consider exchanging positions prior to the activity to allow for a courteous use of the mooring.

TOOLS: Have proper tools at hand to accommodate rapidly changing conditions. A boat hook and cutting device are recommended.

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Photo by Bo Pardau



# Manta Naturalist Course

## for Manta Tour Guides and Operators

**Tuition: \$95**

**Two Class Sessions:**

February 17 & 24, 2015  
Tuesdays 9 a.m. to 12 noon

**Location:**

Jack's Diving Locker  
Coconut Grove Marketplace

**Online:**

Three Modules - 6 hours

**Registration:**

Hawaii Community College -  
Office of Continuing  
Education and Training  
(808) 934-2700  
ocethawc@hawaii.edu  
Course Code: HOSP1001

**Instructor:** Wendy Laros  
laros@hawaii.edu

This course is designed for manta tour guides and operators in the marine tourism industry on the Kona Coast of the island of Hawaii. The course will include online learning and two face-to-face class sessions.

The goals of the Manta Naturalist course are to expand the student's basic knowledge of manta rays, create awareness about manta ray research and conservation, and to familiarize students with the Manta Tour Operator Standards.

Students will develop and deliver an interpretive educational briefing about manta rays. Ultimately, students will use this naturalist presentation with their guests to educate those who enjoy the experience.

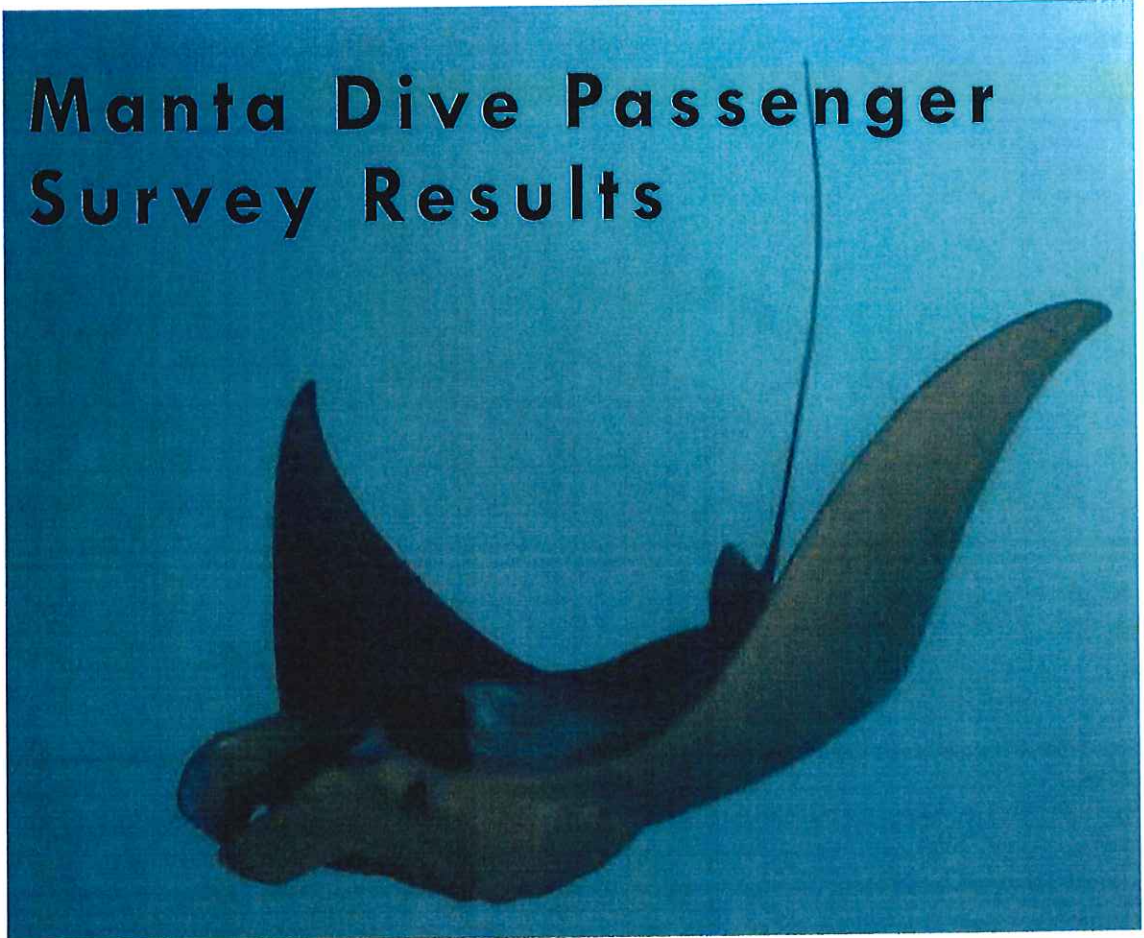
**Guest Speaker: Keller Laros**  
**Manta Pacific Research Foundation**



Date: 02/10/14

Time: 10:30am

# Manta Dive Passenger Survey Results



In spring of 2012, a team led by Dr. Brian Szuster from the College of Social Sciences at the University of Hawai`i at Mānoa conducted 450 visitor surveys asking a range of questions about their experience at the site. Questions focused on the determining the number of users at Ho`ona Bay (Garden Eel Cove) that participants in the Manta Night Dive would prefer to see at the site. Please join us to hear about the results of this study from Dr. Szuster. Agency representatives will be invited to join in the following discussion.

## Important Findings

- ◆ 82.4% felt crowded by the number of snorkelers
- ◆ 68.6% felt crowded by the number of SCUBA divers
- ◆ 78.2% felt crowded by the number of boats

Mahalo to Big Island Reef  
Fund for supporting this  
community presentation

**Monday  
February 10th  
10:30am**

**Honokohau Harbor  
HBGFC Clubhouse  
74-380 Kealakehe Pkwy  
Kailua-Kona**

# **Manta Ray Viewing Boating Operations and Safety Assessment**

*Prepared for the Hawaii Coral Reef Initiative Research  
Program (HCRI-RP) on September 6th, 2015*

**by Marine Science Consulting LLC**

samkahng@gmail.com  
(808)551-0904

## Report Outline

Executive Summary

Study objectives and scope

- Acknowledgements of contributions

Introduction/background

Project methodology

Manta ray viewing operations

- Makako Bay
- Keauhou Bay
- Mooring Usage

Hazards to human health and safety

Risk factors contributing to severity and likelihood of incidents/accidents

Risk assessment of individual hazards

- Live vessel (while engines in gear) or propeller strike on swimmer/diver
- Anchor strike on subsurface diver
- In-water medical emergency (i.e., heart attack, stroke, etc.)
- Drowning (e.g., due to panic, loss of floatation, or subsurface loss of air)
- High speed boat-to-boat collision

Existing Regulatory Frameworks

Conclusions

## Executive summary

The manta ray viewing operations at two primary locations (Makako Bay and Keauhou Bay) on the Kona coast of Hawaii Island were assessed for human safety. Stakeholder input, historical data, field surveys, and direct observations were used to identify safety issues, quantify activity levels, and independently verify current hazards. While the probability of an accident (e.g., motoring vessel striking an in-water person) causing severe injury or death is relatively low, the current activity provides ample opportunity for a severe accident to occur. Given the large number of vessels and in-water persons participating in this night-time activity, a severe accident will likely occur in the future without significant mitigation of the existing risk factors. The numbers of vessels and persons participating in manta ray viewing activities are major factors increasing the likelihood of an accident, however, there are currently no effective controls regulating capacity despite the growing demand for this activity. There are also no regulations governing recreational or commercial swimming/snorkeling activity at night amongst actively motoring vessels despite the inherent hazards associated with this activity. A formal assessment and vetting of regulatory options are recommended to determine how best to mitigate the severity of existing hazards and reduce the likelihood of severe accidents.

## Study objectives and scope

The overall objective of this project was to assess the current manta ray viewing operations relative to human safety. This study objectively and quantitatively reviews current operations and provides an independent verification and analysis of safety issues previously raised by various stakeholders. The scope of this assessment focuses on the operations at the two main viewing sites (Makako Bay and Keauhou Bay) and addresses only human safety issues, not the safety of marine life or the environmental impacts of the manta ray viewing activities.

## Acknowledgements of contributions

This assessment has been led and conducted by Marine Science Consulting LLC under the leadership of Dr. Samuel E. Kahng in collaboration with the Hawaii Coral Reef Initiative Research Program (HCRI-RP) and Hawaii DLNR Division of Boating and Ocean Recreation (DOBOR). Contributors to this project include the following individuals:

- Meagan Putts, GIS analyst – coordinated email survey, conducted field studies, generated report figures
- Maria Robben Gaydos, DOBOR – coordinated and conducted stakeholder interviews; assessed regulatory frameworks
- Risa Minato, HCRI – coordinated and conducted stakeholder interviews
- Keller Laros, Manta Pacific Research Foundation – conducted mooring verification surveys, provided daily statistics on vessel activity
- Dan Mersburgh, DOBOR – contributed boat support for conducting mooring verification surveys
- Finn McCall, DOBOR – provided engineering assessments on mooring capacity
- Teri Leicher, Malama Kai – provided specifications for day-use moorings
- Jan War, NELHA – provided shoreline access to the Makako Bay site



## Location/background

On the Kona coast of the Big Island of Hawaii, the commercial and recreational activity of viewing manta rays (*Megachasma alfredi*) at night has increased significantly thereby raising concerns about human safety in the midst of congested snorkeling, and scuba diving activity in the dark. The manta ray viewing activities are centered around two viewing sites: Makako Bay (also called “Garden Eel Cove”) and Keauhou Bay (“Manta Village” in front of the Sheraton Kona Hotel & Spa at Keauhou Bay) (Figure 1). The Makako Bay site is primarily accessed via vessels from Honokohau harbor. The Keauhou Bay site is primarily accessed via vessels from the Keauhou Bay Harbor and Boat Ramp, but it is also accessed by vessels from Kailua-Kona pier and from Honokohau harbor.

Manta rays are large (up to 5.5 m wide), visually majestic creatures which feed by ingesting small zooplankton through their toothless mouths while swimming (Figure 2). Tiny marine animals called zooplankton (much of which hide in the reef during the day) rise into the water column at night to feed and are attracted to artificial lights. At both sites, artificial lights are used to attract and aggregate zooplankton in high densities which in turn attract manta rays to nightly feeding opportunities. Tour

operators use a variety of waterproof lights to localize and attract the manta rays for the viewing pleasure of their clients.



Figure 2. Manta ray swimming amongst scuba divers (*left*) and feeding on zooplankton (*right*). Images from California Divers and Adrian Basques.

The opportunity to view manta rays, sometimes in large numbers, is a significant attraction for both visitors and residents of Hawaii. The manta ray scuba diving and snorkeling tours in Kona (Figure 3) are widely advertised in the international travel & tourism media and are literally world renown. Scuba diving magazines and websites regularly list the Kona manta ray night dive and animal encounter as a top rated activity and scuba diving destination. The consistency with which mantas are available for viewing, the relatively easy access to these sites, and predominately calm ocean conditions of the Kona coast are major factors in their popularity. While not assessed in this study, the direct and indirect economic contributions of this activity to the local economy are likely substantial.

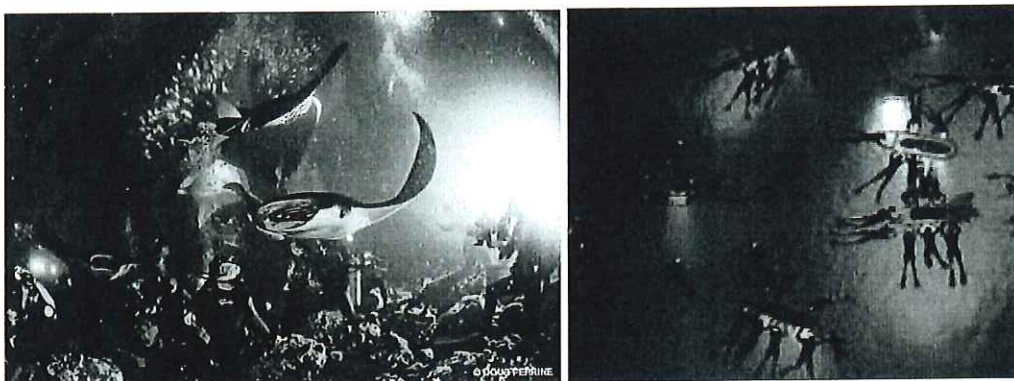


Figure 3. Manta ray swimming amongst scuba divers at night (*left*) and underneath snorkelers (*right*). Images from Alert Diver and Splashers Ocean Adventures.

### **Project methodology**

The project was conducted in three phases consisting of User Requirements, Field Investigations, and Synthesis. For the User Requirements phase the existing information relevant for the manta ray viewing operations was reviewed including the Manta Ray Working Group meeting notes, the voluntary Manta Tour Operator Standards (endorsed by 20 operators), and existing regulations. Via interviews and email surveys, voluntary stakeholder input was compiled from 26 stakeholder organizations/companies (Appendix A) to assess current operations (equipment, normal procedures, crew training & experience, and emergency protocols), perceived human safety risk factors, efficacy & limitations of voluntary protocols, and perceived regulatory solutions & limitations. Attempts were made to contact all known

manta ray tour operators via email survey to give everyone the opportunity to provide input. In addition to tour operators, input was received from safety and regulatory organizations, relevant nonprofit organizations, adjacent land owners/managers, and a private boater.

For the Field Investigation phase, the two primary viewing sites were surveyed and mapped, all existing moorings were inspected and photographed, and night time operations were observed in detail on nine nights. Visual observations of operations were conducted at both sites from land and onboard tour operator vessels. Four days of operations were observed at Makako Bay and six days of operations were observed at Keauhou Bay. The operational observations quantified & characterized in-water activities, quantified & characterized boating activity, recorded behavior or activities increasing/decreasing safety risks, independently verified & confirmed potentially hazardous operational aspects.

### Manta ray viewing operations

As of August 2015, at least 42 commercial tour operators (Appendix B) have been identified as visiting these two sites providing night time snorkeling and/or scuba diving tours for viewing manta rays. While some companies operate on a nightly basis, others provide manta tours less frequently or service the private charter vessel market. A few of the larger companies operate multiple motorized vessels on a nightly basis. The capacity of the vessels also varies from small six passenger boats to large vessels with over 40 passengers (Appendix C). Depending on weather, the number of vessels, snorkelers, and divers varies widely by date but averages 12-13 motorized vessels at one time. However, maximum number of vessels at each site on the busiest night is roughly double the average (Figure 4).

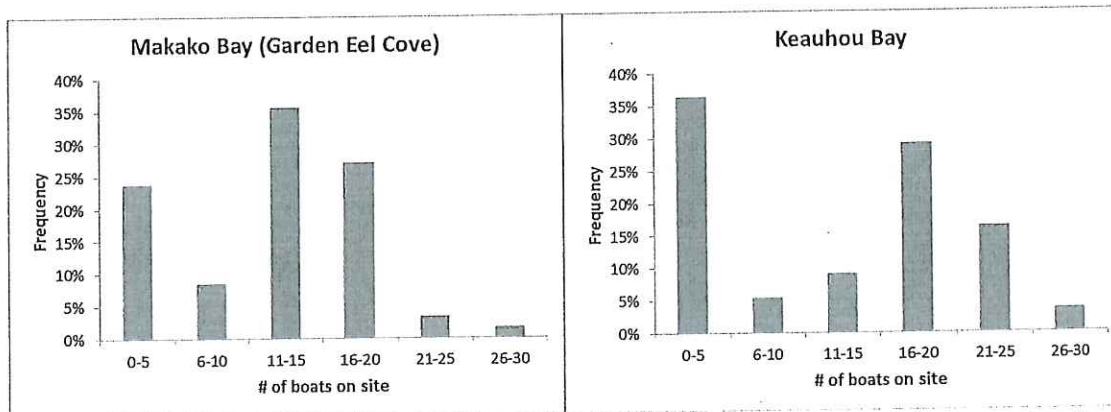


Figure 4. Frequency distribution of number of motorized vessels per night at each manta ray viewing site. Data derived from daily observation logs January-July 2015 from Manta Pacific Research Foundation. These data were collected from an operating vessel and therefore represent concurrent vessels on site. Total number of vessels visiting per night may be higher.

### ***Makako Bay (Garden Eel Cove)***

At Makako Bay, some scuba diving boats providing two tank dives arrive early, well before sunset, but most vessels arrive just prior to sunset while there is sufficient ambient light facilitate mooring/anchoring. Snorkelers entering the water and are generally associated with floating rafts (Figure 3). Peak in-water activity occurs 30-45 minutes after sunset before the first groups of snorkelers leave and after most scuba divers enter for their final night dive. A few vessels either operate a second shift or arrive very late (~2 hours after sunset) after most vessels have already departed the site.



During observations on Aug 10-13, 2015, a total of 16-19 vessels per night were observed with a visual count of 160-190 persons (snorkelers and divers) in the water concurrently. Due to limitations in visibility at night, this count represents a conservative estimate and the actual number was likely higher. Considering that up to 26 concurrent vessels have been recorded at this site (on April 3, 2015), the maximum number of persons in the water concurrently likely exceeds 290 persons on the busiest nights. During the observation period, the arrival and departure of vessels to the manta viewing area was somewhat synchronous with little live boating activity when a majority of persons are in the water (Figure 5). The tour operators who only cater to snorkelers tend to depart early while scuba divers are still underwater. Due to the limited number of moorings, the amount of live boating activity on busy nights is likely higher than observed during this study.

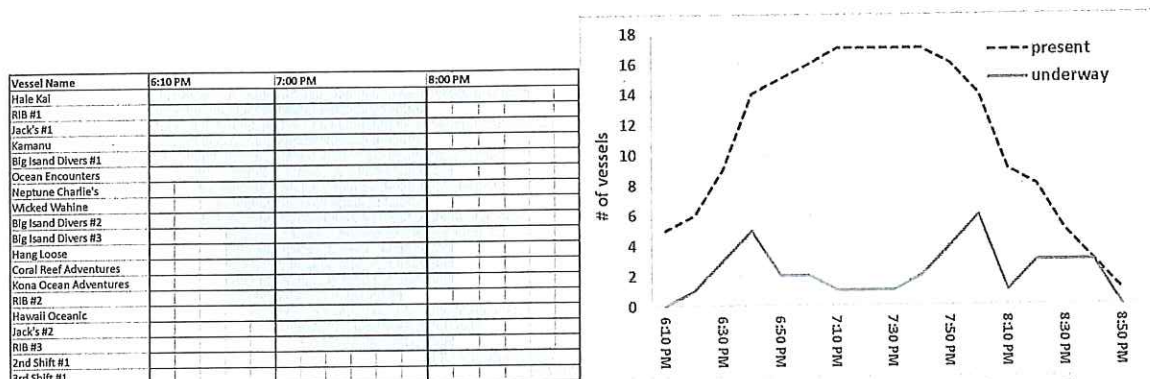


Figure 5. Time-motion statistics at Makako Bay on August 13, 2015 from 6:10-9:00 pm. Yellow bars indicate when each vessel, watercraft, or group was present at the manta viewing site. Each cell represents a 10 minute block of time. The beginning and end of each continuous yellow bar denotes when each vessel/group arrived and departed respectively. A nightly total of 19 vessels were observed with approximately 209 persons. During peak in-water activity 7:00-7:40 pm, most vessels were moored/anchored and relatively few were underway (i.e., actively motoring).

Snorkelers are accompanied by a guide, associated with rafts (e.g., floating boards with handles and equipped with downward facing lights, Figure 3), and remain at the surface of the water (free diving is discouraged by tour operators). In some cases the rafts are tethered to the originating vessel but in other cases, the rafts are free floating enabling the group to adjust their location independent of the originating vessel. While a majority of the snorkelers observed had individual lights, many regularly do not. On occasion, individual snorkelers or guides without lights were observed straying > 40 ft from their group raft.

Scuba divers are accompanied by a diver master/professional and generally begin their descent next to their originating vessel before transiting underwater to a central “campfire” site where underwater lights are aggregated to attract manta ray feeding. Given the dispersion of vessels, the underwater transits originate from all directions. In general, divers return to their originating vessel prior to ascending to the surface. However, an individual scuba diver was observed briefly surfacing in an unplanned location during their transit to/from an originating vessel.

### **Keauhou Bay (Sheraton Kona Resort)**

At Keauhou Bay, the activity by “regular” operators (who are based on Keauhou Bay) are primarily focused on snorkelers and the boat activity can be considerably lower than at Makako Bay (Figure 4). Unlike the operations at Makako Bay which is adjacent to restricted shoreline access (i.e., Kailua-Kona International Airport and Natural Energy Laboratory of Hawaii Authority), the Keauhou Bay site is accessible from shore by kayaks, stand up paddleboards (SUPs), and individual swimmers via a nearby

public shoreline access point. Given the proximity of the snorkeling site to Keauhou harbor and boat ramp, a few commercial operators operate up to three shifts nightly. When manta rays are not frequenting the Makako Bay site, commercial operators who normally visit Makako Bay move their scuba diving and snorkeling operations south to Keauhou Bay. The result is a bimodal distribution in activity and the potential for very high boating activity on certain nights (Figure 4).

During observations on June 22-23 and Aug 19-21, 2015, a total of 7-22 vessels per night were observed with a visual count of 114-177 snorkelers and divers (including customers and guides) in the water concurrently. A few of the Keauhou based snorkel charters operate vessels (i.e., *Hula Kai*, *Hokuhele*, *Kona Style*) with high capacity. On the busiest days (e.g., 28 boats on July 6, 2015), the maximum number of persons in the water concurrently likely exceed 310 persons. In general, the activity at Keauhou Bay is less synchronous than at Makako Bay with vessels continuously arriving and departing throughout the night. The result is continuous live boating activity at the site.

To help illustrate the overlap in boating activity with in-water snorkelers and divers, an intensive time & motion study was conducted on August 21, 2015 from 6:20-10:00 pm from the 2<sup>nd</sup> floor of the Sheraton Kona Resort. In addition to static totals (21 vessels, 6 kayaks, 1 SUP, and 301 persons), the arrival & departure and the live boating activity for each vessel was tracked across time along with the timing of persons entering and exiting the water from each vessel and from shore. Data was aggregated for each 10 minute block of time, where the number of in-water persons were quantified verses the number of vessels actively motoring at the site. Peak overlap occurred between 7:20-8:00 pm with 98-177 persons in the water while 5-10 vessels were actively motoring in the confined area (Figure 6-7).

Greater overlap between actively motoring vessels and in-water persons would occur on busier days especially given the limited availability of moorings. For example, up to 28 concurrent vessels have been observed at Keauhou (April 3, 2015) which would represents a 38% increase over the maximum of 16 concurrent vessels observed on the date of this time-motion study.

Vessel Name	6:20 PM	7:00 PM	8:00 PM	9:00 PM
Kona Style				
RIB #1				
Wicked Wahine				
Zodiac w/outboard				
Kamanu				
Hang Loose				
RIB #2				
Kona Ocean Adventures #1				
Hokuhele				
Kona Ocean Adventures #2				
Kona Ocean Adventures #3				
RIB #3				
Sunlight on Water				
Hula Kai				
Kini Kini sailing canoe				
RIB #4				
Hawaii Ocean and Island Tours				
Myka I				
Makai				
Plan B				
Unidentified boat				

Figure 6. Time-motion chart at Keauhou Bay on Aug, 21, 2015 from 6:20-10:00 pm. Yellow bars indicate when each vessel, watercraft, or group was at the manta viewing site. Each cell represents a 10 minute block of time. The beginning and end of each continuous yellow bar denotes when each vessel/group arrived and departed respectively. Note that some vessels visit the site multiple times per night.

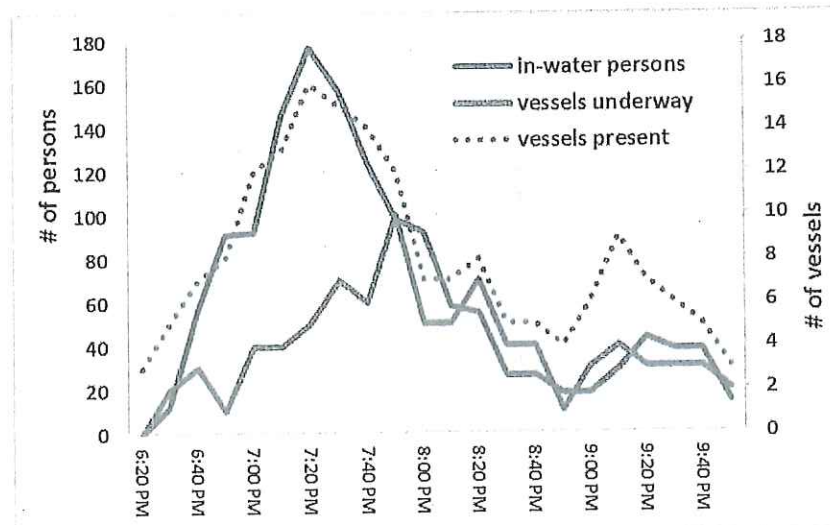
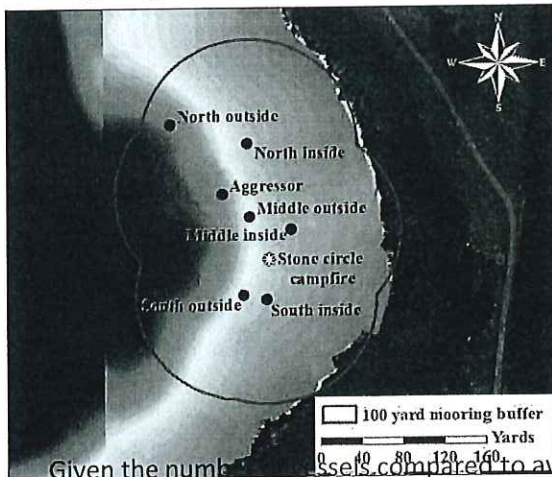


Figure 7. Overlap between in-water persons and live boating activity (i.e., vessels underway) at the Keauhou Bay manta ray viewing site on August 21, 2015. A total of 21 vessels and 301 persons visited the site.

Attempts to collect similar quantitative details at Makako Bay were not successful due to the lack of a feasible observation platform. The distance and elevation of the available shoreline observation stations did not provide sufficient night time visibility to obtain reliable counts. The elevation and motion stability from available vessel observation platforms also did not support the ability to obtain consistently reliable counts across time.

### Mooring usage



At Makako Bay, seven moorings with subsurface floats are used on a nightly basis (Figure 8, Table 1). Five are anchored using double pins, one (north inside) is anchored with a single pin, and one (north outside) is secured to a large boulder via chains (Figure 9). The north outside mooring is not a U.S. Army Corp of Engineers (USACE) permitted mooring. These moorings are located in close proximity and surround the circle of rocks known as the stone circle "campfire" where scuba divers place lights and sit on the seafloor to view manta rays (Figure 8). The campfire is the primary manta ray viewing site for scuba divers in Makako Bay.

Given the number of vessels compared to available moorings, at least 2-3 vessels simultaneously use each mooring on a nightly basis. The boats are attached end-to-end ("daisy chained") to each other. Given that the number of vessels observed at Makako Bay during this study was well short of its peak activity, the number of vessels per mooring likely increases on busier days. Due to the limited number of moorings and space constraints, vessels also commonly anchor nearby (within 100 yards of the moorings). Some vessels, particularly smaller boats arriving after dark, do not moor or anchor but "live boat" throughout the duration of the night. These boats typically drop-off and pick-up snorkelers near the campfire and wait offshore in the interim.

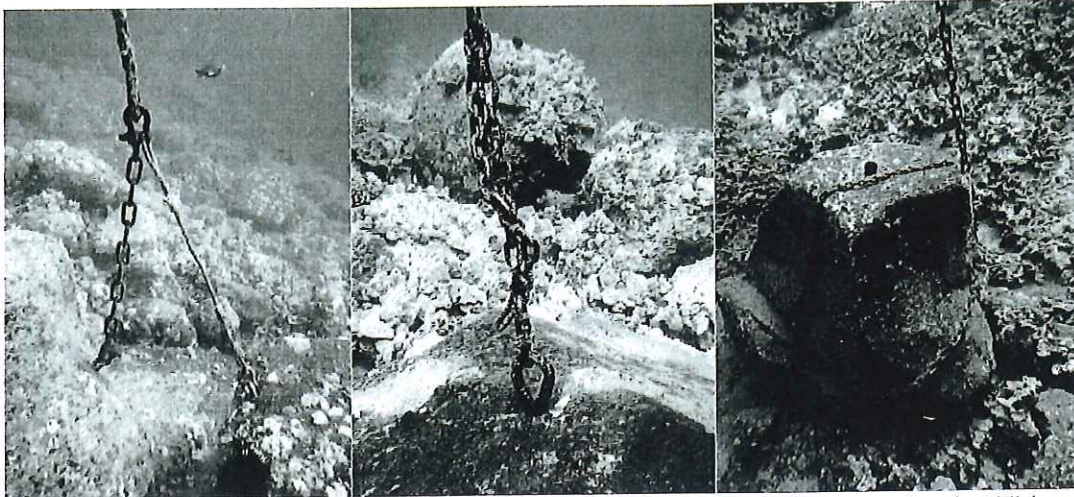


Figure 9. Day-use moorings at Makako Bay: (left) middle outside with double pin anchor, (middle) north inside single pin anchor, and (right) north outside with chain anchor.

At Keauhou Bay, there are seven moorings but only four have subsurface floats. Three are anchored using double pins, one (inside north) is anchored with a single pin, and three (Aggressor north, Aggressor south, south chain) are anchored to large boulder via chains (Figure 10, Table 1). The three chain moorings do not have subsurface floats and are not USACE permitted moorings. Additionally, the south chain mooring is not secure and consists of a chain loosely looped over a boulder (Figure 11). The Keauhou moorings are located in close proximity to the boat channel which is actively used throughout the day and night by vessels not associated with the manta ray viewing operations.

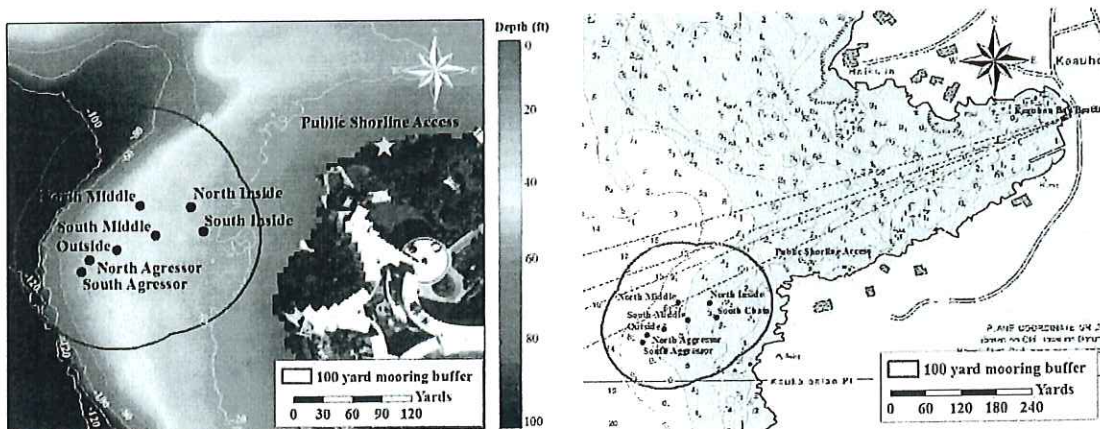


Figure 10. Map of the Keauhou Bay manta viewing site (left) and the day-use mooring locations– both official and unofficial. The red outline indicates the 100 yard perimeter surrounding the official day-use moorings and the yellow star indicates the location of the public shoreline access. The NOAA nautical chart (right) showing the Keauhou harbor boat channel and its proximity to the day-use moorings.

Based observations, the four moorings with subsurface floats are regularly used by at least one vessel. Some vessels, arriving after dark, do not moor but instead drop anchors presumably due to their inability to locate available moorings. Boats have also commonly been observed live boating throughout the duration of the night. During busy nights, 3-4 boats were observed using each mooring

simultaneously. Compared to the Makako Bay site, the vessels at Keauhou Bay are less centralized and more dispersed along the shoreline and anchoring is much more frequent. While not assessed within the scope of this study, the live coral cover was observed to be quite high throughout the area where anchoring was observed. Damage to live coral colonies is likely unavoidable when anchoring in this area, especially at night.

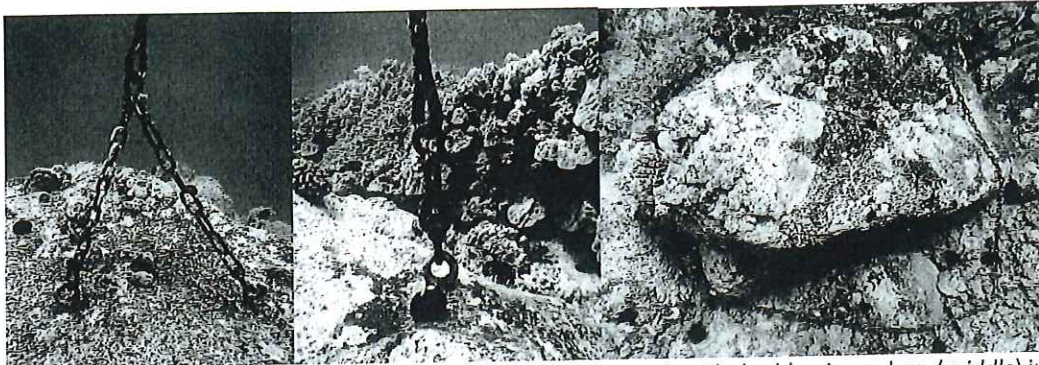


Figure 11. Day-use moorings at Keauhou Bay: (*left*) middle south with double pin anchor, (*middle*) inside north with single pin anchor, and (*right*) south chain which is only loosely wrapped around a boulder.

Attempts were made to reconcile the moorings verified during this study with existing records from Malama Kai (<http://www.malama-kai.org/>) and DLNR DOBOR administrative rules. However, GPS coordinates listed in the records do not align with the high sensitivity GPS coordinates recorded by a Garmin 72H directly over each mooring in this study (Table 1). Assuming that the Malama Kai records list all day-use moorings approved by the Army Corp of Engineers and the Hawaii DLNR Land Board, there are several unapproved moorings which are being used at both sites. Despite the discrepancies with the Malama Kai online records, Teri Leicher of Malama Kai states that all of the double pin and single pin moorings at both sites are approved.

At Makako Bay, at least one or two of the moorings with subsurface floats are not permitted/approved. At Keauhou Bay, three chain based moorings and possible one of the moorings with a subsurface float are not permitted/approved. Of all day-use moorings at both sites, only one at Makako Bay is actually codified in the DLNR DOBOR administrative rules which guide enforcement activities (per Dan Mersburgh, DLNR DOBOR).

The risk of mooring failure was not thoroughly assessed in this study due to external dependencies for information and engineering expertise which were not met in time for issuing this report. However, rough engineering calculations on the available mooring specification data suggest that the mechanical force exerted on a single mooring from four rafted vessels may easily exceed the design specifications of the mooring causing potential failure under conditions of high wind (e.g., 30 mph) and significant swell (per Finn McCall, DLNR DOBOR). More detailed analysis should be performed to assess what level of vessel rafting and what weather conditions can be safety supported by the moorings.

### **Hazards to human health and safety**

Consistent with classical risk assessment and management methodology, this safety assessment defines and assesses the **hazards** to human health & safety independently from their **likelihood** (i.e., probability) of occurrence (Figure 12). Hazards are prioritized in order of potential severity. **Risk factors** which increase hazard severity and/or likelihood will be assessed. **Mitigating factors** employed to reduce severity and/or likelihood will also be assessed.

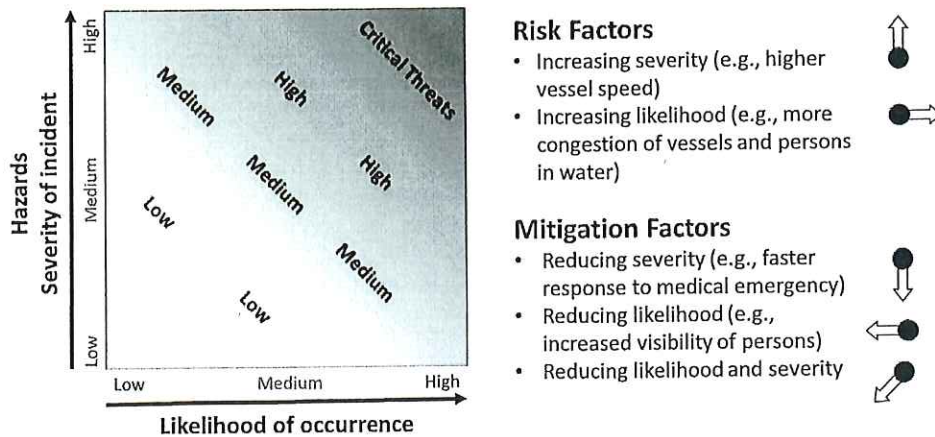


Figure 12. Classical risk assessment and management framework. The severity or impact of a hazardous incident occurring is represented in the vertical axis while the likelihood or probability of occurrence is represented in the horizontal axis. The resulting gradient represents the highest threats (upper right corner) which should be prioritized for management attention. Risk factors increase the threat level either by increasing severity of a hazard and/or increasing the likelihood of occurrence. Conversely, mitigating factors reduce the threat level posed by hazards by reducing the severity of the hazard and/or reducing the likelihood of occurrence.

Given the nature of the manta viewing operations, there are several potential human safety hazards which range in level of severity. Some hazards are inherently associated with any in-water activity but others are exacerbated by specific nature of the manta viewing operations and/or the level of congestion on a given night. Hazards have been classified based on potential severity of injury and resulting consequences.

For purposes of this assessment, hazards have been classified as **high** if they can result in severe injury or death, **medium** if they can result in injury requiring professional medical attention but are most likely non-life threatening, and **low** if they can result in minor injury (i.e., not requiring professional medical attention) but possibly ending recreational activity for the individual(s). Specific hazards identified via stakeholder input and review of current operations include the following:

**High:** severe injury or death possible

- (1) Live vessel (while engines in gear) or propeller strike on swimmer/diver
- (2) Anchor strike on subsurface diver
- (3) In-water medical emergency (i.e., heart attack, stroke, etc.)
- (4) Drowning (e.g., due to panic, loss of floatation, or subsurface loss of air)
- (5) High speed boat-to-boat collision

**Medium:** injury requiring medical attention possible

- (6) Drifting vessel strike (engines off)
- (7) Swimmer/diver hitting idle vessel (e.g., swimming into boat or surfacing under boat), or accidentally kicking idle propeller
- (8) Manta ray colliding with swimmer/diver
- (9) Slow-no-wake speed boat-to-boat collision

**Low:** minor injury possibly ending recreational activity

- (10) Contact with hazardous marine life (urchins spines, coral abrasion, stinging organisms)
- (11) Swimmer accidentally hitting/kicking another swimmer

(12) Mild hypothermia

(13) Swimmer fatigue

The scope of this assessment will address high severity hazards relative to the manta ray viewing operations and factors affecting their severity and likelihood. While the likelihood of hazardous incidents occurring cannot be definitively calculated without substantial, detailed historical data, valuable qualitative insights can be gleaned from the available data, assessment of stakeholder input, and limited observations performed in this study. Generic diving or boating related hazards not specific to or exacerbated manta ray viewing operations are not addressed.

### Risk factors contributing to severity and likelihood of incidents/accidents

For each type of hazard there are risk factors that influence the severity and likelihood of hazards occurring (i.e., incidents/accidents). Some of these factors can be influenced to varying degrees by operating procedures employed by individual tour operators. For purposes of this assessment, these factors have been classified in the following categories with an indication of whether they are addressed within the scope of this study and if so, what information was used in their assessment.

- **Natural ocean & atmospheric conditions** including level of ambient light, wave swell, wind speed, currents, and underwater visibility
  - *not addressed in this study; can be mitigated via operator decision to cancel tours*
- **Customer health and snorkeling/diving ability**
  - *not addressed in this study; can be mitigated via operator screening of customers*
- **Operator skill/experience/readiness** including number of crew, level of training & experience of captain & crew, crew utilization & attentiveness, emergency procedures & medical equipment
  - *voluntary stakeholder input collected via interviews & email survey*
- **Operating procedures & equipment** including in-water supervision ratios, aggregation versus dispersion of swimmers/divers, use of group flotation & lights, use of individual flotation & lights
  - *Assessed via direct observations, and voluntary stakeholder input collected via interviews & email survey*
- **Crowding/congestion** including number of boats and divers/swimmers in water
  - *Assessed via direct observations, compilations of statistics provided by Manta Pacific Research Foundation, and voluntary stakeholder input collected via interviews & email survey*
- **Live boating near swimmers & divers** including the synchronicity of operations and the behavior of vessel captains, swimmers, and divers
  - *Assessed via direct observations, and voluntary stakeholder input collected via interviews & email survey*
- **Mooring availability & integrity** including mooring specifications, number of vessels using each mooring, and vessel size(s)
  - *Assessed via mooring verification survey, commercial vessel specifications, mooring specifications, and DLNR DOBOR engineering calculations*

### Risk assessment of individual hazards

### ***Live vessel or propeller strike on swimmer/diver at night***

Probably the most severe hazard associated with the night time manta viewing operations is a live vessel or propeller strike on a person in the water, particularly on the head. Several risk factors which can increase the likelihood of a live vessel or propeller strike include the following:

- (a) Number of live boating vessels and in-water persons
- (b) Timing overlap of in-water persons and live boating activity
- (c) Spatial proximity of live boating vessels and in-water persons
- (d) Visibility of in-water persons (including use of lights) and surfacing behavior of scuba divers & free divers
- (e) Speed of live boating vessels
- (f) Crew utilization and attentiveness, and use of spot lights on live boating vessels

Of these risk factors, vessel speed (e) is the only factor which also increases severity of hazard.

In the operational statistics previously reviewed, the level of congestion and overlap of in-water persons and live boating vessels have been quantified and demonstrate ample opportunity for an accident to occur due to (a) and (b), especially on the busiest days. Additionally, the spatial proximity of the Keauhou manta viewing site to an active boat channel increases the likelihood of an accident (Figure 10).

Ten days of direct observations (confirming stakeholder input) have recorded operator and swimmer/diver behavior which needlessly increases the likelihood of an accident occurring due to (c), (d), and (e). On a nightly basis, multiple vessels have been observed traveling above minimum operating speeds (e) and passing within 10-20 ft of in-water persons (not associated with the vessel) (c) who are not wearing individual lights (d). Unlit swimmers have also been observed venturing away (>40 ft) from their groups/rafts or swimming to/from shore (at Keauhou Bay). On one occasion, a scuba diver was observed briefly surfacing unexpectedly (d) halfway between their originating vessel and the campfire (at Makako Bay). The visibility of in-water persons (d) by vessel operators can be both enhanced and degraded by the use of strong lights. The use of strong lights by one operator can substantially enhance their vision and ability to avoid in-water persons while concurrently hampering the vision of other operators.

During the night-time observation periods, unrelated vessels exiting and entering the Keauhou harbor at high speed avoided the manta ray viewing area where most moored/anchored vessels were well lit. This behavior contrast to day-time activity when vessels commonly transit over the day-use moorings at high speed when entering & exiting the Keauhou boat harbor. However, on one night multiple groups of swimmers associated with lighted rafts were observed following manta rays well into the boat channel (north of the North Middle mooring) as defined by the NOAA nautical chart (Figure 10).

On three occasions, vessels were observed transiting above minimum operating speed directly over submerged divers (c) visible from their dive light and in one case confirmed by the diver's behavior afterwards (i.e., waving their dive light upward in response). Due in part to congestion, vessels regularly pass within 20 ft of subsurface divers (c). The movement and dispersion of subsurface divers relative to moored/anchored vessels contributes to this spatial proximity. On one occasion, subsurface divers moved to within 10 ft of the stern of a moored vessel (c) and remained stationary for an extended period of time (>30 minutes). Subsurface divers transiting underneath moored/anchored vessels is a common occurrence due to the congestion of vessels in a confined area.

Direct observations also confirm some operators employing mitigating behavior to reduce the likelihood of accidents. Many vessels (but not all) clearly take the most evasive route possible (c) and use minimum operating speed (e) exercising an abundance of caution when approaching or leaving the area with in-water persons. Some (but not all) moving vessels also employ extra crew on the bow or stern with spotlight(s) to avoid in-water persons (f). A majority of operators place individual lights on in-water persons (d) although this practice appears less consistent on the snorkeling guides themselves.



The general procedure practiced by all scuba diving operators is to descend and surface next to their originating vessel (d), however, unplanned surfacing inevitably occurs for a small percentage of scuba divers. Scuba divers at the manta viewing sites do not use surface markers or dive flags due to the entanglement hazard they pose to the manta rays at night.

Free diving (d) is also discouraged by all tour operators but has been observed, especially at Keauhou Bay. In close proximity to moving vessels, lengthy free dives which may include transiting a significant distance underwater disproportionately increases the risk of an accident.

#### ***Anchor strike on subsurface diver***

Another potentially severe hazard associated with the night time manta viewing operations is an anchor strike on a subsurface diver, especially on the head. Risk factors which can increase the likelihood of an anchor strike include the following:

- (g) The number of vessels using anchors and number of subsurface scuba divers
- (h) Timing overlap of subsurface diving and arrival time of vessels
- (i) Anchor deployment procedures

Of these risk factors, anchor deployment procedures (i) is the only factor which can also increase the severity of hazard.

The risk factors associated with this hazard differ by manta ray viewing site. At Makako Bay where scuba diving occurs nightly weather permitting, the vessel arrival schedules are more synchronized with fewer vessels arriving after dark while subsurface scuba divers are in the water (h). At Keauhou Bay, scuba diving is less regular but the vessel constantly arrive throughout the night (e.g., Figure 6). At both locations, the busier nights (g) result in an increase in both the need for anchoring (due to limited availability of moorings) and the timing overlap between subsurface divers and arriving vessels (h).

Dropping an anchor from a vessel at night without inspecting the seafloor and allowing it to free-fall at maximum speed to the bottom not only increases the likelihood of an accident but also maximizes the severity of the hazard. This behavior was observed on several occasions at Keauhou Bay and appears to be a common practice. This practice was not observed at Makako Bay during the four days of observation. Less caution at Keauhou Bay may be the result of scuba diving being less common there.

Direct observations also confirm that most operators mitigate this risk by slowly lowering their anchor hand-over-hand and/or employing an in-water observer to help guide the anchor. However, even when lowered hand-over-hand, an anchor strike on the head on a subsurface diver has the potential to injure or render them unconscious.

#### ***In-water medical emergency***

Due to preexisting medical conditions, medical emergencies (i.e., heart attacks, strokes, etc.) will be directly proportional to the number of at-risk persons involved in any physical activity. Due to the increasing number of persons engaging in night time manta ray viewing, its widening appeal to snorkelers, and the low barriers to entry (i.e., no prerequisite training or skill required), such incidents can be expected at a consistent ratio. Based on stakeholder input, such events appear to occur every year and should increase as the number of participants increase.

The most direct and possibly the only effective way for operators to lower the likelihood of such incidents is to screen customers for medical condition and skill level prior to in-water activities. While this practice is institutionalized in the scuba diving industry, there are no standards associated with snorkeling tours. Some snorkeling operators have indicated that they deliberately screen customers based on health or snorkeling experience. However, customer dishonesty about their medical condition or skill level has been noted in the past. Another practice which prevents operators from proactively screening customers is the use of independent third party booking agents. In these situations, the operators do not meet the customers until they are ready to board the vessel.

The risk major factors affecting the severity of incidents and conversely the mitigating factors reducing severity are as follows:

- (j) Response time to medical attention
- (k) Ratio of crew/guides to customers and their vigilance
- (l) Crew preparation, response training, skill, and equipment

While no in-water medical emergencies occurred during the observation period, risk factors were assessed based on observations and stakeholder input. Response time (j) will be directly affected by the level of congestion blocking the shortest path of getting a victim onto a responding vessel, the proximity of originating vessel to in-water persons, and in some cases the sheer size of the in-water victim.

The number and size of floating rafts and number of snorkelers can impede the ability to quickly transfer an in-water victim to a responding vessel. Due to the configuration of snorkeling rafts and the absence of fins on some snorkelers the speed and mobility of a raft is often dependent on a single guide's ability to pull everyone through the water. Noise levels (e.g., people shrieking with delight as they see manta rays) can also inhibit timely detection of a medical emergency and subsequent communication to a responding vessel.

Direct observations of operations suggest that response time to an in-water victim can be hampered by distance and congestion on busy days. Some operators commonly allow their free floating rafts of snorkelers to travel >100 yds from their vessel and out of direct line of sight. In some cases due to congestion, the originating vessel remains unmoored/unanchored offshore. A past fatality associated with slow response to an in-water medical emergency has prompted one operator to keep their snorkeling rafts tethered to the vessel keeping them in close proximity at all times.

Supervision of recreational scuba divers by diving professionals is governed industry standards (i.e., PADI, SSI, NAUI, etc.) in terms of training & certification requirements and the appropriate supervision ratios associated with each type of diving situation. All scuba diving operators reportedly adhere to industry standards and guidelines due in part to certification and insurance requirements.

For swimming or snorkeling tours, there are no industry standards on training & certification requirements for operators or guidelines on supervision ratios. Via voluntary input, tour operators have indicated that they maintain in-water snorkeler to guide ratios ranging from 6:1 to 13:1 (k). Given the scuba diving orientation of many tour operators, snorkel guides are often PADI certified Dive Masters or Rescue Divers. At least one company states that they only hire snorkeling guides with American Red Cross Lifeguard certification, CPR & First Aid certification, and prior lifeguarding work experience. Based on stakeholder input, companies can and do employ snorkel guides without any formal training or certification. The extent and level of lifeguard training associated with operators and their crew were not confirmed by this study.

Since there are no uniform requirements, the medical equipment available on vessels varies by operator but can include First Aid equipment, Medical Oxygen (e.g., DAN Oxygen), and Automated External Defibrillators (AED). The formal training associated with this medical equipment also varies by operator.

### ***Drowning (excluding medical emergencies)***

As with any in-water activity, drowning is a potential hazard that increases proportionately with the number of persons in the water. The risk major factors affecting the likelihood of a drowning incident include the following:

- (m) Ocean conditions
- (n) Swimming ability
- (o) Availability and use of personal floatation

The most direct ways for operators to lower the likelihood of a drowning are via preventative measures including cancellation of operations during adverse ocean conditions (m), screening customers for skill level prior to in-water activities (n), and requiring the proper use of adequate personal flotation (o).

While reported by multiple stakeholders as a potential risk factor, this study was not designed to assess the swimming ability of visitors to the manta ray viewing sites. However, small children were observed joining in night time snorkeling activity and having to be individually escorted back to their originating vessel prematurely by their snorkeling guide.

The use of flotation in the form of group rafts appears to be universally employed by commercial snorkel operators. However the use of personal floatation varies and includes the use of inflatable swim vests, naturally buoyant neoprene wet suits, and unattached floats (e.g., foam noodles for keeping legs afloat). All operators surveyed indicated that personal floatation devices (PDFs) are always made available for customer utilization. Some snorkelers, presumably those comfortable in their swimming ability have been observed without personal floatation which can interfere with swimming efficiency.

The risk major factors affecting the severity of drowning incidents and conversely the mitigating factors reducing severity are analogous to those of an in-water medical emergency (j) (k) (l) and discussed in the prior section. In the opinion of Hawaii Fire Department Ocean Safety Division Capt. Chris Stelfox, formal lifeguard training and certification should be required of all snorkeling guides with a maximum swimming to lifeguard ratio of 25:1 when swimmers are associated with a central floating raft. Capt. Stelfox does not consider scuba diving training and certification (e.g., PADI Rescue Diver) as a sufficiently rigorous qualification for snorkel guides.

### ***High speed boat-to-boat collision***

The major risk factors which can increase the likelihood of a high speed boat collision include aforementioned (f) crew attentiveness, (e) vessel speed, and the following:

- (p) Proximity of vessels to boat channel traffic
- (q) Visibility of vessel moored/anchored or underway (including natural ocean & atmospheric conditions)

Given the isolation of the Makako Bay site and the shape of the embayment, the only vessels visiting the site are those participating in the manta ray viewing activities. Therefore, a high speed collision at the site is unlikely. However, due to the multiple shifts of tours conducted at Makako Bay, there is concurrent high speed vessels traffic travelling in both directions between Honokohau harbor and Makako Bay at night. While this hazard is not unique to manta ray viewing operations, the nature of the scheduling guarantees that vessels will encounter each other on busy nights.

At Keauhou Bay, the proximity of the boat harbor elevates the interaction between manta ray operators and unrelated vessel traffic. For regular night-time Keauhou harbor users, familiarity with the manta ray viewing site likely mitigates the likelihood of a collision due to (e) (f) (q) despite (p). During the observation period, vessels entering & exiting the harbor at night consistently gave the manta ray viewing site a wide berth. Under normal conditions, significant operator negligence would be required for an accident to occur. However, a few vessels at the Keauhou manta ray viewing site have been observed mooring/anchoring without the use of lights in the midst of several well lit vessels. Additionally, on one occasion a zodiac without any lights was observed repeatedly entering & exiting the harbor to/from the manta ray viewing site.

### **Existing regulatory frameworks**

Several regulatory frameworks currently regulate various aspects of the manta ray viewing operations. These frameworks include permits, zone restrictions, mooring use, navigation restrictions, and environmental protection. Manta ray tour operators are required to obtain a **Commercial Use**

**Permit for State Ocean Waters** and either a **Harbor Commercial Use Permit** or a **Launch Ramp Permit** depending on the status of their vessel(s). The recent increase in the number of permits issued has led to an increase in the number of tour operators offering manta ray viewing activities. There are currently no activity-specific restrictions (e.g., associated with manta ray diving or snorkeling or night time activities), capacity restrictions (e.g., number of persons), location restrictions, or equipment requirements/restrictions (e.g., lighting, propeller guards, medical equipment, etc.) associated with these state permits.

While location and activity specific restrictions within **Ocean Recreation Management Areas (ORMAs)** have been applied to regulate and limit activities and ensure safety at other locations, activities at Makako Bay and Keauhou Bay are not currently regulated by location or activity specific administrative rules. There are currently no regulations restricting the locations for live boating, diving, or swimming at these sites.

With respect to **mooring and anchoring** at the manta ray viewing sites, a few regulatory frameworks are currently in place. Day-use moorings are required to be approved by the Army Corp of Engineers and the DLNR Land Board. As mentioned in the previous section, unapproved day-use moorings exist at both sites and are used on a nightly basis. DLNR administrative rules limit day-use mooring usage to 2.5 hrs while another vessel is waiting and prohibit anchoring within 100 yds of a day-use mooring. See HAR §§ 13-257-3, 13-257-4. There are currently no regulations or restrictions associated with rafting multiple vessels on a single mooring.

General DLNR and U.S. Coast Guard **navigation** related rules govern vessel navigation in proximity to a displayed dive flag and light/signaling requirements for vessels anchored/moored, with divers in the water or with restricted movement. Vessels are prohibited from approaching within 100 ft of a displayed dive flag unless there are intending to conduct diving or swimming activities in which case they are required to approach at a speed of slow-no-wake. This buffer is reduced to 50 ft within navigational channels. From discussions with the U.S. Coast Guard and DOBOR, the definition of the regulatory term "slow-no-wake speed" is potentially ambiguous and may include speeds in excess of minimum operating speed (required to maintain steerage). There are currently no regulations governing how close vessels (involved in diving/snorkeling operations) are allowed to travel to unrelated in-water persons. For examples, vessels are allowed to motor over subsurface divers at slow-no-wake speed.

DLNR administrative rules and U.S. Coast Guard require divers (SCUBA and free divers) to display **dive flags** within 100 ft of them either in the water or on the highest point of their vessel. Despite the lack of flag visibility in the dark, there are no regulations regarding the use of lighted flags/markers by divers at night. There are currently no regulations governing the visibility of surface snorkelers/swimmers (i.e., non-divers) in the ocean at night despite the obvious hazard.

Unrelated to human safety, DNLR environmental protection regulations prohibit knowingly capturing or killing manta rays and anchor damage to stony corals. See HRS § 199-39.5, HAR § 13-95-70.

As with any government regulation, compliance can vary and is affected by practical constraints on enforcement. During this study, several technical violations of existing regulations were observed. During this study, a vessel was observed operating at night without running lights (at Keauhou Bay) and anchored/moored without any lights (in the midst of several other vessels with proper lights). One vessel was observed dropping off an individual with a lighted raft at the Keauhou Bay manta ray viewing site, leaving the site to go to the harbor, then returning 20 minutes later.

At both sites, vessels often occupy day-use moorings longer than 2.5 hrs and routinely anchor within 100 yds of occupied day-use moorings. Since only a single mooring at Makako Bay (DLNR #13, Table 1) and none at Keauhou Bay are formally listed in the DLNR administrative rules, enforcement of existing day-use mooring regulations may not be feasible until the administrative rules are updated.

At both sites, vessels routinely operate at speeds above minimum operating speed within close proximity to in-water persons. Arguably these vessels are not violating the slow no-wake speed

requirement but they are easily exceeding minimum operating speed required to maintain steerage which is considerably slower when conditions are calm.

### ***Voluntary tour operator standards***

Independent of government regulations, community cooperation and voluntary standards can govern aspects human safety of manta ray viewing operations. A working group of tour operators have established a list of voluntary operating standards aimed at maintaining human safety and environmental stewardship. These standards were finalized in March of 2013 and promoted online by Manta Pacific Research Foundation (<http://www.mantapacific.org/#!manta-tour-operator-standards/ci5b>) and the Manta Ray Green List (<http://www.mantaraygreenlist.com/operator-standards/>). While not universally adopted by all operators, these voluntary standards have in many ways have improved the safety of manta ray viewing operations despite the high number of participants. For example, the widely adopted and voluntary practices of using individual lights on snorkelers/swimmers, centralizing them on floating rafts, and prohibiting free diving, have substantially (but not totally) mitigated some of the risks associated with placing large numbers of persons in the water at night amongst actively motoring vessels.

Since the goals of this study was to assess the current operation relative to human safety, it is important to acknowledge the substantial contributions to human safety associated with some of these voluntary standards. It is also important to acknowledge that some of the provisions in the voluntary operating standards are unrelated to human safety. Some provisions also conflict with the operating model employed by some tour operators (e.g., providing dry boat-based manta ray viewing opportunities) and are a source of contention among tour operators. Providing a critical assessment and/or endorsement of the individual provisions within these voluntary standards was not an objective of this study and not performed.

### **Conclusions**

Severe safety hazards are currently associated at the manta ray viewing activities at Makako Bay and Keauhou Bay. The probability for a severe accident is relatively low since a concurrent overlap in both time & space of two or more hazardous behaviors is required for a severe accident to occur (e.g., vessel motoring over subsurface divers and unplanned/uncontrolled diver ascent). However, on a nightly basis substantial overlap in the timing of hazardous behaviors occurs, and complete spatial overlap in hazardous behaviors occurs. These existing data and observations suggest that a severe accident is mathematically inevitable and will occur in the future without significant mitigation of the existing risk factors.

While voluntary tour operator standards have contributed to increased human safety and current government regulations address general boating and diving safety, the unique human safety issues associated with this activity (e.g., high density of in-water persons and vessels in the ocean at night) warrant special attention. In particular, night-time congestion and the overlap (in time & space) between live boating and in-water persons are major factors which substantially increase the likelihood of a severe accident. Existing permit requirements provide an overall level of capacity control for all commercial vessels; however, no other regulatory control is in place to prevent further growth commercial and recreational activity. Unsuccessful attempts to “develop” additional manta ray viewing sites by tour operators have exacerbated the congestion at Makako Bay and Keauhou Bay. If popular demand for this activity continues to exceed supply (e.g., tour operators often fully booked during peak season) and commercial revenue potential remains high, continued growth in commercial activity can be expected.

The onset of adverse weather conditions reducing visibility (e.g., rain), increasing minimum operating speed (e.g., wind), or the rapid departure from normal operations associated with an unexpected event (e.g., medical emergency, mooring failure, large shark sighting, etc.) can significantly elevate risk and the likelihood of an accident. The extent of elevation is dependent in part on the skill, experience, and reaction of tour operators and their crew and may be disproportionately influenced by the lowest common denominator, especially in a confined & congested area.

A formal assessment and vetting of regulatory options are recommended to determine how best to mitigate the severity of existing hazards and reduce the likelihood of severe accidents. This process should include an assessment of regulatory limitations with detailed input from all stakeholders to anticipate the potential for unintended consequences, identify regulatory loopholes, and recognize practical enforcement limitations.

**Table 1: Day-use moorings at Makako Bay and Keauhou Bay**

**Existing moorings verified in this study**

Site	Name	Mooring Type	Latitude N	Longitude W	depth (ft)	photos
Makako	North Outside	chain around rock	19 44.242	156 03.281	80	G7
Makako	North inside	single pin	19 44.233	156 03.244	23	G3
Makako	Aggressor	double pin	19 44.209	156 03.256	72	G6
Makako	Middle outside	double pin	19 44.198	156 03.243	38	G2
Makako	Middle inside	double pin	19 44.192	156 03.223	30	G1
Makako	South outside	double pin	19 44.161	156 03.246	34	G5
Makako	South inside	double pin	19 44.159	156 03.235	23	G4
Keauhou	Outside	double pin	19 33.543	155 58.065	36	K01
Keauhou	Aggressor North	chain around rock	19 33.538	155 58.079	47	K02
Keauhou	Aggressor South	chain around rock	19 33.532	155 58.083	48	K03
Keauhou	Inside North	single pin	19 33.564	155 58.027	29	K04
Keauhou	Middle South	double pin	19 33.550	155 58.045	34	K05
Keauhou	Middle North	double pin	19 33.565	155 58.053	38	K06
Keauhou	South Chain	chain around rock - loose	19 33.552	155 58.021	26	K07

**Day-use moorings listed in the Malama Kai records**

Site	Name	Mooring Type	Latitude N	Longitude W	depth (ft)
Makako	Garden Eels North		19 44.230	156 03.240	
Makako	Garden Eels Central		19 44.202	156 03.235	
Makako	Garden Eels East		19 44.198	156 03.215	
Makako	Garden Eel Cove-1		19 44.186	156 03.260	
Makako	Garden Eel Cove-2		19 44.186	156 03.260	
Keauhou	Keauhou Manta-1		19 33.558	155 58.023	
Keauhou	Keauhou Manta-2		19 33.558	155 58.023	
Keauhou	Keauhou Manta-3		19 33.558	155 58.023	

**Day-use moorings listed in the DLNR DOBOR administrative rules**

Site	Name	Mooring Type	Latitude N	Longitude W	depth (ft)
Makako	DLNR #13		19 43.940	156 03.470	

## Appendix A: Manta ray tour operation stakeholders

Name/Contact	Company/Organization	Inteviw Participant	Survey Response	Survey Recipient
Iwa Kalua	Aloha Kayak Co.	X		X
(808) 557-5668	Aloha Kona Tours			
Captian Kris Henry	Aloha Ocean Excursion (formerly Sea Hawaii Rafting)			X
Craig Napier	Big Island Divers	X		
Frank Hendricks	Big Island Divers	X		
Kristina Dowling	Big Island Divers	X	X	X
Norman Cinch	Big Island Divers	X		
Sarah Rafterty	Big Island Divers		X	X
Erica	Blue Sea Cruises Inc.		X	X
Ray Lemay	Blue Sea Cruises Inc.		X	X
Denise Vidosh	Blue Wilderness		X	X
Mariko	Breeze Hawaii		X	X
coralreefadventures@gmail.com	Coral sea Adventures (Coral Reef Snorkel Adventures)			X
Alex Dent	Fair Wind Cruises	X		
Mendy Dant	Fair Wind Cruises	X		X
Mitch Stauffer	Fair Wind Cruises	X		
Daniel Mersburgh	Hawaii DOBOR Honokohau	X		
Capt. Chris Stelfox	Hawaii Fire Department Ocean Safety	X		X
Johnathan Droge	Hawaii Island and Ocean Tours LLC		X	
LeeAnn P. Leslie	Hawaii Island and Ocean Tours LLC		X	X
Jason Thurber	Hawaii Oceanic			X
Bari Mirns	Hawaii Pack and Paddle			X
http://www.hawaiianscubashack.com/	Hawaii Scuba Shack			X
Lisa Christensen	Honu Sports			X
Keller Laros	Jacks Diving Locker	X		
Teri Leicher	Jacks Diving Locker	X		X
Wendy Laros	Jacks Diving Locker	X		X
info@kamanu.com	Kamanu Charters			X
kohalakayak@yahoo.com	Kohala Kayaks			X
Captian Chris Wade	Kona Agressor		X	X
Evin	Kona Agressor			X
Katie Gaab	Kona Diving Company			X
Kerry Key	Kona Diving Company		X	X
Ralph Jewell	Kona Glass Bottom Boat		X	X
info@konahonudivers.com	Kona Honu Divers			X
Laure and Danny Scott	Kona Ocean Adventures		X	X
info@konoceanx.com	Kona Ocean Experience			X
Ty and Cyrus Widhalm	Kona Sea Adventures			X
Kalani Nakoa	Kona Snorkel and Sail	X		X
info@konasnorkelandsail.com	Kona Style			X
liquid@liquidhawaii.com	Liquid Hawaii			X
Keller Laros	Manta Pacific Research Foundation	X		
Seth Conae	Manta Ray Dives of Hawaii			X
Robert Hudson	Miss Mojo Sports	X		X
Jan War	Natural Energy Laboratory of Hawaii Authority	X		
Dani Knapp	Neptune Charlies Ocean Safaris			X
Seth Conae	Neptune Charlies Ocean Safaris			X
ecoInfo@oceanecotours.com	Ocean Eco Tours			X
Brain Wargo	Ocean Encounters			X
Deenen Wargo	Ocean Encounters			X
Yumi	Ocean Spirit Diving		X	X
James and Martina Wing	Ocean Wings Hawaii Inc.			X
Frank and Patrice Heller	Pacific Rim Divers		X	X
Bob Gladden	private boater	X	X	X
Jay Smith	Scuba Shack		X	X
Kris Henry	Sea Hawaii Rafting			X
Rich and Holly Kersten	Sea Paradise		X	X
Kyle	Sea Quest Hawaii			X
Lily Dudoit	Sheraton Keauhou Kona Resort	X		
Info@splashersoceanadventures.com	Splashers			X
Colin Adams	Sunlight on Water	X		
Josh	Sunlight on Water	X		
Melainah and Mike Yee	Sunlight on Water	X	X	X
Nicole Milligan	Torpedo Tours		X	X
Lt. Joshua Williams	U.S. Coast Guard Marine Safety	X		
www.wahinecharters.com	Wahine Charters			X



## Appendix B: Manta Ray Tour Operators serving the Kona coast

Aloha Kayak Company  
Aloha Kona Tours  
Aloha Ocean Excursions  
Big Island Divers  
Blue Sea Cruises  
Breeze Hawaii Diving  
Coral Reef Snorkel Adventures  
Dolphin Journeys  
Fair Wind Cruises  
Hang Loose Boat Tours  
Hawaii Island and Ocean Tours  
Hawaiian Scuba Shack  
Honu Sports  
Hawaii Oceanic  
Iruka Hawaii  
Jack's Diving Locker  
Kamanu Charters  
Kohana Iki  
Kona Aggressor  
Kona Diving Company  
Kona Honu Divers  
Kona Nature School  
Kona Ocean Adventures  
Kona Ocean Experience (KOEX)  
Kona Sea Adventures  
Kona Style (Kona Snorkel & Sail)  
Kukio Boats  
Liquid Hawaii  
Miss Mojo (Kiholo Inc.)  
My Kona Ocean Adventure  
Neptune Charlies Ocean Safaris/Manta Ray Dives  
Ocean Encounters (Bite Me)  
Ocean Eco Tours  
Ocean Spirit Hawaii  
Pacific Rim Divers  
Sandwich Isle Divers  
Sea Paradise  
SeaQuest Snorkel Tours  
Splasher's Ocean Adventures  
Sunlight on Water  
Torpedo Tours  
Wahine Charters LLC

Appendix C: Vessels operating manta ray viewing activities at Makako Bay and Keauhou Bay

Company	Vessel Name	Length (ft)	Gross Register Tonnage	Max Passengers	Max Total	Height (ft)	Width (ft)	Official Number
Aloha Kayak Company	(kayaks)							
Aloha Kona Tours	Aloha Kona Tours			12				
Aloha Ocean Excursions	Zodiac Hurricane 733	25						
Big Island Divers	Moana Olapa	35	14					1166964
Big Island Divers	Moana Lu'u	28						
Big Island Divers	Hono Iki	36	20					1206121
Big Island Divers	Naia							
Breeze Hawaii Diving	Umi Katana	27	5	11				HA1357CP
Blue Sea Cruises	Makai	46	14	32	84	18	16	978116
Blue Sea Cruises	Spirit of Kona	70	78	100	149	20	28	11955628
Coral Reef Snorkle Adventures	Makua	25	2	6	8	12		1636CP
Fair Wind Cruises	Fair Wind II	58	55	124	132			993088 (U.S.)
Fair Wind Cruises	Hula Kai	55	27	48	51		21	1176109 (U.S.)
Hang Loose Boat Tours	Hang Loose	29.3	8	24	26		9.4	1251486 (U.S.)
Hawaii Island and Ocean Tours	Box top			6				
Hawaiian Scuba Shack	White force	28						
Hawaii Oceanic	Pueo Kai	30		6				
Honu Sports	The Honu Adventure	28		8			10	
Iruka Hawaii	Kona Naia	32	13	21	23			1030297 (U.S.)
Jack's Diving Locker	Kea Nui	46	40	38	40	16		1196519 (U.S.)
Jack's Diving Locker	Nai'a Nui	32	8	15	17			1189298 (U.S.)
Jack's Diving Locker	Na Pali Kai	33.8	12	25	27			687068 (U.S.)
Jack's Diving Locker	Diver II	38		28				
Kamanu Charters	Kamanu	36	4	24	26			HA463CP
Kohana Iki	Kaikea							
Kiholo Inc.	Miss Mojo	41	24	6				982338 (U.S.)
Kona Aggressor	Kona Aggressor II	73						
Kona Diving Company	Hale Kai	34						
Kona Honu Divers	Honu I	46	44	36	39	16	9	1122486
Kona Nature School	Black and yellow Zodiac							
Kona ocean Adventures	Ipo Kai							
Kona ocean Adventures	Mega Bites							
Kona Ocean Adventures	White Fishing cat	28		12	17			
Kona Ocean Experience	Lei Plana							
Kona Ocean Experience	Horizon	RIB						
Kona Sea Adventures	Ahi Lani	34						
Kona Snorkel & Sail	Kini Kini	38	under 5	6				HA1705CP
Kona Snorkel & Sail	Noa Noa	50		43				
Kona Snorkel & Sail	Kona Style							
Kukio Boats	?							
Liquid Hawaii	Liquid Hi	25		6				HA1949CP
Neptune Charlies Ocean Safaries	The Manta	36	20	29	32		6	1179815 (U.S.)
My Kona Adventure	(white boat red letters)							
Ocean eco Tours	Zodiac							
Ocean Encounters	Ocean Encounters	41.8	26	35	40	25	14.2	548605
Ocean Spirit Hawaii	White force	25						
Pacific Rim Divers	Hapa Naia	26.5		6				
Pacific Rim Divers	Boundless	34	n.a.	n.a.	n.a.			
Sandwich Isle Divers	(force with fly bridge)							
Sea Paradise	Hokuhele	50	unk	39	42			
SeaQurst Snorkel Tours	Vitos boat							
Splasher's Ocean Adventures	Orca	26.7	8	19	21		3.8	972712 (U.S.)
Sunlight on Water	Uhani Nui O Naia	40		35?				
Torpedo Tours	Napali Kai II	38		27				
Wahine Charters LLC	Wicked Wahine	27	9	14	16		5.1	1097318 (U.S.)

## Palcovich, Dori

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**From:** Tashima, Todd H  
**Sent:** Wednesday, February 13, 2019 7:12 AM  
**To:** Palcovich, Dori  
**Cc:** DBEDT SBRRB; Statts, Meghan L; Underwood, Ed R; Inn, Clifford G  
**Subject:** RE: New submission from Regulation Review Card  
**Attachments:** 180917-Manta-Rule-Draft-for-Public-Distribution.pdf

Hi Dori,

Sorry, but we may need to attend bill hearings and may not be able to attend the February 26 SBRRB meeting. Please see the attached file for the latest draft of the manta ray rules. This version of the rules is posted on our website (<http://dlnr.hawaii.gov/dobor/draft-rules>) and is the version that has been sent to the AG's office for legal review. We are attempting to implement relatively new regulatory concepts, so the AG is taking a closer look to determine their legality. Also, part of the reason the drafting process has been ongoing for so long is that DOBOR had to revise its manta ray rule proposal a number of times due to stakeholders being able to agree on regulations. The latest draft is what DOBOR believes is the fairest to all affected stakeholders.

The manta ray rules are written on the assumption that a sufficient number of new mooring buoys would be installed in the proposed manta ray dive zones. The rules would only be applicable and enforceable if the mooring buoys are installed before the rules go into effect. However, because of funding constraints, we cannot accurately estimate when the mooring buoys will be installed. We would need CIP funding for new installations and would likely need a legislative appropriation for replacement of existing obsolete or unsanctioned mooring buoys. In the event that we receive legislative funding, we would concurrently conduct rulemaking so that the delay between mooring buoy installation and rule implementation is minimal.

Sorry, but we cannot guarantee that someone from DOBOR will be attending the February 26 SBRRB meeting. Please let us know if we can answer any questions ahead of the meeting.

Also, in regards to the staff Mr. Laros worked with, Maria Gaydos, Daniel Mersburgh, and Nancy Murphy are no longer with DOBOR.

Thanks,  
Todd

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**From:** Underwood, Ed R  
**Sent:** Tuesday, February 12, 2019 12:48 PM  
**To:** DBEDT SBRRB <[dbedt.sbrrb.info@hawaii.gov](mailto:dbedt.sbrrb.info@hawaii.gov)>  
**Cc:** Tashima, Todd H <[todd.h.tashima@hawaii.gov](mailto:todd.h.tashima@hawaii.gov)>  
**Subject:** RE: New submission from Regulation Review Card

Aloha Dori,

The rules have been drafted and are currently with our Deputy AG being reviewed. Once that is completed, we will go before the Board of Land and Natural Resources to request to go to public hearing.

Thanks,

Ed

Edward R. Underwood, Administrator  
4 Sand Island Access Road  
Honolulu, HI 96819  
(808)587-1966

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**From:** DBEDT SBRRB  
**Sent:** Tuesday, February 12, 2019 12:31 PM  
**To:** Underwood, Ed R <[ed.r.underwood@hawaii.gov](mailto:ed.r.underwood@hawaii.gov)>  
**Subject:** FW: New submission from Regulation Review Card

Good afternoon, Ed:

I wanted to let you know that the SBRRB received the request (below) to create administrative rules for Manta Rays. I've also received one other inquiry about these potential rules.

The SBRRB members are planning to review the request at its next board meeting which is scheduled Tuesday, Feb. 26<sup>th</sup>.

Please let me know if you or someone from your division will plan to attend the meeting.

Thank you.

Dori

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**From:** Keller Laros <[keller@mantapacific.org](mailto:keller@mantapacific.org)>  
**Sent:** Friday, February 01, 2019 12:04 PM  
**To:** DBEDT SBRRB <[dbedt.sbrrb.info@hawaii.gov](mailto:dbedt.sbrrb.info@hawaii.gov)>  
**Subject:** New submission from Regulation Review Card

**Name**

Keller Laros

**Company Name**

Manta Pacific Research Foundation

**Email Address**

[keller@mantapacific.org](mailto:keller@mantapacific.org)

**Phone Number**

(808) 895-1791

**Address**

P.O. Box 3227  
Kailua-Kona, HI 96745  
United States  
[Map It](#)

**What is the title of the rule or regulation negatively impacting your business?**

Proposed Manta Ray snorkel and dive site rules and regs.

**How does this rule or regulation affect your business?**

I've been working w DOBOR since 2013 to craft rules to insure safe and sustainable, commercial manta ray viewing procedures. As of yet there have been no new rules of regs and industry continues to grow in unsafe and unsustainable manner.

### **Suggestions as to how this rule or regulation can lessen the impact on your business**

1. Cap number of commercial operators.
2. Create permitting process that current commercial operators can apply for and be granted based on their past history. i.e. like applying for college.
3. Award a 2 year permit based on quality of applicant.

Possible qualifications should include:

1. How many years have you been conducting commercial manta trips?
2. How many passengers have to taken on manta trips?
3. What professional training and qualifications do your captains and crew hold that creates a safe and sustainable manta tour experience? (i.e. all crew are Life Guard certified. Boats have AEDs and emergency O2, Naturalist briefs passengers on manta ray cultural and ecological place in Hawaii)

Business must prove their past history by providing documentation of fees paid that reflect their claimed history of this commercial activity. If they claim 10 years experience and only have 4 yeas of payments of fees then they are not being honest and would be rejected.

### **Agency or staff member you worked with on this matter; if applicable. What was the outcome?**

Ed Underwood, DOBOR

Maria Gaydos DOBOR

Todd Toshima, DOBOR

Dr Sam Kahng, Hawaii Pacific University

Dr. Brian Szuster, University of Hawaii Manoa,

Dr Mark Needham, Oregon State University,

Daniel Mesberg DOBOR

William Walsh DAR

Nancy Murphy DOBOR

Lt William Taylor USCG

Academic studies indicate that customer/passenger satisfaction is down. Ecological damage is up. Severe safety hazards exist.

### **File attachments, if applicable**

- [Manta-Tour-Operator-Standards.pdf](#)
- [Manta-Tour-Operator-Standards---Final.pdf](#)
- [Manta-Naturalist-Course-Flyer.pdf](#)
- [manta-presentation-flyer.pdf](#)
- [Manta-Ray-Viewing-Boating-Operations-and-Safety-Assessment-Sept-2015.pdf](#)

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to and compilation of  
Chapters 13-230, 13-256, and 13-257  
Hawaii Administrative Rules

**DRAFT RULES AS OF 9/17/18**

[Date of adoption by agency]

1. Chapter 13-230, Hawaii Administrative Rules,  
is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 11

OCEAN RECREATION AND COASTAL AREAS

PART 1

SMALL BOAT FACILITIES AND PROVISIONS GENERALLY  
APPLICABLE TO ALL STATE NAVIGABLE WATERS

CHAPTER 230

GENERAL PROVISIONS

Subchapter 1 Scope and Definitions

§13-230-1	Purpose and scope
§13-230-2	Interpretation
§13-230-3	Severability
§13-230-4	Penalties and prosecution
§13-230-5	Judicial review
§13-230-6	Notice

**RECEIVED**

**By JetaimeA at 8:05 am, Feb 13, 2019**

- §13-230-7 Tampering with, defacing or removing notices
- §13-230-8 Definitions
- §13-230-9 to 13-230-19 (Reserved)

## Subchapter 2 Determination of Residency

- §13-230-20 Purpose
- §13-230-21 Definitions
- §13-230-22 Twelve-month rule
- §13-230-23 Indications of residence
- §13-230-24 Rules of construction
- §13-230-25 Particular categories
- §13-230-26 Determination of residence procedure
- §13-230-27 Permittee required to report change of residence
- §13-230-28 Appeals
- §13-230-29 Misrepresentation

## SUBCHAPTER 1

### SCOPE AND DEFINITIONS

Historical note. This chapter is based on general provisions, definitions, and determination of residency of the small boat harbors rules, effective November 5, 1981, and as amended thereafter, under the jurisdiction of the Department of Transportation, Harbors Division. The administrative jurisdiction for recreational boating and related vessel activities was transferred to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, effective July 1, 1992, in accordance with Act 272, SLH 1991. [Eff 2/24/94; comp 12/7/13; comp ]

§13-230-1 Purpose and scope. The purpose of these rules is to secure the most effective control and

management of the small boat harbors and facilities of the State in order that the general public may enjoy safe, orderly, and convenient water recreation. These rules are intended to harmonize and coordinate the department's powers and duties with all applicable public laws, and are also intended to govern the use or operation of vessels and the activities of persons in the small boat harbors, shores, ocean waters, and navigable streams of the State. [Eff 2/24/94; comp 12/7/13; comp ] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-230-2 Interpretation. If any section of these rules is inconsistent with any laws of the United States or any rule, or standard established pursuant thereto, such section shall be construed, superseded, or governed thereby. Nothing contained in these rules shall be construed to limit the powers of any state department or agency. Each provision of these rules is also intended to be construed most liberally in light of the purpose stated in section 13-230-1. [Eff 2/24/94; comp 12/7/13; comp ] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-230-3 Severability. The provisions of these rules are declared to be severable and if any portion or the application thereof to any person or property is held invalid for any reason, the validity of the remainder of these rules or the application of such remainder to other persons or property shall not be affected. [Eff 2/24/94; comp 12/7/13; comp ] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-230-4 Penalties and prosecution. (a) Violation of rules, penalty. Any vessel, its agent, owner, or crew that violates the rules of the department, including vehicular parking or traffic movement and unauthorized discharge, dumping, or



abandoning of any petroleum product, hazardous material, or sewage in violation of the state water quality standards established by the department of health, shall be fined or deprived of the privilege of operating or mooring any vessel in state waters for a period of not more than thirty days, in accordance with section 200-14, Hawaii Revised Statutes.

(b) General administrative penalties. Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines and to recover administrative fees and costs, including attorney's fees and costs, or bring legal action to recover administrative fines and fees and costs, including attorney's fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of subtitle 8 of title 12 or any rule adopted thereunder in accordance with section 200-14.5, Hawaii Revised Statutes. Each day or instance of violation shall constitute a separate offense. [Eff 2/24/94; comp 12/7/13; comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-14, 200-14.5) (Imp: HRS §§200-2, 200-3, 200-4, 200-14, 200-14.5)

§13-230-5 Judicial review. Nothing contained in these rules shall be construed to preclude appropriate resort to judicial remedy or review. [Eff 2/24/94; comp 12/7/13; comp ] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-230-6 Notice. Where notice to a permittee, co-owner, lien holder, owner or any other party is required by this chapter the department shall effect service by one of the following:

- (1) Posting the notice in a conspicuous place aboard the permittee's vessel or at the assigned berth;
- (2) Mailing the notice to the person by certified mail, return receipt requested, at the person's last known address, provided that service by mail is deemed received and

completed five days after the date of mailing; or

(3) Personal service;

provided that in an emergency, where life or property is endangered or if a vessel may interfere with other vessels, construction or maintenance of berthing facilities, or with the free and proper navigation of a waterway unless immediate action is taken, remedial action may be taken by the department without prior notice. [Eff 2/24/94; comp 12/7/13; comp

] (Auth: HRS §§200-2, 200-4, 200-9, 200-10)

(Imp: HRS §§200-2, 200-4, 220-9, 200-10)

§13-230-7 Tampering with, defacing or removing notices. No person shall tamper with, deface, or remove any notice posted by the department pursuant to section 13-230-6 except the owner of the vessel or the permittee assigned to the berth. [Eff 2/24/94; comp 12/7/13; comp ] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

§13-230-8 Definitions. When used in these rules promulgated pursuant to chapter 200, Hawaii Revised Statutes, unless otherwise specifically provided or the context clearly indicates otherwise:

"Agreement" means the agreement between the boat owner and the State as required by section 13-231-2.

"Anchoring device" means a device made of metal or similar material, attached by rope or chain to a vessel, which can be deployed to submerged land to secure the vessel in a particular place.

"Assigned berth" means a berth that is assigned to a permittee by a valid regular mooring permit.

"Berth" means any place where a vessel is anchored, moored, or made fast or laid alongside a dock, quay, catwalk or pier.

"Boat owner" means the legal owner of a vessel where there is no security interest held by anyone on the vessel, a buyer under a purchase money security

interest, a debtor under any security interest, a demise charterer of a vessel, or a lessee or charterer of a vessel under lease or charter which provides the lessee or charterer with exclusive right to possession of the vessel to the exclusion of the lessor or the person from whom the vessel is chartered. The documentation of ownership must meet the requirements of section 13-241-5(c).

"Bona fide fishing tournament" means a fishing tournament sponsored by a boat club, fishing club or yacht club, or a business or non-profit organization formed for the primary purpose of sponsoring a fishing tournament where participation is invited from the general public.

"Business" includes all professions, trades, occupations, and callings carried on for a profit or livelihood, every kind of commercial enterprise, and the operation of games, machines, or mechanical devices.

"Chairperson" means the chairperson of the board of land and natural resources of the State of Hawaii or the chairperson's duly authorized representative or subordinate.

"Civil union" means a union between two individuals established pursuant to chapter 572B, Hawaii Revised Statutes.

"Civil union partner" means an individual who is a party to a civil union established pursuant to chapter 572B, Hawaii Revised Statutes.

"Coast Guard" means the United States Coast Guard.

"Commercial activity" means the use of or activity for which compensation is received by any person for goods or services or both rendered to customers or participants in that use or activity. Display of merchandise or demanding or requesting gifts, money, or services, shall be considered a commercial activity.

"Commercial manta ray viewing operation" means an activity where an operator carries passengers for hire or brings participants into the water, or both, to engage in manta ray viewing at areas where a point

source of illumination is used to specifically attract plankton.

"Continuous manta ray viewing operations" means having conducted at least one commercial manta ray viewing operation per week.

"Contrivance" means any man-made object or artificial arrangement not used or intended to be used for transportation which may be floated upon or suspended with in or on the water.

"Department" means the department of land and natural resources of the State.

"Manta ray viewing zone" means an area where manta rays are intended to be viewed, whether commercially or non-commercially.

"Dinghy" means a small open boat under thirteen feet in length, carried on or towed by a larger boat or yacht; it may be propelled by oars, sails or an outboard motor.

"Dormant vessel" means a vessel or contrivance, other than a houseboat, that has not been navigated from or has not vacated an assigned mooring or facility within or offshore of a state small boat harbor at least once within a ninety-day period, or cannot be made seaworthy upon thirty days' notice to the owner.

"Excessive topside lighting" means any point source of illumination from a vessel shining into the water that emits more than one thousand lumens.

"Firm" includes a business organization such as a sole proprietorship, partnership or corporation which is licensed to engage in or conduct business in the State.

"Fishing" means the same as defined in section 187A-1, Hawaii Revised Statutes.

"Harbor resident" means the owner, co-owner, spouse of each, and their legal dependents authorized by the department to reside on board a vessel used as the principal habitation of the owner.

"Highway" means "street" as defined in this section,

"Houseboat" means any vessel which is fitted for use as a permanent or temporary place of habitation,

and is either stationary or to be moved by oars, sweeps, or towing.

"Immediate family" means any person and his or her spouse and dependent children under twenty-one years of age.

"Launch" means a small motorboat that is open or that has the forepart of the hull covered.

"Legal dependent" means any of the following persons who are dependent upon a permittee for all or a substantial portion of the person's living expenses:

(1) Spouse;

(2) A son or daughter who is

(A) Unmarried and under eighteen years;

(B) Unmarried and under twenty years if a full-time student at a high school, business school, or technical school, or unmarried and under twenty-two years if a full-time undergraduate student at a college; or

(C) Unmarried and physically handicapped so as to be incapable of self-support;

(3) A parent or grandparent if physically handicapped so as to be incapable of self-support; or

(4) A grandchild, brother, or sister under eighteen years of age.

"Legal owner" includes a person who holds unencumbered title to a vessel or is a secured party under a security interest for the vessel.

"Length" means "vessel length" as defined in this section.

"Live boating" means navigating a mobile motorized vessel in support of watersport activities, including, but not limited to, swimming, free diving, snorkeling, and SCUBA diving.

"Living aboard" means the substantial use of a vessel as a place of abode, dwelling, living quarters, or residence, including, but not limited to, the regular use for such purposes during weekends.

"Manta ray" means any Elasmobranch fish in the genus *Manta* or *Mobula*.

"Manta ray viewing hours" means the time period beginning at 1600 hours (4:00pm) and ending at 0400 hours (4:00am) of the following day.

"Manta ray viewing zone campfire" means the intended gathering point for in-water participants to view manta rays.

"Marine life" means the same as defined in section 187A-1, Hawaii Revised Statutes.

"Moor" means to secure a boat by making it fast with cables, lines or anchors.

"Mooring" means a device for holding a vessel in place, when an anchor, concrete block or similar device is placed or dropped on submerged land with a rope or chain attached to a buoy to which the vessel is attached.

"Mooring device" means the use of a buoy attached by rope or chain to a permanently placed weight or structure situated within a submerged land area and to which a vessel can be made permanently or temporarily secured.

"Owner" shall be synonymous with the word "boat owner" as defined in this section.

"Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

"Passenger" means every person carried on board a vessel other than:

- (1) The owner or the owner's representative;
- (2) The operator;
- (3) Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and are paid for their services; or
- (4) Any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for the guest's carriage.

"Person" means any individual, firm, partnership, corporation, trust, association, joint venture, organization, institution, or any other legal entity.

"Personal partner" is an individual considered to be a "personal partner" of the principal habitation permittee who is not a relative by biology or adoption

to the principal habitation permittee. While living together on the vessel, the principal habitation permittee and personal partner shall not have a landlord-tenant relationship.

"Pram" means a small lightweight nearly flat-bottomed boat with a broad transom and usually square-bow often used as a dinghy.

"Principal owner" means a person whose name appears on a certificate of number or who is named as managing owner of a Coast Guard documented vessel.

"Propeller guard" means (1) an after-market physical barrier including a cage, screen, vane guard, shroud, ring, deflector, or similar technology that is designed to be installed surrounding a vessel's propeller for the purpose of protecting the propeller from damage or protecting marine life and persons from injury; or (2) a propeller that is manufactured to incorporate a physical barrier or rounded leading blade edges as a design feature for the purpose of protecting the propeller from damage or protecting marine life and persons from injury.

"Rafting" means tying up or otherwise attaching one vessel to another vessel that is already attached to a mooring or similar device, or is anchored.

"Reciprocal beneficiary" means two adults who are parties to a valid reciprocal beneficiary relationship and meet the requisites for a valid reciprocal beneficiary relationship as set forth in chapter 572C, Hawaii Revised Statutes.

"Regular permittee" means a person holding a valid regular mooring permit.

"Roadway" means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" shall refer to each roadway separately but not to all such roadways collectively.

"Rules" means the rules governing small boat harbors as set forth in this part.

"SCUBA" means self-contained underwater breathing apparatus.

"Small boat harbor" means those harbors or portions of harbors, and any interest in property, whether real, personal, or mixed connected therewith under the care and control of the department, which are, as described in section 200-9, Hawaii Revised Statutes, as constructed, maintained, and operated for the primary purpose of promoting recreational boating activities and the landing of fish.

"Spouse" means a marriage partner, reciprocal beneficiary, or civil union partner of an individual.

"Stand" or "standing" means the halting of a vehicle whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

"State" means the State of Hawaii.

"Stay aboard" or "staying aboard" means a person or persons aboard any vessel with prior notice to the department or a stay aboard permit between the hours of 12:00 midnight and 6:00 A.M., while the vessel is moored in a state small boat harbor or offshore mooring area.

"Stop" or "stopping", when prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

"Street" means the entire width between boundary lines of every way publicly maintained in any small boat harbor when any part thereof is open to the public for purposes of vehicular traffic.

"Subsurface vessel lighting" means any source of illumination affixed, whether temporarily or permanently, to the submerged part of a vessel's hull.

"Tahiti moor" means the mooring of a vessel where one end of the vessel is moored by a rope or chain attached to a buoy that is attached to a pile or device that includes, but is not limited to, an anchor, concrete block or similar device placed or dropped on submerged land. The other end of the vessel is moored to the facility that includes, but is not limited to, breakwaters, catwalk, piers, and docks



where direct access can be made from the facility to the vessel either by gangway, plank, or stepping onto the vessel.

"Take", when in relation to marine life, means the same as defined in section 197-1, Hawaii Revised Statutes.

"Temporarily assigned berth" means a berth that is allocated to a permittee by a valid temporary mooring permit for interim use of the facility.

"Temporary mooring" means mooring pursuant to a temporary use permit. Calculation of the allowable period for temporary mooring shall include cumulative days moored with and without a permit.

"Temporary permittee" means a person holding a valid temporary mooring permit for the interim use of a berth or offshore mooring.

"Tender" means a dinghy or a larger launch used to carry persons and supplies to and from large vessels.

"Transient vessel" means any vessel visiting the State for a period of less than ninety days.

"Unassigned berth" means a berth that is not assigned to a permittee by a regular mooring permit.

"Use permit" means the authorization by the department to utilize state boating facilities, offshore mooring areas, offshore mooring and state ocean waters.

"Vacation" means a period spent away from home or business in travel or recreation.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, but excludes mopeds, devices moved by human power, or devices used exclusively upon stationary rails or tracks.

"Vessel" means all description of watercraft, used or capable of being used as a means of transportation on or in the water.

"Vessel carrying passengers for hire" means any vessel which is used for the carriage of any person or persons for a valuable consideration whether directly or indirectly flowing to the owner, charterer,

operator, agent, or any person who has a lien on the vessel.

"Vessel length" means the end-to-end measurement of a vessel, taken over the deck, parallel to the waterline from the foremost part of the bow to the aftermost part of the stern; provided that hull platings, plankings, and extensions aside from the hull proper, such as bowsprit, are not to be included in the measurement; provided further that an open-type vessel or one with a cockpit shall be measured as if a complete deck existed at the upper level of the hull.

"Vessel length overall" means the distance between the fore-and-aft extremities of a vessel including hull platings, plankings and any extensions beyond the hull proper, such as bowsprit, bumpkin, steering device, or other extensions.

"Vessel used as a place of principal habitation" means a vessel on which any person remains overnight ninety times or more in a calendar year while the vessel is moored in a state small boat harbor.

"Visiting vessel" means a vessel having a mooring within the State and temporarily moored in another state small boat harbor. [Eff 2/24/94; am 4/27/02; am 6/16/03; am and comp 12/7/13; am and comp

] (Auth: HRS §§200-2, 200-4, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§§13-230-9 to 13-230-19 (Reserved)

## SUBCHAPTER 2

### DETERMINATION OF RESIDENCY

§13-230-20 Purpose. The purpose of this subchapter is to provide a procedure whereby a determination of residence status shall be made for all persons who own a vessel moored in a state small boat harbor or who apply for such moorage to assure

that they are assessed the proper fees and charges as established by these rules; to provide appeals mechanism for those persons who believe their residency classification is in error; and to provide sanctions for misrepresentation by a petitioner. [Eff 2/24/94; comp 12/7/13; comp ] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

§13-230-21 Definitions. For the purpose of this subchapter:

“Adult” means a person who has reached majority.

“Dependent” means those persons who are defined as dependents by law, e.g., a spouse or minor child, or who are defined as dependents under Internal Revenue Service regulations or by the Armed Forces of the United States.

“Guardian” means a person invested by a court of law with the power, and charged with the duty, of taking care of the person and of managing the property of that person.

“Hanai” means a child who is taken permanently to be reared, educated, and loved by someone other than natural parents -- traditionally a grandparent or other relative. The child is given outright; natural parents renounce all claims to the child. Usually the child is given at infancy.

“Hearing officer” means a person appointed by the chairperson to hear appeals concerning the determination of residency status.

“Majority” means the age specified under section 577-1, Hawaii Revised Statutes.

“Minor” means a person who has not reached majority.

“Nonresident” means a person who is not a resident of the State of Hawaii.

“Parent” includes legal guardian and legal adoptive parent, except where the guardianship or adoption was acquired primarily to obtain resident status for the ward or adopted child. It shall also include a person who can legally claim an unmarried

minor as a dependent for federal income tax purposes, but only when such person has been in loco parentis to the minor for the twelve-month period immediately preceding the residence determination date.

"Residence" or "residence status" is a combination of physical presence in a place and the intent to make such place one's permanent home.

"Residency determination date" means:

- (1) The date a person applies for a use permit or for application renewal;
- (2) The date of issuance or renewal of a use permit;
- (3) The date the department makes a residency status determination following the receipt of a completed questionnaire submitted by a person classified as a nonresident pursuant to the provisions of section 13-230-27; or
- (4) The date of a hearing officer's decision on a petition submitted to the department as prescribed in section 13-230-28. [Eff 2/24/94; am and comp 12/7/13; comp ] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

§13-230-22 Twelve-month rule. (a) Status as a Hawaii resident must be acquired, and not subsequently lost at least twelve months prior to the residence determination date to avoid payment of the nonresidence fee differential prescribed in section 200-34 Hawaii Revised Statutes. This twelve-month rule also applies to the person whose residency is determined by the fact of residency of another.

(b) While residency shall be lost if it is interrupted during the twelve months immediately preceding the residence determination date, resident status derived from two or more successive periods of domicile in Hawaii may be joined together to compute the twelve-month period. [Eff 2/24/94; am and comp 12/7/13; comp ] (Auth: HRS §§200-2, 200-4 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

§13-230-23 Indications of residence. Because determination of residence in Hawaii requires a finding of subjective fact (intent to make a permanent home) as well as of objective fact (and physical presence), the following objective indications of a person's intent will be considered when determining the person's status. No single index is decisive.

- (1) Primary indications.
  - (A) Voter registration in Hawaii.
  - (B) Voting in Hawaii.
  - (C) Possession and use of Hawaii motor vehicle license plates.
  - (D) Payment of Hawaii personal income tax.
  - (E) Presence of spouse, children, and other close relatives in Hawaii.
- (2) Secondary indications.
  - (A) Membership in voluntary organizations in Hawaii.
  - (B) Licensing from the State for professional practice.
  - (C) Carrying on of a business or the holding of a position in Hawaii.
  - (D) Ownership of residential property or continuous letting of an apartment on a lease basis in Hawaii. [Eff 2/24/94; comp 12/7/13; comp ]  
(Auth: HRS §§200-2, 200-4, 200-10)  
(Imp: HRS §§200-2, 200-4, 200-10)

§13-230-24 Rules of construction. The following rules of construction shall be applied in all cases:

- (1) Residence in Hawaii and residence in another place cannot be held simultaneously.
- (2) Presence in Hawaii primarily to attend an institution of higher learning does not create resident status.
- (3) Resident status, once acquired, will be lost by future voluntary actions of the resident inconsistent with such status. However, Hawaii residence will not be lost solely

because of absence from the State while employed in the service of the United States, while engaged in navigation, or while a student at any institution of learning. [Eff 2/24/94; comp 12/7/13; comp ] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

§13-230-25 Particular categories. (a) Adults. The resident status of every adult shall be established by the adult's own acts and intentions and shall not be derived from any other person, except as specifically provided otherwise in these rules.

- (b) Minors.
  - (1) Unemancipated minor. The residence of an unemancipated minor is the residence of the minor's father, if living, or the residence of the minor's mother, if the father is deceased.
  - (2) Divorced parents. If the parents of an unemancipated minor are divorced, the minor's residence is that of the person to whom the minor's custody has been awarded by the court. If no award of custody has been made, the minor's residence is that of the father. However, if the minor maintains the minor's primary abode with the parent not having legal custody, residence of the minor is determined by that parent with whom the minor's primary abode is maintained.
  - (3) Separated parents. If the parents of an unemancipated minor are separated, without a divorce having been granted or custody award having been made, the minor's residence is that of the father if the minor is not living with either parent. If the minor maintains primary abode with a parent, the minor's residence is the residence of that parent.
  - (4) Death of a parent who had custody. The residence of an unemancipated minor becomes

- that of the surviving parent upon the death of the parent who had the minor's custody.
- (5) Both parents deceased. If both parents are deceased, the residence of the unemancipated minor remains that of the last parent to die until changed by court order. Upon court appointment of a guardian for the minor, the residence of the minor becomes that of the guardian.
  - (6) A nonresident unemancipated minor attending an institution of higher learning outside of Hawaii or on active duty with the United States Armed Forces, whose parents become residents of Hawaii, and who would reach majority before deriving Hawaiian residence from the minor's parents' new status, may be classified as a resident for fee purposes when the minor's parents have completed twelve consecutive months of residence; provided that such classification will be lost if actions inconsistent with resident status are taken after leaving such institution or discharge from the military (e.g., failure to promptly make a home in Hawaii).
  - (7) If an unemancipated minor's parents lose their Hawaii residence, the minor will be classified as a nonresident at the next residence determination date. However, if the parents' change of residence is due to obedience to active-duty military orders, the minor shall continue to pay only resident fees and charges as long as one of the minor's parents remain on active duty and in a Hawaii resident status.
  - (8) Emancipated minors. An emancipated minor shall be considered an adult for purposes of residence hereunder. The following shall constitute indications of emancipation, no one of which is controlling:
    - (A) Financially independent or self-supporting.

- (B) Subsistence not provided by parent or legal guardian.
  - (C) Prior military service.
  - (D) Other primary and secondary indications of residence enumerated under section 13-230-24.
  - (E) Any other conduct inconsistent with parental control and custody.
- (9) Hanai. A person may base the person's residency on that of other than the parent or legal guardian, provided that the relationship between the person and the person or persons other than the parent or legal guardian is that of "hanai".

(c) Aliens. In addition to all other requirements herein, an alien shall be classified as a resident only upon the alien's admission to the United States for permanent residence (immigration visa). Residence of a minor alien can only be derived from another person (e.g., a parent) when both that person and the minor achieve resident status.

(d) Military personnel. Service in the armed forces of the United States shall not of itself negate establishment of residence in Hawaii. For instance, a nonresident member of the United States Armed Forces whose last duty station is in Hawaii and who does all other things necessary to establish a bona fide Hawaiian domicile, including discharge from the military in Hawaii, may be classified as a resident. In addition, a person who establishes a Hawaiian domicile but who enters the military service prior to the expiration of twelve months from the date of such establishment may add the period of the person's military service on to the former period to satisfy the twelve-month rule.

(e) Married persons and persons in other legal relationships. A married person or reciprocal beneficiary or civil union partner may establish resident status, either on the basis of indications of residence, or on the basis of the indications of residence of the person's spouse. However, the person must clearly state intent to make Hawaii the person's



permanent residence. For purposes of the liveaboard fee, the person holding a principal habitation permit may rely on the residency indications of a personal partner who lives on board the vessel. [Eff 2/24/94; am and comp 12/7/13; comp ] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

§13-230-26 Determination of residence procedure.

(a) These rules establish a fee structure in which nonstate residents in specified instances shall pay an application and permit fee differential. Therefore, any person seeking to be classified as a Hawaii resident for fee purposes shall, at the time of application for or prior to being issued a permit, complete and submit to the department a questionnaire provided by the department designed to elicit facts which will aid the department in determining the applicant's resident, nonresident, or Armed Forces status. The applicant shall answer all pertinent questions and shall attest to the truth of the answers with the applicant's signature. The department may also require the applicant to produce certified copies of documents or other relevant proof as may be necessary for the determination of residency status.

(b) A nonresident who believes that the nonresident's residency status has changed so that the nonresident has achieved Hawaii residency status may seek reclassification as a resident by submitting a completed questionnaire as prescribed in subsection (a) on or following the date the nonresident believes that the change in residency status occurred. [Eff 2/24/94; comp 12/7/13; comp ] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

§13-230-27 Permittee required to report change in residence. A resident permittee who subsequently takes up residence outside of the State and continues to moor the permittee's vessel in a state small boat

harbor shall advise the department in writing within seven days of the permittee's change of residence. In such a case, nonresident fees and charges shall be payable following the change of residence. A permittee who intends to assume residence outside of the state or relocate to another island yet retain a permitted vessel and assigned mooring shall cause all applicable harbor use permits to be revised to identify the individual that agrees to assume the vessel owner's obligations under the use permit and these rules during the period of the permittee's absence. This individual shall reside on the same island that the vessel is moored. [Eff 2/24/94; am and comp 12/7/13; comp ] (Auth: HRS §§200-2, 200-4, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-10, 200-22, 200-24)

§13-230-28 Appeals. (a) Classification as a nonresident by the department may be appealed by the aggrieved person by filing a petition for a declaratory ruling in accordance with section 13-1-27.

(b) No petition for appeal shall be accepted by the department unless:

- (1) The petitioner has paid the nonresident fees and fees and charges and filing fee for residency status appeal.
- (2) The petitioner has submitted with the petition documentary evidence tending to establish that the petitioner has, for a period of twelve months prior to the residency determination date, been physically present in the State of Hawaii with the intent to make Hawaii the petitioner's home. The documentary evidence to be furnished shall support the claim of residency by establishing acceptable indicia of residency as provided under section 13-230-23.
- (3) The petition is filed with the department within thirty days following receipt by certified mail, return receipt requested, or

personal delivery, as the case may be, of the department's determination of the petitioner's nonresident status.

(c) The petition shall be signed by the petitioner. The petition shall be filed at any division of boating and ocean recreation district office on or before the thirtieth day following receipt by certified mail, return receipt requested or personal delivery, of the department's determination of the petitioner's nonresident status. The district manager receiving the appeal shall promptly forward it to the administrator of the division of boating and ocean recreation.

(d) The administrator of the division of boating and ocean recreation shall promptly review any petition filed with the department and take appropriate action as follows within fifteen days after the filing of the petition:

- (1) Return the petition to the concerned district manager if the administrator of the division of boating and ocean recreation determines the petition should not have been accepted under subsection (b) with an explanation of the basis for rejection, a copy of which shall be forwarded to the petitioner;
- (2) Reverse the department's prior determination that the petitioner is a nonresident if the administrator of the division of boating and ocean recreation determines that the petitioner has submitted adequate proof that the petitioner is a resident of the State of Hawaii; or
- (3) Forward the petition to the chairperson for a declaratory ruling in accordance with section 13-1-27.

(e) The nonstate resident fee differential and filing fee for residency status appeal shall be promptly refunded if the department reverses the determination of nonresident status, as provided in section 13-234-24. [Eff 2/24/94; am and comp 12/7/13;

comp ] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

§13-230-29 Misrepresentation. It is a violation of these rules for any person to misrepresent any fact upon any form or document intended for or used in determination of resident status for fees and charges purposes or for any person to misrepresent any fact at an appellant hearing hereunder." [Eff 2/24/94; am and comp 12/7/13; comp ] (Auth: HRS §§200-2, 200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

2. Chapter 13-256, Hawaii Administrative Rules, is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 11

OCEAN RECREATION AND COASTAL AREAS

PART III

OCEAN WATERS, NAVIGABLE STREAMS AND BEACHES

CHAPTER 256

OCEAN RECREATION MANAGEMENT RULES AND AREAS

Subchapter 1 General Provisions For The Ocean  
Recreation Management Plan

Historical note

- §13-256-1 Purpose and Scope
- §13-256-2 Interpretation
- §13-256-3 Commercial operator permit requirements
- §13-256-4 Commercial Vessel and water sports  
equipment registration requirements
- §13-256-5 Commercial use permits; public auction
- §13-256-6 Transferability of commercial use permits
- §13-256-7 Business transfer fee
- §13-256-8 Owner required to report change in  
ownership, address, and other changes
- §13-256-9 Insurance
- §13-256-10 Revocation
- §13-256-11 Fees
- §13-256-12 Gross receipts
- §13-256-13 Mooring of rafts and platforms
- §13-256-14 Safety and enforcement

- §13-256-15 Commercial vessel shoreline access
- §13-256-16 Thrill craft operations; general provisions
- §13-256-17 Recreational thrill craft operations
- §13-256-18 Commercial thrill craft operations, commercial high speed boating and water sledding operations
- §13-256-19 Parasailing activities
- §13-256-20 Windsurfing
- §13-256-21 Ultralight and experimental float equipped aircraft
- §13-256-22 Tow-in surfing
- §13-256-23 Oahu Tow-in surfing areas
- §13-256-24 Kauai Tow-in surfing areas
- §13-256-25 Maui Tow-in surfing areas
- §13-256-26 Manta ray viewing
- §§13-256-27 to 13-256-30 (Reserved)

Subchapter 2 North Shore Kauai Ocean Recreation  
Management Area

- Historical note
- §13-256-31 Definition
- §13-256-32 Commercial Operator Licensee experience requirements
- §13-256-33 Priority and procedures in the issuance of commercial vessel permits
- §13-256-34 Review, acceptance, or rejection of the application
- §13-256-35 [~~Owner required to report change in ownership, address and other changes~~]  
Repealed
- §13-256-36 Repealed
- §13-256-37 Fees
- §13-256-38 Anini Beach ocean waters
- §13-256-39 Hanalei Bay ocean waters, general restrictions
- §13-256-40 Haena ocean waters, general restrictions
- §13-256-41 Na Pali Coast ocean waters, general restrictions
- §§13-256-42 to 13-256-49 (Reserved)

Subchapter 3 South Shore Kauai Ocean Recreation  
Management Areas

- §13-256-50 Definition
- §13-256-51 Hanamaulu Bay restricted zones
- §13-256-52 Nawiliwili Bay restricted zones
- §13-256-53 Nukumoi restricted area
- §13-256-54 Koloa Landing restricted area
- §13-256-55 Salt Pond Park restricted area
- §13-256-56 Wailua River restricted area
- §§13-256-57 to 13-256-59 (Reserved)

Subchapter 4 North Shore Oahu Ocean Recreation  
Management Area

- §13-256-60 Definition
- §13-256-61 Haleiwa Restricted Zones
- §13-256-62 Repealed
- §13-256-63 Sharks Cove, Three Tables Point, and  
Waimea Bay ocean waters
- §13-256-64 Sunset Beach Restricted Area
- §13-256-65 Kawela Bay Restricted Area
- §§13-256-66 to 13-256-70 (Reserved)

Subchapter 5 Windward Oahu Ocean Recreation  
Management Area

- §13-256-71 [~~Definition~~] Definitions
- §13-256-72 Kualoa Water Restricted Zones
- §13-256-72.1 Kualoa waters restricted zones permit
- §13-256-73 Kaneohe Bay Ocean Waters
- §13-256-73.1 Kaneohe Bay ocean waters commercial use  
permits
- §13-256-73.2 Large full service permit restrictions
- §13-256-73.3 Small full service permit restrictions
- §13-256-73.4 Small full service permit restrictions  
without thrill craft, water sledding,  
and high speed towing activities

- §13-256-73.5 Large snorkel tour permit restrictions
- §13-256-73.6 Small sail/snorkel tour permit restrictions
- §13-256-73.7 Glass bottom boat tour permit restrictions
- §13-256-73.8 Replacement vessels size restrictions
- §13-256-73.9 Shuttling restrictions
- §13-256-73.10 Permit Issuance
- §13-256-73.11 Temporary mooring of vessels authorized for commercial use in Kaneohe Bay at Heeia Kea small boat harbor
- §13-256-73.12 Kaneohe Bay ocean waters commercial use permit revocation
- §13-256-73.13 Ahu o Laka safety zone
- §13-256-74 Kailua Ocean Waters Restricted Zones
- §13-256-75 Waimanalo Ocean Waters Restricted Zones
- §13-256-76 Makapuu Ocean Waters Restricted Zones
- §13-256-77 Kaneohe recreational thrill craft zone
- §§13-256-78 to 13-256-85 (Reserved)

Subchapter 6 South Oahu Ocean Recreation  
Management Areas

- §13-256-86 Definition
- §13-256-87 Hanauma Bay Restricted Zone
- §13-256-88 Maunalua Bay Restricted waters
- §13-256-89 Waialae-Kahala Restricted Areas
- §13-256-90 Diamond Head Restricted Area
- §13-256-91 Waikiki Ocean Waters Restricted Zones
- §13-256-92 South Shore Parasail Area
- §13-256-93 Kahakaaulana Islet (Harris Is.) Commercial Zone
- §13-256-94 Reef Runway Zone
- §13-256-95 Koko Head and Makapuu commercial high speed boating zone
- §13-256-96 Ke'ehi Lagoon canoe racing zone
- §13-256-97 Ke'ehi Lagoon competitive water ski zone
- §§13-256-98 to 13-256-105 (Reserved)



Subchapter 7 West Maui Ocean Recreation  
Management Areas

- §13-256-106 Definition
- §13-256-107 Napili Bay Restricted Area
- §13-256-108 Lahaina-Kaanapali Offshore Restricted Area
- §13-256-109 Kaanapali Commercial Thrill Craft Areas
- §13-256-110 Olowalu Beach Restricted Area
- §13-256-111 Kaanapali commercial water sledding zone
- §13-256-112 Maui Humpback whale protected waters
- §§13-256-113 to 13-256-115 (Reserved)

Subchapter 8 South Maui Ocean Recreation  
Management Area

- §13-256-116 Definition
- §§13-256-117 to 13-256-125 (Reserved)

Subchapter 9 North Maui Ocean Recreation  
Management Area

- §13-256-126 Definition
- §13-256-127 Hookipa Restricted Zones
- §13-256-128 Baldwin Park-Paia Bay Restricted Area
- §13-256-129 Papa'ula Point Restricted Zone
- §13-256-130 Kanaha Beach Park Restricted Zones
- §§13-256-131 to 13-256-139 (Reserved)

Subchapter 10 East Hawaii Island Ocean Recreation  
Management Area

- §13-256-140 Definition
- §13-256-141 Hilo Bay Recreational Thrill Craft Zone
- §13-256-142 Waiakea Access Corridor
- §13-256-143 Puhi Bay-Leleiwi Point Restricted Zones
- §§13-256-144 to 13-256-149 (Reserved)

Subchapter 11 West Hawaii Island Ocean Recreation  
Management Area

- §13-256-150 Definition
- §13-256-151 Honaunau Bay Swimming Zone
- §13-256-152 Kahaluu Bay Swimming Zone
- §13-256-153 Kalaepaakai Point Commercial Thrill Craft  
Zone
- §13-256-154 Oneo Bay Swimming Zone
- §13-256-155 Kailua Bay Boating Zone
- §13-256-156 Kailua Pier Restricted Zones
- §13-256-157 Honokohau Swimming Zone
- §13-256-158 Kua Bay Swimming Zone
- §13-256-159 Kahuwai Bay Restricted Zone
- §13-256-160 Kiholo Bay Speed Zone
- §13-256-161 Anaehoomalu Bay Restricted Zones
- §13-256-162 Makaiwa Bay Swimming Zones
- §13-256-163 Hapuna Bay Swimming Zone
- §13-256-164 Kaunaoa Bay Restricted Zones
- §13-256-165 Makako Bay Manta ray viewing Zone
- §13-256-166 Kaukalaelae Point Manta ray viewing Zone
- §§13-256-167 to 13-256-175 (Reserved)

SUBCHAPTER 1

GENERAL PROVISIONS FOR THE OCEAN RECREATION MANAGEMENT  
PLAN

Historical note. [~~This chapter is based on the Ocean Recreation Management Rules and Areas, effective October 1, 1988, and as amended thereafter by the Department of Transportation, Harbors Division.~~] The administrative jurisdiction for recreational boating and related vessel activities was transferred from the Department of Transportation, Harbors Division, to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, effective July 1, 1992, in accordance with Act 272, SLH 1991. [Eff 2/24/94; am and comp ]

§13-256-1 Purpose and Scope. (a) The purpose of these rules is to reduce conflicts among ocean water users, especially in areas of high activity. The department has designated ten "Ocean Recreation Management Areas", which are described in subchapters 2 through 11[7] of this chapter.

(b) All other waters of the [~~state~~] State within three thousand feet seaward of the base line of the territorial sea are established as non-designated ocean recreation management areas subject to this chapter. [Eff 2/24/94; am and comp ]  
(Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-2 Interpretation. (a) If any section of [~~these rules~~] this chapter is inconsistent with any law of the State of Hawaii, [~~or~~] any laws of the United States, or any rule[7] or standard established pursuant to federal law, the State law or federal law, rule, or standard shall govern. Nothing contained in [~~these rules~~] this chapter shall be construed to limit

the powers of any department or agency of the [~~state.~~] State.

(b) [~~These rules~~] This chapter shall be construed liberally, consistent with the purpose stated in section 13-256-1.

(c) In areas designated for a specific use, if another use is not specifically restricted, that use is presumed to be allowed in addition to the use for which the area is designated, unless otherwise prohibited by this chapter. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-22, 200-24) (Auth: HRS §§200-22, 200-24)

§13-256-3 Commercial operator permit requirements. (a) All operators of commercial vessels, water craft or water sports equipment shall apply for a commercial operator permit or where applicable a catamaran registration certificate to be issued by the department, except for those operating out of a state commercial harbor or Kewalo Basin. The applicant for such permit shall comply with the applicable provisions stated in sections 13-231-50 to 13-231-70.

(b) The department may establish and maintain a Recreation Advisory Committee of not less than three for each recreation management area as defined in this chapter to review and make recommendations for commercial use permits or catamaran registration certificate to be issued by the department. The department shall consider the recommendations of the Advisory Committee, but is not bound by the recommendations. Members of the Recreation Advisory Committee shall have not less than three years of experience in their area of specialty. [Eff 2/24/94; am ; comp ] (Auth: HRS §§200-22, 200-24) (Imp: HRS §§200-22, 200-24)

§13-256-4 Commercial Vessel and water sports equipment registration requirements. (a) All commercial vessels, water craft, or water sports

equipment shall be registered with the department for commercial use [~~in compliance with Sections~~] pursuant to sections 13-251-36 to 13-251-52.

(b) Commercial use permits issued by the department for commercial vessels operating from state harbors or boating facilities are exempt from the requirements of this section. [Eff 2/24/94; am and comp ] (Auth: HRSS§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-5 Commercial use permits; public auction.

(a) Unless otherwise provided by law, all commercial use permits issued by the department under this chapter for thrill craft or parasail operations may be made at public auction under sealed bid after public notice.

(b) Before any prospective bidder is entitled to submit a bid for a commercial use permit, the prospective bidder shall, not less than six calendar days prior to the day designated for opening bids, give written notice of its intention to bid to the officer charged with issuing the commercial use permits. Each prospective bidder shall submit answers, under oath, to questions contained in a questionnaire, provided by the department, setting forth a complete statement of the experience, competence and financial standing of the prospective bidder. The names and the number of persons who have submitted a notice of intention to bid shall not be divulged. Information contained in the answers to the questionnaire shall remain confidential, and any government officer or employee who knowingly divulges or permits to be divulged any such information to any person not fully entitled thereto shall be fined not more than [~~\$250.~~] \$1,000. A questionnaire so submitted shall be returned to the bidder after having served its purpose.

(c) Advertisement for bids. Publication of a call for tenders shall be made not less than three times on not less than three different days in a newspaper of general circulation printed and published within the State and in a newspaper of general

circulation published in the county in which the designated area is located. The first publication shall be not less than three weeks prior to the date designated for the opening of tenders. Notice of the call for tenders shall contain the following:

- (1) Location where the bid questionnaire is available;
- (2) Time and place of the opening of tenders;
- (3) General description of the designated area;
- (4) Specific use for which the commercial use permit is intended; and
- (5) The upset price as established by the department. Unless a higher amount is specified for a specific commercial use permit the annual upset price shall be \$900.00 which is the monthly charge of \$75.00. If the commercial use permit is located within an area which requires less than twelve months of operation, the upset price shall be adjusted accordingly.

(d) All bids shall be sealed and delivered to the officer advertising therefor and shall be opened by the officer at the time and place to be stated in the call for tenders which time shall not be less than ten days after the last publication, in the presence of all bidders who attend, and may be inspected by any bidder. All bids which do not comply with the requirements of the call for tenders shall be rejected. The officer calling for bids may reject any or all bids and waive any defects when in the officer's opinion such rejection or waiver will be in the best interest of the public.

(e) All bids shall be accompanied by a deposit of legal tender, or a certificate of deposit, cashier's check or certified check on a bank that is insured by the Federal Deposit Insurance Corporation, or on a savings institution insured by the Federal Savings & Loan Insurance Corporation or by a share certificate issued by a credit union insured by the National Credit Union Administration, in a sum of not less than five per cent of the amount bid, payable at sight to the officer advertising for tenders. A bid

deposit may also be in the form of a surety bond conforming to the requirements of section 103-31, Hawaii Revised Statutes.

(f) If the highest bidder to whom the commercial use permit is awarded fails or neglects to fully comply with the terms and conditions for the issuance of the commercial use permit within ten days after the award or within such further time as the officer awarding the permit may allow, the bidder shall forfeit the bid deposit to the State. If the permit is issued, the bid deposit shall be returned to the permittee upon receipt of the first monthly payment. The deposits made by the unsuccessful bidders shall be returned to them after the commercial use permit is issued or if the commercial use permit is not awarded or issued after the officer's determination to publish another call for tenders or not to issue any commercial use permit.

(g) The commercial use permit shall be awarded to the highest qualified bidder. If there is more than one authorized commercial operating area in a particular designated area, then the permit for each operating area shall be made by a separate call for tenders.

(h) No commercial operator shall be awarded more than one commercial use permit per designated area. Each bidder shall be awarded only one commercial use permit per designated area. Thus, if a bidder is the highest qualified bidder on more than one operating area then that bidder shall choose one operating area and the bidder's other bids shall be deemed withdrawn.

(i) Each commercial use permit shall be valid for one year with an option to renew the commercial use permit no more than four times, which shall be accomplished on or before the anniversary date of its initial issuance. A permittee interested in renewing its commercial use permit, shall however, notify the department sixty days before the expiration of the commercial use permit of its intent to renew. The terms and conditions during the renewal period shall be the same as those applicable to the initial issuance except as to the renewal option which shall

in no event cause the commercial use permit to be renewed more than four times. At the end of the fourth renewal period of the permit, the permit may again be offered for public auction, provided that the previous permittee shall be offered the right of first refusal at the new upset price.

(j) Monthly payments for a commercial use permit shall be based upon 1) one-twelfth of the bid price or 2) a percentage of the monthly gross receipts equal to three per cent, whichever is greater. Gross receipt is defined in § 13-256-12.

(k) The commercial use permit does not give the permittee any vested property rights. The department reserves the right not to issue or renew any commercial use permits. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §200-2, 200-3, 200-4)

§13-256-6 Transferability of commercial use permits. (a) A commercial use permit issued to an individual is non-transferable, so that whenever the permittee parts with possession or transfers the title to or interest in the vessel identified in the commercial use permit to another person or business entity by any arrangement, the commercial use permit shall expire. The new possessor, transferee, or owner of the vessel shall have no right to use the commercial use permit. Notwithstanding the prohibition of individuals transferring commercial use permits, the department will allow the one-time transfer of ownership of the vessel from personal ownership to corporate or other business ownership without terminating the rights to operate the commercial vessel under the commercial use permit.

(b) The following rights, conditions, and restrictions apply to commercial use permits issued to a corporation or other business entity.

(1) Any person owning an interest in a corporation or other business entity possessing a valid commercial use permit issued by the department may transfer any or



all stock or other interest to another person without terminating the right of the corporation or business entity to retain or renew its commercial use permit; provided that the corporation or business entity has been engaged in the same commercial vessel activity for a minimum of one year and provided that the department is notified within [7] seven days of the transfer of all transactions that amount to a transfer of the stock or interest, as defined in section 13-256-7 in the corporation or business entity by the owners of record.

(2) The business transfer fee must be paid before any transfer is permitted.

(c) A commercial use permit issued for a thrill craft or parasail operating area shall automatically terminate upon the transfer of any or all interest in the corporation or other business entity holding the permit. [Eff 2/24/94; am and comp ]

(Auth: HRS §§200-2, 200-3, 200-4, 200-10, 200-24)

(Imp: HRS §200-2, 200-3, 200-4, 200-2, 200-3, 200-10)

§13-256-7 Business transfer fee. (a) Whenever a stockholder or owner of an interest in a corporation or other business which has been issued a commercial use permit sells or transfers stock or interest in the corporation, either as a single transaction or as aggregate of several transactions, to any person or business entity who is not a stockholder or owner of record on the effective date of these rules, the seller or person transferring such stock or interest shall pay to the department a business transfer fee which is the greater of (1) two per cent of the gross receipts which are directly attributable to the use of the commercial use permit issued by the department for the twelve month period prior to the date of sale, or (2) ten per cent of the net value of the sale of the stock or interest in the business as determined by the difference between the sale price and an equal

percentage of the appraised value of the assets of the business.

(b) The value of the stock or interest transferred shall be as mutually agreed to by the seller and the department. In the case of a business which engages in more than one type of business activity, only the value of the business activity which is dependent upon the possession and use of the commercial use permit shall be considered for the purposes of this section. In those cases where the transfer is made for consideration other than legal tender, the appraised or market value of the item of consideration given in exchange for the interest in the business shall be used.

(c) If the seller and the department are unable to agree on the value of the interest transferred, that value shall be determined through arbitration by an independent party acceptable to both the seller and the department. The cost of the arbitration shall be borne by the party in whose favor the final value is determined. [Eff 2/22/94; am and comp

] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-8 Owner required to report change in ownership, address, and other changes. (a) In addition to the provisions in section 13-251-44, the holder of any commercial use permit issued under this chapter shall notify the department in writing within seven days if:

- (1) The owner no longer has possession of the permitted vessel or water sports equipment;
- (2) All or any interest in the permitted vessels or water sports equipment is transferred to or assigned to another person or business entity; or
- (3) The owner's address or telephone number changes.

(b) "Transfer" as used in this section means any sale, assignment or lease of the permitted vessel or water sports equipment; the change in ownership or

transfer of stock in a corporate owner which results in a change of the majority stockholder; or the sale or assignment of interest in any other business entity which results in a change of the owner holding the majority interest.

(c) "Interest" as used in this section includes any claim of right, title, ownership of stock, shares, profit, benefit or gain in a corporation, partnership, joint venture or any other business entity that has a commercial permit issued under this Chapter. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-256-9 Insurance. The insurance requirements for commercial vessels shall be not less than \$50,000 for property damage and not less than \$500,000 personal liability for vessels authorized to carry one to twenty-five passengers, and not less than \$1,000,000 for personal liability for vessels authorized to carry more than twenty-five passengers. The liability insurance shall name the State as additional insured. [Eff 2/24/94; comp ] (Auth: HRS §§200-2,200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-10 Revocation. (a) The department may immediately revoke a commercial use permit without the necessity for a hearing for any activity which does or may endanger the health or safety of passengers or the public.

(b) The department may revoke a commercial use permit for violation of any rules of the department if after [72] seventy-two hours notice of the violation by the department the permittee fails to cure the violation. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-11 Fees. (a) Fees required to be paid to the department are as follows:

- (1) Registration fee. A registration fee payable at time of issuance and renewal shall be as prescribed in section 13-253-1;
- (2) Operator permit fee. A commercial operator permit fee payable at time of issuance and ~~[or]~~ renewal of the permit shall be as prescribed in ~~[§13-253-2;]~~ section 13-234-16;
- (3) Commercial operating area use permit fee. A monthly commercial use permit fee shall be the greater of ~~[\$75.00]~~ \$75 per month, payable in advance, or ~~[2%]~~ two per cent of the monthly gross receipts. The report of gross receipts shall be submitted to and received by the department not later than the end of the month following the month covered by the report and shall be submitted on a form acceptable to the department. A permittee possessing both a harbor commercial use permit and a commercial operating area use permit who is paying ~~[2%]~~ two per cent of gross receipts under the commercial harbor use permit shall not be required to pay an additional ~~[2%]~~ two per cent of gross receipts under the commercial operating area use permit.

(b) Delinquency in the payment of any fees owed to the department will result in automatic revocation of the commercial operating area use permit. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-12 Gross Receipts. (a) Gross receipts as used in this chapter means all moneys paid or payable to the account of the commercial permittee, for services rendered, or resulting from trade, business, commerce, or sales by the vessel or water sports equipment owner when the services, trade, business,

commerce, and sales have a direct relationship to the vessel.

(b) Each commercial permittee shall be responsible for submitting to the department a monthly statement of its gross receipts. [Eff 2/24/94; comp ] (Auth: HRS §§200-2, 200-3, 200-4)  
(Imp: HRS §§200-2, 200-3, 200-4)

§13-256-13 Mooring of rafts and platforms. Except as permitted by the department, permanent or temporary mooring of rafts and platforms for use in thrill craft, parasailing, and other water sports activities is prohibited. Rafts and platforms shall be removed daily from [~~State~~] state waters or located in a designated anchorage or harbor in accordance with a valid permit issued by the department. Ground tackle for mooring of rafts and platforms shall not be placed on live coral. [Eff 2/24/94; am 6/16/03; am and comp ] (Auth: HRS §§200-6, 200-22, 200-24)  
(Imp: HRS §§200-6, 200-22, 200-24)

§13-256-14 Safety and enforcement. The restrictions cited in this chapter shall not apply to the following:

- (1) [~~in the event of an emergency,~~] Emergency situations;
- (2) [~~to law~~] Law enforcement, patrol, or rescue craft [~~, or to~~] ;
- (3) Department vessels and personnel performing official duties;
- (4) Vessels and personnel performing authorized homeland security training operations;
- (5) [~~vessels~~] Vessels participating under a valid ocean waters event permit issued by the department pursuant to section 13-244-19; or
- (6) [~~the~~] The U.S. Coast Guard. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-15 Commercial vessel shoreline access. No commercial vessel shall land, embark, or discharge passengers at any state or county facility, or at other public beaches, except for locations at which the permittee has been issued an appropriate permit by the department or a lease or permit by the board of land and natural resources or a county, or within designated ingress/egress zones. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-16 Thrill craft operations; general provisions. (a) No person under fifteen years of age shall operate a thrill craft. No person shall permit, or mislead another person into permitting, a person under fifteen years of age to operate a thrill craft.

(b) No person shall operate thrill craft within a marine life conservation district or marine natural area reserve.

(c) Thrill craft operations shall be curtailed in certain designated areas as described in subchapters two through eleven as necessary, to: 1) avoid possible adverse impacts on humpback whales or other protected marine life; 2) provide for increased public access; 3) reduce user conflicts; and 4) promote overall public safety.

(d) Effective January 2005, all recreational thrill craft operators shall be required to possess, and make available upon demand of enforcement personnel, a certificate of completion from an accredited institution of higher education on the safe use and operation of a thrill craft. The State may recognize reciprocity with other states, i.e., the National Association of State Boating Law Administrators (NASBLA) approved portion of the personal water craft course; however, all operators shall be required to complete the portions of a certificate course for Hawaii that includes, but is not limited to:

- (1) Local ocean safety principles and practices;
- (2) The historical, cultural, and customary practices of Hawaii's ocean users; and
- (3) Any rules or laws pertaining to protected species and thrill craft operation in the State.

(e) All thrill craft operators and passengers shall be required to wear a personal flotation device in accordance with section 13-243-1.

(f) All persons holding or receiving a certificate of completion under this rule are exempt from section 13-244-15.5 for purposes of operating thrill craft. [Eff 2/24/94; am 7/5/03; am and comp ] (Auth: HRS §§200-22, 200-24) (Imp: HRS §§200-22, 200-24)

§13-256-17 Recreational thrill craft operations.

(a) Access to and from designated recreational thrill craft operating areas shall be by the most direct route consistent with safety considerations. Thrill craft operators shall not exceed a speed of slow-no-wake when within three hundred feet of the shoreline.

(b) In non-designated ocean recreation management areas, recreational thrill craft may operate only in state waters between five hundred feet from the shoreline or the outer edge of the fringing reef, whichever is greater, and two miles off the islands of Kauai, Oahu, Maui, and Hawaii.

(c) In designated ocean recreation management areas, recreational thrill craft may operate only within locations designated for recreational thrill craft use.

(d) No thrill craft shall be operated for profit or gain in a recreational thrill craft operating area.

(e) Recreational thrill craft may gain access to state waters only from launching or harbor facilities or from private beach front property. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-22, 200-24) (Imp: HRS §§200-22, 200-24)

§13-256-18 Commercial thrill craft operations, commercial high speed boating and water sledding operations. (a) No commercial thrill craft, high speed boating, or water sledding activities shall be conducted on the waters of the State unless the owner has applied for and been issued a commercial operating area use permit for a designated commercial thrill craft, high speed boating, or water sledding operating area, in addition to any commercial use permit required for state-owned facilities. No more than one commercial operating area use permit shall be issued to an owner to conduct commercial thrill craft, high speed boating, or water sledding operations.

(b) Commercial thrill craft are limited to operating within a two hundred foot radius of the permitted designated location except as otherwise designated. The number of thrill craft permitted to operate within each commercial thrill craft operating area shall be as directed by the department, not to exceed a limit of six rental units and two safety units per area. Water sledding operations may be conducted in the designated thrill craft areas only if there is no other ongoing thrill craft activity [~~is ongoing in said area.~~] within the area.

(c) No more than one vessel shall be permitted to operate under a commercial operating area use permit issued for high speed boating or water sledding.

(d) Access to and from designated areas shall be only from harbors and ramp facilities, or areas designated by a valid conservation district use permit issued by the [~~Department of Land and Natural Resources~~] department or areas designated by the [~~Department.~~] department.

(e) Commercial thrill craft, high speed boating, and water sledding operators shall proceed at a speed of slow-no-wake, or as otherwise posted, by the most direct route consistent with safety considerations. Thrill craft, high speed boating, and water sledding operators shall not exceed a speed of slow-no-wake when within three hundred feet of the shoreline.



(f) No other [~~activity is~~] activities are permitted in designated commercial thrill craft operating areas [~~or~~] , recreational and commercial water skiing areas, or water sledding areas during the time of authorized operations for safety purposes.

(g) Commercial thrill craft operators shall be required to establish a safety instruction program for customers that includes, but is not limited to, the safe use of a thrill craft, boundaries of operating areas, and the use of a personal flotation device.

[Eff 2/24/94; am 7/5/03; am 8/8/11; am and comp  
] (Auth: HRS §§200-2, 200-4, 200-22, 200-24, 200-37) (Imp: HRS §§200-2, 200-4, 200-22, 200-24, 200-37)

§13-256-19 Parasailing activities. (a)

Parasailing operators shall comply with rules and regulations promulgated by the [~~U.S.~~] U.S. Coast Guard in addition to the following provisions:

- (1) All parasailing vessels shall have access to designated areas only from harbors or ramp facilities by the most direct route consistent with safety considerations.
- (2) No commercial parasailing vessel shall operate on the waters of the State unless the owner has applied for and been issued a commercial operating area use permit for a designated parasail operating area, in addition to any commercial use permit required for state-owned facilities.
- (3) No operator shall be issued more than one commercial operating area use permit for a designated parasailing operating area.
- (4) No permittee shall be allowed to operate more than one parasail vessel with a parasail aloft in the designated parasailing operating area.
- (5) No parasailing vessel shall be engaged in parasailing activities while it is within three hundred feet of the shoreline or any marked channel entrance.

- (6) All parasail vessels shall carry at least one crew member in addition to the captain whose duty it shall be to observe the passenger in the chute.

(b) Parasailing operations shall be curtailed in certain designated areas under this chapter as necessary to avoid possible adverse impacts on humpback whales or other protected marine life. In designated areas during the whale season, the maximum vessel speed for parasailing shall be eighteen [~~(18)~~] knots, and maximum transit speed for shuttling passengers to and from the parasailing zones shall be fifteen [~~(15)~~] knots or minimum planing speed, whichever is less, unless governed by other limits such as slow-no-wake zones or as marked by signs. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-22, 200-24) (Imp: HRS §§200-22, 200-24)

§13-256-20 Windsurfing. (a) Windsurfing [~~activity shall be governed by the provisions of this chapter.~~] operators shall comply with the following:

- (1) Ingress/egress to the shoreline shall be made by the most direct route dictated by wind conditions.
- (2) Maneuvering shall be in accordance with rules of the road pertaining to sailing vessels[~~-~~] (Navigation Rules, COMDTINST M16672.2B. Rule 12).
- (3) Sailboard operators shall approach no closer than two hundred feet to a dive flag[~~-~~ ~~indicating dive activity in progress~~]. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-21 Ultralight float equipped aircraft.

(a) For the purpose of this section, ultralight or experimental float equipped aircraft means an ultralight or experimental aircraft as defined by Part

103 of the Federal Aviation Regulations and equipped with floats.

(b) The takeoff, landing and inflight portions of all ultralight or experimental float equipped aircraft operations on or above any ocean recreation management area shall be governed by Parts 91 and 103 of the Federal Aviation Regulations, which are incorporated by reference. No person shall operate an ultralight or experimental float equipped aircraft in a careless or reckless manner so as to endanger the life or property of another.

(c) The operator of any aircraft designed to maneuver on the water shall abide by all rules governing the operation of motorized vessels during the launching, retrieval and taxi. No person shall operate an ultralight or experimental aircraft registered as an experimental or ultralight aircraft by the Federal Aviation Administration when operating within a designated ocean recreation management area while carrying passengers for hire.

(d) The use of shuttle vessels in support of ultralight or experimental float equipped aircraft operations is prohibited on the [~~ocean~~] waters of the state, except for small watercraft carried aboard the aircraft. [Eff 2/24/94; am and comp

] (Auth: HRS §§200-2, 200-3, 200-4, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-24)

§13-256-22 Tow-in surfing. (a) The State assumes no responsibility or liability associated with tow-in surfing.

(b) Only thrill craft may be used for tow-in surfing.

(c) All thrill craft being used for tow-in surfing shall be recorded with the department using forms provided by the department.

(d) Tow-in surfing decals shall be provided at the time the vessel is recorded with the department and shall [~~be required to~~] be prominently displayed on the front half of the vessel.

(e) Thrill craft not recorded with the department for tow-in surfing are prohibited from displaying a tow-in surfing decal.

(f) Effective September 1, 2004, both the thrill craft operator and surfer, who engage in, or operate a thrill craft for tow-in surfing, shall be required to possess, and make available upon demand of enforcement personnel, a certificate of completion from an accredited institution of higher education in Hawaii on the safe use and operation of a thrill craft in high surf, that includes but is not limited to:

- (1) Local ocean safety principles and practices;
- (2) Hawaii Administrative Rules as they apply to boating;
- (3) The historical, cultural, and customary practices of Hawaii's ocean users; and
- (4) Any rules or laws pertaining to protected species and thrill craft operation in the State.

(g) When operating a thrill craft for tow-in surfing, all operators shall:

- (1) Carry on board a two-way communicating device;
- (2) Tow-in a maximum of one person at any one time;
- (3) Carry dive fins and a safety knife on their person; and
- (4) Yield right of way to all other boating or ocean recreation activities by leaving the same surfing break area and remaining a minimum of one thousand feet from the other activities.

(h) Notwithstanding section 13-256-17, within designated ocean recreation management areas, thrill craft used for tow-in surfing may enter the ocean recreation management area to gain access to and from a surfing site and for board and personnel recovery, rescue, and emergency purposes only in areas designated specifically for this activity as described in sections 13-256-23, 13-256-24, and 13-256-25.

(i) Unless otherwise provided by rule, towing surfers into waves within a designated ocean recreation management area shall be prohibited.

(j) Tow-in surfing may only be conducted during periods of high surf warning as declared by the National Weather Service.

(k) Notwithstanding section 13-244-18, surfers engaged in tow-in surfing shall not be required to wear a life-saving device.

(l) Thrill craft used for tow-in surfing may gain access to State waters from boat ramps, harbor facilities or from private beach front property and access the designated tow-in surfing area by the most direct route consistent with safety considerations.

(m) In addition to equipment required by the U.S. Coast Guard for vessels, all thrill craft used for tow-in surfing shall be equipped with the following:

- (1) A rescue sled that is a minimum of three feet wide, four feet long and three inches thick. The sled shall have a minimum of five hand-grip handles, two of which shall be on the port side, two on the starboard side and one at the bow of the sled. The sled shall not exceed the thrill craft load capacity recommended by the manufacturer;
- (2) A quick-release tow-rope a minimum of thirty-feet long; and
- (3) A bow tow-line a minimum of six feet long.

(n) Notwithstanding section 13-244-9, thrill craft used for tow-in surfing may be in proximity of the shoreline and tow-in surfers and travel at a speed greater than slow-no-wake when accessing the ocean or shoreline or when retrieving a surfboard or surfer in accordance with this subchapter.

(o) The thrill craft shall be operated at all times with due care for the rights and safety of people and property and the operator shall abide by any state or federal laws as they pertain to protected species.

(p) All participants in tow-in surfing special events shall be required to possess a certificate of completion as described in subsection (f).

(q) Notwithstanding section 13-256-17(d), operators of a thrill craft used for filming tow-in surfing shall possess a certificate of completion as required by subsection (f). [Eff 10/2/03; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37)

§13-256-23 Oahu Tow-in surfing areas. (a) Persons may conduct tow-in surfing seaward of the North Shore Oahu Ocean Recreation Management Area (ORMA) between Kaena Point at 21 degrees 34.488 minutes north, 158 degrees 16.835 minutes west, and Kahuku Point at 21 degrees 42.817 minutes north, 157 degrees 59.061 minutes west, and may extend their operation into the ORMA waters for board and personnel recovery, rescue, and emergency purposes, except within the following restricted areas as shown on Exhibit "I-A," titled "Ocean Recreation Management Areas Designated Tow-in Surfing Areas North Shore Oahu," dated January 4, 2002, located at the end of this subchapter, and described as follows (all positions of latitude and longitude are provided in global positioning system (GPS) coordinates):

- (1) Area A, which includes all waters seaward and perpendicular to the shoreline within the ORMA boundary, including the waters of Kawela Bay, beginning at 21 degrees 42.573 minutes north, 157 degrees 59.902 minutes west, then proceeding along the shoreline to 21 degrees 41.617 minutes north, 158 degrees 01.155 minutes west, facing the "Dog Island";
- (2) Area B, which includes the waters seaward and perpendicular to the shoreline bounded by a line drawn from the shoreline at 21 degrees 40.753 minutes north, 158 degrees 02.530 minutes west, then west to the

seaward boundary of the ORMA at 21 degrees 40.753 north, 158 degrees 03.580 minutes west, then south to the shoreline at 21 degrees 39.750 north, 158 degrees 03.580 minutes west;

- (3) Area C, which includes all waters seaward and perpendicular to the shoreline within the ORMA boundary beginning at the north end of Shark's Cove at 21 degrees 39.318 minutes north, 158 degrees 03.818 minutes west, then proceeding south along the shoreline to 21 degrees 38.351 minutes north, 158 degrees 04.227 minutes west at the west end of Waimea Bay; and
- (4) Area D, which includes all waters seaward and perpendicular to the shoreline within the ORMA boundary beginning at 21 degrees 35.019 minutes north, 158 degrees 08.090 minutes west facing the eastern edge of "Hammerheads" surf break, then proceeding west along the shoreline to 21 degrees 35.015 minutes north, 158 degrees 08.435 minutes west facing the western edge of "Hammerheads" surfbreak. No thrill craft, except for rescue and enforcement units, shall operate in these restricted areas; provided that thrill craft operated under the direct supervision of an instructor who possesses a certificate of completion as described in section 13-256-22(g), and has been issued a permit pursuant to section 13-244-19 for tow-in surfing training, may be allowed in Area "B" during calm sea conditions in the summer months as provided in these rules.

(b) The following described areas are designated for training and instruction in tow-in surfing techniques, as shown on Exhibit "I-A," titled "Ocean Recreation Management Areas Designated Tow-in Surfing Areas North Shore Oahu," dated January 4, 2002, and located at the end of this subchapter. The trainee shall be under the direct supervision of an instructor

who possesses a certificate of completion as described in section 13-256-22(g), and has been issued a permit pursuant to section 13-244-19:

- (1) Training Area 1, which includes all waters seaward and perpendicular to the shoreline within the ORMA boundary beginning at Kahuku Point at 21 degrees 42.817 minutes north, 157 degrees 59.061 minutes west, then proceeding to the western shore of Turtle Bay at 21 degrees 42.573 minutes north, 157 degrees 59.902 minutes west (contiguous with the eastern boundary of restricted area A); and
- (2) Training Area 2, which includes all waters seaward and perpendicular to the shoreline within the ORMA boundary beginning at 21 degrees 41.617 minutes north, 158 degrees 01.155 minutes west, facing "Dog Island", then southwest along the shoreline to 21 degrees 40.753 minutes north, 158 degrees 02.530 minutes west, fronting the "Revelations" surf site. [Eff 10/2/03; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37)

§13-256-24 Kauai Tow-in surfing areas. (a) Areas of ocean waters, excluding the designated ocean recreation management areas (ORMA), surrounding the island of Kauai where tow-in surfing is allowed are shown on Exhibit "1-B," titled "Ocean Recreation Management Areas Designated Tow-in Surfing Areas Island of Kauai," dated January 4, 2002, located at the end of this subchapter, and described as follows (all positions of latitude and longitude are provided in global positioning system (GPS) coordinates):

- (1) Area I, which includes waters seaward and perpendicular to the shoreline beginning at Kailiu Point at 22 degrees 13.430 minutes north, 159 degrees 34.855 minutes west, then



east along the shoreline (including Hanalei Bay) and ending at the southeastern point of Moloaa Bay at 22 degrees 11.675 minutes north 159 degrees 19.495 minutes west;

- (2) Area II, which includes waters seaward and perpendicular to the shoreline beginning at the northeast point of Papaa Bay at the 22 degrees 10.675 minutes north, 159 degrees 18.630 minutes west, then south along the shoreline and ending at Hanamaula Bay at 21degrees 59.658 minutes north, 159 degrees, 20.050 minutes west;
- (3) Area III, which includes waters seaward and perpendicular to the shoreline beginning at Hanapepe Bay at 21 degrees 53.755 minutes north, 159 degrees 35.855 minutes west, then west and north along the shoreline ending at the shoreline at Keawanui Point at 22 degrees 09.000 minutes north, 159 degrees 43.385 minutes west. Persons engaged in tow-in surfing activities may extend their operation into designated ORMA waters for board and personnel recovery, rescue, and emergency purposes.

(b) Training and instruction in tow-in surfing techniques may be conducted on a case by-case basis at selected areas in accordance with a permit issued pursuant to section 13-244-19, provided that the trainee is under the direct supervision of an instructor who possesses a certificate of completion as described in section 13-256-22(g). [Eff 10/2/03; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37)

§13-256-25 Maui Tow-in surfing areas. (a) The area of ocean waters, excluding the designated ocean recreation management area (ORMA), north of the island of Maui that is designated for tow-in surfing activities is shown on Exhibit "I-C," titled "Ocean Recreation Management Areas Designated Tow-in Surfing

Area Island of Maui," dated January 4, 2002, located at the end of this subchapter, and described as follows (all positions of latitude and longitude are provided in global positioning system (GPS) coordinates):

Waters seaward and perpendicular to the shoreline beginning at the base of the Kahului Harbor west breakwater located at 20 degrees 53.890 minutes north, 156 degrees 28.790 minutes west, then east along the shoreline ending at the eastern point of Kuau Beach at 20 degrees 55.780 minutes north 156 degrees 22.000 minutes west;

Persons engaged in tow-in surfing activities may extend their operation into ORMA waters located within three thousand feet of the shoreline for board and personnel recovery, rescue, and emergency purposes.

(b) Training and instruction in tow-in surfing techniques may be conducted on a case-by-case basis at selected areas in accordance with a permit issued pursuant to section 13-244-19, provided that the trainee is under the direct supervision of an instructor who possesses a certificate of completion as described in section 13-256-22(g). [Eff 10/2/03; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37)

§13-256-26 Manta Ray Viewing. (a) Only the department or its authorized designee may install and maintain day use mooring buoys at manta ray viewing zones. The department may remove unauthorized moorings at any time.

- (1) At each manta ray viewing zone, one mooring shall be permanently reserved for non-commercial use, available on a first come, first served basis.
- (2) The department shall maintain a list of authorized day use mooring buoys within each manta ray viewing zone, which shall include GPS coordinates for mooring buoy locations. The department shall make a reasonable

effort to ensure that the GPS coordinates provide accurate locations.

- (3) For all mooring buoys, the mooring time limit during manta ray viewing hours shall be two and one-half hours and shall take precedence over the day use mooring buoy time limit specified in chapter 13-257, subchapter 1. Calculation of the time limit begins when a vessel attaches to a mooring. A vessel that has reached the mooring time limit must detach from its mooring and leave the boundaries of the manta ray viewing zone for at least thirty minutes before returning.

(b) Commercial manta ray viewing operations shall only be allowed:

- (1) During manta ray viewing hours; and  
(2) Within manta ray viewing zones or at least seven nautical miles from any manta ray viewing zone boundary.

(c) At all times within a manta ray viewing zone, the following shall be prohibited:

- (1) Operating a vessel at a speed in excess of slow-no-wake.  
(2) Anchoring any vessel.  
(3) Rafting any vessel; provided that only kayaks, canoes, and paddleboards may raft.  
(4) Taking, injuring, killing, or possessing a manta ray.  
(5) Attaching a vessel to a mooring with a vessel length rating less than the vessel's length. Vessels may moor at a mooring with a vessel length rating greater than the vessel's length only if the difference between the length rating and the vessel length is ten feet or less.

(d) During manta viewing hours within a manta ray viewing zone, the following shall be prohibited:

- (1) Navigating any vessel, including, but not limited to, a motorboat, kayak, or canoe; provided that:

- (i) Navigating a vessel for the purpose of securing the vessel to a mooring shall be allowed. Commercial operators shall only moor at State-sanctioned moorings and shall not moor at non-commercial moorings. Non-commercial operators may moor at any moorings, if available.
  - (ii) Navigating a vessel within one hundred feet of any manta ray viewing zone campfire shall only be allowed for ingress and egress purposes or in emergency situations.
  - (iii) Live boating shall only be allowed for ingress and egress purposes, to pick up passengers in the water, or in emergency situations.
- (2) Using a pole, net, spear, or any variation thereof to engage in fishing. This shall not prohibit gathering marine life by hand without using such equipment.
- (3) Using subsurface vessel lighting and excessive topside lighting.
- (4) Using any point source of illumination for the purpose of attracting plankton or manta rays when more than one hundred feet from any manta ray viewing zone campfire.
- (5) Engaging in commercial SCUBA diving operations, except that commercial SCUBA diving operations shall be allowed only in the Makako Bay Manta Ray Viewing Zone.
- (6) Operating a vessel equipped with inboard or outboard motors without a propeller guard installed; provided that the department shall have the discretion to provide an exemption if the department determines that installing a propeller guard would be impractical or prohibitively expensive.
- (7) Using motorized or non-motorized vessels and equipment not authorized by the department on or before the effective date of this section.

(8) Operating any non-motorized vessel without displaying a white light onboard, visible three hundred sixty degrees from a distance of at least two hundred feet away, to indicate the presence of the vessel.

(e) Permitting Requirements. Conducting commercial manta ray viewing operations and use of commercial day use mooring buoys within manta ray viewing zones shall be prohibited without a commercial manta ray viewing operation permit. A commercial manta ray viewing operation permit shall be in addition to any other permits issued by the department. An operator that has more than one documented violation, pending alleged violation, or any combination thereof, of any of the rules of the division within three calendar years of the date of submitting an application or attempting to renew a permit shall be ineligible to obtain or renew a commercial manta ray viewing operation permit.

(1) For three calendar years after the effective date of this section, eligibility to apply for and receive a commercial manta ray viewing operation permit shall be subject to the following requirements:

(i) An operator must have been engaged in continuous manta ray viewing operations from before June 1, 2015, as evidenced by submission of records showing use specifically for commercial manta ray viewing operations. Accepted records include, but are not limited to, booking software records, gross receipts, passenger manifests, vessel logs, and dive logs. If an operator could not maintain continuous manta ray viewing operations due to unforeseen circumstances, the break in continuous manta ray viewing operations must not have been longer than sixty calendar days.

(ii) An operator that cannot or refuses to provide valid accepted records to show

site usage shall be ineligible to apply for a commercial manta ray viewing operation permit; provided that the department shall have the discretion to determine that an operator meets commercial manta ray viewing operation permit eligibility requirements without valid accepted records only if the records that would have been used to establish continuous manta ray viewing operations were lost or destroyed through no fault of the operator.

(iii) An operator that has obtained a permit pursuant to this subsection and complied with all relevant requirements of this section shall not be required to submit records showing continuous manta ray viewing operations when renewing their commercial manta ray viewing operation permit.

(2) Commercial manta ray viewing operation permit fees shall be \$200 per month. Each commercial manta ray viewing operation permit shall be valid for one calendar year from the date of issuance, with a continuing option to renew, subject to the requirements of this section. Renewal shall be accomplished on or before the anniversary date of initial issuance. A permittee interested in renewing their commercial manta ray viewing operation permit shall notify the department at least sixty calendar days before the expiration of the permit of intent to renew.

(3) Each commercial manta ray viewing operation permit shall only authorize operations in one manta ray viewing zone and shall not authorize operations in any other areas.

(4) Each commercial manta ray viewing operation permit shall be connected to no more than one valid vessel certificate of number or U.S. Coast Guard documentation number. No

- more than one commercial manta ray viewing operation permit shall be issued per corporation or other business entity registered to do business in the State.
- (5) Replacement or substitution of any permitted vessels or equipment shall require prior written approval by the department. The department shall have the discretion to permit vessel replacement or substitution with a similar length vessel provided that at each manta site, the ratio of permitted vessels larger than forty feet in length to sufficiently rated moorings shall not exceed three to one. An operator shall be allowed to replace or substitute their vessel no more than once per ninety calendar days.
- (6) The total number of commercial manta ray viewing operation permits issued under this section shall not exceed thirty at each manta ray viewing site; provided that after one calendar year from the effective date of this section, the department shall not issue any additional permits unless the total number of valid permits decreases to less than twenty-four, to be determined on a site-by-site basis, at which point the department may issue additional permits by public auction, pursuant to the requirements of sections 13-256-5(b) through (k).
- (7) If the maximum number of commercial manta ray viewing operation permits has been issued, a permit application shall be retained and honored when the total number permits is less than the maximum limit, subject to the applicant satisfying all relevant requirements in this section. The number of valid commercial manta ray viewing operation permits shall be reduced by attrition for reasons including, but not limited to, operators ceasing commercial operations, permit revocation, and denying permit renewal.

(f) Commercial manta ray viewing operation restrictions. In addition to the permitting requirements of this section, any persons conducting commercial manta ray viewing operations shall be subject to the following restrictions:

- (1) All participants and guides must be within one hundred feet of a manta ray viewing zone campfire when engaged in manta ray viewing activities.
- (2) The maximum participant to guide ratio shall be ten participants per guide at any given time.
- (3) Vessels in support of commercial manta ray viewing operations shall not leave the manta ray viewing zone boundaries when participants or guides, or both, of that vessel are in the water.
- (4) All operators shall display the capital letter "M", so as to be clearly visible on both sides of the vessel, near the top of the gunwales. If the vessel has a valid identification number issued by the department and displayed pursuant to chapter 13-241, the letter "M" shall be displayed as a suffix to the identification number. Unless otherwise specified, the letter "M" required by this section shall be no less than six inches high by three inches wide in black or a contrasting solid color to the background.

(g) Manta Observer Program. Upon request by the department, any vessel conducting commercial manta ray viewing operations shall carry aboard an observer approved by the department; provided that an operator may refuse the request to carry an observer only if the passenger capacity limit of the operator's vessel would be exceeded with the observer onboard.

- (1) Details for the manta observer program shall be included in the terms of each commercial manta ray viewing operation permit.
- (2) Observers shall have the ability to gather data and record instances of violations of



this section and convey such violations to the department for appropriate action.

(h) Penalties. In addition to any relevant fines or imprisonment imposed, the following penalties shall apply to all persons and vessels within manta ray viewing zones:

(1) For violations of the provisions of this section or any conditions set forth in an applicable commercial manta ray viewing operation permit:

(i) An administrative fine of not less than \$250 shall be assessed for a first violation. A first violation may also constitute grounds for denying commercial manta ray viewing operation permit renewal, if the violator holds a commercial manta ray viewing operation permit with the department;

(ii) An administrative fine of not less than \$500 shall be assessed for a second violation within one year of the previous violation. A second violation occurring within one year of the previous violation shall also constitute grounds for commercial manta ray viewing operation permit suspension for fifteen business days and may constitute grounds for denying commercial manta ray viewing operation permit renewal, if the violator holds a commercial manta ray viewing operation permit with the department;

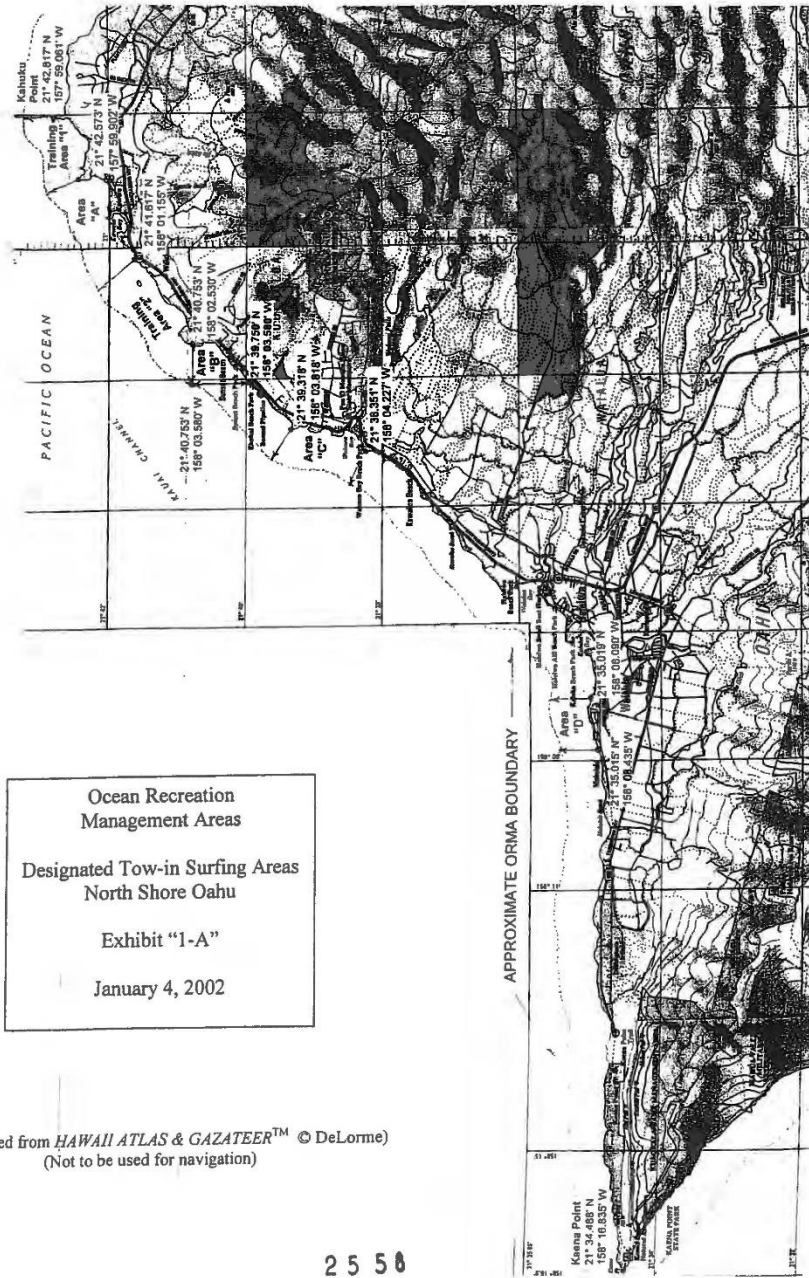
(iii) An administrative fine of not less than \$750 shall be assessed for a third violation within one year of the previous violation. A third violation within one year of the previous violation shall also constitute grounds for commercial manta ray viewing operation permit suspension for seventy-five business days and shall also constitute grounds for denying

- commercial manta ray viewing operation permit renewal, if the violator holds a commercial manta ray viewing operation permit with the department; and
- (iv) An administrative fine of not less than \$1,000 shall be assessed for a fourth and subsequent violations within one year of the previous violation. A fourth violation within one year of the previous violation shall also constitute grounds for revocation of a commercial manta ray viewing operation permit, pursuant to section 13-256-10(b), and denying commercial manta ray viewing operation permit renewal, if the violator holds a commercial manta ray viewing operation permit with the department.
- (v) For any alleged violation of this section, any and all of the alleged violator's commercial permits with the division may be suspended pending the outcome of any criminal, administrative, or investigative proceedings.
- (2) In addition to any relevant fines provided in this section, taking, injuring, or killing a manta ray in connection with violation of an established boating safety standard may constitute grounds for an immediate revocation or thirty calendar day suspension of an offending commercial operator's permits with the division.
- (3) Unauthorized commercial use of the non-commercial moorings within manta ray viewing zones shall be subject to mooring penalties in accordance with the sanctions and penalties listed in the civil resource violations penalty schedule for unauthorized mooring.
- (i) In addition to the exceptions cited in section 13-256-14, the restrictions cited in this

section shall not apply to employees and vessels of the department performing official duties. The department shall have the discretion to authorize an exemption from the restrictions cited in this section, provided that:

- (1) The exemption will be for research activities only. "Research activities" shall only include basic data collection, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource; and
- (2) The operator submits a written request for exemption to the department not less than thirty days and not more than ninety days before the intended date of research activities." [Eff \_\_\_\_\_] (Auth: HRS §§200-2, 200-3, 200-4, 200-14) (Imp: HRS §§200-2, 200-3, 200-4, 200-14)

§§13-256-27 to 13-256-30 (Reserved)



Ocean Recreation  
 Management Areas  
 Designated Tow-in Surfing Areas  
 North Shore Oahu  
 Exhibit "1-A"  
 January 4, 2002

(Adapted from *HAWAII ATLAS & GAZATEER*™ © DeLorme)  
 (Not to be used for navigation)

2550



Ocean Recreation Management Areas

Designated Tow-in Surfing Areas

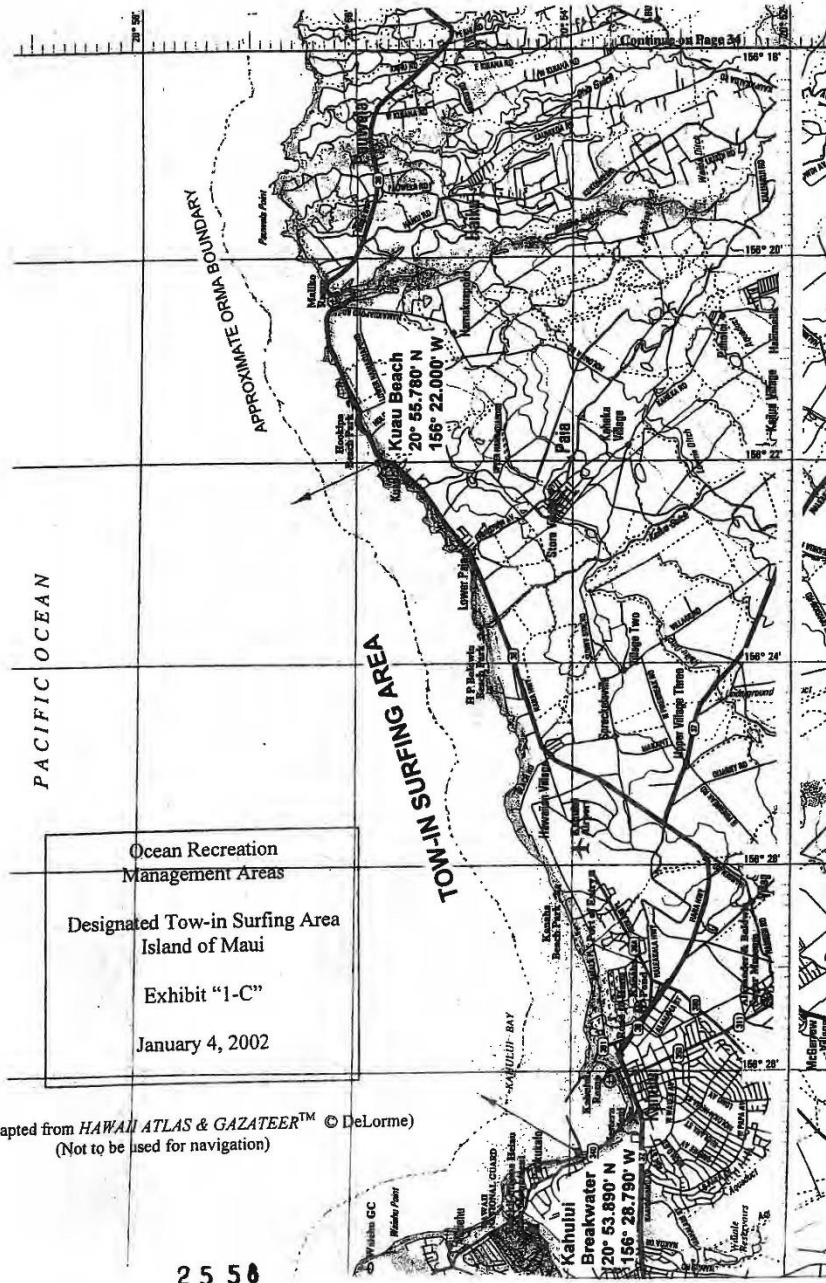
Island of Kauai

Exhibit "1-B"

January 4, 2002

(Adapted from *HAWAII ATLAS & GAZATEER*™ © DeLorme)  
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## SUBCHAPTER 2

### NORTH SHORE KAUAI OCEAN RECREATION MANAGEMENT AREA

Historical note. [~~This subchapter is based primarily on the North Shore Kauai Rules effective October 1, 1988, and as amended thereafter by the Department of Transportation, Harbors Division.~~] The administrative jurisdiction for recreational boating and related vessel activity was transferred from the jurisdiction of the Department of Transportation, Harbors Division to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, effective July 1, 1992 in accordance with Act 272, SLH 1991. [Eff 2/24/94; am and comp ]

§13-256-31 Definition. [~~The~~] "North Shore Kauai Ocean Recreation Management Area" means all ocean waters and navigable streams located between the eastern boundary of Moloaa Bay and the southernmost boundary of Na Pali Coast State Park extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "A", dated June 30, 1988, located at the end of this subchapter. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-32 Commercial Operator Licensee experience requirements. (a) No commercial vessel operator shall be issued a commercial operator permit to operate or navigate within the Na Pali Coast ocean waters unless the applicant has a minimum of ninety days experience operating within the Na Pali Coast ocean waters attested to by two persons each of whom holds a valid commercial operator permit issued by the department.

(b) No commercial kayak tour guide license shall be issued a commercial operator licensee unless the operator meets the following conditions:

- (1) Possesses a current Red Cross Advanced Life Saving Certificate[7] ;
- (2) Has knowledge of elementary first aid;
- (3) Is physically qualified to perform as a kayak tour guide as evidenced by a written report of a physical examination made no earlier than thirty days prior to the application for the license; and
- (4) Demonstrates a satisfactory knowledge of the waters through presentation of a log of ocean kayak trips performed in the Na Pali Coast restricted area during the preceding six-month period.

~~[(c) The department shall establish an advisory committee of not less than three commercial operator licensees to review applications and make recommendations for commercial operator licenses required by this section. The department may seek recommendations for membership on the advisory committee from the North Shore Charter Boat Association. Members of the advisory committee shall have not less than three years experience in their area of specialty operating in the North Shore Kauai Ocean Recreation Management Area.] [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)~~

§13-256-33 Priority and procedures in the issuance of commercial vessel permits. (a) All commercial use permits shall be valid for not more than one year and shall automatically terminate on the expiration date.

(b) An application for a commercial use permit shall be made in writing to the department on the form provided by the department. The applicant shall indicate in the application the type and characteristics of the vessel, including but not limited to the vessel's overall length, draft, beam, principal source of propulsion, and any secondary or auxiliary source of propulsion, the passenger carrying capacity, and any other pertinent information. No



application shall be complete until the applicant pays the application fee prescribed in these rules. The department shall accept the completed application form for consideration by endorsing it and entering the time and date on the application form submitted. The time and date the application is endorsed by the department shall be the effective filing date and shall establish the applicant's priority date; provided, however, priority for applicants who held a commercial use permit for Hanalei Bay or river in November 2000 shall be based upon the date the department issued such permit. An applicant must file a new application form each year but the effective filing date shall remain the same.

(c) Only when the number of commercial use permits issued under subsection (a) falls below the number authorized in section 13-256-38 or section 13-256-39, will the department offer a permit to the applicant with the next highest priority date; provided that in no event shall the limit set in section 13-256-38 or section 13-256-39 be exceeded thereby. [Eff 2/24/94; am 8/8/11; am and comp

] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-256-34 Review, acceptance, or rejection of the application. (a) The department shall examine and determine the genuineness of each application for a commercial vessel permit and may require additional information or conduct an independent investigation as may be deemed necessary for its determination.

(b) The department shall reject any application that contains a material misstatement or if the applicant has failed to disclose any material fact in the application.

(c) An application shall not be accepted for consideration and shall be rejected if:

- (1) The application fee is not paid at the time the application is made;

- (2) The applicant is delinquent in payment of any moneys due and payable to the department; or
- (3) The applicant is in violation of the rules of the department.
- (d) Upon rejection of an application, the department shall notify the applicant, in writing within a reasonable time, that the application has not been accepted for consideration and has been rejected and the reasons therefor. The applicant shall be afforded the opportunity to submit a new application upon the correction of deficiencies cited in the notification of rejection of the original application. [Eff 2/24/94; comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-35 Owner required to report change in ownership, address and other changes. (a) In addition to the provisions in section 13-251-44, the holder of any commercial vessel permit issued under this chapter shall notify the department in writing within seven days if;

- (1) The owner no longer has possession of the vessel;
  - (2) All or any interest in the vessel is transferred to or assigned to another person(s) or business entity; and
  - (3) The owner's address or telephone number changes.
- (b) "Transfer" as used in this section means any sale, assignment, lease of a vessel or the change in ownership or transfer of stock in a corporate owner which results in a change of the majority stockholder, or the transfer of interest in any other business entity which results in a change of the owner holding the majority interest.
- (c) "Interest" as used in this section includes any claim of right, title, ownership of stock, shares, profit, benefit or gain in a corporation, partnership, joint venture or any other business entity that has a

commercial vessel permit issued under this subchapter.  
[Eff 2/24/94; comp ]

§13-256-36 REPEALED [R 8/8/11]

§13-256-37 Fees. (a) [~~Fees~~] In addition to fees required [to be paid to the department are described in Chapter] by chapter 13-234, [and more specifically as follows:] the following shall also apply:

- (1) Registration fee. A registration fee payable at the time of issuance shall be prescribed in section 13-253-1.
- (2) Operator license fee. A commercial operator license fee payable at time of issuance of the license shall be \$2.00.
- (3) Commercial vessel permit fee. A monthly commercial vessel permit fee shall be the greater of \$75.00 or two per cent of the monthly gross receipts.

(b) Delinquency of any fees owed to the department will result in automatic revocation of the commercial vessel permit. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4)  
(Imp: HRS §§200-2, 200-3, 200-4)

§13-256-38 Anini Beach ocean waters. (a) Anini Beach ocean waters means the area confined by the boundaries shown on Exhibit "B", dated September 19, 1988, located at the end of this subchapter and described as follows:

Beginning at a point at the low watermark from Honono Point, thence along a straight line on an azimuth of 142 degrees measured from true south to the inner edge of the reef of the channel, thence clockwise along the outer edge of the reef to the intersection of a line drawn on an azimuth of 197 degrees from a point on the shoreline, then 017 degrees to the low water mark of the shoreline, then in a northerly direction along

the Anini Beach shoreline to the point of beginning.

(b) Restrictions. The following shall apply to Anini Beach ocean waters[-] :

(1) Anini Beach ocean waters shall be [~~limited to providing~~] for commercial sailboard instruction only.

(2) No more than sixteen commercially owned sailboards may be employed in instructional use at any one time.

[~~(2)~~] (3) Motorized vessels operating within Anini Beach ocean waters shall not exceed a speed of [~~"]slow-no-wake[" (five miles per hour)~~] within two hundred feet of the shoreline.

[~~(3)~~] (4) Motorized vessels and sailboards shall not proceed within one hundred feet of persons engaged in fishing. This restriction shall apply to vessels transiting the channel to or from the launching ramp.

(c) Swimming Zone A, Anini Beach ocean waters[-  
~~(1) Swimming Zone A, Anini Beach ocean waters]~~ means the ocean waters confined by the boundaries shown on Exhibit "B", dated September 19, 1988, located at the end of this subchapter and described as follows:

Beginning at a point on the low water mark seventy-five feet east of the launching ramp, then proceeding in a straight line perpendicular to the low water mark seaward for a distance of one hundred feet, then proceeding in a straight line to a point on the extended eastern property line of Anini Beach Park located one hundred feet from the low water mark, then along the extended property line to the low water mark, then along the low water mark to the point of beginning.

(d) Swimming Zone B, Anini Beach ocean waters[-  
~~(1) Swimming Zone B, Anini Beach ocean waters]~~ means the ocean waters confined by the boundaries shown on Exhibit "B", dated September 19, 1988, located at the end of this subchapter and described as follows:

Beginning at a point on the low water mark on an azimuth measured clockwise from True South of 167

degrees from Honu Point, proceeding in a straight line for a distance of one hundred feet, then proceeding in a straight line to the extended western property line of Anini Beach Park located at a point in the water one hundred feet from the low water mark, then along the extended property line to the low water mark, then along the low water mark to the point of beginning.

(e) Restrictions. Swimming Zones A and B of Anini Beach ocean waters are designated for swimming and bathing. No person shall operate or moor a vessel or sailboard within these zones. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-39 Hanalei Bay ocean waters, general restrictions. (a) Hanalei Bay ocean waters means all ocean waters and navigable streams confined by the boundaries shown on Exhibit "C" dated December 1, 2010, located at the end of this subchapter and incorporated herein, and described as follows:

Beginning at a point on the shoreline at the northernmost tip of Makahoa Point on the western end of the bay, thence along a straight line drawn tangent to the shoreline of Puu Poa Point on the eastern end of the bay, thence clockwise along the shoreline, including the banks of all navigable streams to the upper limit of tidal influence, to the point of beginning.

(b) In addition to all federal, state, and county laws, rules, and ordinances, the following restrictions shall apply to all activities in Hanalei Bay ocean waters[-] :

- (1) No person shall operate a vessel at a speed in excess of [" "]slow-no-wake[" "] within five hundred feet of the shoreline, an ingress/egress zone, designated mooring area, or on the Hanalei River.
- (2) No person shall navigate a motorboat within three hundred feet of a diver's flag or a designated swimming area. Vessels thirty

feet or less overall engaged in fishing are exempt from the three-hundred foot shoreline restriction, except that they may not enter designated swimming areas.

- (3) No person shall anchor or moor a vessel, raft, barge, platform or other contrivance except within the designated mooring area.
- (4) No fishing vessel longer than thirty feet overall may engage in fishing except by pole and line within Hanalei Bay ocean waters.
- (5) No commercial vessel shall load or unload passengers in Hanalei Bay ocean waters or the lands adjacent thereto without a permit issued by the department [~~and approval by the County of Kauai~~]. All vessels authorized to load and unload passengers in Hanalei Bay ocean waters or the lands adjacent thereto shall travel to and from the beach only through a designated ingress/egress zone.
- (6) The department may issue up to five [~~5~~] commercial use permits for the use of self-propelled vessels to load and unload passengers at Hanalei Bay. Priority for the initial issuance of permits under this 2011 amendment shall be given to the persons that held a commercial use permit and operated under said permit in November 2000 for Hanalei Bay ocean water. Through attrition of these initial five permittees, the maximum number of permits issued shall be reduced to three [~~3~~] permits. Permits shall be limited to passenger vessels certified by the Coast Guard to carry twenty-five or fewer passengers, and each permit shall authorize the carrying of no more than thirty passengers daily.
- (7) The department may issue up to two [~~2~~] commercial use permits for the Hanalei launch ramp for the purpose of conducting guided kayak tours in Hanalei Bay ocean waters. The maximum number of passenger kayaks per trip per permit shall not exceed

~~[(8),]~~ eight, and no more than thirty passengers shall be allowed per day under each permit. A guide kayak shall be required for each group of eight passenger kayaks. Priority for the initial issuance of permits under this 2011 amendment shall be given to the operators that held a commercial use permit in November 2000 for Hanalei Bay ocean waters to conduct kayak tours.

- (8) No commercial water sports instruction or tours may be conducted in the Hanalei Bay ocean waters from the adjacent beaches without a permit from the department ~~[and approval by the County of Kauai]~~. The department may issue a total of up to eight ~~[(8)]~~ permits for commercial water sports instruction within the Hanalei Bay ocean waters, including surfing and stand-up paddle boarding. Each permit shall authorize one instructor per day to conduct water sports instruction. The instructor shall have no more than four students at any given time. The instructor shall have a minimum of three ~~[(3)]~~ years surfing experience and possess a current Red Cross advanced life saving certificate. The department may designate the site of instruction at Hanalei Bay and hours of operation for each permittee, and may change the site whenever such changes is found by the department to be necessary. For the purpose of this section, commercial water sports instruction or tours include, but are not limited to, commercial kayak tours, canoe rides, diving, snorkeling, parasailing, surfing, sailboarding and other water-related recreational activities.

(c) Swimming Zones B-1 and B-2, Hanalei Bay ocean waters~~[-~~

- ~~(1) Zones B-1 and B-2 mean]~~ means the areas confined by the boundaries shown and described in Exhibit "C" dated December 1,

2010, located at the end of this subchapter and incorporated herein, as follows:

Zone B-1 swimming area extends three hundred feet seaward of the low water mark for a distance of three hundred feet on each side of Hanalei Pier.

Zone B-2 swimming area extends three hundred feet seaward of the low water mark between the extended boundary lines of the county park containing the beach pavilion.

~~[(2) Restriction.]~~ Restrictions. Zones B-1 and B-2 are designated for bathing and swimming.

No person shall operate or moor a vessel, sailboard, or any other recreation device within Zones B-1 and B-2, provided that this restriction shall not apply to:

~~[(A)]~~ (i) Vessels engaged in small-scale surround net fishing without the use of motors or fishing and crabbing from shore;

~~[(B)]~~ (ii) Hawaiian design outrigger canoes.

(d) The designated mooring area for the mooring or anchoring of vessels, rafts, barges, platforms and other watercraft, is the area encompassed by the boundaries shown on Exhibit "C" dated December 1, 2010, located at the end of this subchapter and incorporated herein, and which are described as follows:

Beginning at a point on the northwest corner of Hanalei Pier by azimuths clockwise from True South, 123 degrees for a distance of six hundred seventy-five feet; 346 degrees for a distance of one thousand two hundred seventy-seven feet; 022 degrees for a distance of seven hundred fifty-six feet; 127 degrees for a distance of three thousand two hundred twenty-five feet; then on a straight line to the point of beginning.

- (1) All vessels, rafts, barges, platforms, and other watercraft within Hanalei Bay ocean waters shall be moored or anchored solely within the designated mooring area.
- (2) No person shall anchor, moor or stay aboard a vessel except those equipped with an



approved marine sanitation device [~~(MSD) in~~]  
(MSD) in good working condition, or those  
vessels exempt from MSD requirement in  
accordance with U.S. Coast Guard  
regulations.

(3) No permanent mooring shall be installed  
within the designated mooring area except by  
permit issued by the department.

(e) Ingress/Egress zones.

[~~(1)~~] Vessels shall access the beach and  
shall be accessed from the beach solely  
through [~~the following~~] designated  
Ingress/Egress zones [~~-~~] as follows:

(1) Zone number one begins at the southern  
boundary of the County Park pavilion parcel  
and extends southwest along the shoreline a  
distance of three hundred feet, then seaward  
to the designated mooring area.

(2) Zone number two begins at the north bank of  
Hanalei River and extends southward across  
the Hanalei River mouth to the northern  
boundary of Black Pot Park, and then extends  
seaward to the designated mooring area.

[~~(2)~~] (3) Zone number one and Zone number two are  
designated for use by both commercial and  
recreational vessels. [Eff 2/24/94; am  
11/7/11; am and comp ]  
(Auth: HRS §§200-2, 200-3, 200-4, 200-22,  
200-24) (Imp: HRS §§200-2, 200-3, 200-4,  
200-22, 200-24)

§13-256-40 Haena ocean waters, general  
restrictions. (a) [~~The~~] Haena ocean waters [~~are~~] shall  
be subject to the following [~~restrictions. This~~  
~~section shall not apply in the event of an emergency,~~  
~~to law enforcement or to rescue craft, or to vessels~~  
~~participating under a valid ocean waters event permit~~  
~~issued by the department, Coast Guard or Hawaiian~~  
~~design outrigger canoes engaged in crew training.] :~~

(1) No commercial motorized vessel shall land,  
or discharge, or load passengers from shore

within Haena ocean waters, unless the owner possesses a valid commercial use permit for the use of the beach for this purpose issued by the board of land and natural resources. The total number of vessels operating from this area shall not exceed ten passenger carrying vessels and one support craft.

- (2) No person shall solicit business or offer goods or services for rent, sale, or use within Haena ocean waters.
- (3) Non-motorized commercial vessels may be permitted to land at the beach area fronting the western half of the county beach park.
- (4) Vessels may be moored or anchored only during daylight hours.
- (5) Motorized vessels shall not exceed a speed of ["slow-no-wake" ~~(five miles per hour)~~] within Haena ocean waters.
- (6) In addition to the exemptions cited in section 13-256-14, this section shall not apply to Hawaiian design outrigger canoes.

~~[(e)]~~ (b) Recreational Zone A, Haena ocean waters ~~[-~~

- ~~(1) Zone A] means the area confined by the boundaries shown on Exhibit "D" dated June 30, 1988, located at the end of this subchapter, which boundaries are described as follows:~~

Beginning at the intersection of the edge of the inner reef and the mean low water mark on the south side of the boat channel, then clockwise along the outer edge of the inner reef to the intersection of the edge of the reef and a straight line drawn between a marker pole on the shoreline and the exposed rock on the southern tip of the outer reef, then along this line to the exposed rock, then along a line drawn at a ninety degree angle to the outer edge of the reef, then clockwise along the outer edge of the reef to the point

where it becomes tangent to the Haena ocean waters boundary line, then clockwise along the boundary line to the mean low water mark to the point of beginning.

[~~(2)~~] (1) Restrictions. Zone A is designated for recreational use. No commercial motorized vessel shall be permitted within Zone A, provided that customers patronizing commercial vessels anchored or moored within Zone C shall be allowed to enter Zone A for snorkeling or scuba diving activities.

[~~(3)~~] (2) Notwithstanding the provisions of subsection [~~(b)(2)~~] (b)(1), commercial vessels whose owners possess a valid use permit issued by the department of land and natural resources shall be permitted direct access to the beach area specified in the permit for the purpose of passenger pick-up or discharge.

[~~(d)~~] (c) Swimming and Snorkeling Zone B, Haena ocean waters[~~-~~

~~(1)~~ ~~Haena Zone B~~] means the area confined by the boundaries shown on Exhibit "D" dated June 30, 1988 located at the end of this subchapter and described as follows:

Beginning at the intersection of the western boundary of Haena ocean waters and the mean low water mark, then along the western boundary of Haena ocean waters for a distance of two hundred feet, then clockwise along a line drawn parallel to the low water mark at a distance of two hundred feet to the outer edge of the inner reef, then along the outer edge of the inner reef to the mean low water mark, then along the mean low water mark to the point beginning.

[~~(2)~~] Restrictions. Haena Zone B is designated for swimming and snorkeling

activities. No motorized vessel shall be permitted within Zone B.

[~~(e)~~] (d) Snorkeling Zone C, Haena ocean waters[~~-~~  
~~(1) Haena Zone C is as~~] means the area confined by the boundaries shown on Exhibit "D" dated June 30, 1988, located at the end of this subchapter. Haena Zone C includes those ocean water areas outside Zone A and Zone B.

[~~(2)~~] Restrictions. Haena Zone C is an area designated for the use of motorized vessels with passengers engaged in snorkeling and scuba diving activities, Haena ocean waters include those ocean areas outside Zone A and Zone B. No vessel shall moor within Zone C except at three mooring buoys approved for installation by the board of land and natural resources along the outer edge of the inner reef at the locations shown on Exhibit "D" dated June 30, 1988. No more than two vessels may be moored to each buoy at any one time, for a period not exceeding forty-five minutes per vessel.

[~~(3)~~] Anchoring during daylight hours may be permitted within Zone C except in areas containing coral growth. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-41 Na Pali Coast ocean waters, general restrictions. (a) Na Pali Coast ocean waters means all ocean waters and navigable streams confined by the boundaries shown on Exhibit "E" dated June 30, 1988, located at the end of this subchapter and described as follows:

Beginning at the intersection of the southwestern boundary of the Na Pali Coast State Park and the shoreline, thence in a straight line drawn perpendicular to the shoreline to the intersection with the territorial sea base line, then along a straight line drawn perpendicular to

the territorial sea base line seaward for a distance of three thousand feet, thence along a line drawn parallel to the territorial sea base line in a clockwise direction to the intersection of the western boundary of Haena ocean waters, thence along this line to the western boundary of Haena ocean waters to the point where it intersects the shoreline, thence along the shoreline to the point of beginning.

(b) The Na Pali Coast ocean waters are subject to the following restrictions:

- (1) No person shall navigate a commercial motorboat or conduct a commercial kayak tour within Na Pali Coast ocean waters except for persons who have been issued a permit by the department to operate within Na Pali Coast ocean waters in accordance with this subchapter.
- (2) In no case shall a commercial vessel having a passenger carrying capacity of fifty or more passengers be permitted to operate within the Na Pali Coast ocean waters.
- (3) No commercial operator shall embark or disembark passengers along the shoreline within Na Pali Coast ocean waters unless that operator has been issued a permit by the board of land and natural resources for use of the area at the location where passengers are embarked or disembarked.

(c) Vessel operations within sea caves[-] shall be subject to the following:

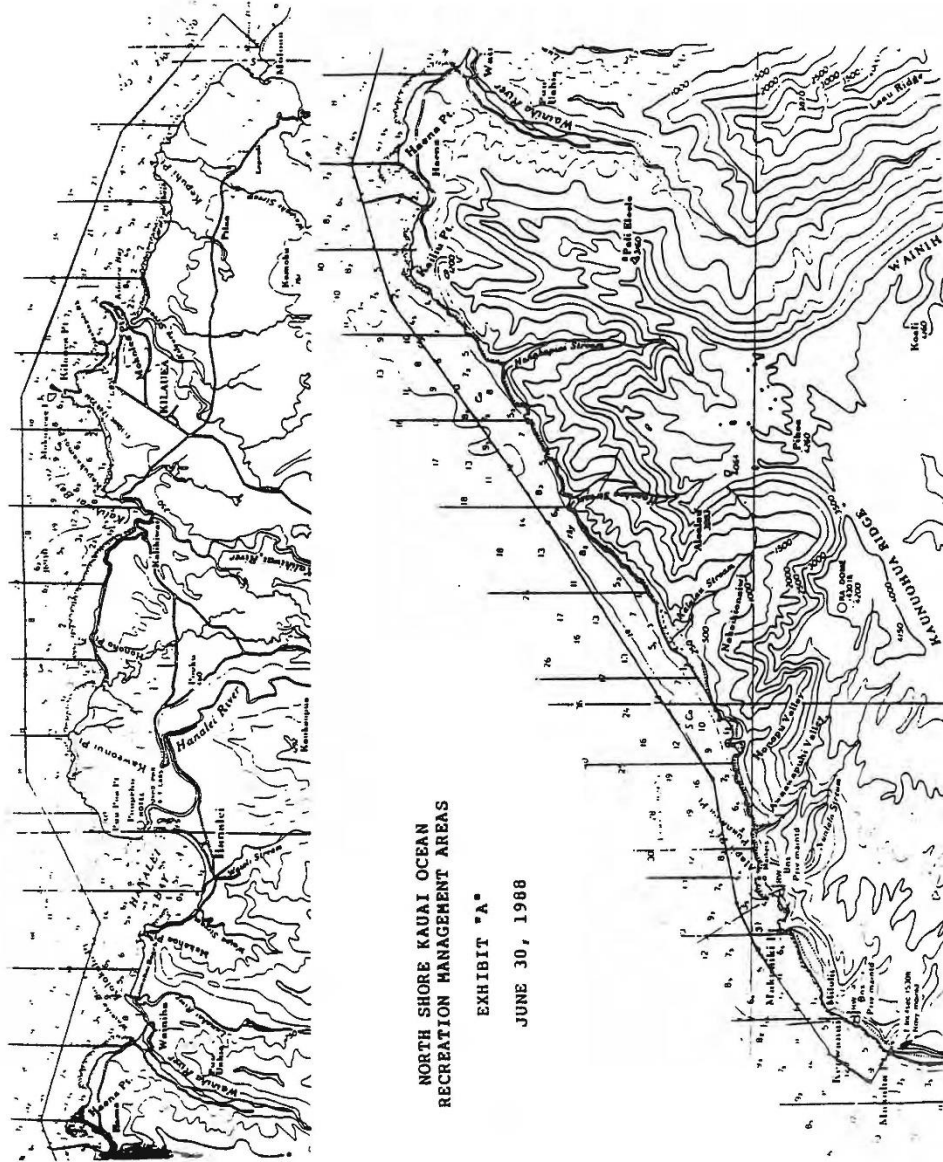
- (1) Commercial vessel operators shall maintain a listening watch on a radio frequency to be designated by the North Shore Charter Boat Association when operating within three hundred feet of the entrance to a sea cave.
- (2) Vessel operators intending to enter a sea cave shall ensure that no other vessel traffic is operating within the cave.
- (3) A vessel exiting a sea cave shall have the right-of-way over vessels preparing to enter a sea cave.

(d) The Nualolo Kai restricted zone is the area encompassed by the boundaries shown on Exhibit "F", dated March 1, 1989, located at the end of this subchapter, and which is described as follows:

Beginning at a point on the shoreline at the low water mark of the westernmost tip of Makuaiki Point, then by azimuth measured clockwise from True South; 241 degrees for a distance of two thousand one hundred feet to a point tangent to the outer edge of the reef, then along the outer edge of the reef to the westernmost edge of the shoreline of Alapii Point, then along the shoreline to the point of beginning.

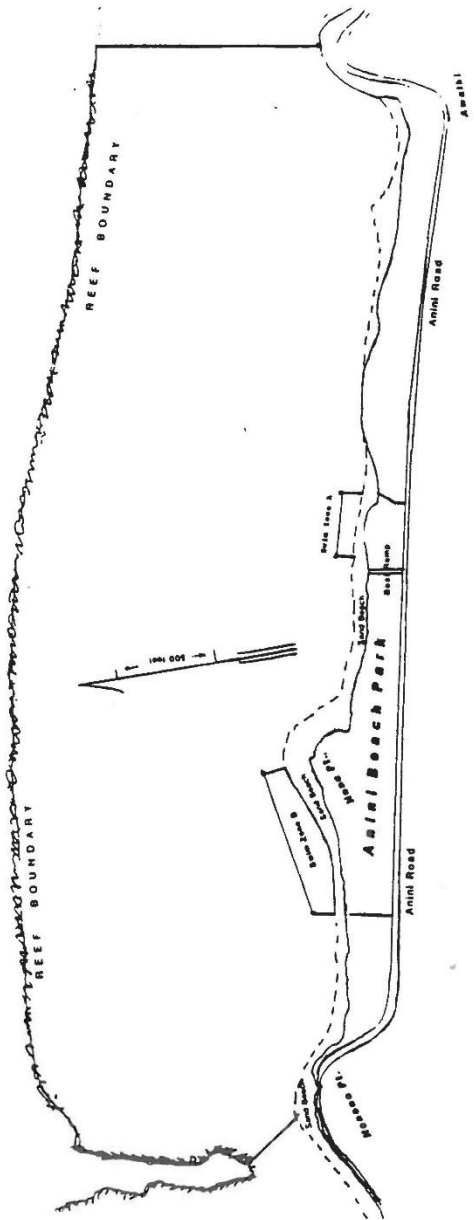
- (1) Restrictions on commercial use. No more than six commercial vessels may anchor or moor within the Nualolo Kai restricted zone at any one time, none of which may have a passenger carrying capacity exceeding eighteen passengers. The maximum time limit which a commercial vessel may moor within the Nualolo Kai restricted zone shall not exceed forty-five minutes. The limitation on commercial vessel provisions by this subsection shall not apply to commercial vessels whose owner possesses a valid permit issued by the board of land and natural resources to embark or disembark passengers at this location.
- (2) Restrictions on operation over reef areas. No motorized vessel shall operate over coral reefs subzone as shown on Exhibit "F". No vessel shall anchor or moor on live coral. Mooring shall be permitted only at day use moorings and subject to the provisions of chapter 13-257. [~~A "day use moorings" means a mooring established by the department for daylight hour uses only.~~] [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§§13-256-42 to 13-256-49 (Reserved)



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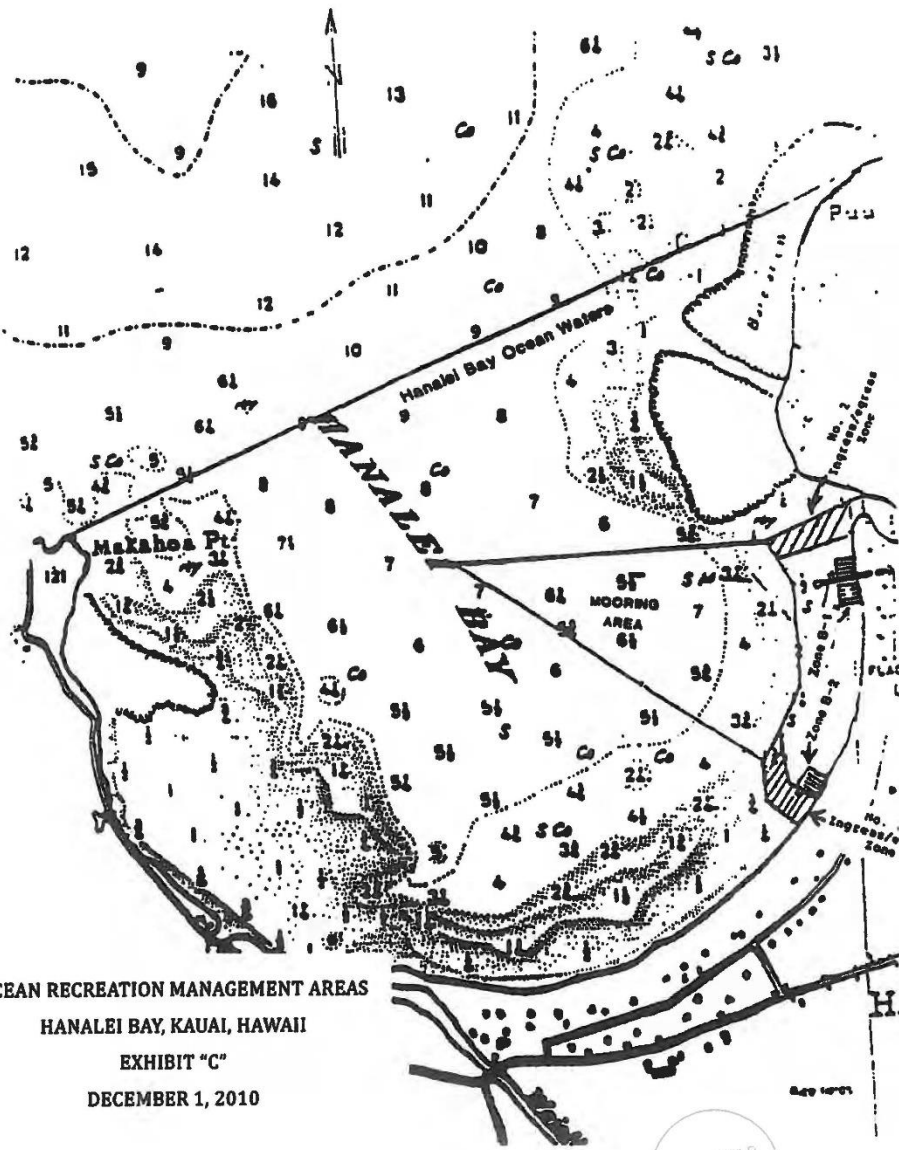
OCEAN RECREATION MANAGEMENT AREAS

ANINI BEACH, KAUAI, HAWAII

EXHIBIT "B"

SEPTEMBER 19, 1988

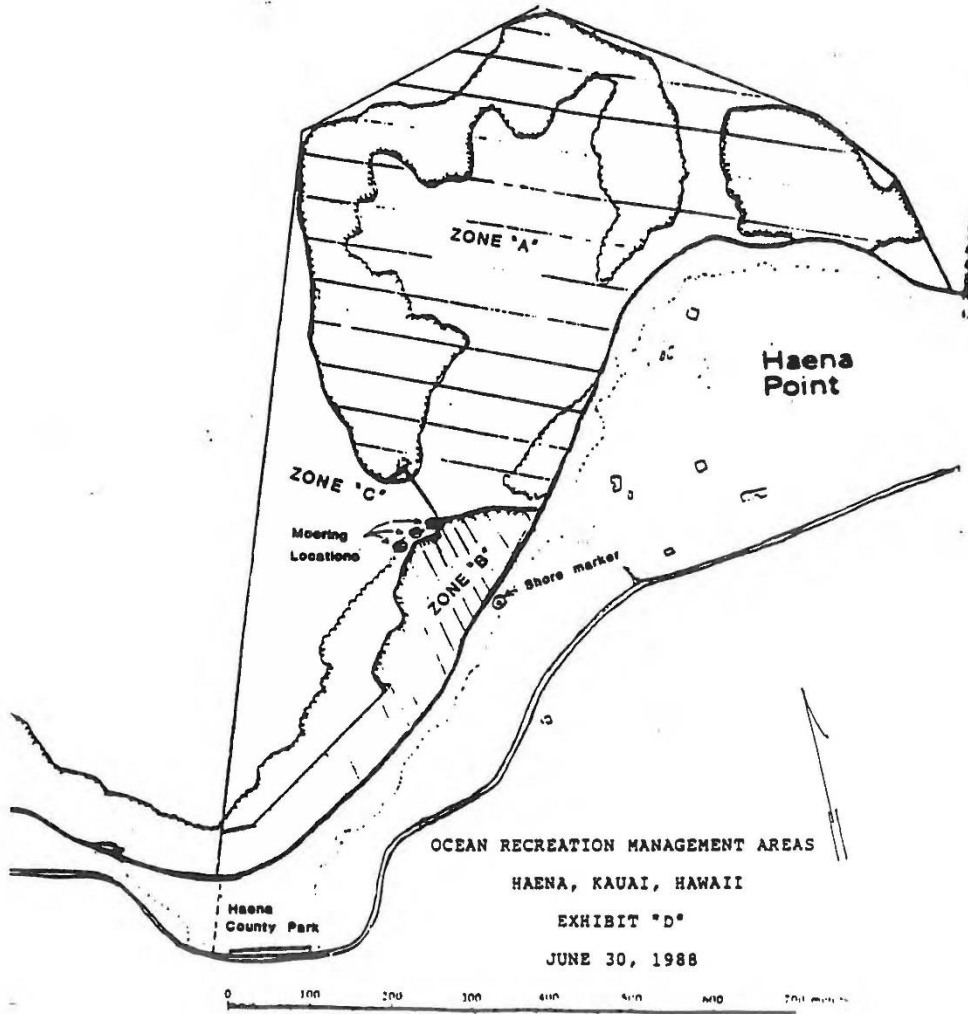
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OCEAN RECREATION MANAGEMENT AREAS  
 HANALEI BAY, KAUI, HAWAII  
 EXHIBIT "C"  
 DECEMBER 1, 2010

PRELIM APPX D  
 Department of the  
 Attorney General

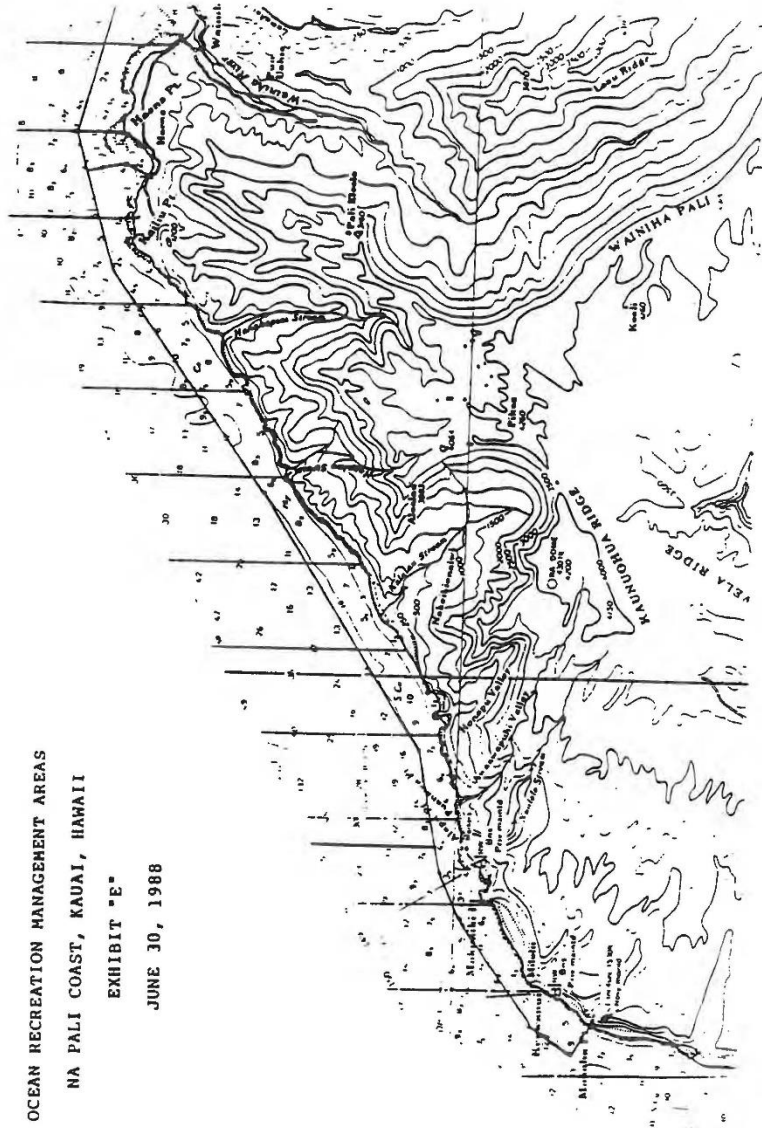
NORTH SHORE KAUAI OCEAN RECREATION MANAGEMENT AREA



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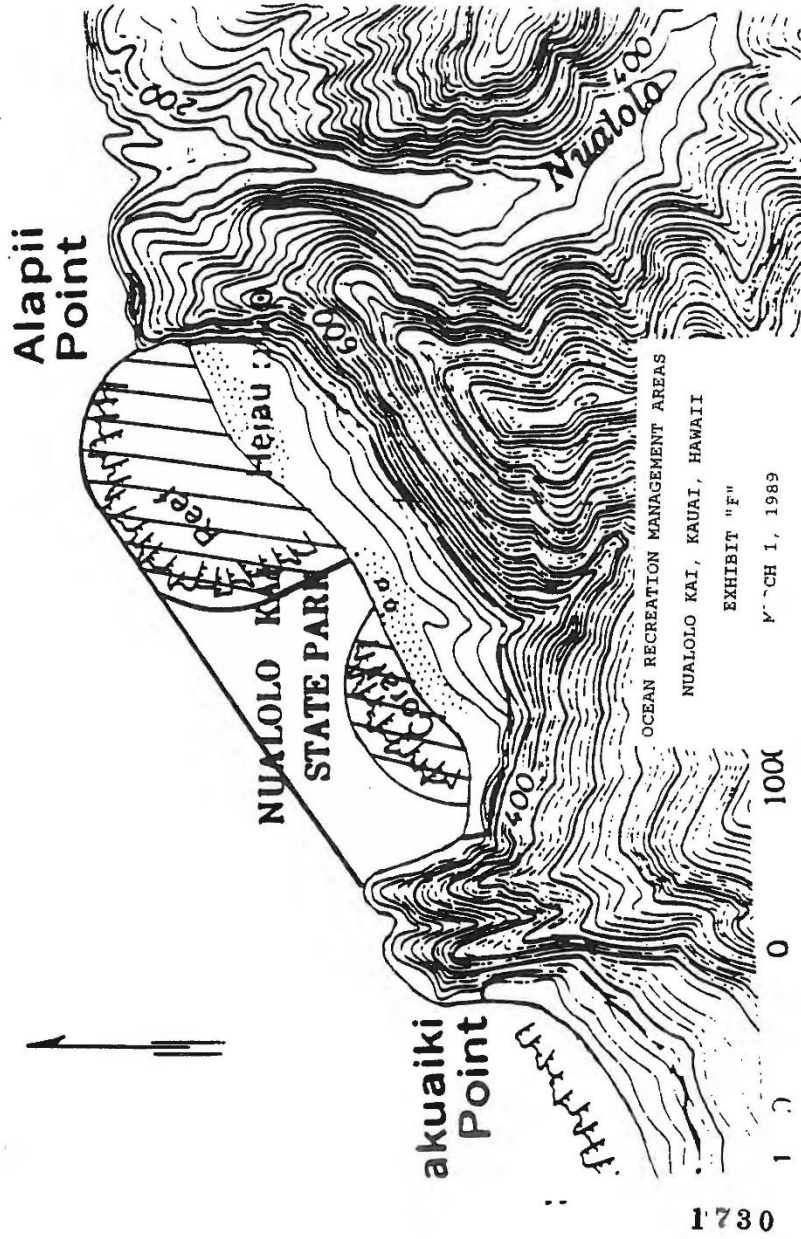
NORTH SHORE KAUAI OCEAN RECREATION MANAGEMENT AREA

OCEAN RECREATION MANAGEMENT AREAS  
NA PALI COAST, KAUAI, HAWAII  
EXHIBIT "E"  
JUNE 30, 1988



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NORTH SHORE KAUAI OCEAN RECREATION MANAGEMENT AREA



SUBCHAPTER 3

SOUTH SHORE KAUAI OCEAN RECREATION MANAGEMENT AREAS

§13-256-50 Definition. [~~The~~] "South Shore Kauai Ocean Recreation Management Area" means all waters of the State from Lae Niau located at the north boundary of Kealia Beach, Kauai, Hawaii, to the west boundary of Salt Pond Beach Park, Hanapepe, Kauai, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "G", "South Shore Kauai, Hawaii," dated February 27, 1998, located at the end of this subchapter. [Eff 2/24/94; am 10/19/02; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-256-51 Hanamaulu Bay restricted zones. (a)

Zone A, Hanamaulu Bay[~~-~~

~~(1) Zone A, Hanamaulu Bay~~] means the ocean waters confined by the boundaries [~~for said zones as~~] shown on Exhibit "H", dated August 20, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point on the low water mark at the tip of land which is six hundred feet from the mouth of the Hanamaulu Stream, then by azimuth measured clockwise from True South; 180 degrees to a point on the low water mark of the northern boundary of Hanamaulu Bay; thence along the low water mark of the bay to the point beginning.

~~[(2)]~~ Restrictions. Zone A, Hanamaulu Bay is designated for swimming and bathing. No person shall operate or moor a vessel or sailboard within Zone A.

(b) Zone B, Hanamaulu Bay[~~-~~

~~(1) Zone B, Hanamaulu Bay~~] means the ocean waters confined by the boundaries [~~for said zones as~~] shown on Exhibit "H", dated August 20, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point on the low water mark on the northern tip of Ahukini State Park; thence by azimuth measured clockwise from True South; 170 degrees to a point on the low water mark on the shoreline; then westward along the low water mark to the northern boundary of Zone A; then southward along the boundary of Zone A to the low water mark on the shoreline; then eastward along the low water mark to the point of beginning.

~~[-(2)-]~~ Restrictions. Zone B, Hanamaulu Bay is designated as a "slow-no-wake" zone. All watercraft within this zone shall not exceed a speed of slow-no-wake.

(c) Hanamaulu Bay Ingress-Egress Corridor~~[-~~

~~(1) Zone C, Hanamaulu Bay Ingress-Egress Corridor~~] means the ocean waters confined by the boundaries [~~for said corridor as~~] shown on Exhibit "H", dated August 20, 1988, located at the end of this subchapter. The boundaries of Zone C are as follows:

Beginning at a point on the low water mark at the south opening of Hanamaulu Stream; thence by azimuth measured clockwise from True South; 240 degrees to a point on at the west boundary of Zone B and the low water mark on the shoreline; then along western boundary of Zone B for a distance of one hundred feet; then 063 degrees to a point at the low water mark of the Hanamaulu Beach; the along the low water mark of the shoreline to the point of beginning.

~~[(2)]~~ Restrictions. Zone C, Hanamaulu Bay Ingress-Egress Corridor is designated for use by recreational motorized vessels. All watercraft within this zone shall not exceed a speed of slow-no-wake. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-52 Nawiliwili Bay restricted zones. (a) Zone A, Nawiliwili Bay ~~[is]~~ means the ocean waters ~~[encompassed]~~ confined by the boundaries ~~[of the zones as]~~ shown on Exhibit "I", dated November 23, 1988 located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point at the low water mark on the southern tip of Kukii Point then by azimuths measured clockwise from True South; 090 degrees across the bay to a point on the jetty; then proceeding north along the low water mark along the shoreline of Kalapaki Bay to the point of beginning.

(b) Restrictions. Zone A, Nawiliwili Bay is designated for general ocean recreation activities. No person shall moor a vessel or operate at a speed in excess of slow no wake within Zone A. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-21, 200-22, 200-24 ) (Imp: HRS §§200-21, 200-22, 200-24)

§13-256-53 Nukumoi Restricted Zones. (a) Nukumoi Swimming Zone

~~[(1) Nukumoi swimming zone]~~ means the ocean waters confined by the boundaries ~~[for said zones as]~~ shown on Exhibit "J", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark on the southern tip of the Nukumoi Point, then proceeding on a straight



line to the low water mark of the southern point of Kihouna Heiau, then along the low water mark of Nukumoi Beach in an easterly heading to the point of beginning.

~~[(2)]~~ Restrictions. Nukumoi swimming zone is designated for swimming and bathing. No person shall operate or moor a vessel or other watercraft within this zone.

(b) Nukumoi Ingress/egress Corridor~~[-~~

~~(1) Nukumoi ingress/egress corridor]~~ means the ocean waters confined by the boundaries for said zones as shown on Exhibit "J", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark adjacent to the west side of the basalt rock on Nukumoi Beach then by azimuth measured clockwise from True South, 018 degrees for a distance of three hundred feet and the swim zone boundary; 112 degrees for a distance of fifty feet; 198 degrees to the shoreline; then along the low water mark of Nukumoi Beach in an easterly direction to the point of beginning.

~~[(2)]~~ Restrictions. Nukumoi ingress/egress corridor is designated for the use of non-motorized vessels. No person shall operate or moor a motorized vessel within this zone.

[Eff 2/24/94; am and comp

] (Auth: HRS §§200-2, 200-3, 200-4)

(Imp: HRS §§200-2, 200-3, 200-4)

§13-256-54 Koloa Landing Restricted Area. (a)

~~[The]~~ Koloa Landing restricted area means the ocean waters confined by the boundaries ~~[for said zones as]~~ shown on Exhibit "K", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark at the southern tip of Lae O Kohala, thence by azimuth measured clockwise from True South; 130 degrees to a point on the low water mark at the western edge of Keawaloa Bay; then long the low water mark of the shoreline in a northerly direction and then on an easterly heading to the point of beginning.

(b) Restrictions. The Koloa Landing restricted area is designated for swimming and diving. No person shall operate or moor a vessel in this area, except that a vessel may enter or depart the area by a straight line from the boat launching area to the closest seaward boundary line. All vessels transiting the area shall not exceed a speed of slow-no-wake. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-55 Salt Pond Park Restricted Area. (a) [~~The~~] Salt Pond Park restricted area means the ocean waters confined by the boundaries [~~for said zones as~~] shown on Exhibit "M", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark which is five hundred feet east of the centerline extension of Salt Pond Road; then on the low water mark along the beach in a southerly direction for a distance of approximately one thousand two hundred fifty feet; then on a straight line to the point of beginning.

(b) Restrictions. The Salt Pond Park restricted area is designated for swimming and bathing only. No person shall operate or moor a vessel within this area. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-56 Wailua River restricted area. (a) ~~[Restrictions described in this section shall not apply to department vessels, department personnel or emergency, patrol or rescue craft while performing official duties.]~~

~~(b) The~~ Wailua River restricted area means the navigable waters of the Wailua River, Kauai, as ~~[defined]~~ confined by the boundaries ~~[as]~~ shown on Exhibit "L", titled, "Island of Kauai, Wailua River Restricted Area," dated February 27, 1998, and located at the end of this subchapter. The boundaries are as follows:

~~[begin]~~ Beginning at a point at the high water mark at the mouth of the Wailua River and include all the navigable waters along the Wailua River in a westerly direction to the base of Kaholalele Falls on the north fork of the river and all of the navigable waters to the base of the Wailua Falls on the south fork of the river.

~~[-e)]~~ (b) The Wailua River restricted area shall be divided into four zones as follows:

- (1) Zone 'A' includes all the navigable waters beginning fifty feet into the river from the western side of the Wailua River bridge and from seventy-five feet into the Wailua River from the north shoreline to a point approximately eighteen hundred feet along the shoreline, then extends from the banks of the north shoreline to approximately seven hundred and eighty-three yards upstream as indicated by navigational aids on both sides of the river designating the boundary between Zones 'A' and 'B', as shown on Exhibit "L-1", titled, "Island of Kauai, Wailua River Restricted Area, Zone 'A'," dated February 27, 1998, and located at the end of this subchapter.
- (2) Zone 'B' includes all waters extending approximately two miles upstream from the navigational aids on both sides of the river designating the boundary between Zones 'A' and 'B' to the base of Kaholalele Falls on

the north fork of the river and approximately three and a half miles from the navigational aids designating the boundary between Zones 'A' and 'B' to the base of the Wailua Falls on the south fork of the river as shown on Exhibit "L", titled, "Island of Kauai, Wailua River Restricted Area," dated February 27, 1998, and located at the end of this subchapter.

- (3) Zone 'C' includes the waters beginning at the west side of the Wailua River bridge between the north and south banks and extends fifty feet into the river, then proceeds along the north shoreline extending seventy-five feet into the Wailua River from the north shoreline to a point approximately eighteen hundred feet along the shoreline as shown on Exhibit "L-1", titled, "Island of Kauai, Wailua River Restricted Area, Zone 'A'," dated February 27, 1998, and located at the end of this subchapter.
- (4) Zone 'D' begins at the eastern boundary of Zone 'C' and extends under the Wailua River bridge between the north and south banks, extending to the shoreline.

~~[(d)]~~ (c) General rules for Wailua River~~[-]~~ :

- (1) Only commercial and recreational vessels not exceeding twenty-one feet in length shall be allowed to utilize the Wailua River and shall be limited to:
  - ~~[(A)]~~ (i) Vessels used for waterskiing;
  - ~~[(B)]~~ (ii) Motorized vessels, excluding thrill craft; and
  - ~~[(C)]~~ (iii) Manually-propelled vessels.
- (2) Commercial barges, or vessels otherwise allowed by the department, shall be exempt from vessel length restrictions described in paragraph (1).
- (3) Recreational motorized vessels, and recreational and rented manually-propelled vessels may utilize Zones 'A', 'B', and 'C' as provided for in this section.

- (4) Zone 'C' shall be designated a swimming zone indicated by marker buoys. Motorized vessels launching from launch ramp 'A' shall proceed with caution while within Zone 'C'.
- (5) All manually-propelled vessels shall be required to operate [~~along side~~] alongside the northern river bank.
- (6) All vessel operators shall possess a state park permit to embark or disembark along the shores only within the state park in Zone 'B'.

[~~(e)~~] (d) Commercial vessel activity requirements for Wailua River[~~-~~] :

- (1) Unless otherwise provided by law, anyone conducting commercial activities on the Wailua River shall possess a valid commercial activity permit from the department.
- (2) All individuals possessing a commercial activity permit to utilize the Wailua river as of June 11, 1999, may retain the commercial activity permit on the effective date of these rules.
- (3) All available commercial activity permits may be issued in accordance with section 13-231-60.
- (4) Reissuance of commercial activity permits shall be in accordance with section 13-231-61.
- (5) Commercial barges, or vessels otherwise allowed by the department, may only utilize Zones 'A' and 'B'.
- (6) All commercial vessel activity is prohibited [~~from~~] in Zones 'C' and 'D'.
- (7) Commercial waterskiing commercial activity permittees shall abide by the requirements described in subsection [~~(g)~~] (f).
- (8) Commercial manually-propelled vessel commercial activity permittees shall abide by the requirements described in subsection [~~(f)~~] (e).

~~[(f)]~~ (e) Commercial manually-propelled vessel requirements for the Wailua River~~[-]~~ :

- (1) Not more than fifteen manually-propelled vessel commercial activity permits, with a maximum of twelve vessels per commercial activity permit per day, and with a maximum of four guides per permit, may be issued for guided tours for the Wailua River.
- (2) Not more than four manually-propelled vessel commercial activity permits, with a maximum of six vessels per commercial activity permit, may be issued for rented manually-propelled vessels for the Wailua River.
- (3) In addition to the provisions in subsection ~~[(e)-(1)]~~ (d)(1), manually-propelled vessel commercial activity permittees utilizing the Wailua River shall abide by the following:
  - ~~[(A)]~~ (i) For guided tours, a minimum of one tour guide shall be required for each group of twelve people;
  - ~~[(B)]~~ (ii) Tour guides shall be required to wear a bright orange shirt with the company name printed on the shirt when guiding tours; and
  - ~~[(C)]~~ (iii) All commercial manually-propelled vessels permittees shall be provided a Wailua River restricted area decal for each commercial manually-propelled vessel and shall be required to display it on the bow of the vessel.

~~[(g)]~~ (f) Waterskiing activity requirements for the Wailua River~~[-]~~ :

- (1) Waterskiing may be conducted in Zone 'A' in an area designated by the department, as shown in Exhibit "L-1", titled "Island of Kauai, Wailua River Restricted Area, Zone 'A'," dated February 27, 1998, and located at the end of this subchapter, and shall be prohibited in Zone 'C'.
- (2) Waterskiing may be conducted in Zone 'B' only between sunrise to 9:00 a.m. and from 5:00 p.m. to sunset.

- (3) A maximum of one commercial activity permit may be issued for waterskiing activities.
- (4) The vessel towing water skiers may tow not more than one person at any one time.
- (5) Waterskiing shall be conducted in accordance with section 13-244-18.
- (6) Waterskiing activities shall be exempt from the speed restrictions of section 13-244-9.
- (7) Waterskiing vessel traffic patterns shall be in a counter-clockwise direction.
- (8) Waterskiing tow ropes shall not exceed seventy-five feet in length.
- (9) Vessels engaged in waterskiing activities shall not exceed a speed of thirty-six miles per hour.
- (10) The only water water towing apparatus allowed shall be those equipped with boots, straps, or a leash on the board or ski.

~~[(h) Launch ramp restrictions.]~~

~~(1)]~~ (g) All commercial vessels ~~[are]~~ shall be prohibited from utilizing Launch ramp 'A', as shown in Exhibit "L-1", titled "Island of Kauai, Wailua River Restricted Area, Zone 'A'," dated February 27, 1998, and located at the end of this subchapter, and shall be required to utilize Launch ramp 'B', as shown in Exhibit "L-1," titled "Island of Kauai, Wailua River Restricted Area, Zone 'A'," dated February 27, 1998, and located at the end of this subchapter.

~~[(i)]~~ (h) The eastern half of the lower Kaumualii area, as shown in Exhibit "L-1", titled "Island of Kauai, Wailua River Restricted Area, Zone 'A', "dated February 27, 1998, and located at the end of this subchapter, shall be used exclusively for the launching and recovery of Hawaiian outrigger canoes.

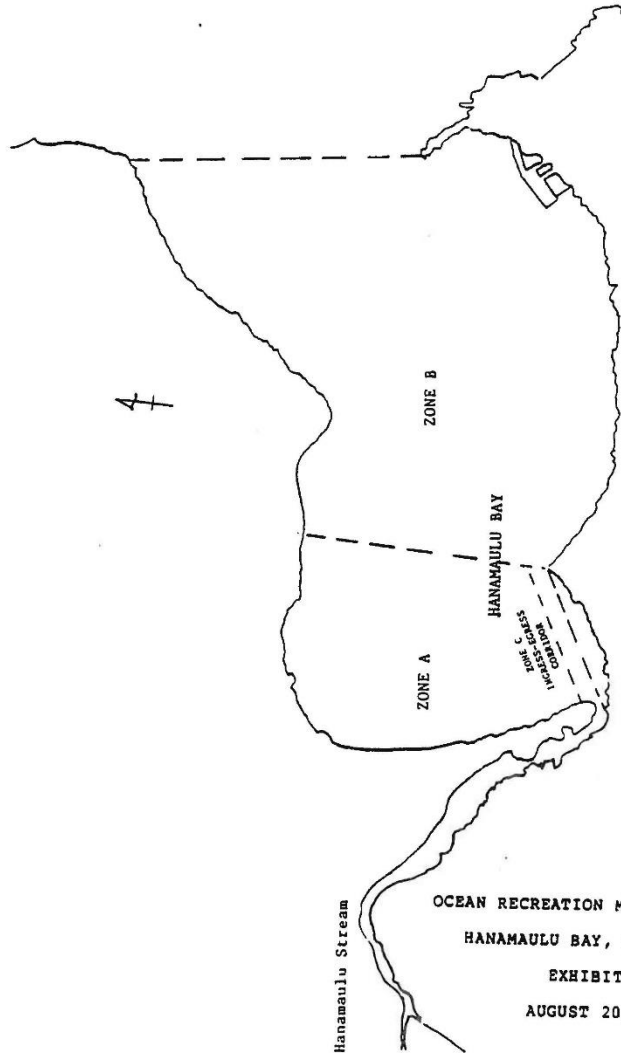
~~[(j)]~~ (i) The western half of the lower Kaumualii area, as shown in Exhibit "L-1", titled "Island of Kauai, Wailua River Restricted Area, Zone 'A'", dated February 27, 1998, and located at the end of this subchapter, may be utilized by recreational vessels, other than Hawaiian outrigger canoes, allowed on

Wailua River. [Eff 10/19/02; am and comp  
] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-  
24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§§13-256-57 to 13-256-59 (Reserved)



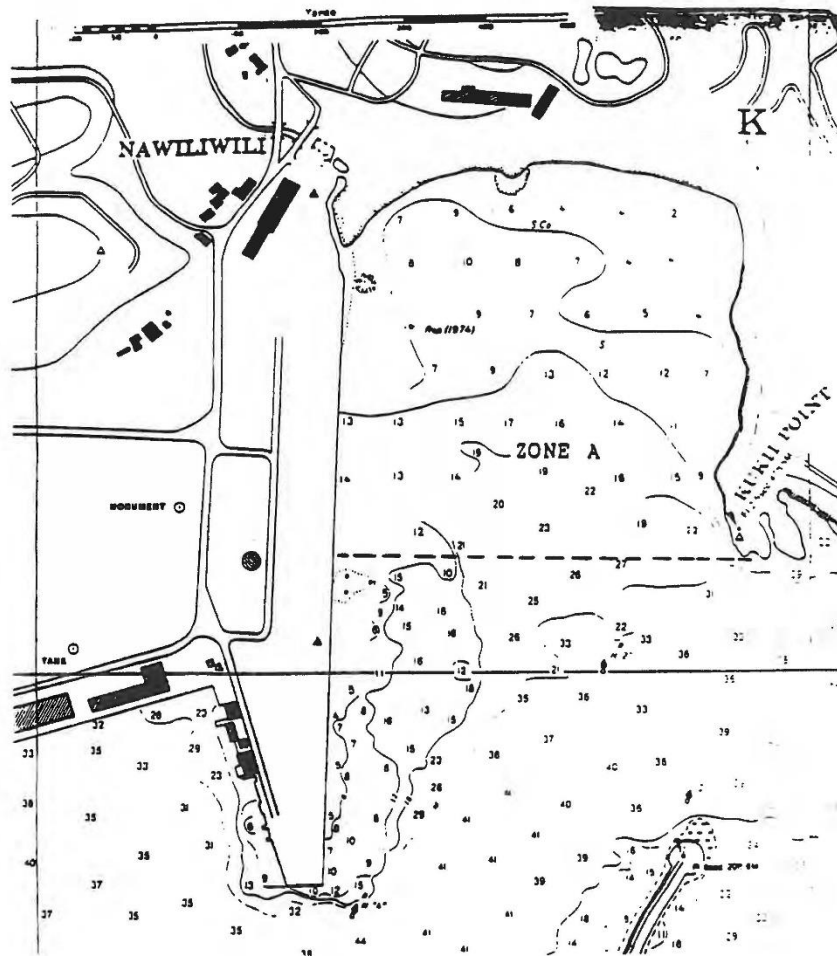




Hanamaulu Stream

OCEAN RECREATION MANAGEMENT AREAS  
 HANAMAULU BAY, KAUAI, HAWAII  
 EXHIBIT "H"  
 AUGUST 20, 1988

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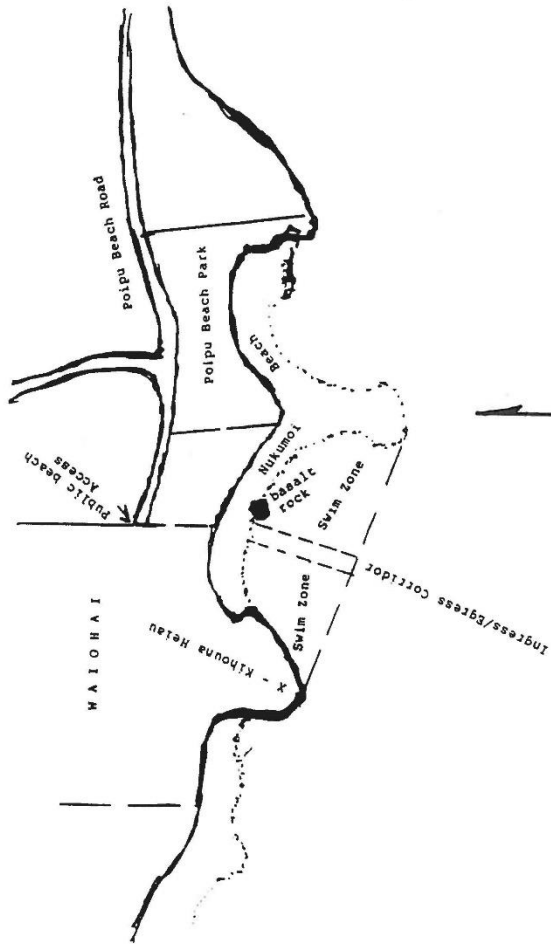
OCEAN RECREATION MANAGEMENT AREAS

NAWILIWILI BAY, KAUAI, OAHU

EXHIBIT "I"

NOVEMBER 23, 1988

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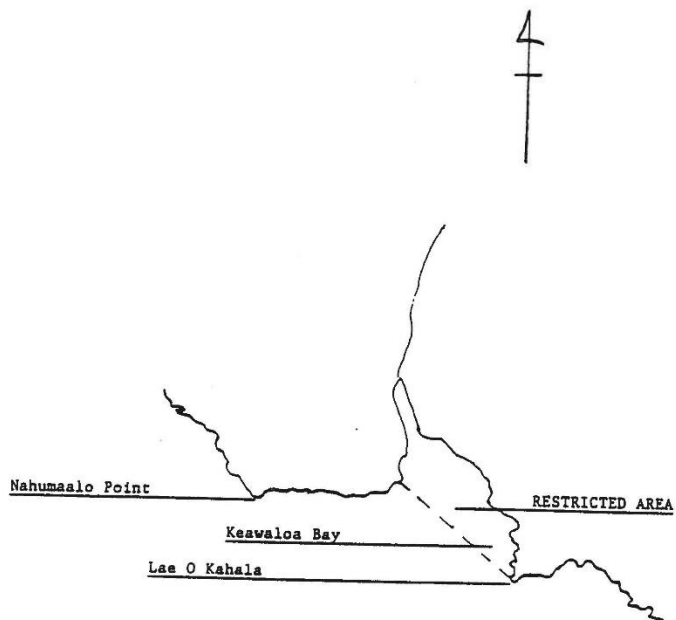
OCEAN RECREATION MANAGEMENT AREAS

NUKAMO I BEACH, KAUA I, HAWA I I

EXHIBIT "J"

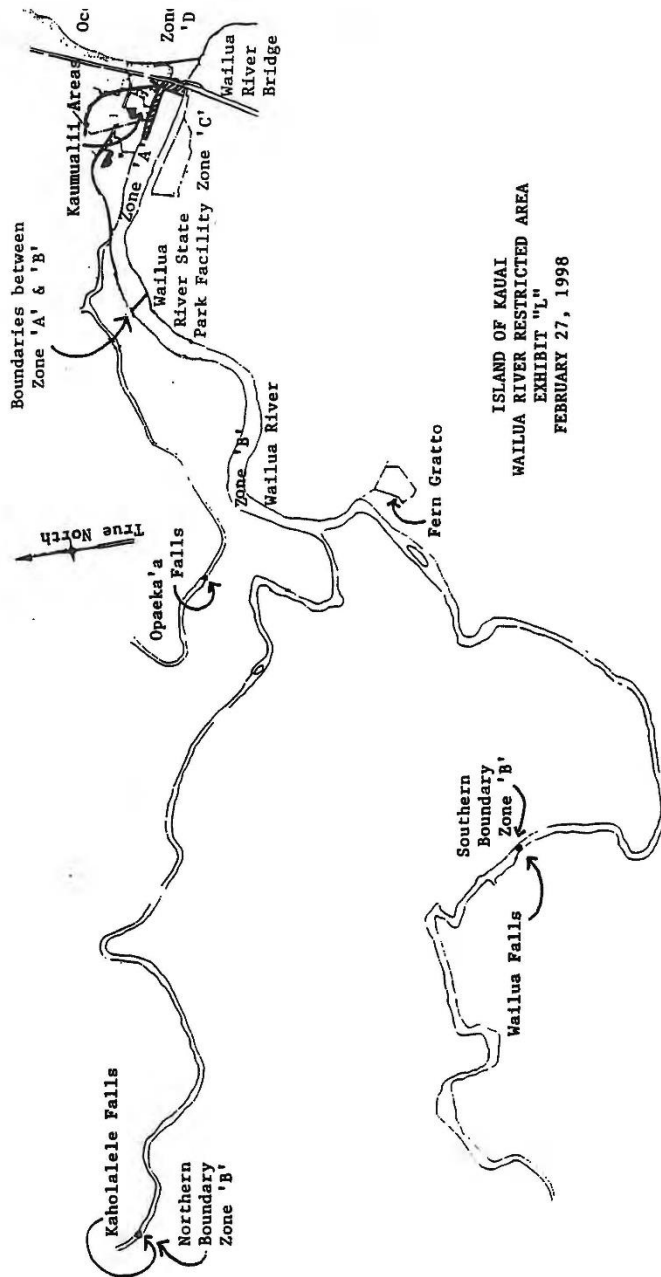
SEPTEMBER 19, 1988

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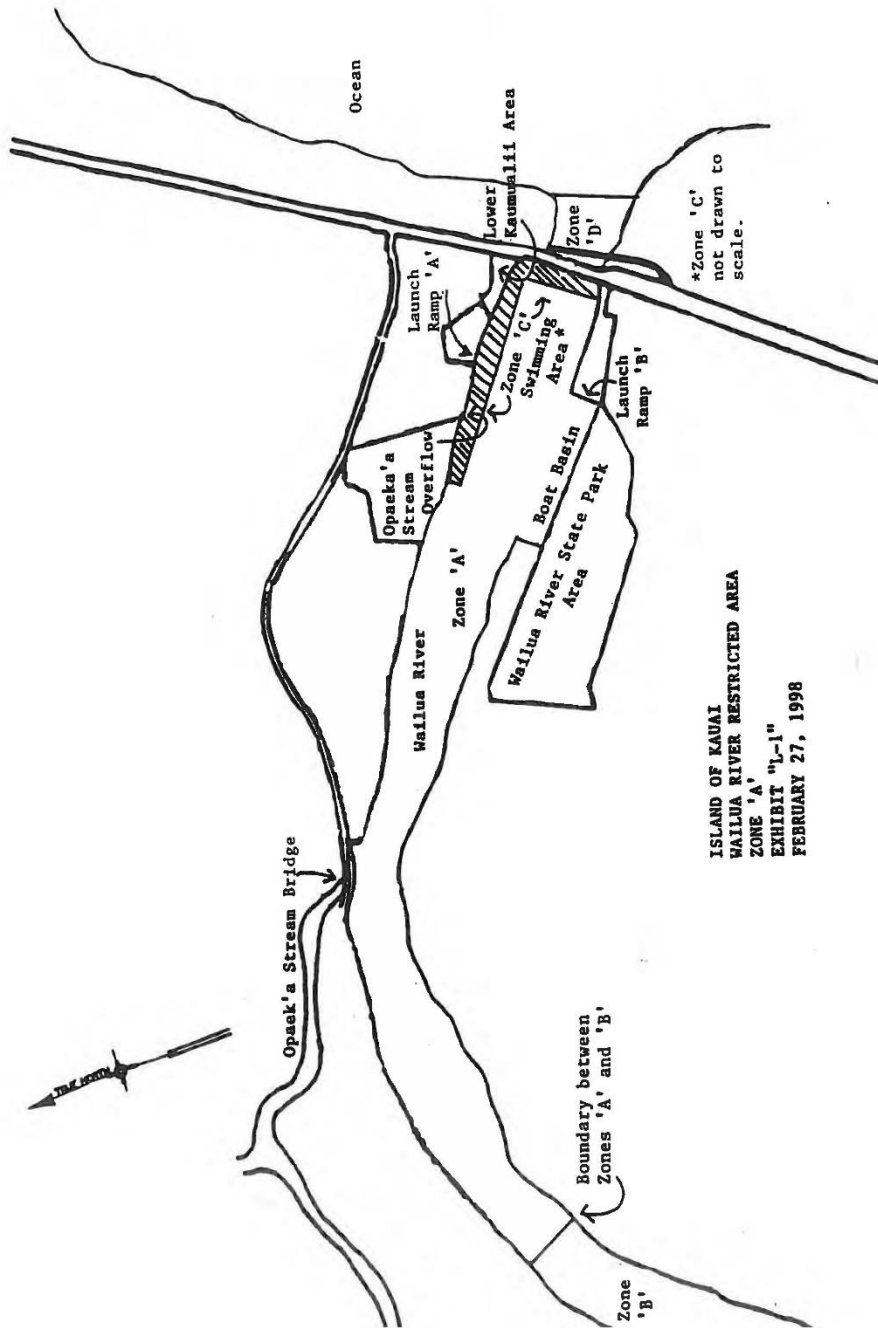


OCEAN RECREATION MANAGEMENT AREAS  
KOLOA LANDING, KAUAI, HAWAII  
EXHIBIT "K"  
JUNE 30, 1988

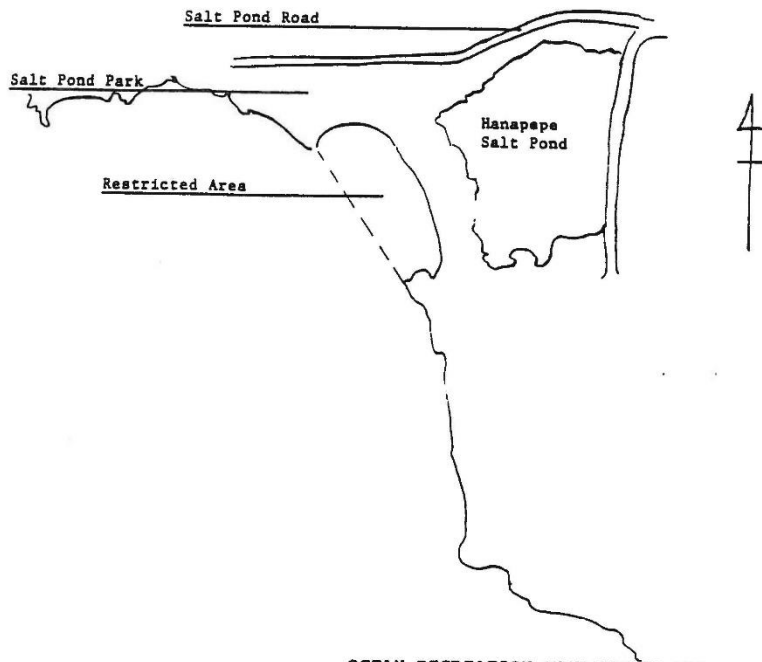
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ISLAND OF KAWAI  
 MAILUA RIVER RESTRICTED AREA  
 EXHIBIT "L"  
 FEBRUARY 27, 1998



ISLAND OF KAUAI  
 WAILUA RIVER RESTRICTED AREA  
 ZONE 'A'  
 EXHIBIT "L-1"  
 FEBRUARY 27, 1998



OCEAN RECREATION MANAGEMENT AREAS  
SALT POND PARK, KAUAI, HAWAII  
EXHIBIT "M"  
JUNE 30, 1988

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#### SUBCHAPTER 4

##### NORTH SHORE OAHU OCEAN RECREATION MANAGEMENT AREA

§13-256-60 Definition. [~~The~~] "North Shore Oahu Ocean Recreation Management Area" means all ocean waters and navigable streams from Kaena Point to Kahuku Point, Oahu, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "N", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-61 Haleiwa Restricted Zones. (a) Zone A, Haleiwa restricted zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the area~~] shown on Exhibit "O", dated November 23, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point on the low water mark at the western edge of Alii Beach Park, then by azimuth measured clockwise from True South, 128 degrees for a distance of four hundred feet; 200 degrees for a distance of one thousand feet; then on a straight line to the low water mark of the corner of the breakwater at Haleiwa Small Boat Harbor; then along the low water mark in a westerly heading to the point of beginning.

Zone A Haleiwa restricted area is designated a swimming and bathing area. No person shall operate or moor a vessel within this zone.

(b) Zone B, Haleiwa restricted zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the area~~] shown on Exhibit "O", dated November 23, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point in the water by azimuth measured clockwise from True South, 090 degrees for a distance of one hundred feet from the low

water mark at the end of the breakwater at Haleiwa Small Boat Harbor; 060 degrees for a distance of one thousand six hundred feet; 175 degrees for distance of one thousand three hundred feet; then on a straight line to a point of beginning.

Zone B is designated a surfing and bodysurfing zone. No person shall operate or moor a vessel, within this zone.

(c) Zone C, Haleiwa Restricted Zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the area~~] shown on Exhibit "O", dated November 23, 1988, located at the end of this subchapter. The boundaries of Zone C are as follows:

Beginning at a point from the low water mark of the western tip of Kawaihoa Beach, thence by azimuth measured clockwise from True South, 075 degrees for a distance of one hundred feet; 300 degrees for a distance of eight hundred feet; then on a straight line to the low water mark at the end of the groin located at the southern boundary of Haleiwa Beach Park; then along the low water mark along the groin and beach in a northerly direction to the point of beginning.

Zone C is designated as a swimming and bathing zone. No person shall operate or moor a vessel, surfboard, or sailboard within this zone.

(d) Zone D, Haleiwa restricted zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the area~~] shown on Exhibit "O", dated November 23, 1988, located at the end of this subchapter. The boundaries of Zone D are as follows:

Beginning at a point in the water by azimuth measured clockwise from True South, 038 degrees for a distance of four hundred ninety feet from Pua'ena Point, then by a on a radius of two hundred feet around that point

Zone D is designated as a commercial thrill craft zone. No more than six rental thrill craft shall be operated at any time.

(e) Zone E, Haleiwa restricted zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of~~

~~the area~~] shown on Exhibit "O", dated November 23, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point from the low water mark on the tip of the breakwater of Haleiwa Small Boat Harbor, then by azimuth measured clockwise from True South, 110 degrees for a distance of two thousand eight hundred feet; 020 degrees for a distance of two thousand feet; 110 degrees for a distance of one thousand feet; 200 degrees for a distance of two thousand feet; then by a straight line to the point of beginning.

Zone E is designated as a recreational thrill craft zone. No person shall operate a commercial thrill craft in this zone. This zone shall be closed to all thrill craft operations from December 15 to May 15 of the following year.

(f) Zone F, Haleiwa restricted zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the area~~] shown on Exhibit "O", dated November 23, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning from the low water mark at Pua'ena Point, then by azimuth measured clockwise from True South, 125 degrees for a distance of four hundred thirty feet to a point in the water; then 140 degrees for a distance of one thousand feet; 230 degrees for a distance of two thousand feet; 320 degrees for a distance of one thousand feet; then 050 degrees for two thousand feet and the point of beginning.

Zone F is designated as a recreational thrill craft zone. No person shall operate a commercial thrill craft in this zone. [Eff 2/24/94; am and comp

] (Auth: HRS §§200-21, 200-22, 200-24, 200-37) (Imp: HRS §§200-21, 200-22, 200-24, 200-37)

§13-256-62 REPEALED. [R 4/27/02]

§13-256-63 Sharks Cove, Three Tables, and Waimea Bay ocean waters. (a) Sharks Cove, Three Tables and Waimea Bay ocean waters means the area confined by the boundaries shown on Exhibit "Q", titled "Ocean Recreation Management Areas, Sharks Cove, Three Tables and Waimea Bay ocean waters, dated October 20, 2000, and located at the end of this subchapter.

- (1) Zone 'A' begins at a point in the water at approximately 21°38.296 N, 158°04.092 W, then in a northerly direction along the shoreline to Waimea Point at approximately 21°38.599 N, 158°03.916 W, then in a straight line in a southwesterly direction for approximately one thousand eight hundred thirty-seven feet back to the point of origin.
- (2) Zone 'B' begins at a point in the water Three Tables Point at approximately 21°38.751 N, 158°03.925 W; then along the shoreline in a northeasterly direction to a point in the water at approximately 21°39.010 N, 158°03.842 W, then due west to approximately 21°39.010 N, 158°03.842 W, then due west to approximately 21°39.010 N, 158°03.874 W, then in a straight line in a southwesterly direction back to the point of origin.
- (3) Zone 'C' begins at a point in the water at approximately 21°39.010 N, 158°03.842 W, then in a northerly direction along the shoreline to Kulalua Point at approximately 21°39.296 N, 158°03.823 W, then in a straight line in a southwesterly direction to approximately 21°39.010 N, 158°03.874 W, then in a straight line due east back to the point of origin.
- (4) Zone 'D' begins at Kulalua Point at approximately 21°39.296 N, 158°03.823 W, then due west for one hundred yards, then in a straight line in a southwesterly direction to the Wananapaoa Islet at approximately 21°38.340 N, 158°04.198 W, then in a

straight line in a southeasterly direction to 21°38.296 N, 158°04.092 W, then in a straight line in the northeasterly direction to Waimea Point at approximately 21°38.599 N, 158°03.916 W, then in a northeasterly direction along the shoreline to approximately 21°38.751 N, 158°03.925 W and then in a straight line in a northeasterly direction to the point of origin.

- (b) Following are restrictions for Zone 'A':
- (1) Except where permitted by law, motorized vessels, except sailing vessels with auxiliary engines, are prohibited in Zone 'A'.
  - (2) Sailing vessels with auxiliary engines shall be required to enter and leave Zone 'A' on sail power or by oar only.
  - (3) Manually-propelled vessels, [~~i.e.,~~] including, but not limited to, kayaks, may embark and disembark from the shoreline of Zone 'A'.
  - (4) Any vessel anchoring within Zone 'A' shall be prohibited from anchoring within two hundred feet of the shoreline and shall anchor only in sandy areas.
  - (5) All vessels shall proceed at a speed of slow-no-wake, as defined in section 13-250-5, when in Zone 'A'.
- (c) Following are restrictions for Zone 'B':
- (1) Manually-propelled vessels, [~~i.e.,~~] including, but not limited to, kayaks, may embark and disembark from the shoreline in Zone 'B'.
  - (2) Except where permitted by law, motorized vessels, including sailing vessels with auxiliary engines, are prohibited in Zone 'B'.
- (d) Following are restrictions for Zone 'C':
- (1) Except where permitted by law, all vessels [~~are~~] shall be prohibited from embarking or disembarking from the shoreline into Zone 'C'.

(e) In addition to any federal, state, or county law, rule, permit, or ordinance requirements, a commercial activity permit shall be required to conduct commercial SCUBA or commercial snorkeling activities in Zone 'C,' issued by the department. This ~~[applies]~~ requirement shall apply to all for-profit and not-for-profit companies or organizations. Allocation of the commercial activity permits shall be in accordance with section 13-231-60 and the applicant shall submit the following with the application:

- (1) A list of all instructors or guides to be named on the commercial activity permit. The onus shall be on the commercial activity permittee to update any additions or deletions of the names of the persons utilized for instruction or guided tours;
- (2) Proof of insurance, as described in section 13-231-65, for each individual listed on the commercial activity permit;
- (3) A copy of the tax clearance certificate or a letter from the state department of taxation that confirms the applicant is paying taxes;
- (4) Vehicle license numbers for vehicles utilized for shuttling customers; and
- (5) Proof of a leadership level professional credential ~~[i.e.]~~ (e.g., dive master or above~~]~~ ) from an internationally recognized SCUBA diving training agency, (e.g., PADI~~]~~ ) for each instructor or guide listed on the commercial activity permit for commercial SCUBA and snorkeling activities.

(f) Commercial activity permits for commercial SCUBA or snorkeling activities shall be valid for a period not to exceed one year.

(g) Renewal of a commercial activity permit shall be in accordance with section 13-231-61, except that subsection (b)(1)(4) and (8) shall not apply. The minimum revenue standard shall be the fees provided in subsection (j).

(h) A yearly non-refundable commercial activity permit application fee of \$50 shall be paid at the time the application is submitted.

(i) In addition to the commercial activity permit described in subsection (e), a use permit, as described in subsection (j) shall be required when using Zone 'C'.

(j) A maximum of six use permits, with a combination of commercial activity permittees and customers not to exceed ten individuals, including instructors and assistants per use permit, shall be issued for any one of three time periods and the permittee shall only be allowed to use Zone 'C' during the periods reserved by the permittee via a reservation system established by the department.

(k) Use permit fees, that shall be paid in full at the time of the reservation for use periods, shall be as follows:

- (1) A seasonal user fee of \$420 or
- (2) A monthly user fee of \$75; or
- (3) A weekly user fee of \$56; or
- (4) A daily user fee of \$10.

(l) Individuals who possess a commercial activity permit and pay fees in accordance with section 13-234-25, shall be exempt from the fee requirements provided in subsection (k) but shall be required to make reservations as described in subsection (j).

(m) Commercial activities may be allowed from April 1st through October 31st of each year but shall be prohibited between the hours of 9:00 p.m. to 8:00 a.m. and from November 1st through March 31st of each year.

(n) Individuals conducting instruction or guided tours shall be required to make available to representatives of the department a copy of the use permit upon demand.

(o) Any person who violates any of these rules or who violates any lawful command issued pursuant to these rules shall be subject to fines as prescribed in sections 200-14, 200-14.5, and 200-25, HRS. Prosecution of offenders shall be as provided by law.

(p) Commercial activity permittees shall make available to customers maps or charts that show the boundaries of the area(s), outlined restricted zones, and dangerous areas and conditions and shall establish an education program acceptable to the department addressing the historical, cultural, and ecological significance of the area, and any rules or laws pertaining to protected species and marine resource conservation etiquette.

(q) Unless otherwise allowed by the County, commercial activity permittees shall be required to shuttle their customers to and from the parking area fronting Zone 'C', when utilizing Shark's Cove for commercial activities.

(r) Following are restrictions for Zone 'D'.

- (1) All vessels shall proceed at a speed of slow-no-wake, as defined in section 13-250-5, when in Zone 'D'.
- (2) When installed, all vessels mooring in Zone 'D' shall utilize day-use-moorings or shall anchor in sandy areas.

(s) Individuals conducting special events in Zones 'A', 'B', 'C', or 'D', shall be required to obtain a special events permit in accordance with 13-244-19. [Eff 2/24/94; am 4/27/02; am and comp

] (Auth: HRS §§200-2, 200-3, 200-4, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-10, 200-22, 200-24)

§13-256-64 Sunset Beach Restricted Area. (a) [The] Sunset Beach restricted area means the area confined by the boundaries [~~for said area~~] shown on Exhibit "R", dated, August 21, 1988, located at the end of this subchapter. The boundaries are as follows: Beginning at a point on the low water mark on the shoreline located two hundred fifty feet along the low water mark of the shoreline in a northerly direction from the mouth of Kalunawaikaola Stream, then by azimuth measured clockwise from True South, 125 degrees; then 130 degrees for a distance of one thousand feet; 220



degrees for a distance of nine thousand four hundred fifty feet; 310 degrees to a point on the low water mark of the shoreline; then in a southerly direction along the low water mark to Ehukai Beach Park Swimming Zone; then in a southerly direction along the makai boundary of that zone; then along the low water mark of the beach to the point of beginning.

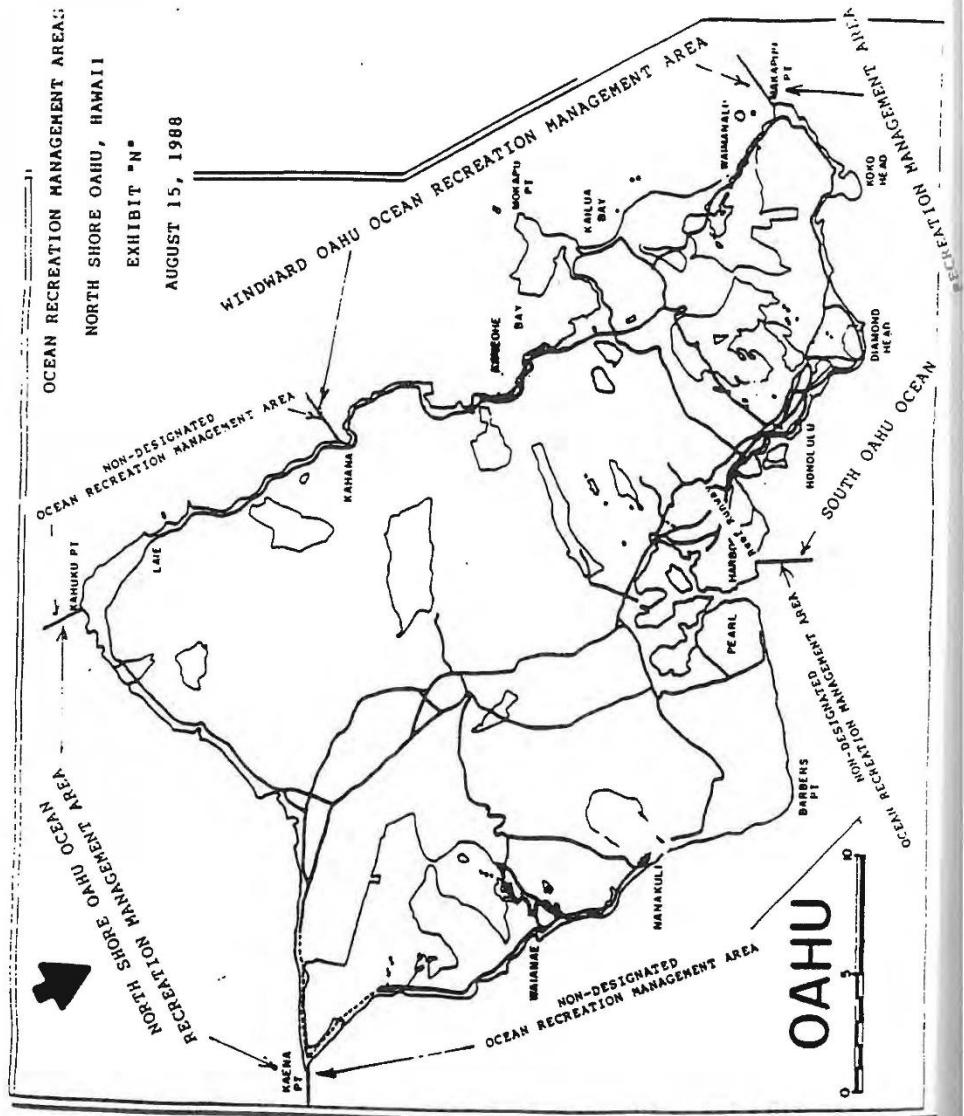
(b) Restrictions. The Sunset Beach restricted area is designated for surfing, kayaking and windsurfing. No person shall operate a motorized vessel or sailing vessel in this area during the months of October 1st through April 30th. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

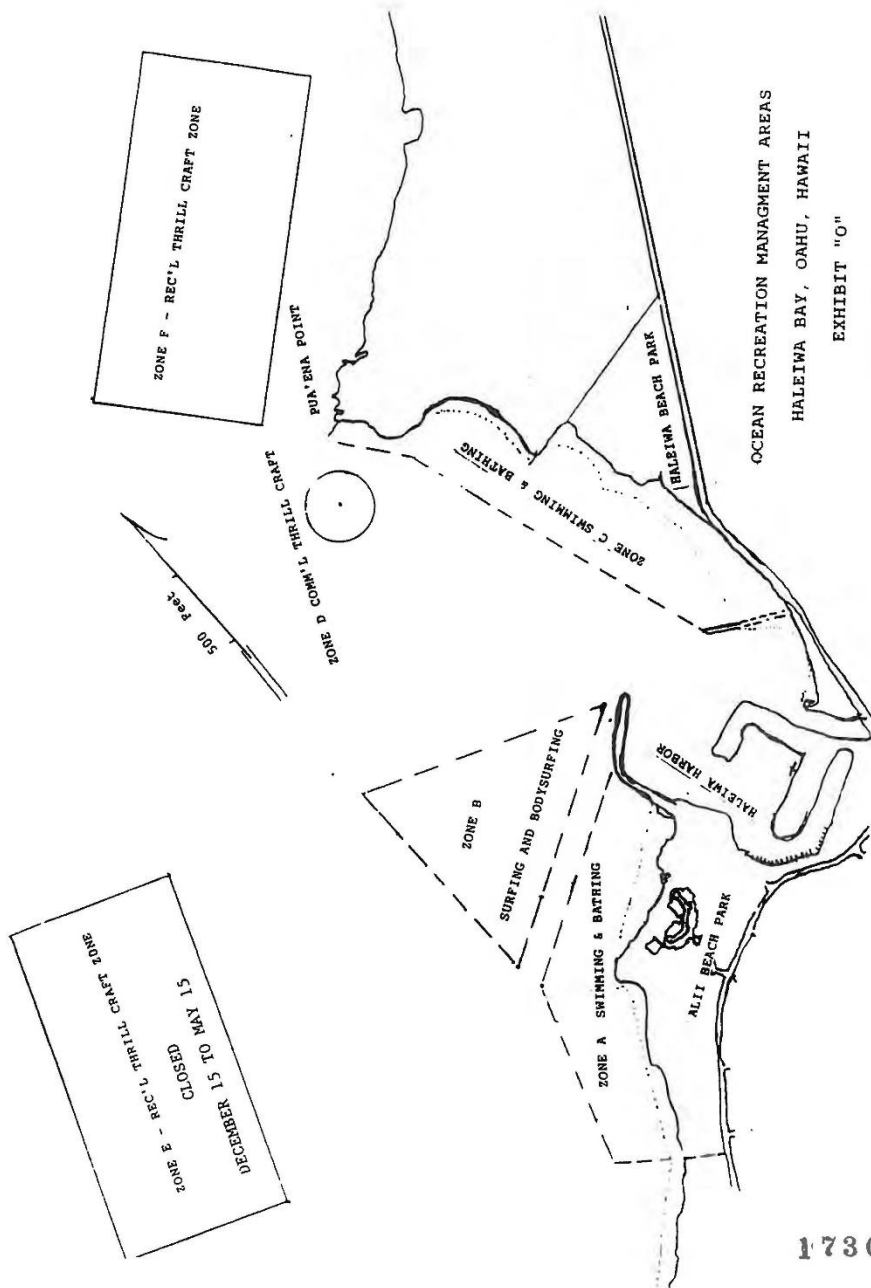
§13-256-65 Kawela Bay Restricted Area. (a) Kawela Bay restricted area means the area confined by the boundaries [~~for said area~~] shown on Exhibit "S", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark on the tip of the shoreline of the bay, then by straight line to the low water mark on the shoreline of the northern tip of the bay; then in a southerly direction along the low water mark to the point of beginning.

(b) Restrictions. No person shall operate a vessel in Kawela Bay at speeds in excess of slow-no-wake [~~speed~~]. Water ski activity is prohibited. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§§13-256-66 to 13-256-70 (Reserved)





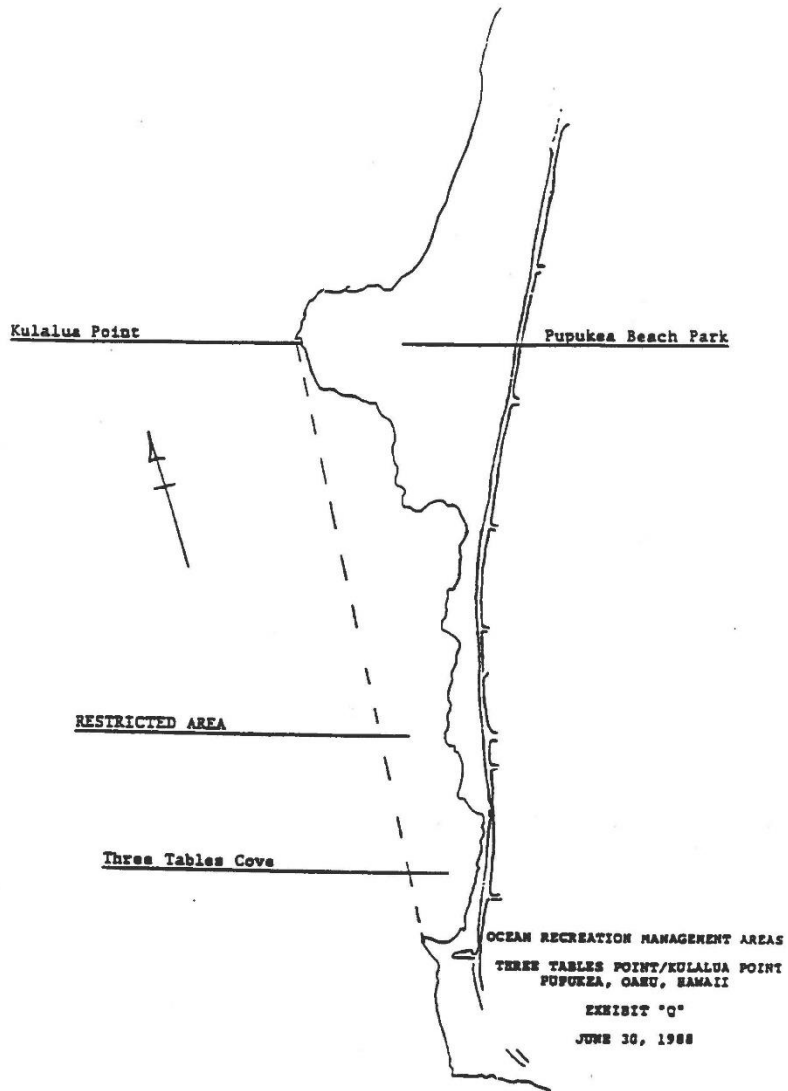
OCEAN RECREATION MANAGEMENT AREAS

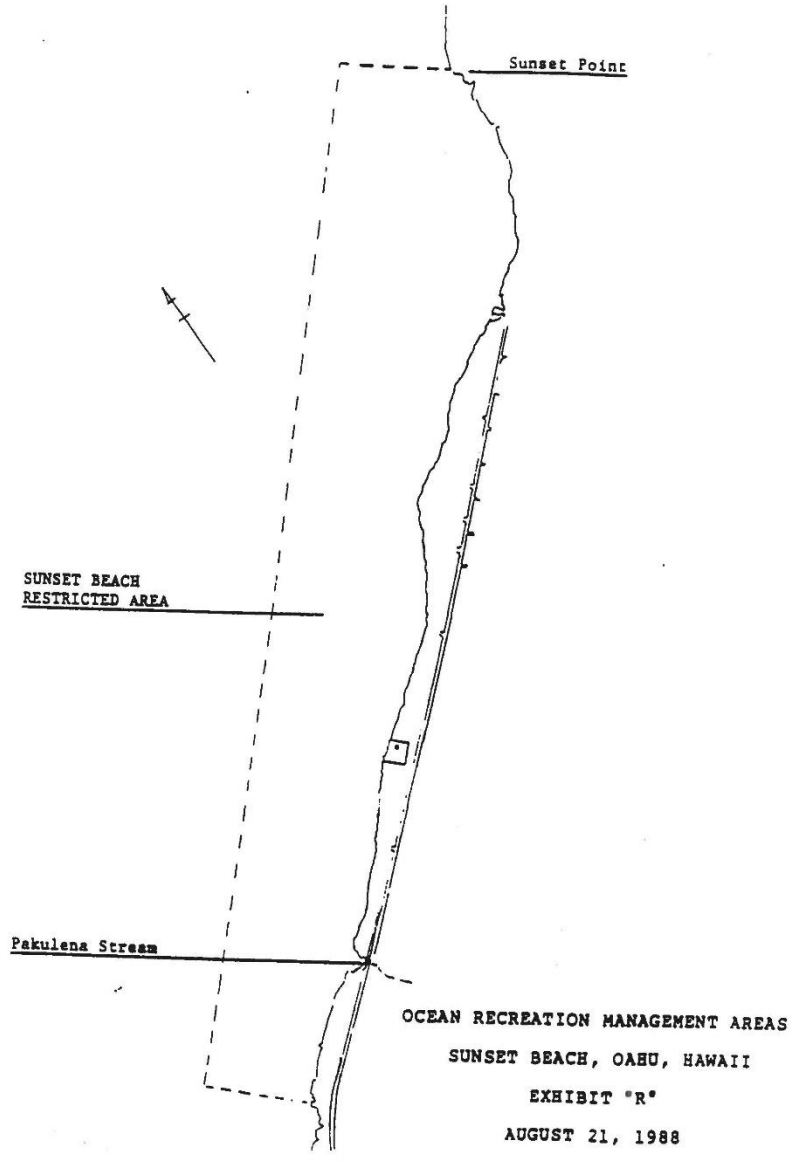
HALEIWA BAY, OAHU, HAWAII

EXHIBIT "O"

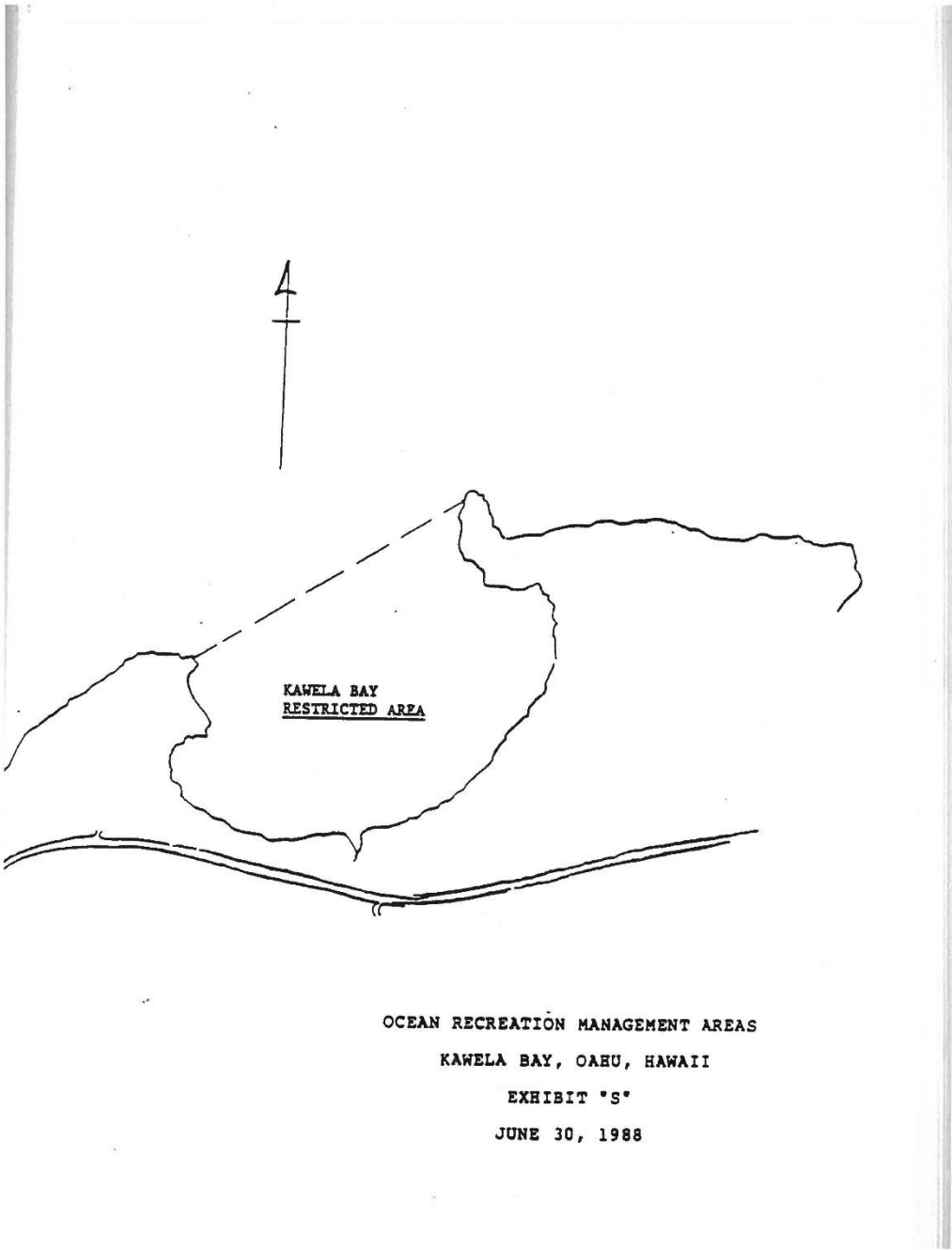
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SUBCHAPTER 5

WINDWARD OAHU OCEAN RECREATION MANAGEMENT AREA

§13-256-71 ~~[Definition.]~~ Definitions.

As used in this subchapter:

"Commercial ocean use activities" means commercial operation of thrill craft, high speed boating, parasailing, water sledding, sailing and snorkeling tours, glassbottom boat tours, or any other similar commercial ocean recreation activity.

"Family Member" means any person and his or her spouse as well as their legal children.

"Windward Oahu Ocean Recreation Management Area" means all ocean waters and navigable streams from the northwest boundary of Kahana Bay to Makapuu Point, Oahu, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "T", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; am 11/7/11; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-39)

§13-256-72 Kualoa water restricted zones. (a)

Zone A Kualoa waters restricted zone ~~[is]~~ means the area ~~[encompassed]~~ confined by the boundaries ~~[of the zone]~~ shown on Exhibit "U", "Kualoa, Oahu, Hawaii," dated September 8, 1998, incorporated herein, and located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point at approximately 21° 31' 16.6" N / 157° 50' 06.9" W, then going in an easterly direction to approximately 21° 31' 16.6" N / 157° 49' 58.2" W, then going in an southerly direction to approximately 21° 31' 11.5" N / 157° 49' 58.2" W, then going in a westerly direction to approximately 21° 31' 11.5" N / 157° 50' 07.3" W, then to the point of beginning.

Restrictions. Zone A is designated as a commercial thrill craft zone for the Kualoa full service permit. The following shall apply to Zone A:

- (1) Not more than six rental thrill craft and one thrill craft used for safety and rescue purposes shall operate at any one time.
- (2) No person shall operate or moor a vessel or sailboard in Zone A when being used by commercial thrill craft.
- (3) Commercial thrill craft shall be operated within Zone A only between the hours of 9:00 a.m. and 5:00 p.m., Mondays through Saturdays.
- (4) No commercial thrill craft shall be operated within Zone A on Sundays or federal holidays.

(b) Zone B Kualoa waters restricted zone ~~[is]~~ means the area ~~[encompassed]~~ confined by the boundaries ~~[of the zone]~~ shown on Exhibit "U", "Kualoa, Oahu, Hawaii," dated September 8, 1998, incorporated herein, and located at the end of the subchapter. The boundaries of Zone B are as follows:  
Beginning at a point at approximately 21° 31' 16.6" N / 157° 49' 58.2" W, then in an easterly direction to approximately 21° 31' 16.6" N / 157° 49' 56.0" W, then in an southerly direction to approximately 21° 31' 06.4" N / 157° 49' 56.5" W, then in a westerly direction to approximately 21° 31' 06.4" N / 157° 50' 07.5" W, then in a northerly direction to approximately 21° 31' 11.5" N / 157° 50' 07.7" W, then in an easterly direction to approximately 21° 31' 11.5" N / 157° 49' 58.2" W, then in a northerly direction by straight line to the point of beginning.

Restrictions. Zone B is designated as a non-exclusive commercial ocean water sports zone. The following shall apply in Zone B:

- (1) High speed towing, water skiing, and water sledding shall be prohibited.
- (2) All vessels transiting Zone B shall proceed with extreme caution.



(c) All commercial ocean use activities are prohibited within Kualoa waters restricted zones and on Sundays and federal holidays. [Eff 2/24/94; am 11/7/11; am and comp ] (Auth: HRS §§200-2, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

§13-256-72.1 Kualoa waters restricted zones permit. (a) Not more than one Kualoa full service permit shall be issued for Kualoa waters restricted zones subject to the following conditions:

- (1) The number of thrill craft shall be in accordance with the limits authorized in section 13-256-72(a). The number and type of other vessels and equipment shall not exceed the number and type of vessel and equipment permitted by the department on the effective date of these rules;
- (2) All thrill craft and other operational vessels and equipment shall be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal;
- (3) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit a vessel substitution with a similar length vessel; provided that the increase is not greater than ten per cent of the length of the vessel being substituted as it existed on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited;
- (4) The maximum number of customers per day may be established through the conservation district use permit application process, but

shall not exceed one-hundred and fifty customers;

- (5) Water sledding, water skiing, and high speed towing shall be prohibited;
- (6) The permittee shall maintain a daily log of the number of customers serviced by thrill craft and shall present the logs to division of boating and ocean recreation for review and inspection upon request; and
- (7) Educational and not-for-profit tours shall not be counted against daily customer limits, but shall not exceed the maximum number of one hundred fifty customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time. Not-for-profit passengers shall not engage in thrill craft or high speed towing activities.

(b) All associated commercial operational and supporting activities shall be conducted from land in accordance with all applicable land use laws and zoning ordinances.

(c) Any vessel with an authorized carrying capacity of more than six passengers with installed toilet facilities shall be equipped with a [~~United States~~] U.S. Coast Guard approved marine sanitation device.

(d) Any transfer by the permittee or any transfer or combination of transfers of a majority interest or greater by the owners or shareholders of record of a business entity holding a permit shall automatically void the use of thrill craft and the permit shall revert to a large snorkel tour permit as found in section 13-256-73.5, unless the transfer is to a family member.

(e) Any transfer shall result in the assessment of a business transfer fee in accordance with section 200-37, [~~HRS,~~] Hawaii Revised Statutes, for a transfer that includes the use of thrill craft and in accordance with section 13-256-7 for the transfer of a large snorkel tour.

(f) The permittee shall identify and mark the boundaries of the designated thrill craft operating zone with temporary floating buoys only installed during periods of commercial operation. [Eff 11/7/11; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

§13-256-73 Kaneohe Bay ocean waters. (a) Kaneohe Bay ocean waters means the area [~~encompassed~~] confined by the boundaries shown on Exhibit "V", "Kaneohe Bay, Oahu, Hawaii," dated April 16, 2001, incorporated herein, and located at the end of this subchapter. The boundaries are described as follows:

Beginning at the northern point on the shoreline of Mokapu Point, located at approximately 21° 27' 33.6" N / 157° 43' 21.6" W, then in a straight line to Makahonu Point, located at approximately 21° 32' 33.6" N / 157° 50' 34.2" W, then along the shoreline of Kaneohe Bay to the point of beginning.

(b) All commercial ocean use activities in Kaneohe Bay ocean waters [~~are~~] shall be prohibited on Sundays and federal holidays.

(c) There shall be no walking, sitting, standing, or anchoring on live coral or otherwise damaging the reef within Kaneohe Bay ocean waters.

(d) Zone A Kaneohe Bay restricted zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the zone~~] shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, incorporated herein, and located at the end of this subchapter. The boundaries of Zone A are as follows:

Zone A is a circle with a radius of two hundred feet with its center at approximately 21° 26' 27.5" N / 157° 47' 45.5" W.

(e) Zone B Kaneohe Bay restricted zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the zone~~] shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000,

incorporated herein, and located at the end of this subchapter. The boundaries of Zone B are as follows:

Zone B is circle with a radius of two hundred feet with its center at approximately 21° 27' 28.5" N / 157° 48' 08.5" W.

(f) Zone C restricted zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the zone~~] shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, incorporated herein, and located at the end of this subchapter. The boundaries of Zone C are as follows:

Zone C is a circle with a radius of two hundred feet with its center at approximately 21° 27' 32" N/ 157° 48' 13.5" W.

(g) Zones A, B, and C are subject to the following:

- (1) Zones A, B, and C are designated as commercial thrill craft zones where full service permittees shall be required to operate. Not more than six rental thrill craft shall operate within each of [~~the~~] zones A and B at any one time. No more than three rental thrill craft shall operate within zone C at any one time. Zone A may be referred to as the Checker Reef commercial thrill craft zone. Zones B and C may be referred to as the commercial thrill craft sand flat zones.
- (2) Commercial thrill craft shall be operated in a clockwise direction only within zones A, B, and C only between the hours of 9:00 a.m. and 5:00 p.m., Mondays through Saturdays. No commercial thrill craft shall be operated within Zones A, B, or C on Sundays or federal holidays.

(h) Zone D Kaneohe Bay restricted zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the zone~~] shown on Exhibit "W", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone D are as follows:

Zone D is rectangular in shape which borders the Kaneohe Bay entrance channel day beacon 11 beginning at a point in the water which is located at approximately 21° 28' 32" N / 157° 49' 39" W, then by a straight line in a due East (true) direction to approximately 21° 28' 32" N / 157° 49' 32" W, then in a straight line to approximately 21° 28' 10.5" N / 157° 49' 27" W, then in a straight line due West (true) to approximately 21° 28' 10.5" N / 157° 49' 34" W, then in a straight line back to beginning.

Zone D is restricted to commercial SCUBA, snorkeling, and sightseeing cruises only. Anchoring on live coral is prohibited. No person shall walk, stand, or sit on live coral formations. Commercial snorkeling operators shall have a snorkel vest available for each snorkeler in the water and encourage snorkelers to use the vest to decrease the likelihood of standing on coral. Activity shall take place only near the reef, not on the reef. Vessels entering this zone shall use extreme caution while this zone is occupied during diving activities.

(i) Zone E Kaneohe Bay restricted zone ~~[is]~~ means the area ~~[encompassed]~~ confined by the boundaries ~~[of the zone]~~ shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone E are as follows:

Zone E is a circle with a radius of three hundred ten yards with its center located at approximately 21° 27' 25" N / 157° 47' 46.5" W.

Zone E is restricted to SCUBA, snorkeling, underwater activities, and sightseeing cruises only. Anchoring on live coral is prohibited. No person shall walk, stand, or sit on live coral formations. Commercial snorkeling operators shall have a snorkel vest available for each snorkeler in the water and encourage snorkelers to use the vest to decrease the likelihood of standing on coral. Vessels entering this zone shall use extreme caution while this zone is occupied during diving activities.

(j) Zone F Kaneohe Bay restricted zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the zone~~] shown on [~~exhibit~~] Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone F are as follows:

Beginning at a point in the water which is located at approximately 21° 26' 50" N / 157° 47' 45" W, then by a straight line to approximately 21° 26' 23.5" N / 157° 47' 25" W, then by a straight line to approximately 21° 26' 16" N / 157° 47' 34" W, then by a straight line to approximately 21° 26' 20.5" N / 157° 47' 59.3" W, then by a straight line to approximately 21° 26' 28.5" N / 157° 48' 09" W, then in a straight line to the point of beginning.

Zone F is designated as non-exclusive commercial ocean water sports zone. All vessels entering this zone shall exercise extreme caution while it is being utilized for commercial ocean water sports activities. Anchoring on live coral is prohibited. No person shall walk, stand, or sit on live coral formations. Commercial operators operating in this zone shall have a snorkel vest available for each snorkeler in the water and encourage snorkelers to use the vest to decrease the likelihood of standing on coral. All activity on top of Checker Reef in Zone F is prohibited.

(k) Zone G Kaneohe Bay restricted zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the zone~~] shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone G are as follows:

Beginning at a point in the water which is located at approximately 21° 26' 25" N / 157° 47' 49" W, then by a straight line to approximately 21° 26' 22" N / 157° 47' 34" W, then by a straight line to approximately 21° 26' 16.5" N / 157° 47' 36" W, then by a straight line to approximately 21° 26' 19" N / 157° 47' 51" W,

then by a straight line to the point of beginning. Zone G is designated as non-exclusive commercial water ski and water sledding zone. Commercial water skiing and water sledding and the operation of towed devices used to carry passengers for commercial purposes shall be restricted to this zone. No more than one commercial vessel for water sledding shall be permitted to tow at any speed within this zone at any one time for safety purposes. Commercial large full service permittees and non-commercial recreational users shall share the zone equally. All towing shall be conducted in a clockwise direction. No person shall moor or anchor a vessel within this zone. High speed operations shall take place in deep water 200 feet or more from any reef edge, reef crest, or sand flat.

(l) Recreational thrill craft shall not be operated in any area of Kaneohe Bay except in the designated recreational thrill craft zone as described in section 13-256-77. Recreational thrill craft shall access the recreational thrill craft zone by transiting from Heeia Kea small boat harbor directly to the Sampan channel to the Kaneohe recreational thrill craft zone as described in section 13-256-77.

(m) Zone H restricted zone ~~[is]~~ means the area ~~[encompassed]~~ confined by the boundaries ~~[of the zone]~~ shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone H are as follows:

Beginning at a point in the water which is located at approximately 21° 27' 32.5" N / 157° 48' 19.5" W, then by a straight line to approximately 21° 27' 26.5" N / 157° 48' 10" W, then by a straight line to approximately 21° 27' 14.5" N / 157° 48' 17" W, then by a straight line to approximately 21° 27' 20" N / 157° 48' 27" W, then in a straight line to the point of beginning.

Zone H is designated as non-exclusive commercial water ski and water sledding zone. Commercial water skiing

and water sledding and the operation of towed devices used to carry passengers for commercial purposes are restricted to this zone. No more than two commercial vessels for water sledding shall be permitted to tow at high speed within this zone at any one time for safety purposes. Commercial full service permittees and non-commercial recreational users shall share the zone equally. All towing shall be conducted in a clockwise direction. No person shall moor a vessel within this zone. High speed operations must take place in deep water [200] two hundred feet or more from any reef edge, reef crest, or sand flat.

(n) Zone I restricted zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the zone~~] shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone I are as follows:

Beginning at a point in the water located at approximately 21° 27' 41" N / 157° 48' 18" W, then by a line parallel to the edge of the sand flat to approximately 21° 27' 32" N / 157° 48' 02" W, then by a straight line to approximately 21° 27' 25" N / 157° 48' 07" W, then by a straight line to approximately 21° 27' 34" N / 157° 48' 22.5" W, then by a straight line to the point of beginning.

Zone I is designated as non-exclusive commercial ocean water sports zone. Other vessels entering this zone shall exercise extreme caution while it is being used for commercial ocean water sports activities.

Commercial operators operating in this zone shall have a snorkel vest available for each snorkeler in the water and encourage snorkelers to use the vest.

Commercial operators whose passengers do not operate thrill craft must keep their passengers out of Thrill Craft Zones B and C. Vessels operating in Zone I shall maintain a watch for sea turtles, which may migrate to the north central part of the zone, and exercise care to stay clear of any turtle observed.

(o) Kaneohe Bay speed restrictions. In addition to speed restrictions found in section 13-244-9, slow-



no-wake restrictions shall apply in Kaneohe Bay offshore mooring areas, Kaneohe Bay ocean waters zones D, E, F, and I, Kualoa waters zone B, and anywhere within the Kaneohe Bay when a vessel is within two hundred feet of Kapapa Island and the Central Reef shallows defined as areas having a depth of less than or equal to five feet mean lower low water, including the area of Ahu O Laka Island, ("The Sand Bar").

(p) No increase in the level of commercial ocean use activities existing on July 1, 1993 will be permitted within Kaneohe Bay waters.

(q) Activities conducted by a bona-fide educational institution or an organization which is registered with the State and classified by the Internal Revenue Service as a not-for-profit (section 501(c)(3)) organization shall not be subject to the restrictions of subsection (p), but shall operate only in accordance with a permit issued by the department pursuant to chapter 13-231 or chapter 13-256 or both.

(r) Anchoring or mooring on living coral is prohibited.

(s) All sea walker activity shall be done on a flat sandy bottom, not on sea grass beds.

(t) All underwater activity, including, but not limited to, SCUBA, snorkeling, and sea-walker, shall prohibit participants from touching coral and/or living parts of a reef. [Eff 2/24/94; am 11/7/11; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

§13-256-73.1 Kaneohe Bay ocean waters commercial use permits. (a) No commercial ocean use activity may be conducted within Kaneohe Bay waters except in accordance with a Kaneohe Bay waters commercial use permit issued by the department. For the purpose of this section, "full service permit" means a permit which includes thrill craft, water sledding, and other high speed boating activities in addition to sailing, snorkeling, scuba diving, sail boarding, and other

related water recreational activities approved by the department.

(b) The number and types of Kaneohe Bay ocean waters commercial use permits authorized for Kaneohe Bay ocean waters shall be as follows:

- (1) One full service permit as authorized in section 13-256-72.1;
- (2) Two large full service permits as authorized in section 13-256-73.2;
- (3) One small full service permit as authorized in section 13-256-73.3;
- (4) One small full service permit without thrill craft, water sledding, and high speed towing activities as authorized in section 13-256-73.4;
- (5) Three large snorkel tour operations, including associated underwater activities approved by the department, as authorized in section 13-256-73.5;
- (6) Three small sail or snorkel tour operations, including associated underwater activities approved by the department, as authorized in section 13-256-73.6; and
- (7) One glass bottom boat tour operation as authorized in section 13-256-73.7.

(c) Any transfer of a large full service permit, except for a transfer to a family member as defined in section 13-256-71, shall revert the large full service permit to a large snorkel tour permit with an aggregate maximum carrying capacity of no more than one-hundred fifty passengers for the vessel or vessels in use, but not exceeding the certified passenger carrying capacity of the individual vessel. Any change from a large full service permit to a large snorkel tour permit shall be on a one for one basis reducing the number of large full service permits by one and authorizing an increase to the number of large snorkel tour permits by one.

(d) Any transfer of a small full service permit, except for a transfer to a family member as defined in section 13-256-71, shall revert the small full service permit to a small sail or snorkel tour permit with an

aggregate maximum carry capacity of no more than sixty passengers for the vessel or vessels in use, but not exceeding the certified passenger carrying capacity of the individual vessel. Any change from a small full service permit to a small sail or snorkel tour permit shall be on a one for one basis reducing the number of small full service permits by one and authorizing an increase to the number of small sail or snorkel tour permits by one.

(e) The Kaneohe Bay ocean waters commercial use permit required under this section shall satisfy the requirement for all other harbor use permits required of commercial operators under chapter 13-231, with the exception of a mooring permit for each vessel moored in Heeia Kea small boat harbor or offshore.

(f) The Kaneohe Bay waters commercial use permit fee per permit shall be as provided in [~~HRS~~] chapter 200, Hawaii Revised Statutes and rules adopted thereunder.

(g) The report of gross receipts shall be received by the department for each month covered by the commercial use permit no later than the end of the month following the reported month and shall be submitted on a form acceptable to the department. Failure to submit the report of gross receipts as required for a period in excess of sixty days following the due date, may be treated by the department as causing an automatic termination of the Kaneohe Bay waters commercial use permit.

(h) The department may conduct a financial audit of the records of a Kaneohe Bay ocean waters commercial use permit to determine the accuracy of reported gross receipts or to inspect any other financial information directly related to the enforcement of these rules after providing notice, as described in section 13-230-6, no less than thirty days prior to the audit.

(i) Any vessel with an authorized carrying capacity of more than six passengers with installed toilet facilities shall be equipped with a [~~United States~~] U.S. Coast Guard approved marine sanitation device.

(j) All permittees shall maintain a daily log of the operations, to include vessel and operator identifying information, number of customers serviced, fuel or sewage spills, sewage pumping out, refueling, incidents on the water and time of departure and arrival at the Heeia Kea small boat harbor pier, or authorized passenger loading and unloading area, or appropriate operating zone. All permittees shall submit the logs to the department each week.

(k) There shall be no passenger loading and unloading at a launch ramp at Heeia Kea small boat harbor.

(l) Large full service permits authorized by section 13-256-73.2, shall be allowed to use no more than three trailers per permit per day at the Heeia Kea small boat harbor launch ramps for the launching and recovery of vessels. Small service permits authorized by sections 13-256-73.3 and 13-256-73.4, shall be allowed not more than two trailers per permit per day to use the Heeia Kea small boat harbor launch ramps for the launching and recovery of vessels. Each trailer allowed to use a launch ramp shall be properly licensed and shall be issued a ramp use decal by the department which shall be affixed to the forward end of the trailer tongue.

(m) No activity that is new to a permittee may be conducted without prior written authorization from the department.

(n) Permittees shall establish a safety instruction program for customers that includes, but is not limited to, the use of a personal flotation device, and notification of hazardous conditions or areas and restricted areas.

(o) Permittees shall maintain a visual watch over persons in the water.

(p) Permittees shall have no less than one staff member on site within the permittee's Kaneohe Bay operating area who carries a current adult cardio-pulmonary resuscitation (CPR), and standard first aid and lifeguard training certificates. A list of water safety training certificates acceptable to the department shall be provided to the permittee. [Eff

11/7/11; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

§13-256-73.2 Large full service permit restrictions. (a) Not more than one-hundred fifty customers per day per permit shall be allowed for a large full service permit.

(b) The number and type of vessels and equipment which may be authorized by the department under this permit category are:

- (1) Two host vessels with an aggregate maximum carrying capacity of one-hundred fifty passengers for the vessel or vessels in use, but not exceeding the certified passenger carrying capacity of the individual vessel.
- (2) Six rental thrill craft and one thrill craft used for operational safety purposes;
- (3) Two equipment barges, for each of which the passenger carrying capacity shall be six or as established by a United States Coast Guard Certificate of Inspection so long as the capacity is not greater than ~~[20,]~~ twenty;
- (4) Three motorboats, for each of which the passenger carrying capacity shall be six or less, as established by a ~~[United States]~~ U.S. Coast Guard Certificate of Inspection; and
- (5) Other non-motorized craft including kayaks, canoes, wind surfers, sailboards, and small sailing vessels no larger than ~~[20]~~ twenty feet, and individual water sports equipment as needed.

(c) The passenger carrying capacity of each host vessel and service barge having a carrying capacity of over six passengers shall be established by a ~~[United States]~~ U.S. Coast Guard Certificate of Inspection.

(d) The permittee shall indicate which host vessel is declared to be the primary vessel used to

embark and disembark passengers from the pier. This vessel shall be allowed to load to full permit capacity of [~~one hundred~~] one hundred fifty. Should the certified passenger capacity of the primary vessel be less than [~~one hundred~~] one hundred fifty, the vessel may conduct more than one passenger loading trip to the pier to achieve the maximum number of customers permitted per day.

(e) The three small motorboats authorized under this permit may be either operated directly by the permittee or under contract with another party. Not more than one small motorboat shall be authorized to load or unload passengers at the pier.

(f) Host vessels shall be equipped with a [~~United States~~] U.S. Coast Guard approved marine sanitation device.

(g) All thrill craft and other vessels and equipment must be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and must display a current Ocean Recreation Management Area decal.

(h) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited.

(i) In the event there is a sale or transfer of a majority of ownership interest in the business to a person not an owner or a shareholder of record after the effective date of this section, the number of host vessels allowed per permit shall be reduced to one host vessel, unless the sale or transfer is to a family member.

(j) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not exceed the maximum number of one hundred fifty

customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time. Not-for-profit passengers shall not engage in thrill craft or high speed towing activities.

(k) Any transfer or combination of transfers by the owners or shareholders of record of a business entity holding a permit that results in a transfer of a majority interest or greater in the business entity shall automatically void the use of thrill craft, high speed towing/water sledding, and water skiing activities and the permit shall revert to a large snorkel tour permit as found in section 13-256-73.5 unless the transfer is to a family member. A transfer shall result in the assessment of a business transfer fee in accordance with section 200-37, [~~HRS,~~ Hawaii Revised Statutes, for a transfer that includes the use of thrill craft and in accordance with section 13-256-7 for the transfer of a large snorkel tour.

(l) High speed operations must take place in deep water [~~200~~] two hundred feet or more from any reef edge, reef crest, or sand flat.

(m) For the Checker Reef area, host vessel(s) must be moored with bow and stern anchoring as approved by the department, thirty feet or more off of the reef on the south and west edge of Checker Reef, with no obstruction of the use of the channel passing to the southwest of the reef.

(n) The permittee shall identify and mark the boundaries of the designated thrill craft operating zone with temporary floating buoys only installed during periods of operation. [Eff 11/7/11; am and comp  
] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

§13-256-73.3 Small full service permit restrictions. (a) Not more than seventy customers per day per permit shall be permitted for a small full service permit.

(b) The number and type of vessels and equipment which may be authorized by the department under this permit category are:

- (1) One host vessel with a maximum passenger carrying capacity of seventy passengers;
- (2) Three rental thrill craft and one thrill craft used for operational safety purposes;
- (3) Two equipment barges, the passenger carrying capacity of each shall be six or as established by a [~~United States~~] U.S. Coast Guard Certificate of Inspection so long as the capacity is not greater than [~~20~~] twenty;
- (4) Two small motor boats, the passenger carrying capacity of each shall be six or less, as established by a United States Coast Guard Certificate of Inspection; and
- (5) Other non-motorized craft including kayaks, canoes, wind surfers, sailboards, small sailing vessels no larger than [~~20~~] twenty feet, and individual water sports equipment as needed.

(c) The passenger carrying capacity of the host vessel and service barges having a capacity of over six passengers shall be established by a [~~United States~~] U.S. Coast Guard Certificate of Inspection.

(d) The host vessel shall be allowed to load passengers to the full permit capacity of seventy. Should the certified passenger capacity of the vessel be less than seventy, the vessel may conduct more than one passenger loading trip to the pier to achieve the maximum number of customers permitted per day.

(e) The two small motorboats authorized under this permit may be either operated directly by the permittee or under contract with another party. Not more than one small motorboat shall be authorized to load or unload passengers at the pier.

(f) A [~~United States~~] U.S. Coast Guard approved marine sanitation device or portable toilet shall be located on either the host vessels or one of the equipment barges.



(g) All thrill craft and other vessels and equipment must be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal.

(h) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have the discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited.

(i) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not exceed the maximum number of seventy customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time. Not-for-profit passengers shall not engage in thrill craft or high speed towing activities.

(j) Any transfer or combination of transfers by the owner or shareholders of record of a business entity holding a permit that results in a transfer of a majority interest or greater in the business entity shall automatically void the use of thrill craft, high speed towing/water sledding, and water skiing activities and the permit shall revert to a small sail/snorkel tour permit as found in section 13-256-73.6, unless the transfer is to a family member. A transfer shall result in the assessment of a business transfer fee in accordance with section 200-37, [~~HRS,~~ Hawaii Revised Statutes] for a transfer that includes the use of thrill craft and in accordance with section 13-256-7 for the transfer of a small sail/snorkel tour.

(k) High speed operations must take place in deep water two hundred feet or more from any reef edge, reef crest, or sand flat.

(1) The permittee shall identify and mark the boundaries of the designated thrill craft operating zone with temporary floating buoys only installed during periods of operation. [Eff 11/7/11; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

§13-256-73.4 Small full service permit restrictions without thrill craft, water sledding, and high speed towing activities. (a) No more than seventy customers per day per permit shall be permitted for a small full service permit without thrill craft, water sledding, and high speed towing activities.

(b) The number and type of vessels and equipment which may be authorized by the department under this permit category are:

- (1) One host vessel with a maximum passenger carrying capacity of seventy passengers~~[7]~~ ;
- (2) Two equipment barges, the passenger carrying capacity of each shall be six or as established by a [~~United States~~] U.S. Coast Guard Certificate of Inspection, so long as the capacity is not greater than ~~[20.]~~ twenty;
- (3) Two small motorboats, the passenger carrying capacity of each shall be six or less, as established by a [~~United States~~] U.S. Coast Guard Certificate of Inspection; and
- (4) Other non-motorized craft including kayaks, canoes, wind surfers, sailboards, small sailing vessels no larger than ~~[20]~~ twenty feet, and individual water sports equipment as needed.

(c) The passenger carrying capacity of the host vessel and service barges having a capacity of over six passengers shall be established by a [~~United States~~] U.S. Coast Guard Certificate of Inspection.

(d) The host vessel shall be allowed to load passengers to the full permit capacity of seventy.

Should the certified passenger capacity of vessel be less than seventy, the vessel may conduct more than one passenger loading trip to the pier to achieve the maximum number of customers permitted per day.

(e) The two small motorboats authorized under this permit may be either operated directly by the permittee or under contract with another party. Not more than one small motorboat shall be authorized to load or unload passengers at the pier.

(f) A [~~United States~~] U.S. Coast Guard approved marine sanitation device or portable toilet shall be located on either the host vessel or one of the equipment barges.

(g) All vessels and equipment must be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal.

(h) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the vessel being substituted as it existed on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 [~~is~~] shall be prohibited.

(i) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not exceed the maximum number of seventy customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time.

(j) Any transfer or combination of transfers by the owners or shareholders of record of a business entity holding a permit that results in a transfer of a majority interest or greater in the business entity shall automatically cause the permit to revert to a small [~~sail/snorkel~~] sail or snorkel tour permit as found in section 13-256-73.6, unless the transfer is to a family member. A transfer shall result in the

assessment of a business transfer fee in accordance with section 13-256-7.

(k) Thrill craft, water sledding, waterskiing, and high speed towing are not authorized activities under this permit. [Eff 11/7/11; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

§13-256-73.5 Large snorkel tour permit restrictions. (a) No more than [~~one-hundred~~] one hundred fifty customers per day or the historical daily average of the months July, August, and September of the calendar years 1996 [~~thru~~] through 2000, whichever is lower, not to be less than seventy customers per day per permit, shall be permitted.

(b) The passenger carrying capacity of the vessel(s) having a capacity of over six passengers shall be established by a [~~United States~~] U.S. Coast Guard Certificate of Inspection.

(c) All associated operational and supporting activities on land must meet all applicable land use laws and zoning ordinances, including, but not limited to the number of passengers allowed and approved for loading from private lands or as approved by the department through a conservation district use permit.

(d) Snorkel tours shall be conducted in Zones "D" and "E" within Kaneohe [~~bay~~] Bay waters, pursuant to section 13-256-73.

(e) All stops for other than snorkeling shall be within the commercial area of the sand flat area within Kaneohe Bay waters designated as restricted zone I and shall not exceed two hours. Only non-motorized equipment may be used for water sports recreation.

(f) Any vessel authorized on the effective date of these rules to load passengers from the Heeia Kea small boat harbor pier under a permit issued pursuant to chapter 13-231 is permitted to load to full certified passenger capacity.

(g) Replacement or substitution of any existing vessels or equipment shall require prior written

approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 [~~is~~] shall be prohibited. Additional motorized and non-motorized vessels and equipment not authorized on July 1, 1993 by the department shall not be allowed.

(h) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not exceed the maximum number of customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time.

(i) All vessels shall be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal.

(j) Permittees or owners or shareholders of record of business entities holding permits may transfer any interest in the business. Any transfer of interest in the business shall result in assessment of a business transfer fee in accordance with section 13-256-7.

(k) When the Kualoa full service permit or a large full service permit turns into a large snorkel tour permit because of a transfer of ownership to a non-family member, no additional motorized or non-motorized vessels or equipment shall be allowed to be added to the existing authorized inventory.

(l) When a large snorkel tour permit transfers ownership to a non-family member no more than seventy customers per day shall be permitted. [Eff 11/7/11; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39)

§13-256-73.6 Small sail/snorkel tour permit restrictions. (a) Not more than sixty customers per day or the historical daily average of the months July, August, and September of the calendar years 1996 [~~thru~~] through 2000, whichever is lower, not to be less than [~~thirty-five~~] thirty-five customers per day per permit shall be permitted.

(b) The passenger carrying capacity of the vessel(s) having a capacity of over six passengers shall be established by a [~~United States~~] U.S. Coast Guard Certificate of Inspection.

(c) Snorkel tours shall be conducted in Zones "D" and "E" within Kaneohe Bay waters, pursuant to section 13-256-73.

(d) All stops for other than snorkeling shall be within the commercial area of the sand flat area within Kaneohe Bay waters designated as restricted zone I and shall not exceed one hour. Only non-motorized equipment may be used for water sports recreation.

(e) Any vessel authorized on the effective date of these rules to load passengers from the Heeia Kea small boat harbor pier under a permit issued pursuant to chapter 13-231 is permitted to load to full certified passenger capacity.

(f) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 [~~is~~] shall be prohibited. Additional motorized and non-motorized vessels and equipment not authorized on July 1, 1993[~~7~~] by the department shall not be allowed.

(g) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not exceed the maximum number of customers allowed per day. Not-for-profit tours and passengers shall not be

mixed with commercial customers on the vessel at the same time.

(h) All vessels shall be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal.

(i) Permittees or owners or shareholders of record of business entities holding permits may transfer any interest in the business. Any transfer of interest in the business shall result in assessment of business transfer fee in accordance with section 13-256-7.

(j) When a small full service permit turns into a small snorkel tour permit because of a transfer of ownership to a non-family member, no additional motorized or non-motorized vessels or equipment shall be allowed to be added to the existing authorized inventory.

(k) When a small snorkel tour [~~permit~~] permittee transfers ownership to a non-family member, no more than thirty-five customers per day shall be permitted. [Eff 11/7/11; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39)

§13-256-73.7 Glass bottom boat tour permit restrictions. (a) The passenger carrying capacity of the vessel shall be established by a [~~United States~~] U.S. Coast Guard Certificate of Inspection. If a vessel has no [~~United States~~] U.S. Coast Guard Certificate of Inspection, the vessel's capacity shall not exceed six passengers.

(b) The maximum number of passengers per outing shall be seventy passengers. Passengers may be loaded and unloaded only at the Heeia Kea small boat harbor pier.

(c) The vessel shall be equipped with a [~~United States~~] U.S. Coast Guard approved marine sanitation device.

(d) The vessel shall be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal.

(e) Educational and not-for-profit tours shall not be counted against daily customer limits, but shall not exceed the maximum number of seventy customers allowed per outing. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time.

(f) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited. Additional motorized and non-motorized vessels and equipment not authorized on the effective date of these rules by the department shall not be allowed.

(g) Permittees or owners or shareholders of record of business entities holding permits may transfer any interest in the business. Any transfer of interest in the business shall result in assessment of business transfer fee in accordance with section 13-256-7.

(h) An exchange of passengers between the glass bottom boat tour permittee and any other permittee shall not be allowed. [Eff 11/7/11; am and comp

] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39)

§13-256-73.8 Replacement vessels size restrictions. (a) Replacement vessels shall not be greater in vessel length overall than [10%] ten per cent of the vessel overall length authorized on May 22, 2000.



(b) Replacement of any existing vessels or equipment shall require prior written approval by the department. [Eff 11/7/11; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39)

§13-256-73.9 Shuttling restrictions. No shuttling or transferring of customers among the permittees for the purpose of exceeding the maximum daily customer limit specified by type of permit or exceeding the certified passenger capacity of the vessel shuttling or receiving the passengers shall be allowed. [Eff 11/7/11; comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

§13-256-73.10 Permit Issuance. (a) Permittees holding valid commercial use permits on the effective date of this rule shall be offered the opportunity to apply for the permit category in which they are operating upon the expiration of their respective permits. If any permit offer is refused by the permittee, that permit shall not be issued and shall be eliminated from the total number of Kaneohe Bay ocean waters commercial use permits.

(b) Permit applications shall be reviewed for compliance with chapter 200, [~~HRS,~~] Hawaii Revised Statutes, and any applicable rules[~~, and~~] or permit conditions. Failure to comply with any permit condition, or having any record of inaccurate submission of gross receipts, inconsistent, or untimely payments of fees and charges, or unsafe operations during the last term of a valid permit held by the applicant, may be cause for rejection of the permit application.

(c) The following documents shall be submitted for review at the time an application is made for the issuance of a permit:

- (1) Vessel documentation or registration.
- (2) Vessel certificate of inspection (if applicable).
- (3) Certificate of business liability insurance which insures all activities of permittee, including coverage for the operation of thrill craft or other activities including, but not limited to, canoeing, sailing, windsurfing, water sledding, snorkeling, scuba diving, or other underwater activities, if applicable, and naming the State of Hawaii as an additional insured.
- (4) Certificate of good standing from the [~~Department of Commerce and Consumer Affairs.~~] department of commerce and consumer affairs.
- (5) Tax clearance certificate from the department of taxation.
- (6) Conservation district use permits (if applicable).
- (7) Affidavit describing any and all accidents, or safety related issues or events, including those affecting employees or customers that have occurred within the past year.
- (8) Affidavit describing any and all warnings, discrepancies, citations, fines, penalties, and convictions levied by the [~~United State~~] U.S. Coast Guard, department of land and natural resources, Honolulu police department, City and County of Honolulu, department of planning and permitting, or any other regulatory agency.
- (9) Affidavit describing any and all sales or transfers of any ownership interest in the business.

(d) The department shall publish a list of Kaneohe Bay waters commercial use permits scheduled for issuance to incumbent permit holders thirty days prior to the expiration dates of the preceding permits issued in a newspaper of general circulation in the Kaneohe area, with a copy to the Kaneohe Bay Regional

Council, inviting public comment on this list and the incumbent permit holders. Any request that a permit not be issued must be accompanied by factual supporting documentation showing the incumbent permittee's failure to meet permit issuance requirements of this chapter.

(e) Insurance requirements for all commercial vessels and all activities conducted on or in the water of Kaneohe bay shall be not less than \$50,000 for property damage and not less than \$1,000,000 for liability. The liability insurance shall name the State of Hawaii as an additional insured. Any subcontractor employed by a permittee, such as, but not limited to, a [~~scuba~~] SCUBA diving instructor, shall have insurance coverage which provides the same coverage as required of the permittee and names the State of Hawaii as an additional insured. The permittee and its subcontractors shall provide to the [~~Department~~] department certificate(s) of insurance that cover any and all activities conducted under the permit.

(f) In the event an application for the issuance of a new permit is denied, the applicant will be afforded the opportunity for a hearing in accordance with [~~section 13-231-31 and section 13-231-32~~] sections 13-231-31 and 32 for the sole purpose of allowing the applicant to contest the basis of the denial. The opportunity of a hearing shall not apply to automatic expiration provisions of these rules. [Eff 11/7/11; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

§13-256-73.11 Temporary mooring of vessels authorized for commercial use in Kaneohe Bay at Heeia Kea small boat harbor. Temporary mooring within Heeia Kea small boat harbor for any vessel that is authorized for commercial use in Kaneohe Bay ocean waters shall not exceed a cumulative period of [~~180~~] one hundred eighty days in the same calendar year.

[Eff 11/7/11; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-23, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-23, 200-24, 200-39)

§13-256-73.12 Kaneohe Bay ocean waters commercial use permit revocation. Revocation of a Kaneohe Bay waters commercial use permit shall be accomplished in accordance with section 13-231-6. [Eff 11/7/11; comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-23, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-23, 200-24, 200-39)

§13-256-73.13 Ahu o Laka safety zone. (a) The Ahu o Laka safety zone ~~[is]~~ means the area ~~[encompassed within]~~ confined by the boundaries designated as Zone H-2 shown on Exhibit "X-2," entitled, "Ahu o Laka safety zone, Kaneohe Bay, Hawaii", dated June 8, 2011, and located at the end of this subchapter. The boundaries of Zone H-2 are as follows:

Beginning at a point in the water at 21°28.462'N 157°49.203'W, then by straight lines drawn to a point at 21°27.9647'N 157°49.140'W, then to 21°27.514'N 157°48.115'W, then to 21°28.030'N 157°47.940'W, then back to the starting point.

(b) For Memorial Day, Independence Day, and Labor Day holidays as designated in section 8-1, Hawaii Revised Statutes, if any of these three designated holidays involves a three-day weekend, Zone H-2 is subject to the following restrictions during the time period of 12:00 a.m. to 11:59 p.m. on each day of the three-day weekend:

- (1) No person shall possess, use, or consume alcohol within Zone H-2;
- (2) No person shall enter or remain in Zone H-2 while under the influence of alcohol, narcotics, or drugs; provided that a person may use or possess drugs legally prescribed by that person's physician; and

- (3) No person within Zone H-2 shall:
- ~~[(A) engage]~~ (i) Engage in fighting or threatening, ~~[or]~~ violent, or tumultuous behavior;
  - ~~[(B) make]~~ (ii) Make unreasonable noise~~[s]~~. Noise is unreasonable if, considering the nature and purpose of the person's conduct and the circumstances known to the person, including the time of day or night, the person's conduct involves a gross deviation from the standard of conduct that a law-abiding citizen would follow in the same situation; or the failure to heed the admonition of a law enforcement officer that the noise is unreasonable and should be stopped or reduced;
  - ~~[(C) subject]~~ (iii) Subject another person to offensively coarse behavior or abusive language which is likely to provoke a violent response; or
  - ~~[(D) create]~~ (iv) Create a hazardous or physically offensive condition by any act which is not performed under any authorized license or permit. ~~[Noise is unreasonable, within the meaning of subparagraph (3) (B), if considering the nature and purpose of the person's conduct and the circumstances known to the person, including the time of day or night, the person's conduct involves a gross deviation from the standard of conduct that a law-abiding citizen would follow in the same situation; or the failure to heed the admonition of a law enforcement officer that the noise is unreasonable and should be stopped or reduced.]~~

(c) In addition to any other penalty authorized by law, a violation of any of the restrictions described in subsection (b) shall be subject to

penalties as provided in sections 200-14 and 200-14.5, Hawaii Revised Statutes.

(d) If any term or provision of this section, or the application thereof to any person or circumstance is found unenforceable or invalid to any extent, the remainder of this section or the application of such term or provision to persons or circumstances other than those to which it is held unenforceable or invalid, shall not be affected thereby, and each remaining term and provision of this section shall be valid and enforceable to the fullest extent permitted by law. [Eff 8/18/12; am 7/26/15; am and comp ] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4, 200-14, 200-14.5)

§13-256-74 Kailua Ocean Waters Restricted Zones.

(a) Zone A Kailua ocean waters restricted zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the zone~~] shown on Exhibit "Y", dated June 7, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline at the extension of the western boundary of Kailua Beach Park; then along the low water mark of the shoreline in a eastern direction for a distance of three hundred feet; then by azimuth measured clockwise from True South, 180 degrees for a distance of one thousand one hundred fifty feet; 090 degrees for a distance of three hundred feet; then by a straight line to the point of beginning.

Zone A Kailua ocean waters restricted zone is designated for windsurfing. No person shall operate a motor vessel and no person shall swim in the zone when used by windsurfers.

(c) Zone B Kailua ocean waters restricted zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the zone~~] shown on Exhibit "Y", dated June 7, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the center of the bridge of Kawaihoa Road at the entrance to Kaelepulei Pond; then for fifty feet either side of a line by azimuth measured clockwise from True South, 240 degrees for a distance of one thousand feet. Zone B Kailua ocean waters restricted zone is designated an ingress/egress zone for manually propelled vessels. Swimming in the zone is prohibited when in use by vessels. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-75 Waimanalo Ocean Waters Restricted Zones. (a) Zone A Waimanalo restricted zone[-

~~(1) Zone A Waimanalo Ocean Waters restricted zone]~~ means the area confined by the boundaries shown [~~for said zone~~] on Exhibit "AA", dated June 30, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point on the low water mark of the shoreline which is six hundred feet south of the south bank of the mouth of Waimanalo Stream; then by azimuth measured clockwise from True South, 265 degrees for a distance of one hundred feet; 355 degrees for a distance of five hundred feet; 085 degrees to a point on the low water mark of the shoreline; then along the low water mark in a northerly direction to the point of beginning.

(b) Zone B Waimanalo Restricted Zone[-

~~(1) Zone B Waimanalo restricted zone]~~ means the area confined by the boundaries shown [~~for said zone~~] on Exhibit "AA", dated June 30, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point on the low water mark of the shoreline which measures one thousand four hundred fifty feet in

a southerly direction, along the low water mark from the south boundary of Zone A; then by azimuth measured clockwise from True South, 256 degrees for a distance of one hundred feet; 340 degrees for a distance of five hundred feet; 075 degrees to a point on the low water mark of the shoreline; then along the low water mark in a northerly direction to the point of beginning.

(c) Zone C Waimanalo Restricted Zone[-

~~(1) Zone C Waimanalo restricted zone]~~ means the area confined by the boundaries shown [~~for said zone~~] on Exhibit "AA", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone C are as follows:

Beginning at a point on the low water mark of the shoreline which measures nine hundred fifty feet, along the low water mark of the shoreline in a northerly direction from the extension of Aloiloi Street at the shoreline; then northward along the low water mark for a distance of five hundred feet; then by azimuth measured clockwise from True South, 240 degrees for a distance of one hundred feet; 320 degrees for a distance of five hundred feet; 055 degrees to a point on the low water mark of the shoreline; then by a straight line to the point of beginning.

(d) Zones A, B, and C Waimanalo restricted zones are designated for swimming and bathing. No person shall operate or moor a vessel, surfboard, or sailboard within these zones. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-76 Makapuu Ocean Waters Restricted Zones.

(a) Zone A Makapuu restricted zone[-



~~(1) Zone A Makapuu restricted zone]~~ means the area confined by the boundaries shown ~~[for said zone]~~ on Exhibit "BB", dated June 30, 1988, located at the end of this subchapter.

The boundaries of Zone A are as follows:  
Beginning at a point on the low water mark of the shoreline south of the Makai Range Pier in line with the channel range lights; then by azimuth measured clockwise from True South, 213 degrees for a distance of one hundred feet; 120 degrees for a distance of five hundred seventy feet; 033 degrees to a point on the low water mark of the shoreline; then along the low water mark in a northerly direction to the point of beginning.

~~[-(2)]~~ Restriction. Zone A Makapuu restricted zone is designated for swimming and bathing. No person shall operate or moor a vessel, surfboard, or sailboard within this zone.

(b) Zone B Makapuu Restricted Zone~~[-~~

~~(1) Zone B Makapuu restricted zone]~~ means the area confined by the boundaries shown for said zone on Exhibit "BB", dated, June 30, 1988, located at the end of this subchapter.

The boundaries of Zone B are as follows:  
Beginning at a point on the low water mark of the eastern tip of Manana Island; then by a straight line to the northeastern tip of Kaohikaipu Island; then along the low water mark in a westerly direction to the western tip of the island; then by a straight line to the low water mark at the western tip of Manana Island; then along the low water mark in a easterly direction to the point of beginning.

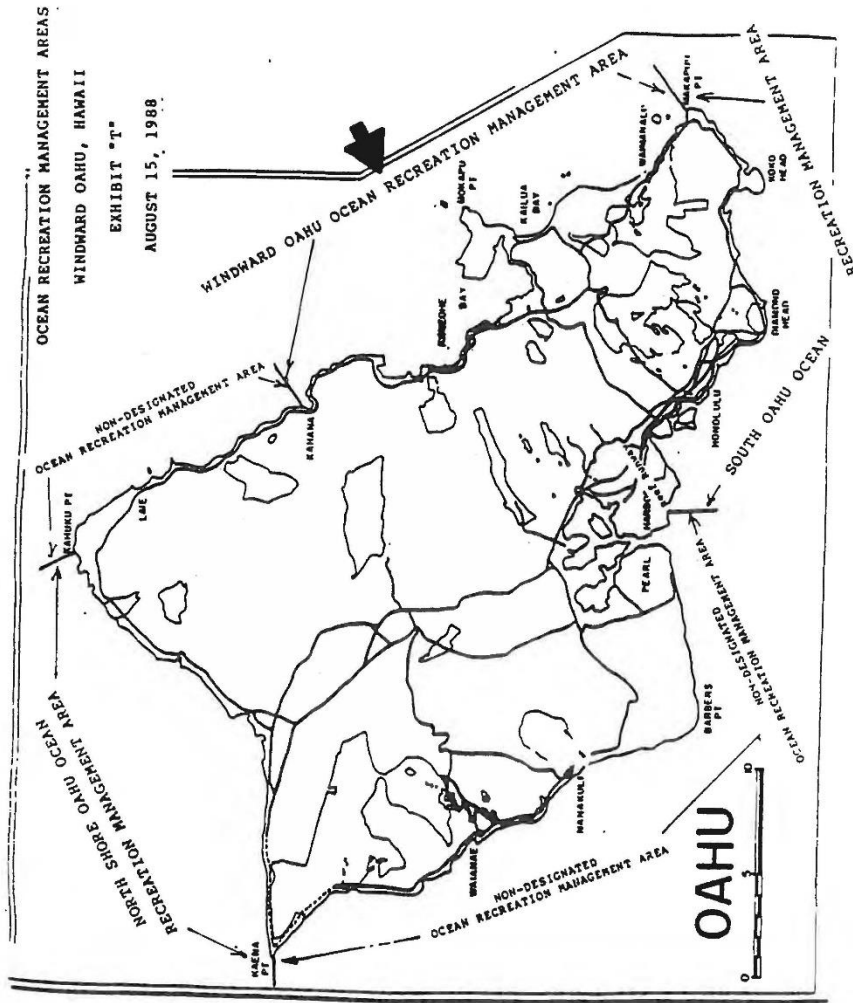
~~[-(2)]~~ Restriction. No person shall operate a vessel at a speed in excess of slow-no-wake in this zone. [Eff 2/24/94; am and comp  
] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-77 Kaneohe recreational thrill craft zone. (a) The recreational thrill craft zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the zone~~] shown on Exhibit "V", dated April 16, 2001, located at the end of this subchapter, and incorporated herein. The boundaries of Zone K are as follows:

Beginning at a point in the water at approximately 21° 28' 23.5" N / 157° 48' 27" W, that intersects the Kaneohe Sampan channel range extending seaward with an azimuth measured clockwise from True South of 217 degrees, and a straight line drawn to a point in the water at approximately 21° 30' 42" N / 157° 48' 52" W, that intersects Kaneohe ship channel range extending seaward with an azimuth measured clockwise from True South of 227 degrees, establishing the southwestern boundary of the zone. The northwestern boundary of the zone is the straight line that is an extension seaward of the Kaneohe ship channel range with an azimuth measured clockwise from True South of 227 degrees to the limit of the territorial sea. The southeastern boundary of this zone is the straight line that is an extension seaward of the Kaneohe Sampan channel range with an azimuth measured clockwise from True South of 217 degree to the limit of the territorial sea. As an aid in locating the southwestern boundary, it exists between the Kaneohe Sampan channel and Kaneohe Ship channel ranges along a straight line which can be seen by sighting a straight line between Pyramid Rock which is located at approximately 21° 27'42" N / 157° 45' 48" W, and Kaoio Point which is located at approximately 21° 32' 03" N / 157° 50' 16" W.

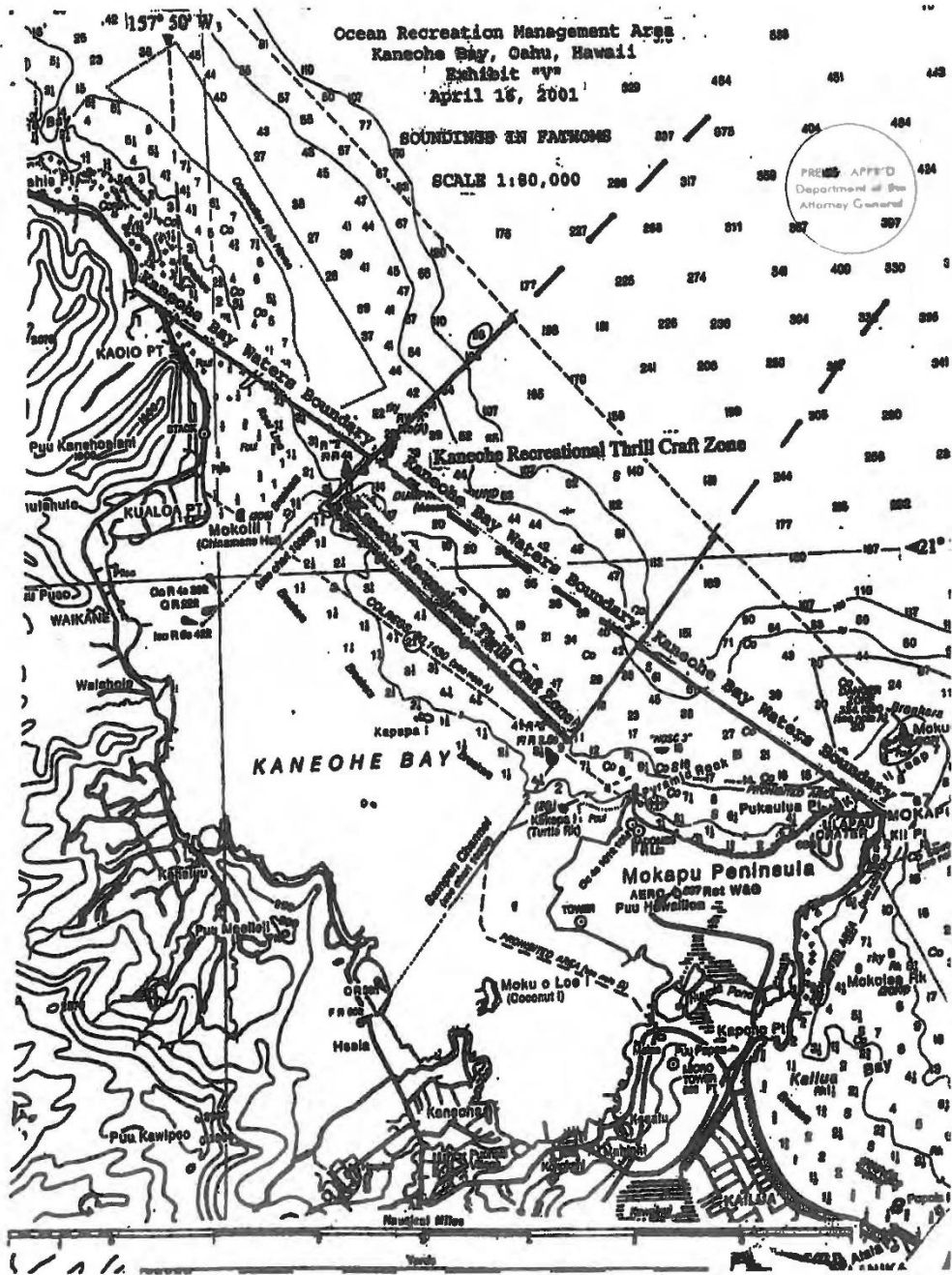
(b) Restrictions. This zone is designated as a recreational thrill craft zone. Other vessels shall exercise caution when transiting this area. [Eff 2/24/94; am 11/7/11; am and comp ]  
(Auth: HRS §§200-22, 200-23, 200-24, 200-37, 200-39)  
(Imp: HRS §§200-22, 200-23, 200-24, 200-37, 200-39)

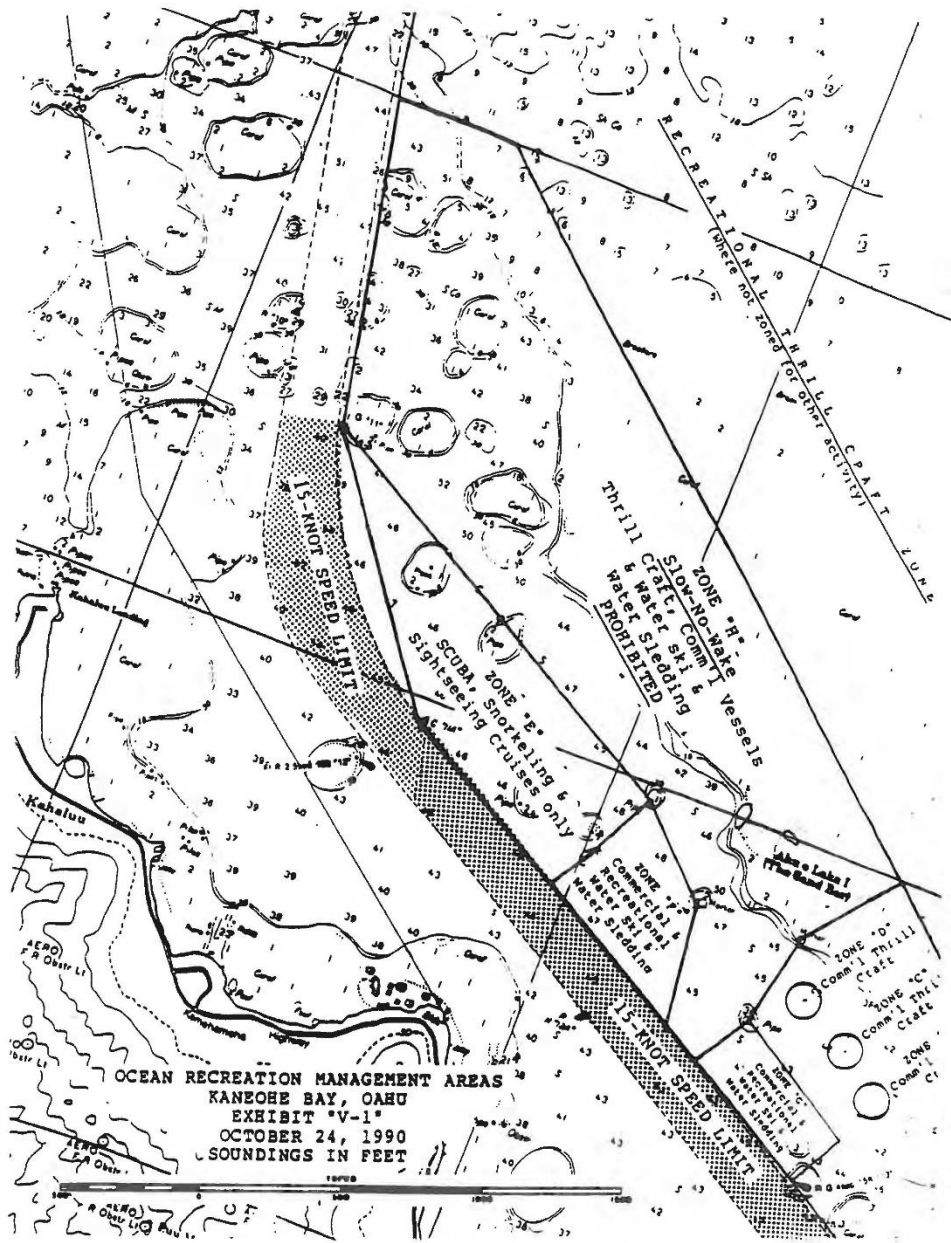
§§13-256-78 to 13-256-85 (Reserved)



1730

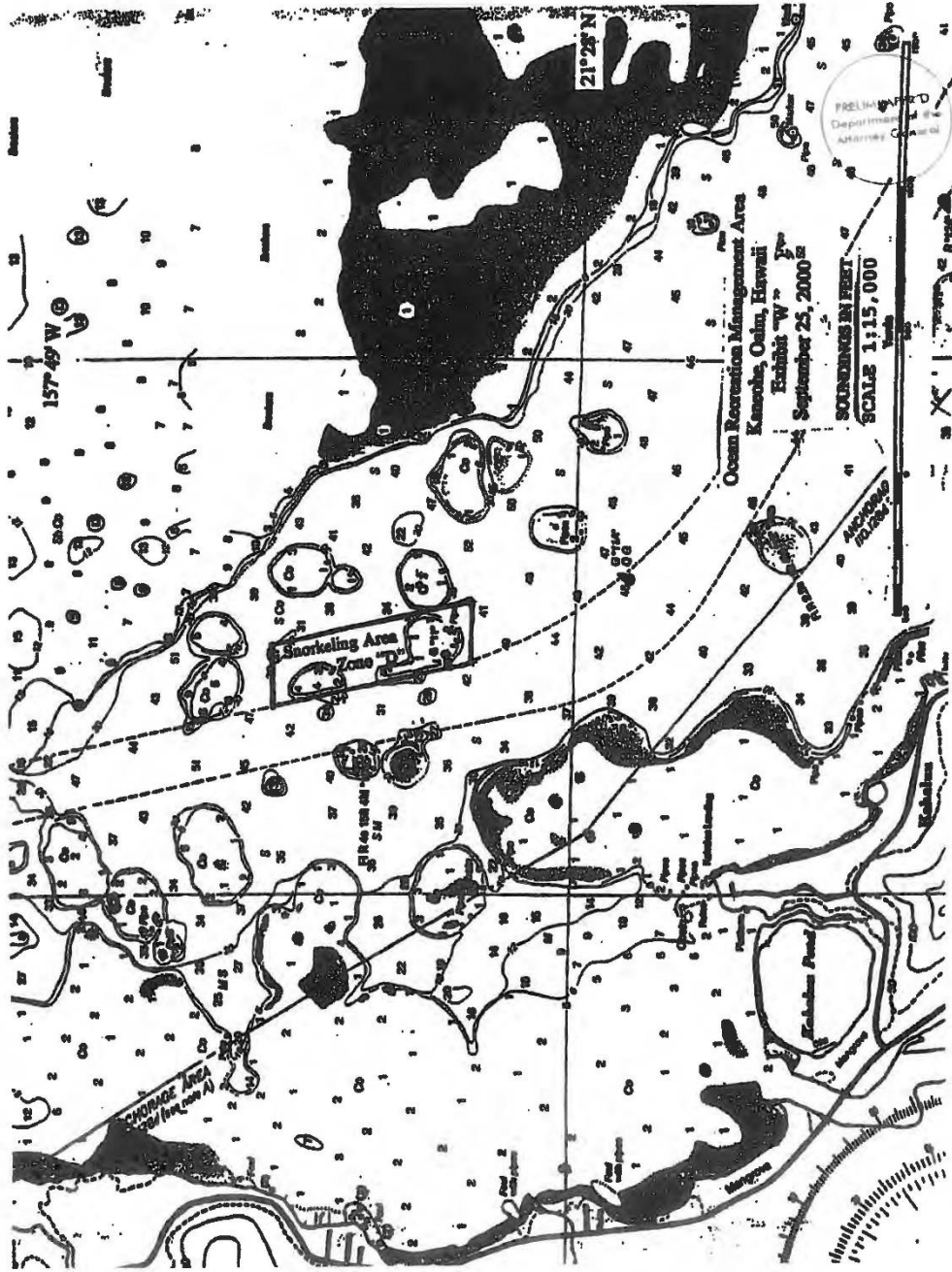




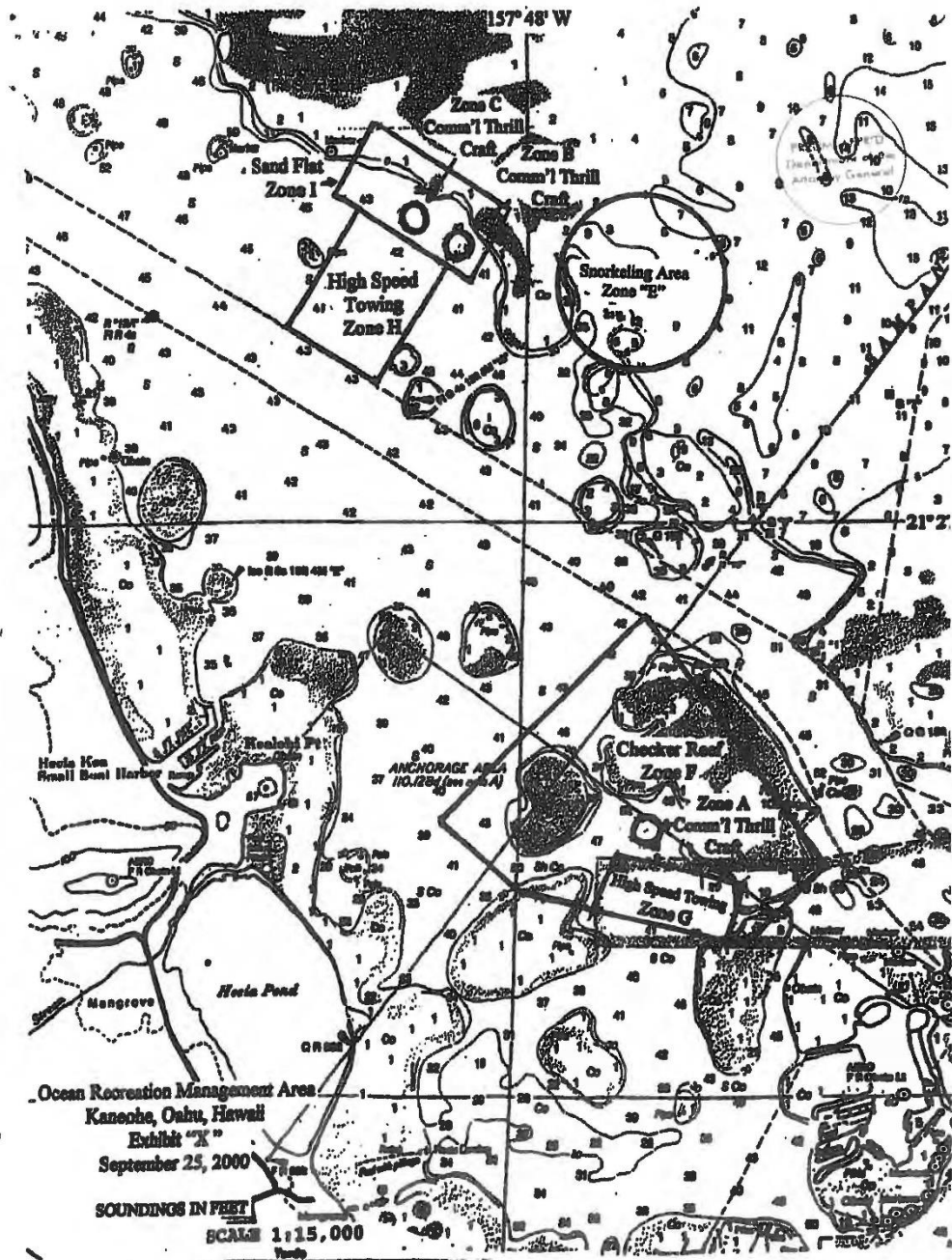


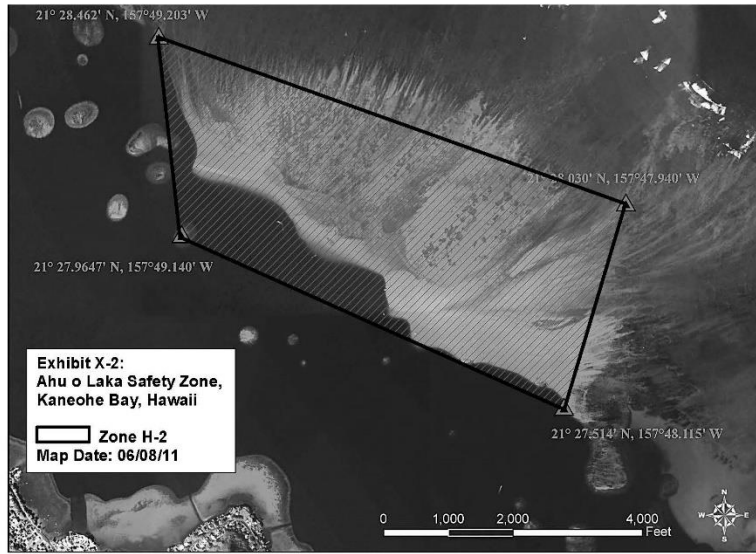
OCEAN RECREATION MANAGEMENT AREAS  
 KANEOHE BAY, OAHU  
 EXHIBIT "V-1"  
 OCTOBER 24, 1990  
 SOUNDINGS IN FEET

1730

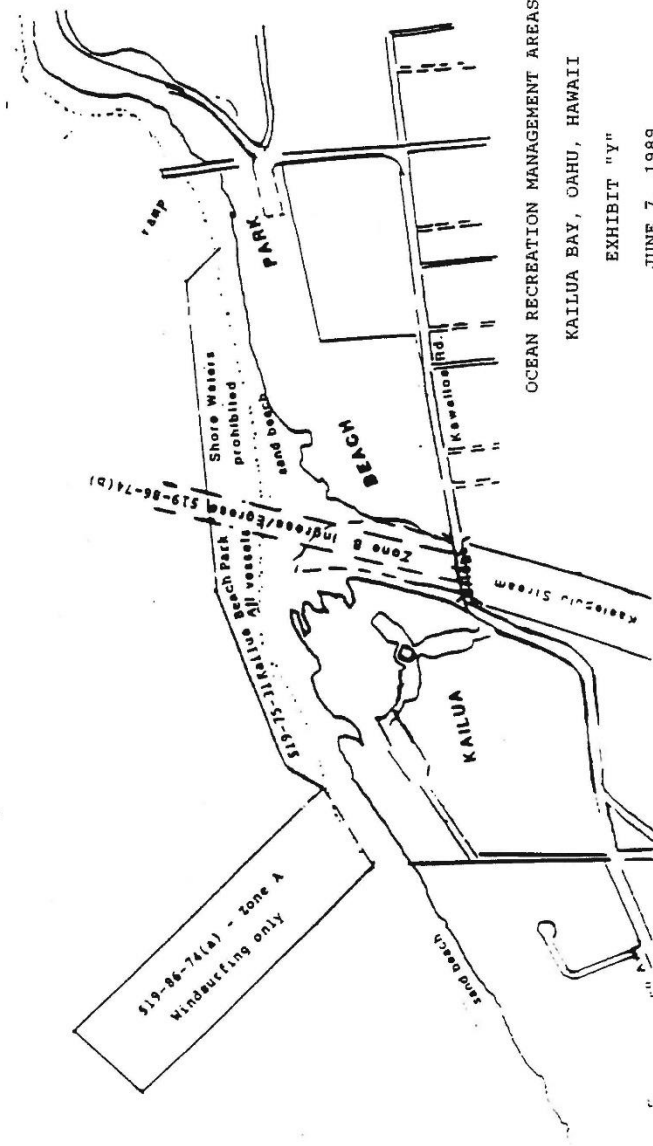
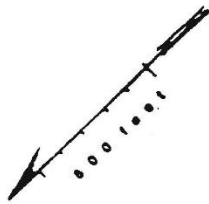








Kopou'e (Flat) Is.

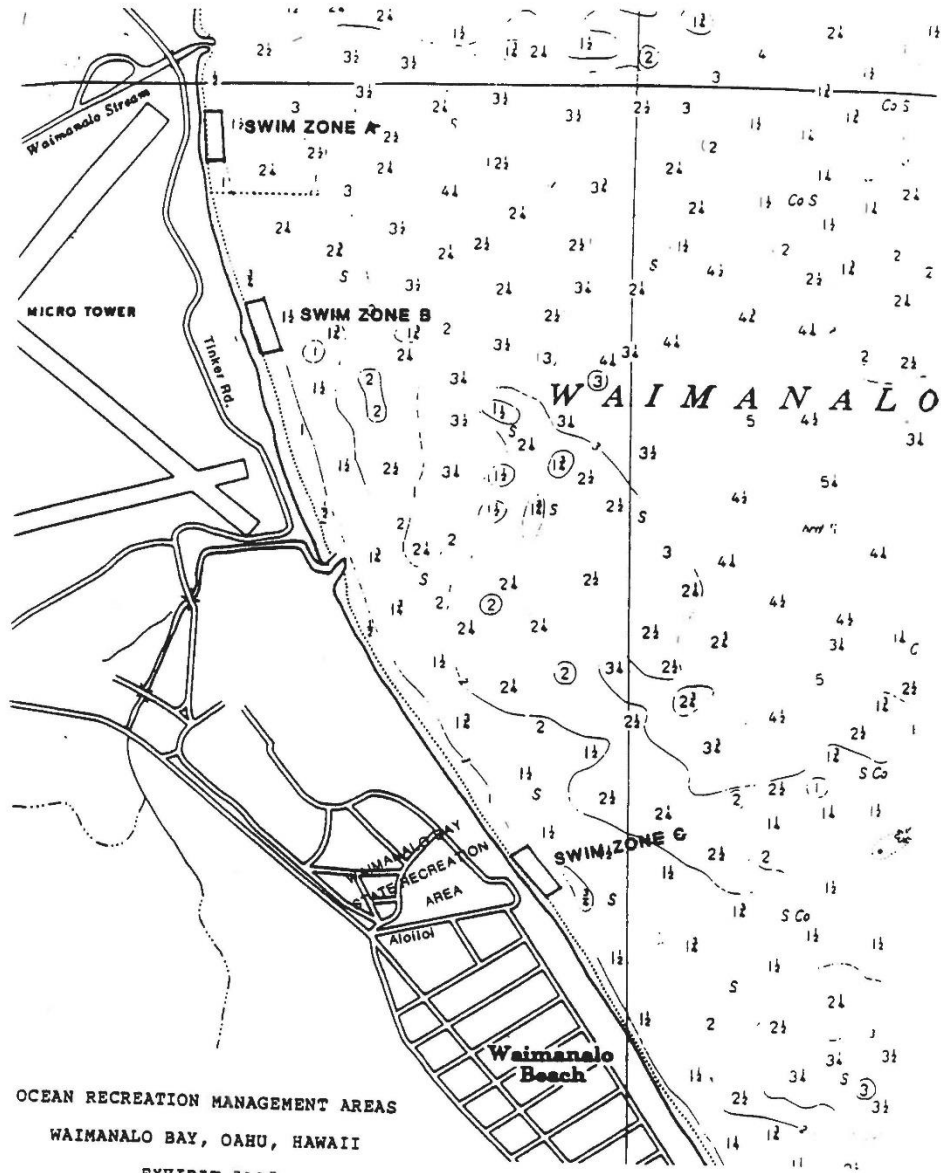


OCEAN RECREATION MANAGEMENT AREAS

KAILUA BAY, OAHU, HAWAII

EXHIBIT "Y"

JUNE 7, 1989



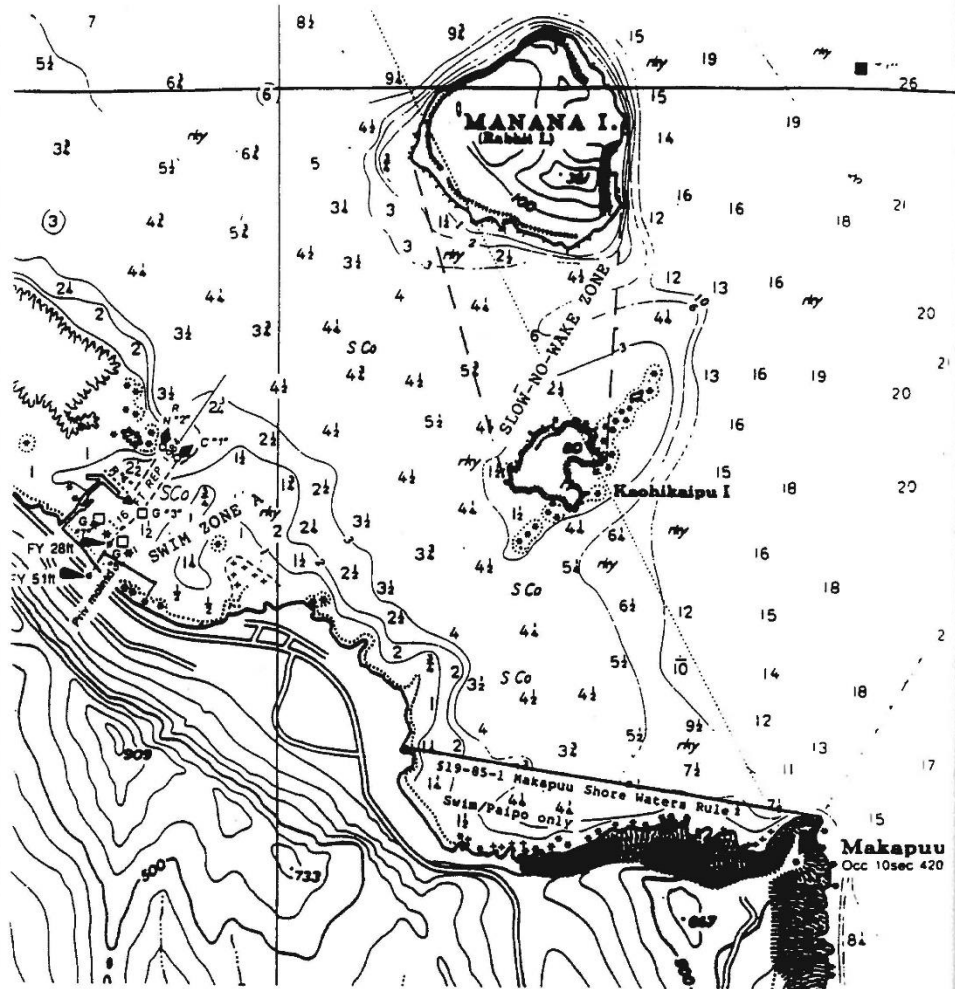
OCEAN RECREATION MANAGEMENT AREAS

WAIMANALO BAY, OAHU, HAWAII

EXHIBIT "AA"

JUNE 30, 1988

1730



OCEAN RECREATION MANAGEMENT AREAS

MAKAPUU, OAHU, HAWAII

EXHIBIT "BB"

JUNE 30, 1988

SUBCHAPTER 6

SOUTH OAHU OCEAN RECREATION MANAGEMENT AREAS

§13-256-86 Definition. [~~The~~] "South Shore Oahu Ocean Recreation Management Area" means all ocean waters and navigable streams from Makapuu Point to the west boundary of the Honolulu International Airport Reef Runway, Oahu, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "CC", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-87 Hanauma Bay Restricted Zone. (a) [~~The~~] Hanauma Bay Restricted Zone means the area confined by the boundaries shown [~~for said zone~~] on Exhibit "DD", dated August 15, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark at Palea Point then by azimuth measured clockwise from True South, 23 degrees 15 minutes and 50 seconds for a distance of one thousand nine hundred forty-six feet to Paioluolu Point; then along the shoreline of Hanauma Bay to the point of beginning.

(b) [~~Restriction:~~] Restrictions. Hanauma Bay is designated a swimming and snorkeling zone. No watercraft of any description shall operate or moor in this zone, except [~~a person~~] that these restrictions shall not apply to persons engaged in:

- (1) [~~engaged in law~~] Law enforcement, rescue, or other operations essential to preserve life or property; or
- (2) [~~engaged in research~~] Research or other activities pursuant to a permit issued by the department [~~of land and natural resources~~]. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-88 Maunalua Bay waters. (a) Maunalua Bay waters means the area [~~encompassed~~] confined by the boundaries shown on Exhibit "FF", dated May 15, 1990, and located at the end of this subchapter. The boundaries are described as follows:

Beginning at the southern point on the shoreline of Kawaihoa Point, then by azimuth measured clockwise from True South, 107 degrees for a distance of seventeen thousand [~~and~~] eighty-five feet to the southwestern tip of Wailupe Peninsula, then along the shoreline of Maunalua Bay to the point of beginning.

(b) Commercial ocean recreation activities shall be restricted within Maunalua Bay waters as follows:

- (1) No commercial operator shall operate a thrill craft, engage in parasailing, water sledding, or commercial high speed boating, operate a motorized vessel towing a person engaged in parasailing, or operate a motor vessel towing a person engaged in water sledding during all weekends[~~7~~] and state or federal holidays.
- (2) All commercial ocean recreation activities in Maunalua Bay waters are prohibited on [~~Sunday~~] Sundays, effective January 1, 1991.

(c) Maunalua Bay waters restricted zone designations and restrictions shall be as follows:

- (1) Zone A Restricted Zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries shown [~~of the zone~~] on Exhibit "EE", dated February 7, 1990, and located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 325 degrees for a distance of two thousand three hundred twenty-five feet from a point on the low water mark on the east side of

Maunalua Bay boat ramp; then on a radius of two hundred feet around that point.

~~[(d)]~~ (2) Zone B Restricted Zone ~~[is]~~ means the area ~~[encompassed]~~ confined by the boundaries shown ~~[of the zone]~~ on Exhibit "EE", dated February 7, 1990, and located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 330 degrees for a distance of one thousand six hundred eighty feet from a point on the low water mark on the east side of Maunalua Bay boat ramp; then on a radius of two hundred feet around that point.

~~[(e)]~~ (3) Zone C Restricted Zone ~~[is]~~ means the area ~~[encompassed]~~ confined by the boundaries shown ~~[of the zone]~~ on Exhibit "EE", dated February 7, 1990, and located at the end of this subchapter. The boundaries of Zone C are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 340 degrees for a distance of two thousand five hundred fifty feet from a point on the low water mark on the east side of Maunalua Bay boat ramp; then on a radius of two hundred feet around that point.

(4) Zones A, B, and C are designated commercial thrill craft operating zones. No commercial operator permittee shall operate more than six rental thrill craft within each designated area at any one time. No commercial thrill craft shall be operated within Zones A, B, and C except between the hours of 9:00 a.m. and 5:00 p.m., Mondays through Fridays. No commercial thrill craft shall be operated within Zones A, B, and C



on Saturdays, Sundays and state or federal holidays.

~~[(f)]~~ (d) Zone D Restricted Zone ~~[is]~~ means the area ~~[encompassed]~~ confined by the boundaries shown ~~[of the zone]~~ on Exhibit "EE", dated February 7, 1990, and located at the end of this subchapter. The boundaries of Zone D are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 012 degrees for a distance of seven hundred fifty feet from a point on the low water mark on the east side of Maunalua Bay boat ramp; then on a radius of two hundred feet around that point.

Zone D is designated a recreational thrill craft operating zone for use by inexperienced operators only. Commercial thrill craft operations ~~[are]~~ shall be prohibited.

~~[(g)]~~ (e) Zone E Restricted Zone ~~[is]~~ means the area ~~[encompassed]~~ confined by the boundaries shown ~~[of the zone]~~ on Exhibit "EE", dated February 7, 1990, and located at the end of this subchapter. The boundaries of Zone E are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South 076 degrees for a distance of four thousand one hundred feet from Buoy "1", then 076 degrees for a distance of eight thousand four hundred feet; 168 degrees for a distance of one thousand four hundred fifty-five feet; 259 degrees for a distance of eight thousand five hundred eighty feet; then in a straight line to the point of beginning.

Zone E is designated a recreational thrill craft zone. No person shall operate a commercial thrill craft within this area. Other vessels shall exercise caution when transiting this area. This zone shall be closed to all thrill craft operations during the whale season, from December 15 to May 15 of the following year.

~~[(h)]~~ (f) Zone F Restricted Zone ~~[is]~~ means the area ~~[encompassed]~~ confined by the boundaries shown ~~[of the zone]~~ on Exhibit "EE", dated February 7, 1990,

and located at the end of this subchapter. The boundaries of Zone F are as follows:

Beginning at a point in the water at Buoy "1", by azimuth measured clockwise from True South, then 157 degrees for a distance of one thousand nine hundred thirty-five feet; 092 degrees for a distance of one thousand nine hundred five feet; 085 degrees for a distance of three thousand three hundred feet; 075 degrees for a distance of four thousand two hundred eighteen feet; 347 degrees for a distance of two thousand four hundred feet; 259 degrees for a distance of eight thousand eight hundred eighty feet; 000 degrees for a distance of eight hundred eighty-five feet; then by a straight line to a point of beginning.

Zone F is designated as a green sea turtle resting and foraging area. No person shall operate a vessel within this area at a speed in excess of slow-no-wake. [~~This is a green sea turtle resting and foraging area.~~]

~~[-i-]~~ (g) Zone G Maunalua Bay Parasail Zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries shown [~~of the zone~~] on Exhibit "FF", dated May 15, 1990, and located at the end of this subchapter. The boundaries of Zone G are as follows:

Beginning at entrance buoy "1" to the Hawaii-Kai Marina and Maunalua Bay boat launching ramp, establishing the eastern boundary along the extended centerline of the Ku'i channel entrance; then by straight line to buoy R-2 off Diamond Head, establishing the western boundary.

Zone G Maunalua Bay Parasail Zone is designated for parasail operations. All operating parasail vessels shall remain seaward of the boundary line. No more than two commercial operating area use permits for parasailing operations shall be authorized for this zone. No permittee shall operate more than one vessel with a parasail aloft at any one time. No person shall operate within one thousand feet of any buoy when the parasail is aloft. All other vessels using this area shall exercise extreme caution. This zone, except for that portion which is encompassed by alternate

parasail zone G1, shall be closed to parasail operations from January 6 to May 15 of each year.

~~[(j)]~~ (h) Zone G1 Maunalua Bay Alternate Parasail Zone ~~[is]~~ means the area ~~[encompassed]~~ confined by the boundaries shown on Exhibit "FF", dated May 15, 1990, and located at the end of this subchapter. The boundaries of Zone G1 are as follows:

Beginning at a point on the the eastern boundary of Zone G at the intersection of the straight line following a line from Kawaihoa Point at Koko Head to buoy R-2 off Diamond Head, establishing the shoreward boundary; then at a point on the shoreward boundary intersected by a line on a bearing of 000 degrees to the Kahala Hilton Hotel establishing the western boundary.

Zone G1 Maunalua Bay Alternate Parasail Zone is that portion of parasail Zone G which is designated for parasail operations from January 6 to May 15 of each year. No permittee shall operate more than one parasail vessel within this zone during this period. No parasail vessel shall exceed the speed of ~~[18]~~ eighteen knots within this zone. All other vessels using this area shall exercise caution.

~~[(k)]~~ (i) Zone H Ingress-egress corridor means the area encompassed by the boundaries shown on Exhibit "HH", dated August 19, 1988, and located at the end of this subchapter. The boundaries of Zone H are as follows:

Beginning at a point at the shoreward western boundary of Maunalua Beach Park boat ramp; then by azimuth measured clockwise from True South, 120 degrees for a distance of seventy-five feet, 030 degrees for a distance of one hundred feet to a point in the water; 120 degrees for a distance of one hundred feet to a point in the water; 218 degrees for distance of one hundred feet to a point on land; then in a straight line to the point of beginning.

Zone H is designated for recreational thrill craft ~~[ingress-egress]~~ ingress and egress to the ocean waters of Maunalua Bay. No person shall operate or

moor a vessel, surfboard, or sailboard within this area.

~~[(i)]~~ (j) Zone I means the area encompassed by the boundaries shown on Exhibit "HH", dated August 19, 1988, and located at the end of this subchapter. The boundaries of Zone I are as follows:

Beginning at a point in the water 270 degrees by azimuth measured clockwise from True South, at a distance of twenty-five feet from daybeacon R"2" of Ku'i channel; then 270 degrees for a distance of three hundred feet, 025 degrees for a distance of one thousand one hundred twenty-five feet; 090 degrees for a distance of three hundred feet; then in a straight line to the point of beginning.

Zone I is designated for recreational water skiing and commercial water sledding. Only one commercial operating area use permit shall be issued for this zone for safety purposes.

~~[(m)]~~ (k) Maunalua Bay, Ku'i Channel ~~[speed restrictions.]~~ speed zone designations and restrictions shall be as follows:

- (1) The speed of any watercraft shall not exceed ~~[10]~~ ten knots when within the confines of the Ku'i channel "10 Knot Zone", as shown on Exhibit "GG", entitled "Ku'i Channel Speed Zones", dated May 15, 1990, and described as follows:

Beginning at a line drawn between buoys R"2" and G"1A", then through each and every daybeacon in ascending order to daybeacons R"8" and G"9".

- (2) The speed of any watercraft shall not exceed ~~[5]~~ five knots when within the confines of the Ku'i channel "5 Knot Zone", as shown on Exhibit "GG", entitled "Ku'i Channel Speed Zones", dated May 15, 1990, and located at the end of this subchapter~~[-The boundaries are]~~ and described as follows:

Beginning at a line drawn between buoys R"8" and G"9", then through each and every daybeacon and buoy in ascending

order to the boundaries of Hawaii Kai Marina Bridge, May Way Bridge and Kuli'ou'ou Stream. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-22, 200-23, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)

§13-256-89 Waialae-Kahala Restricted Areas. (a)

[The] Waialae-Kahala Swimming Area A[-

- ~~(1) The Waialae-Kahala swimming area A]~~ means the area confined by the boundaries shown ~~[for said zone]~~ on Exhibit "II", dated August 19, 1988 located at the end of this subchapter. The boundaries are as follows:  
Beginning at the low water mark at the southern tip of the Waialae Nui Stream groin, then by azimuth measured clockwise from True South; 205 degrees for a distance of five hundred fifty feet to a point in the water; then in a straight line to the southern tip of the rocky peninsula; then along the low water mark in a westerly direction to the point of beginning.

(b) [The] Waialae-Kahala Swimming Area B[-

- ~~(1) The Waialae-Kahala swimming area B]~~ means the area confined by the boundaries shown ~~[for said area]~~ on Exhibit "II", dated August 19, 1988 located at the end of this subchapter. The boundaries are as follows:  
Beginning at the low water mark at the southern tip of the rocky peninsula then by azimuth measured clockwise from True South; 340 degrees to the north tip of the islet; then along the low water mark on the eastern portion of the islet to the southeast tip; then in a straight line to the southern tip of the groin at the eastern boundary of the Kahala Hilton Hotel; then following

the low water mark in a westerly direction to the point of beginning.

~~[(2)]~~ Restrictions. ~~[The]~~ Waialae-Kahala swimming areas A and B are designated for swimming ~~[and]~~  bathing, and the use of water sports equipment. No person shall operate or moor a vessel, except as provided for in subsection (d), or surfboard, or sailboard within this area.

(c) Waialae-Kahala Ingress-Egress Corridor~~[-~~

~~(1) The Waialae-Kahala ingress-egress corridor]~~ means the area confined by the boundaries shown ~~[for said area]~~ on Exhibit "II", dated~~[-]~~ August 19, 1988 located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline which is adjacent to the east side of the groin at Waialae Beach Park; then by azimuth measured clockwise from True South, 006 degrees to the seaward end of the groin and the boat channel; then 253 degrees for a distance of one hundred forty feet along the boat channel; then 186 degrees to the low water mark of the shore; then along the shoreline to the point of beginning.

~~[(2)]~~ Restrictions. The Waialae-Kahala ingress-egress corridor is designated for ~~[use by]~~ windsurfing and manually propelled water sports equipment use only.

(d) Waialae-Kahala Beach Boat Channel~~[-~~

~~(1) The Waialae-Kahala beach boat channel]~~ means the area confined by the boundaries shown on Exhibit "II", dated~~[-]~~ August 19, 1988 located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark at the southern tip of the Waialae Nui Stream groin, then by azimuth measured clockwise from True South, 205

degrees for a distance five hundred fifty feet, coincident with Swimming Area A boundary; then in a straight line to the low water mark at the south eastern tip of the rocky peninsula; then along the low water mark of the rocky peninsula and shoreline to a point one hundred twenty-five feet east of the rocky peninsula; then 343 degrees in a straight line to intersect Swimming Area B boundary; then along Swimming Area B boundary to the northern tip of the islet; then 160 degrees for a distance of four hundred twenty-five feet; then 025 degrees for a distance of four hundred seventy-five feet; then in a northwesterly direction to the point of beginning.

[(-2)] Restrictions. The Waialae-Kahala beach boat channel is designated for use by commercial vessels, operating under contract with the Kahala Hilton Hotel, and holding a valid commercial use permit from the department. The operation of any other vessel is prohibited within this area. [Eff 2/24/94; am and comp ]  
(Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-90 Diamond Head Restricted Area. (a)  
[The] Diamond Head Restricted area means the area confined by the boundaries shown [~~for said area~~] on Exhibit "JJ", dated September 19, 1988, located at the end of this subchapter[~~, the~~]. The boundaries are as follows:

Beginning at a point at the low water mark of the shoreline on the western boundary of the Diamond Head Lighthouse; then by azimuth measured clockwise from True South, 345 degrees for a distance of two thousand eight hundred eighty feet; 253 degrees for a distance of two thousand

two hundred fifty feet; then by a straight line to a point at the low water mark at the most eastern boundary of Diamond Head Beach Park; then along the low water mark in a westerly direction to the point of beginning.

(b) Restrictions. [~~The~~] Diamond Head Restricted Area is designated for surfboards, sailboards, and manually propelled vessels. No person shall operate a motorized vessel within this area. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-91 Waikiki Ocean Waters Restricted Zones.

(a) Waikiki Speed Zone[~~-~~

~~Waikiki speed zone~~] means the area confined by the boundaries shown [~~for said zone~~] on Exhibit "KK", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water of the shoreline at the southern tip of Magic Island on a straight line to the Ala Wai Entrance Buoy G "1", then on a straight line to Diamond Head Buoy R "2", then on a straight line toward Diamond Head Lighthouse to intersect the Diamond Head windsurfing zone boundary, then along the boundary to the low water mark at Diamond Head Beach Park, then along the low water mark following the shoreline to the point of beginning.

Restriction. No person shall operate a vessel or watercraft within the Waikiki speed zone at a speed in excess of slow-no-wake. Vessel operators shall exercise caution while transiting the area due to heavy use by swimmers.

(b) Waikiki Commercial Thrill Craft Zone definitions and restrictions are as follows:

(1) Waikiki Commercial Thrill Craft Zone A[~~-~~  
~~Waikiki Thrill Craft Zone A~~] means the area confined by the boundaries shown on Exhibit "KK", dated June 30, 1988, located at the



end of this subchapter. The boundaries are as follows:

Beginning at a point in the water by azimuth measured clockwise from True South, 045 degrees for a distance of three thousand six hundred feet from the low water mark of the tip of the groin at the southern boundary of Fort DeRussy Beach Park; then on a radius of two hundred feet around that point.

~~[-e-]~~ (2) Waikiki Commercial Thrill Craft Zone

B ~~[-~~

~~(1) Waikiki Commercial Thrill Craft Zone B]~~ means the area confined by the boundaries shown ~~[for said zone]~~ on Exhibit "KK", dated June 30, 1988, located at the end of this subchapter ~~[~~ which] . The boundaries are ~~[described]~~ as follows:

Beginning at a point in the water by azimuth measured clockwise from True South, 025 degrees for a distance of three thousand eight hundred feet from the low water mark of the tip of the groin at the southern boundary of Fort DeRussy Beach Park; then on a radius of two hundred feet around that point.

~~[-d-]~~ (3) Restrictions. Waikiki Commercial Thrill Craft ~~[Zone]~~ Zones A and ~~[Zone]~~ B are designated commercial thrill craft areas. No commercial operator permittee shall operate more than six rented thrill craft within it assigned area at any one time. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-23, 200-24, 200-37) (Imp: HRS §§200-23, 200-24, 200-37)

§13-256-92 South Shore Parasail Area. (a) South Shore Parasail Area ~~[is]~~ means the area ~~[defined]~~ confined by the boundaries shown on Exhibit "LL", dated February 7, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at buoy R-2 of Kalihi Channel entrance; then by straight line to buoy G-1 of the Ala Wai channel; then by straight line to buoy R-2 off Diamond Head.

(b) South Shore Parasail Area is designated for the operation of parasail vessels. No more than four commercial operating area use permits shall be authorized in this area. No permittee shall operate more than one vessel with a parasail aloft at any one time. All operating parasail vessels shall remain seaward of the boundary line. No person shall operate a parasail aloft within one thousand feet of any channel entrance buoys. All other vessels using this area shall exercise extreme caution. This area shall be closed to parasail operations from January 6 to May 15 of each year.

(c) South Shore Alternate Parasail Area [~~is~~] means the area [~~defined~~] confined by the boundaries shown on Exhibit "LL", dated February 7, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at buoy R-2 of Kalihi Channel entrance; then by straight line to buoy R-2 off Diamond Head.

(d) South Shore Alternate Parasail Area is designated for parasail operations from January 6 to May 15 of each year. No more than four parasail vessels shall be operated within this area during this period. All parasail vessels with parasail aloft[~~r~~] shall remain seaward of the boundary line. No person shall operate a parasail aloft within one thousand feet of any channel entrance buoys. All other vessels using this area shall exercise extreme caution. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-22, 200-23, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)

§13-256-93 Kahakaaulana Islet (Harris Is.) Commercial Zone. (a) Kahakaaulana Islet Zone A Restricted Area [~~is~~] means the area [~~encompassed~~] confined by the boundaries shown [~~of the zone~~] on

Exhibit "NN", dated June 6, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 123 degrees for a distance of five hundred twenty-five feet from a point on the low water mark on the eastern tip of Mokuoeo Island; then on a radius of two hundred feet around that point.

(b) Kahakaaulana Islet Zone B Restricted Area [~~is~~] means the area [~~encompassed~~] confined by the boundaries shown [~~of the zone~~] on Exhibit "NN", dated June 6, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 208 degrees for a distance of four hundred fifty feet from a point on the low water mark on the eastern tip of Mokuoeo Island; then on a radius of two hundred feet around that point.

(c) Kahakaaulana Islet Zone C Restricted Area [~~is~~] means the area [~~encompassed~~] confined by the boundaries shown [~~of the zone~~] on Exhibit "NN", dated June 6, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 242 degrees for a distance of nine hundred feet from a point on the low water mark on the eastern tip of Mokuoeo Island; then on a radius of two hundred feet around that point.

(d) Kahakaaulana Islet Zone D Restricted Area [~~is~~] means the area [~~encompassed~~] confined by the boundaries shown [~~of the zone~~] on Exhibit "NN", dated June 6, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, which is 115 degrees for a distance of six hundred forty-five feet from a point on the low water mark on the western tip of Mokuoeo Island; then on a radius of two hundred feet around that point.

(e) Kahakaaulana Islet Zones A, B, C, and D are designated as commercial thrill craft zones. No commercial operator permittee shall operate more than six rented thrill craft within the assigned zones at any one time.

(f) Kahakaaulana Islet Zone E restricted zone ~~[is]~~ means the area ~~[encompassed]~~ confined by the boundaries shown on Exhibit "NN", dated June 6, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the northern tip of Kahakaaulana Islet (Harris Is.), then by azimuth measured clockwise from True South, which is 180 degrees for a distance of three hundred sixty feet; 090 degrees for a distance of one thousand fifty feet; 000 degrees for a distance of one thousand two hundred seventy-five feet; then by a straight line to the shoreline at the south tip of Kahakaaulana Islet (Harris Is.).

(g) Kahakaaulana Islet Zone E restricted zone is designated a ~~[a]~~ commercial ocean activities zone for commercial sailing, windsurfing and diving. Vessels transiting this area shall exercise extreme caution when occupied by commercial activities. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-23, 200-24, 200-37) (Imp: HRS §§200-23, 200-24, 200-37)

§13-256-94 Reef Runway Zone F. (a) ~~[The]~~ Reef Runway Zone F ~~[is]~~ means the area ~~[encompassed]~~ confined by the boundaries shown ~~[of the zone]~~ on Exhibit "NN", dated June 6, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water by azimuth measured clockwise from True South, 323 degrees for a distance of four hundred fifty feet from the low water mark of the western boundary of the Reef Runway 8R; then 323 degrees for a distance of two thousand seven hundred sixty feet; 270 degrees for a distance of thirteen thousand seven hundred ten feet; 180 degrees for a distance of

two thousand two hundred fifty feet; then by a straight line to the point of beginning.

(b) [~~The~~] Reef Runway Zone F is designated for recreational thrill craft operations. No person shall operate a commercial thrill craft within this area. Any vessel transiting this area shall exercise extreme caution when occupied by recreational thrill craft. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-23, 200-24, 200-37) (Imp: HRS §§200-23, 200-24, 200-37)

§13-256-95 Koko Head and Makapuu commercial high speed boating zone. (a) [~~The~~] Koko Head and Makapuu commercial high speed boating zone [~~is~~] means the area [~~defined~~] confined by the boundaries shown on Exhibit "CC-1", dated May 15, 1990, and located at the end of this subchapter. The boundaries are as follows: Beginning at point in the water, by azimuth measured clockwise from True South, 312 degrees from Kawaihoa Point, establishing the southwest boundary extending seaward; then on a line not less than one thousand five hundred feet from the shoreline to Makapuu Point; then 311 degrees extending seaward from Makapuu Point, establishing the northeast boundary.

(b) [~~This~~] The Koko Head and Makapuu commercial high speed boating zone is designated for the operation of commercial high speed boats. No more than four commercial operating area use permits for high speed boats shall be issued in this zone. All operating commercial high speed boats shall remain seaward of the shoreward boundary as shown on Exhibit "CC-1". All other vessels transiting this zone shall exercise extreme caution. This zone shall be closed to commercial high speed boat operations during the whale season, from December 15 to May 15 of the following year. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-22, 200-23, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)

§13-256-96 Ke'ehi Lagoon canoe racing zone. (a) [~~The~~] Ke'ehi Lagoon canoe racing zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the zone~~] shown on Exhibit "NN-1", dated August 15, 1990, and located at the end of this subchapter. The boundaries of the zone are as follows:

Beginning at a point in the water, located by azimuth measured clockwise from True South, 043 degrees for a distance of one thousand ninety feet from the low water mark of the shoreline at the Southwest boundary of Ke'ehi Lagoon Beach Park[~~7~~]; then 235 degrees for a distance of two thousand eight hundred twenty-five feet; 325 degrees for a distance of nine hundred feet; 055 degrees for a distance of two thousand eight hundred twenty-five feet; then to the point of beginning.

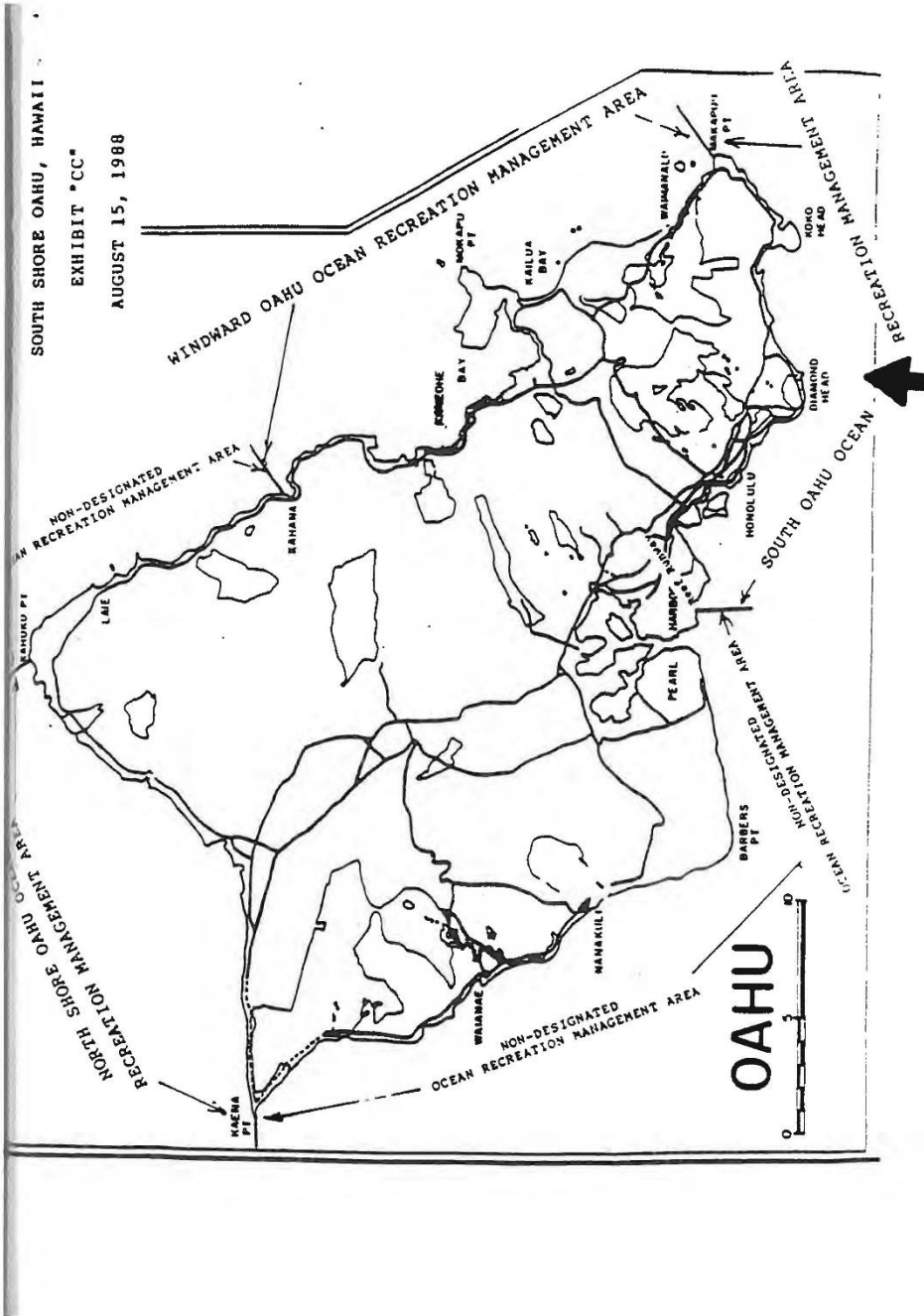
(b) The Ke'ehi Lagoon canoe racing zone is designated for training and competitive Hawaiian canoe activities. No person shall anchor or moor a vessel in this zone at any time. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-23, 200-24, 200-37) (Imp: HRS §§200-23, 200-24, 200-37)

§13-256-97 Ke'ehi Lagoon competitive water ski zone. (a) [~~The~~] Ke'ehi Lagoon competitive water ski zone [~~is~~] means the area [~~encompassed~~] confined by the boundaries [~~of the zone~~] shown on Exhibit "NN-1", dated August 15, 1990, and located at the end of this subchapter. The boundaries of the zone are as follows:

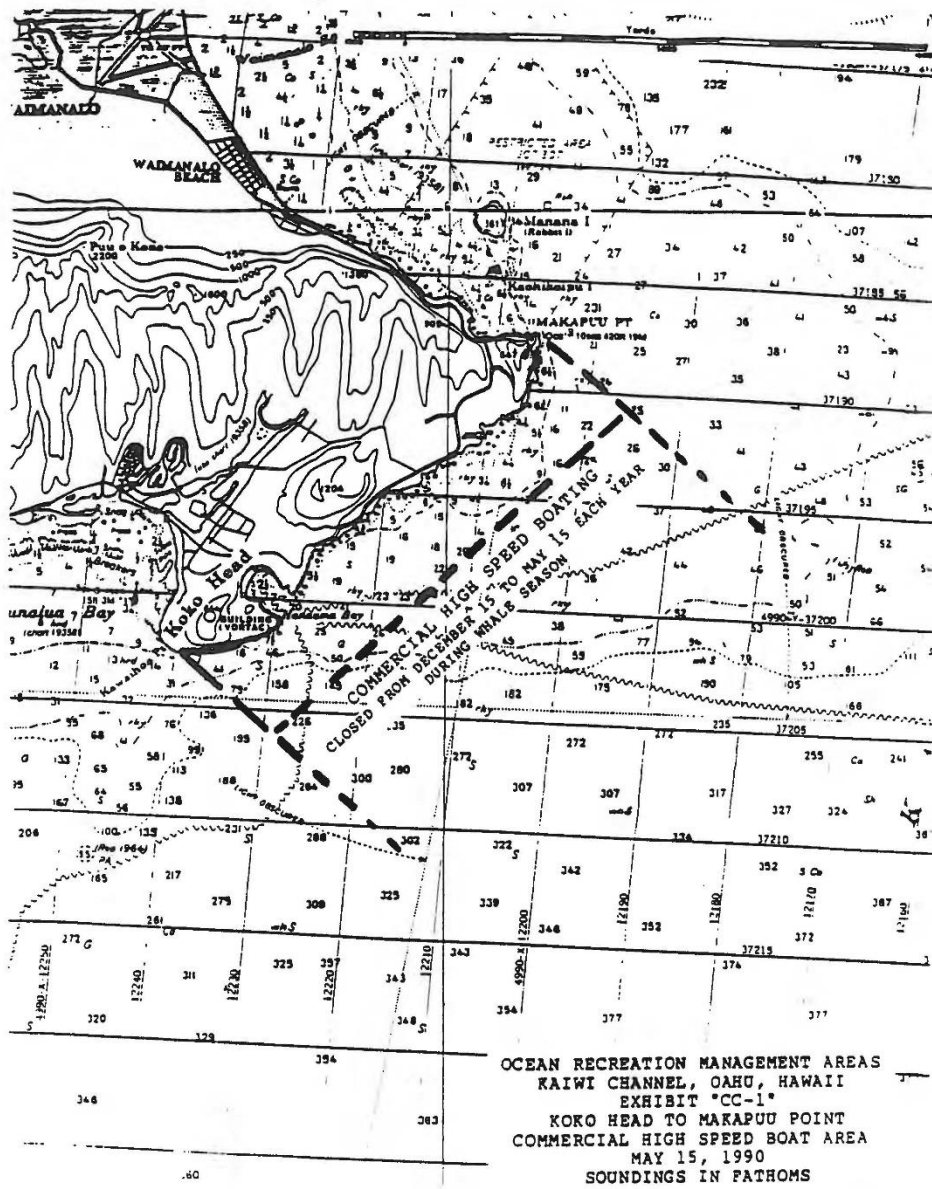
Beginning at a point in the water, located by azimuth measured clockwise from True South, 000 degrees for a distance of ninety-five feet from the Kalihi Channel rear range light; then 048 degrees for a distance of one hundred eighty-five feet; 064 degrees for a distance of four hundred ten feet; 154 degrees for a distance of two thousand seven hundred forty feet; 244 degrees for a distance of four hundred fifty feet; then to the point of beginning.

(b) The Ke'ehi Lagoon competitive water ski zone is designated as a competitive waterski area. Individual recreational water ski activities shall be permitted, except during scheduled competitive water ski activities. No person shall anchor or moor a vessel in this zone at any time. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-23, 200-24, 200-37) (Imp: HRS §§200-23, 200-24, 200-37)

§§13-256-98 to 13-256-105 (Reserved)



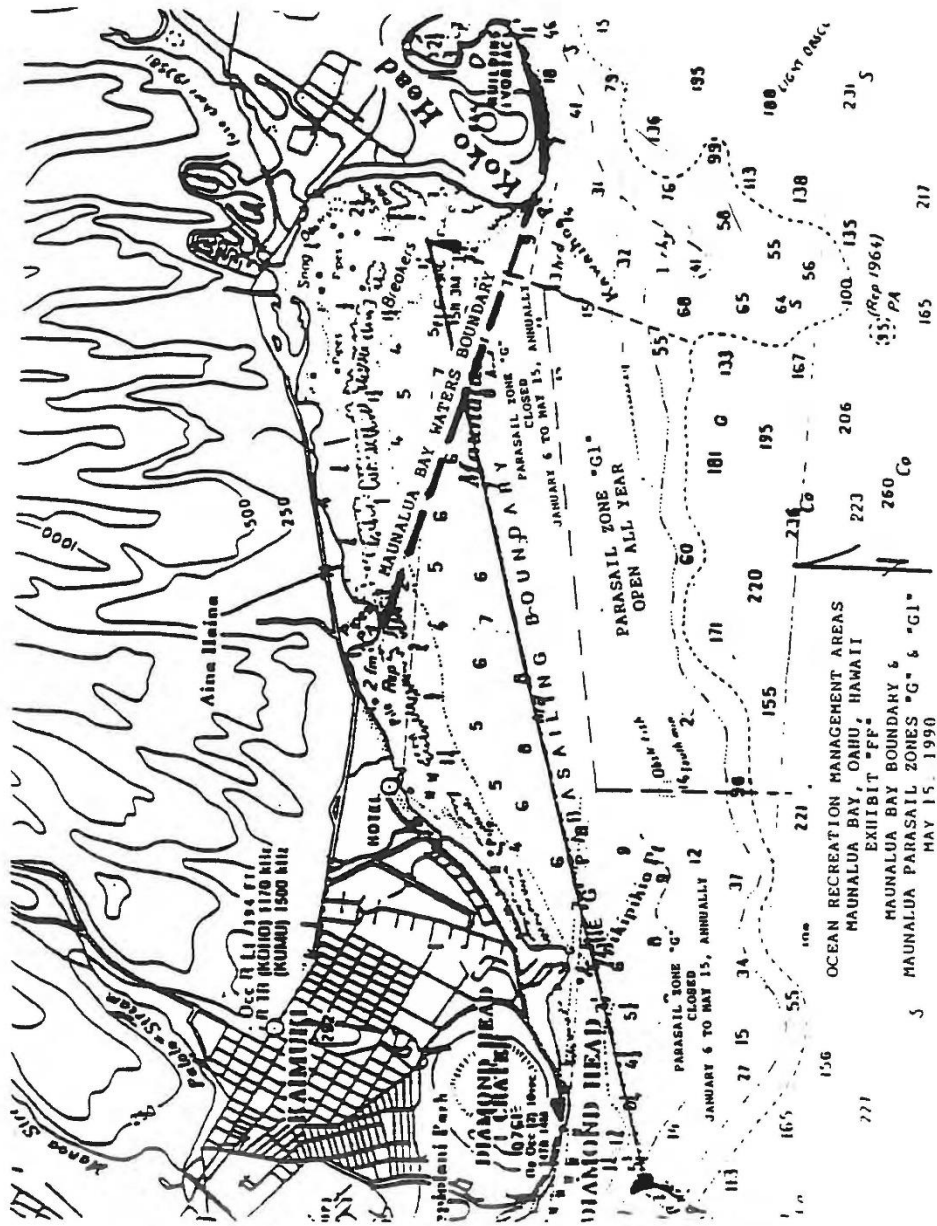




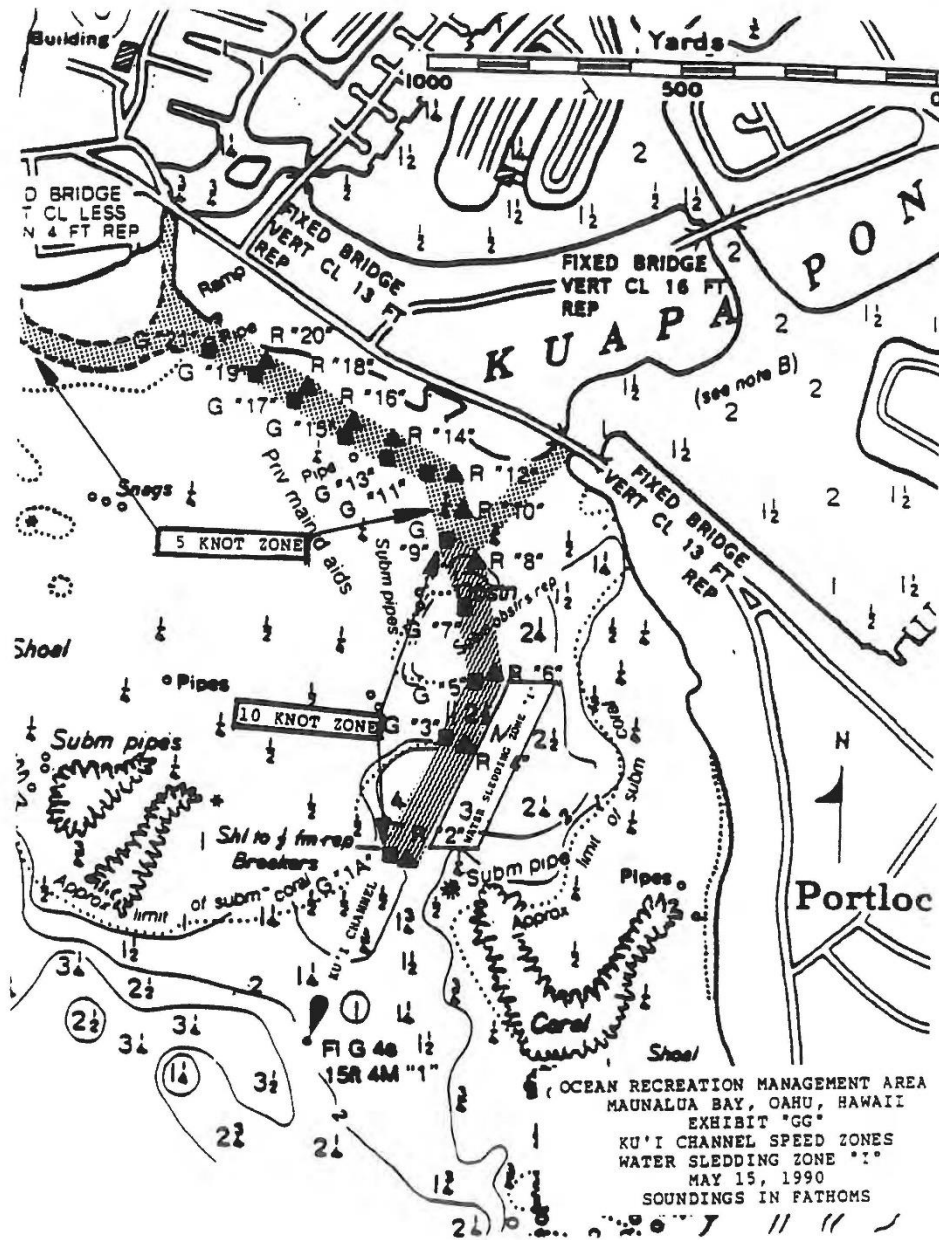
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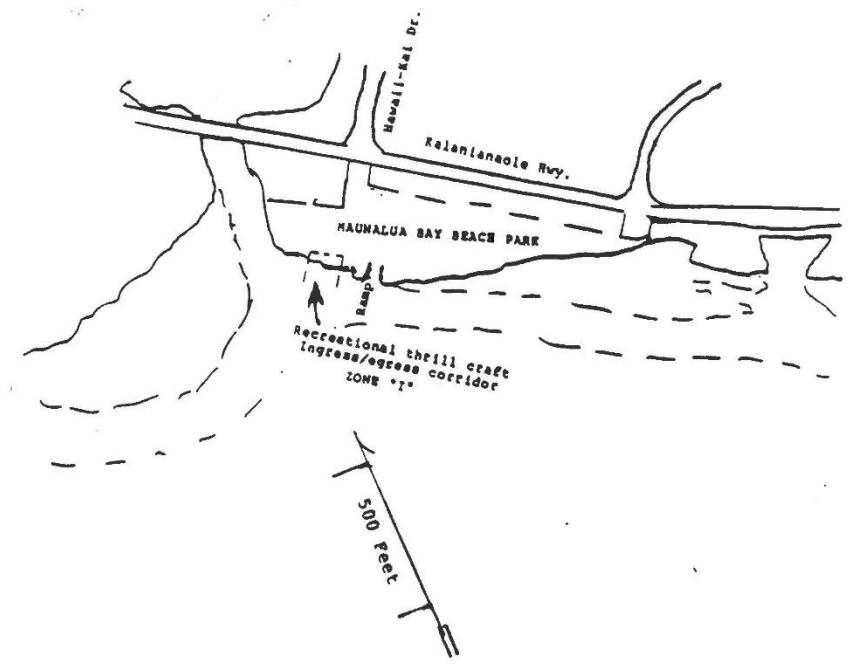




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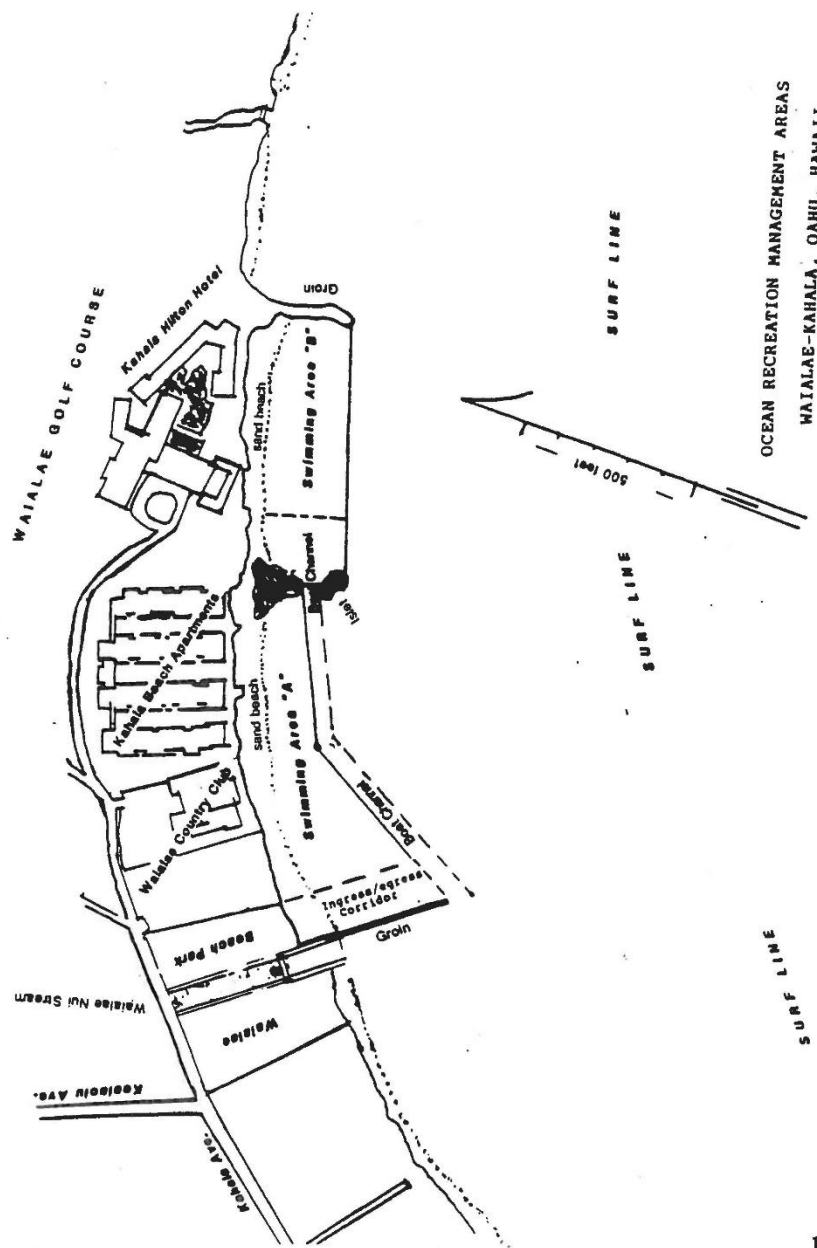
OCEAN RECREATION MANAGEMENT AREAS

MAUNALOA BAY, OAHU, HAWAII  
RECREATIONAL THRILL CRAFT  
INGRESS/EGRESS CORRIDOR

EXHIBIT "HH"

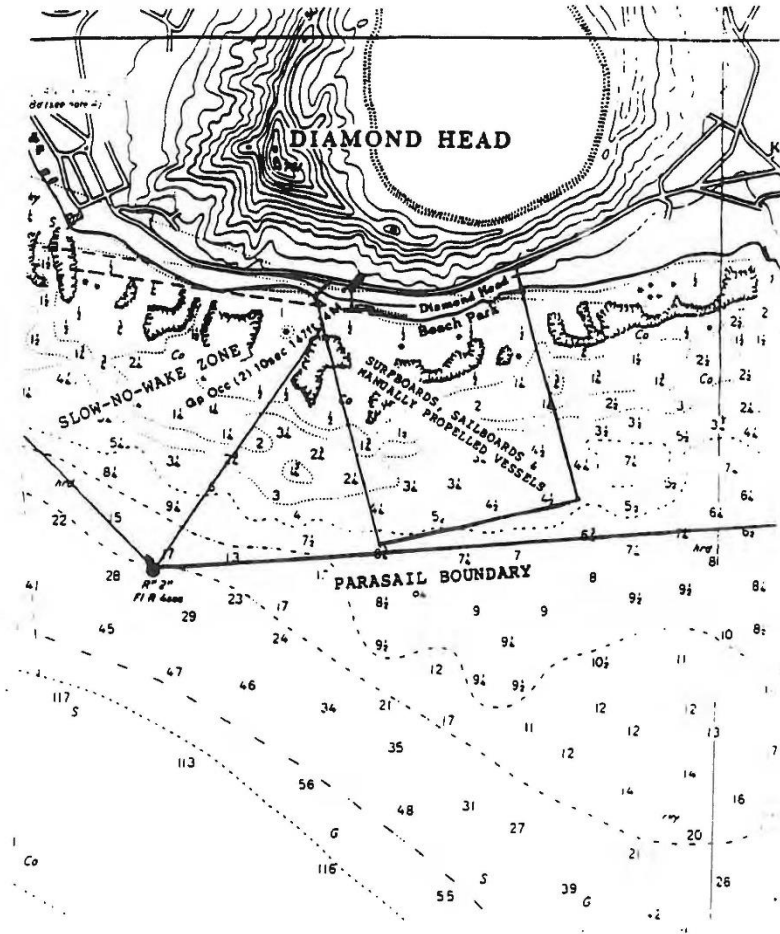
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OCEAN RECREATION MANAGEMENT AREAS  
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 AUGUST 19, 1988

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OCEAN RECREATION MANAGEMENT AREAS

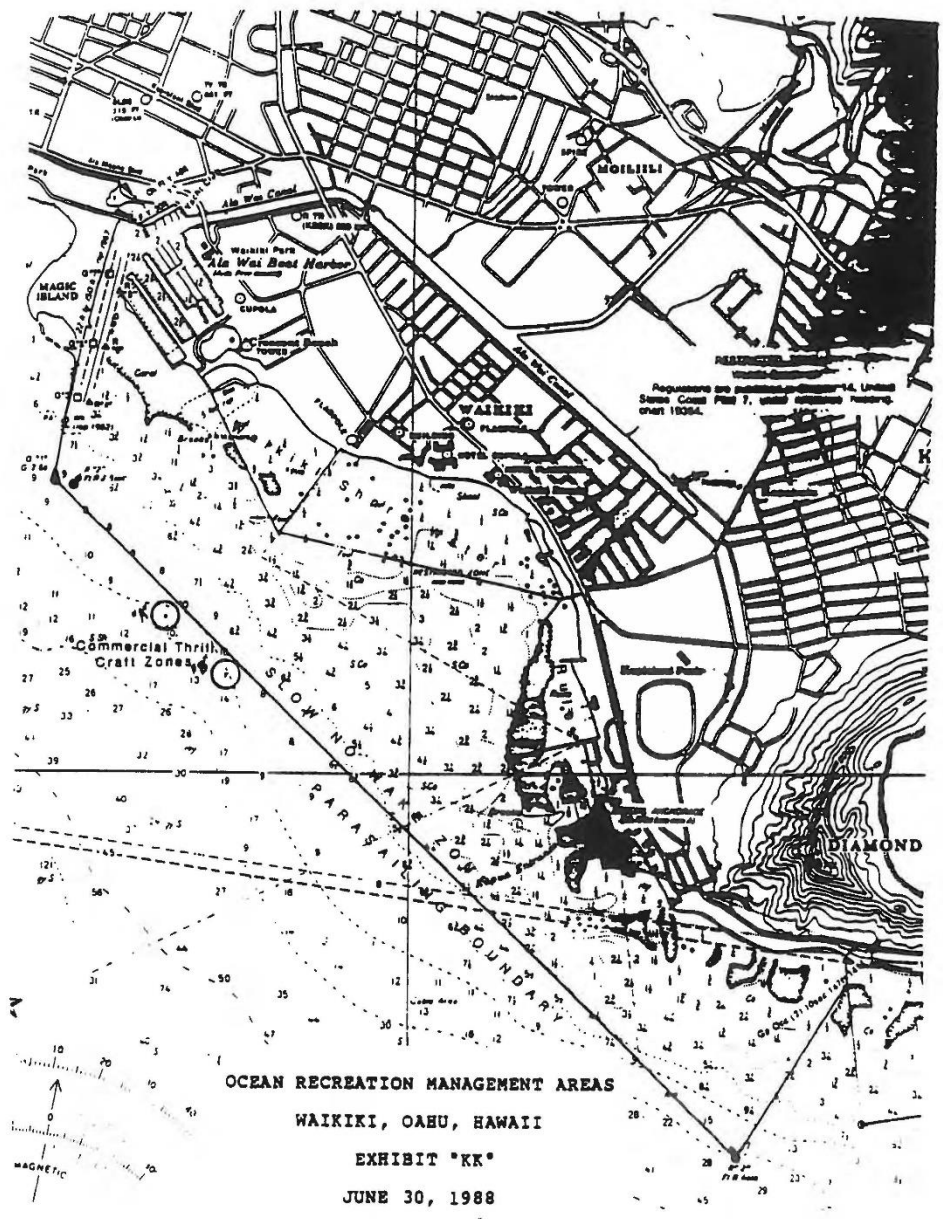
DIAMOND HEAD, OAHU, HAWAII

EXHIBIT "JJ"

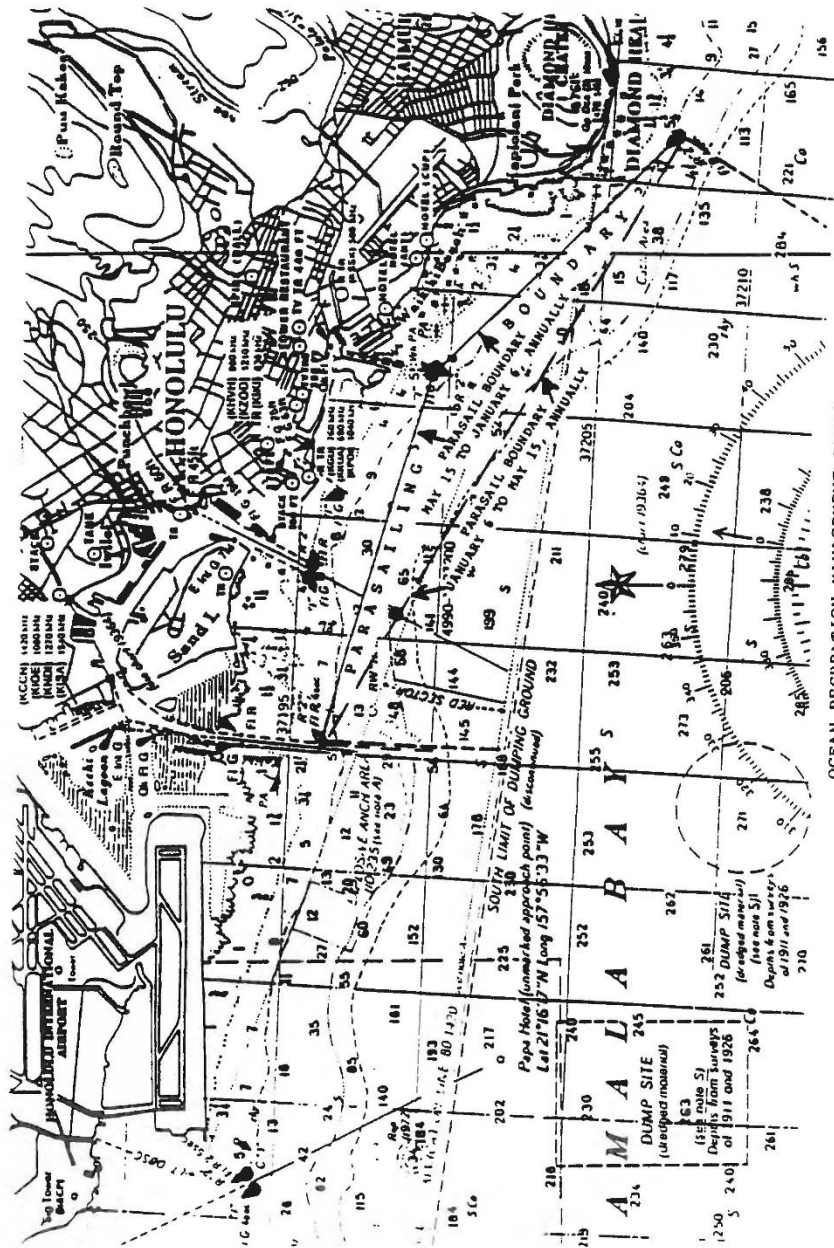
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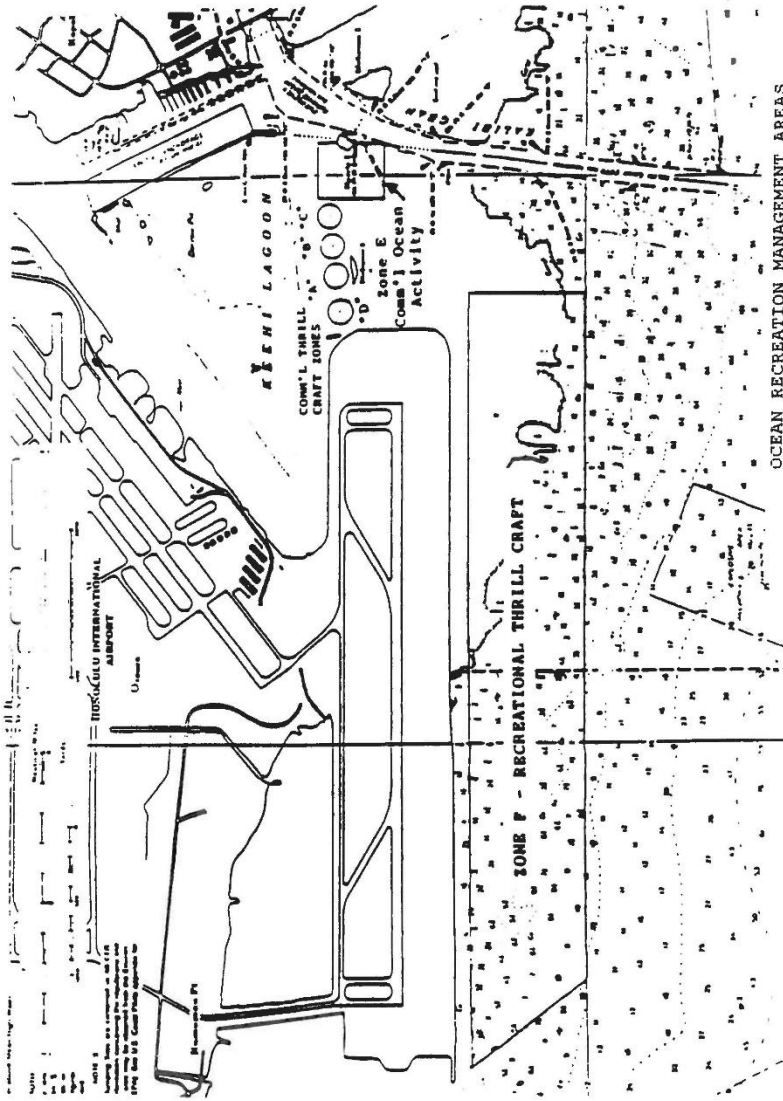


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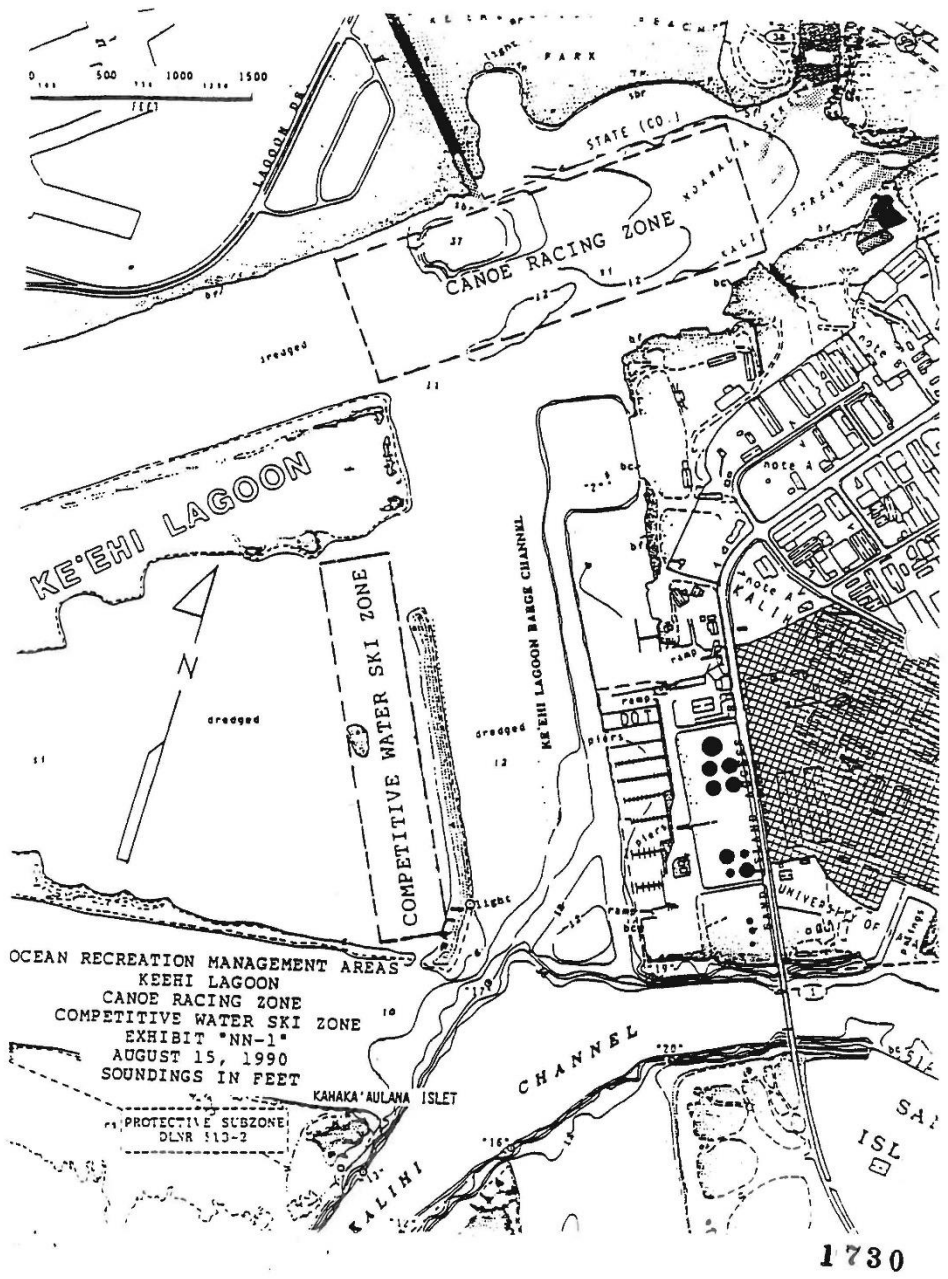


OCEAN RECREATION MANAGEMENT AREAS  
 MAHALA BAY, OAHU, HAWAII  
 SOUTH SHORE PARASAIL ZONE  
 EXHIBIT "LL"  
 FEBRUARY 7, 1990  
 SOUNDINGS IN FATHOMS

0211



OCEAN RECREATION MANAGEMENT AREAS  
 KE'EHII LAGOON, OAHU, HAWAII  
 KAHAKAULANA ISLET (HARRIS IS.) COMMERCIAL ZONE  
 COMMERCIAL THRILL CRAFT ZONE "A", "B", "C" & "D"  
 REEF RUNWAY RECREATIONAL THRILL CRAFT ZONE  
 EXHIBIT "NN"  
 JUNE 6, 1989



SUBCHAPTER 7

WEST MAUI OCEAN RECREATION MANAGEMENT AREAS

§13-256-106 Definition. [~~The~~] "West Maui Ocean Recreation Management Area" means all ocean waters and navigable streams from the northeast boundary of Honolua Bay to McGregor Point, Maui, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "OO", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-107 Napili Bay Restricted Area. (a) [~~The~~] Napili Bay Restricted Area means the area confined by the boundaries shown [~~for said area~~] on Exhibit "PP", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline at the western tip of Kaelekii Point, then on a straight line across Napili Bay to a point at the low water mark at the north western point of Napili Bay, then along the low water mark of the shoreline in a southerly direction to the point of beginning.

(b) Restriction. The Napili Bay restricted area is designated for swimming and surfing. No person shall operate or moor a vessel within this area, except a vessel holding a valid mooring permit issued by the department. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-108 Lahaina-Kaanapali Offshore Restricted Area. (a) [~~The~~] Lahaina-Kaanapali Offshore Restricted Area [~~is~~] means the area [~~encompassed~~] confined by the boundaries shown [~~of the area~~] on Exhibit "QQ", dated

October 24, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline between and in line with the Lahaina Harbor entrance range markers, by azimuth measured clockwise from True South, 045 degrees for a distance of three thousand one hundred twenty feet to a point in the water defining the southeastern boundary of the area; then 140 degrees for a distance of six thousand sixty feet; 180 degrees for a distance of six thousand three hundred feet; 167 degrees for a distance of twelve thousand three hundred feet, to a point in the water defining the northern boundary of the area.

(b) Restrictions. The Lahaina-Kaanapali Offshore restricted area is designated as a parasailing area. Parasailing activity shall remain seaward of the described boundary when within three miles of the coastline, except when transiting to or from Lahaina Harbor, Mala ramp or a designated mooring area. No more than five commercial operating area use permits shall be issued for this zone. Persons operating vessels shall exercise due care when transiting this area. This area shall be closed to parasail operations from December 15 to May 15 of the following year. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-22, 200-23, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)

§13-256-109 Kaanapali Commercial Thrill Craft Areas. (a) ~~[The]~~ Kaanapali Commercial Thrill Craft Areas ~~[are]~~ means the areas ~~[encompassed]~~ confined by the boundaries shown ~~[of the areas]~~ on Exhibit "RR", dated March 1, 2002, and located at the end of this subchapter. The boundaries are as follows:

- (1) Kaanapali Commercial Thrill Craft Area 1.  
The area within 200 yards of a line drawn between GPS position 20 degrees 54.170 minutes north latitude, 156 degrees 41.530 minutes west longitude and GPS position 20

degrees 54.340 minutes north latitude, 156 degrees 41.630 minutes west longitude.

- (2) Kaanapali Commercial Thrill Craft Area 2. The area within 150 yards radius of GPS position 20 degrees 54.250 north latitude, 156 degrees 41.850 minutes west longitude.

(b) A maximum of three commercial thrill craft operating area permits may be issued for Kaanapali ocean waters. Notwithstanding the contrary provisions of section 13-256-18, a person owning one or more business entities holding valid commercial thrill craft permits may consolidate all commercial thrill craft operations within Kaanapali Commercial Thrill Craft Area 1; provided that no more than eighteen rental units and three safety units shall be operated at any one time. Kaanapali Commercial Thrill Craft Area 2 is reserved for use by a single permittee. All support rafts or platforms shall be located within the operating area and shall display an anchor light at night.

(c) These areas shall be closed to all thrill craft operations during the whale season, from December 15 to May 15 of the following year. [Eff 2/24/94; am 6/16/03; am and comp ]  
(Auth: HRS §§200-6, 200-22, 200-23, 200-24, 200-37)  
(Imp: HRS §§200-6, 200-22, 200-23, 200-24, 200-37)

§13-256-110 Olowalu Beach Restricted Area. (a) [The] Olowalu Beach Restricted Area means the area confined by the boundaries shown [~~for said area~~] on Exhibit "SS", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows: Beginning at a point on the low water mark of Olowalu Beach which is by azimuth measured clockwise from True South, 256 degrees for a distance of three thousand feet from the southern tip of Hekili Point; then 360 degrees for a distance of five hundred feet; 295 degrees for a distance of three thousand feet; then 256 degrees to a point on the shoreline at the low water

mark; then along the shoreline in a westerly direction to the point of beginning.

(b) Restrictions. This area is designated for swimming, snorkeling, scuba diving, and shoreline fishing. No person shall operate or moor a vessel within this area. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-111 Kaanapali commercial water sledding zone. [~~The~~] (a) Kaanapali commercial water sledding zone means the area [~~is encompassed~~] confined by the boundaries shown on Exhibit "RR", dated October 24, 1990, and located at the end of this subchapter. The boundaries are described as follows:

Beginning at a point in the water located by azimuth measured clockwise from True South, 090 degrees for a distance of one thousand fifty feet from the western tip of Kekaa Point, coincident with the Kaanapali Shore Waters boundary; then 090 degrees for a distance of one thousand seven hundred twenty-five feet to the parasail boundary; then 346 degrees for a distance of eight thousand three hundred twenty-five feet along the parasail boundary; then 241 degrees for a distance of one thousand six hundred eighty feet to the Kaanapali Shore Waters boundary; then along the Kaanapali Shore Waters boundary in a northerly direction to the point of beginning.

[~~(1)~~] (b) Restrictions. This area is designated for commercial water sledding. No more than two commercial operating area use permits for water sledding shall be issued for this zone.

[~~(2)~~] (c) This area shall be closed to all commercial water sledding operations during the whale season, from December 15 to May 15 of the following year. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-22, 200-23, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)



§13-256-112 Maui Humpback whale protected waters.

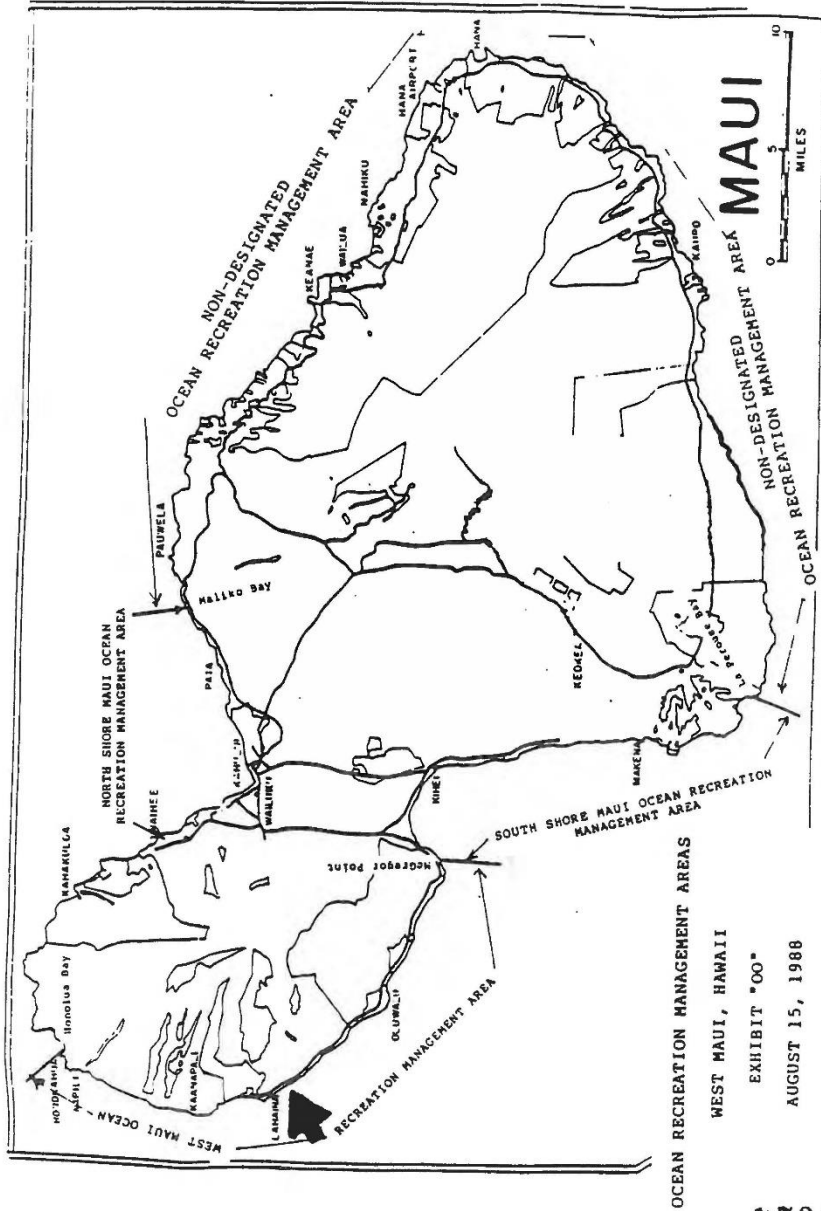
[The] (a) Maui Humpback whale protected waters means the area [~~encompassed~~] confined by the boundaries shown on Exhibit "OO-1", dated May 15, 1990, and located at the end of this subchapter. The boundaries are described as follows:

Beginning at the shoreline of the southwestern tip of Puu Olai Point, then by azimuths measured clockwise from True South, 082 degrees for a distance of two nautical miles; 141 degrees for a distance of nineteen nautical miles; 164 degrees for a distance of three nautical miles; 184 degrees for a distance of two and five-tenths nautical miles; 200 degrees for a distance of four and three-tenths nautical miles; 295 degrees to Hawea Point; then along the shoreline of west and south Maui to the point of beginning.

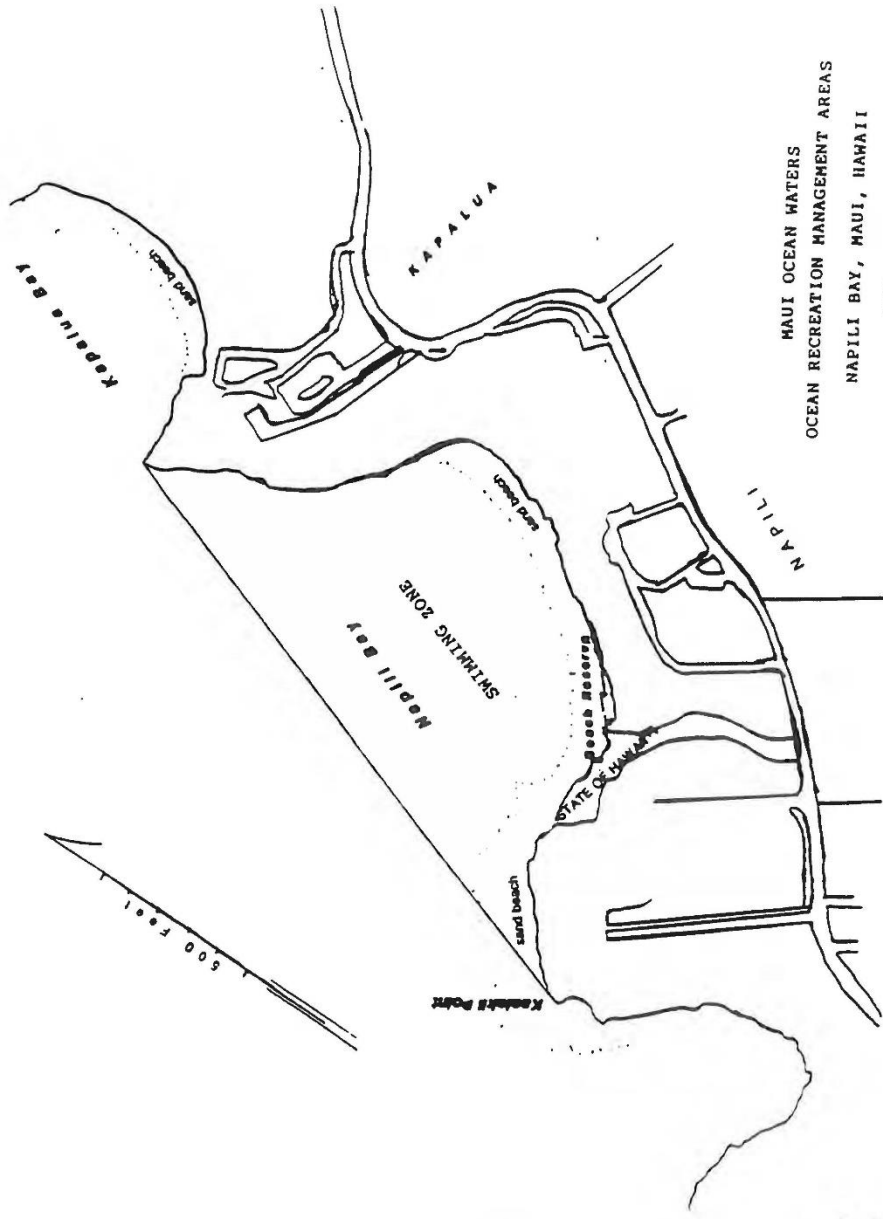
(b) Restrictions. Between December 15 and May 15 of the following year during the whale season, no person shall operate a thrill craft [~~, or~~] engage in parasailing, water sledding, or commercial high speed boating, or operate a motor vessel towing a person engaged in water sledding or parasailing within this area. [Eff 2/24/94; am and comp ]

(Auth: HRS §§200-22, 200-23, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)

§§13-256-113 to 13-256-115 (Reserved)

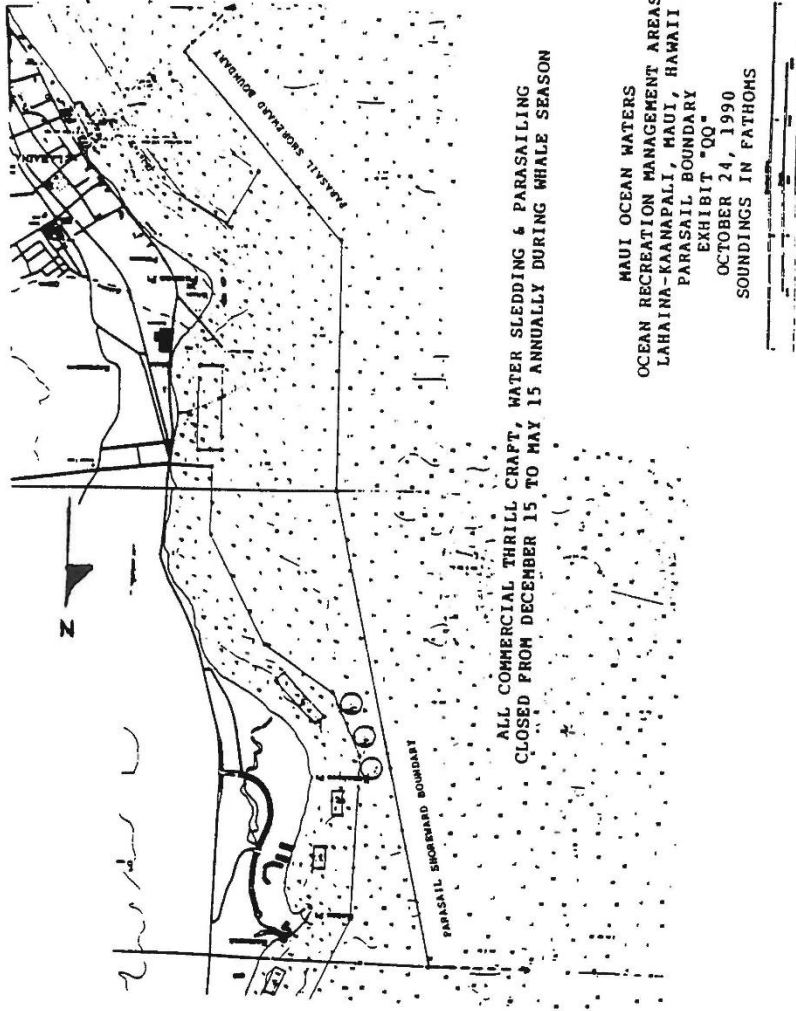


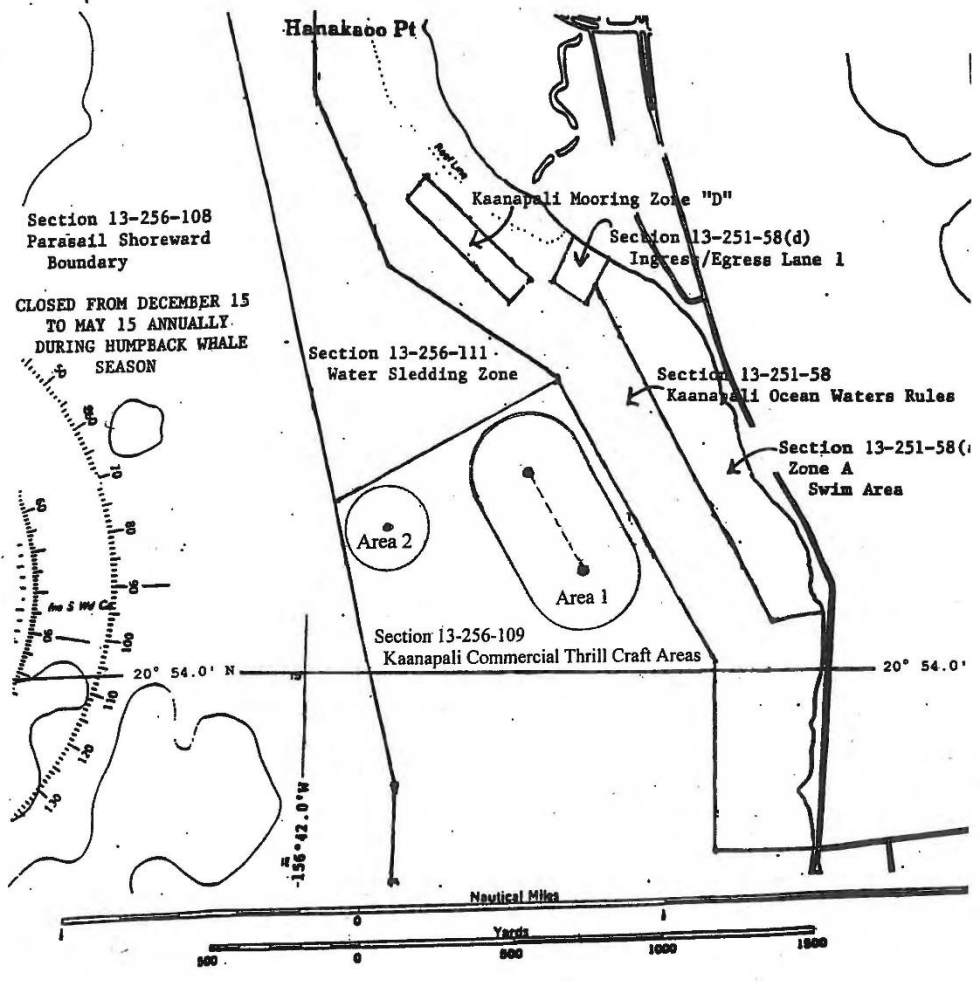
1730



MAUI OCEAN WATERS  
 OCEAN RECREATION MANAGEMENT AREAS  
 NAPILI BAY, MAUI, HAWAII  
 EXHIBIT "pp"  
 JUNE 30, 1988

1730

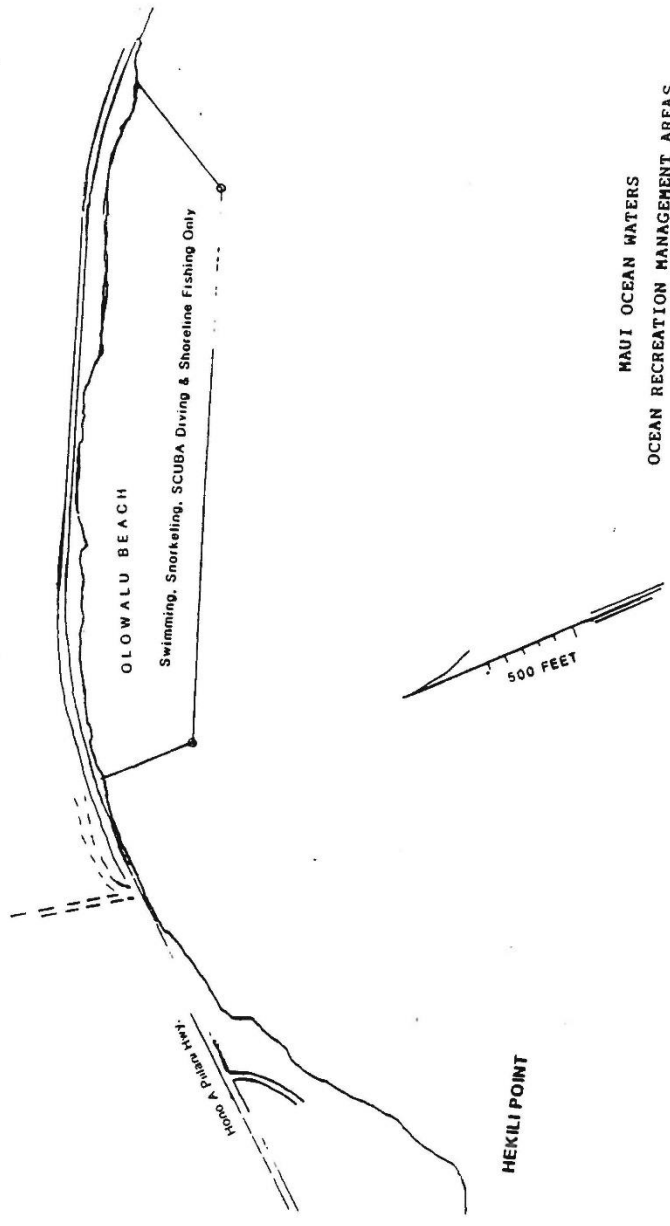




STATE OF HAWAII  
 KAAPALI OCEAN WATERS  
 KAAPALI, MAUI, HAWAII

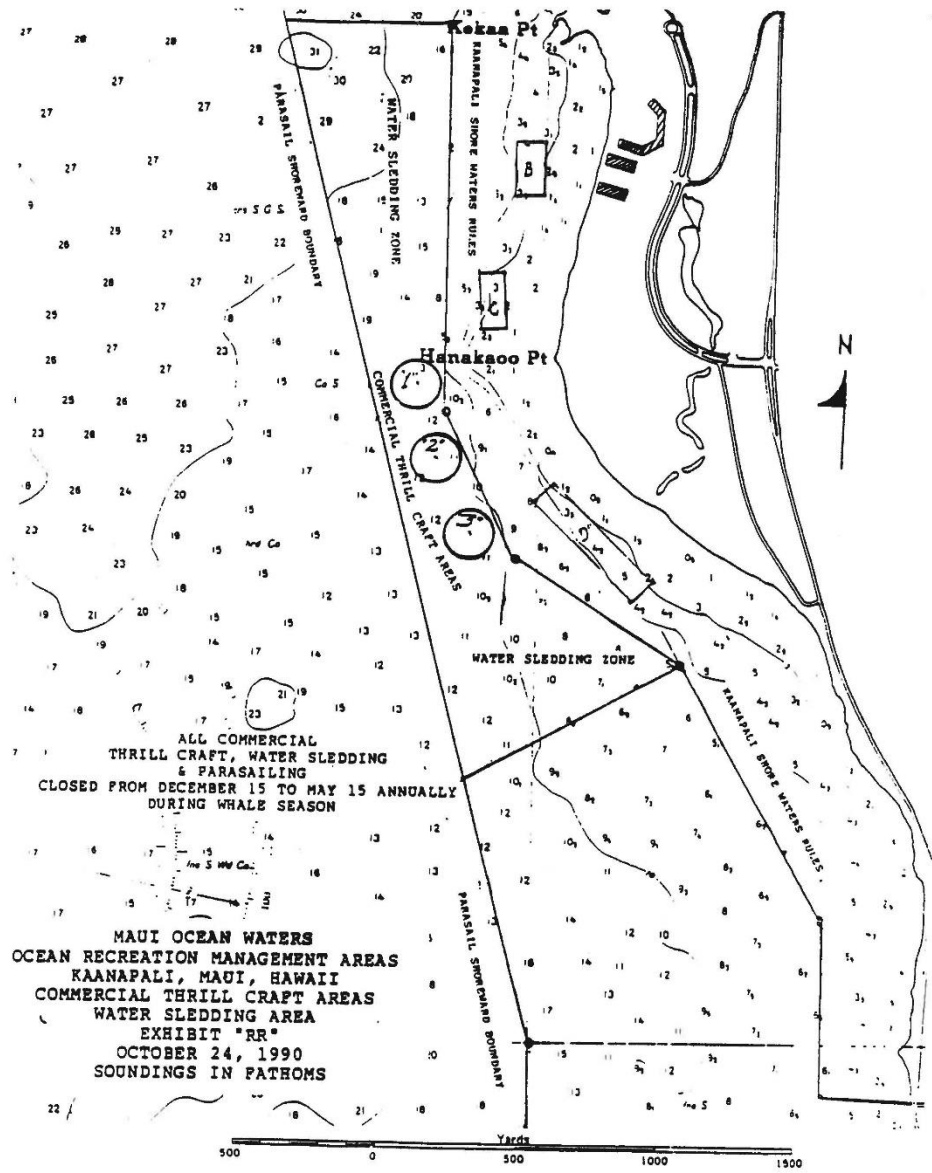
EXHIBIT "RR"  
 March 1, 2002

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MAUI OCEAN WATERS  
 OCEAN RECREATION MANAGEMENT AREAS  
 OLOWALU, MAUI, HAWAII  
 EXHIBIT "SS"  
 JUNE 30, 1988

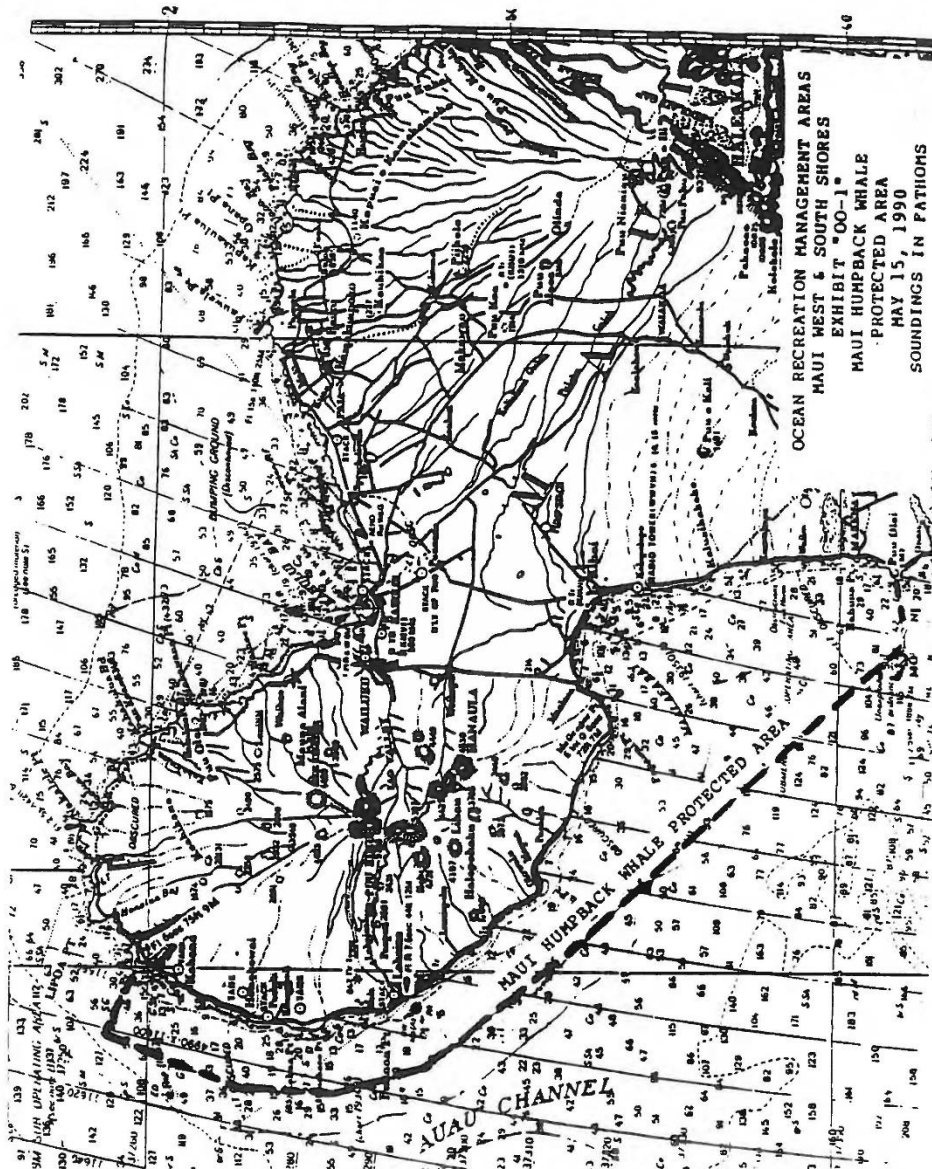
1730



ALL COMMERCIAL  
THRILL CRAFT, WATER SLEDDING  
& PARASAILING  
CLOSED FROM DECEMBER 15 TO MAY 15 ANNUALLY  
DURING WHALE SEASON

MAUI OCEAN WATERS  
OCEAN RECREATION MANAGEMENT AREAS  
KAANAPALI, MAUI, HAWAII  
COMMERCIAL THRILL CRAFT AREAS  
WATER SLEDDING AREA  
EXHIBIT "RR"  
OCTOBER 24, 1990  
SOUNDINGS IN FATHOMS

1730



OCEAN RECREATION MANAGEMENT AREAS  
 MAUI WEST & SOUTH SHORES  
 EXHIBIT "OO-1"  
 MAUI HUMPBACK WHALE  
 PROTECTED AREA  
 MAY 15, 1990  
 SOUNDINGS IN FATHOMS

1730

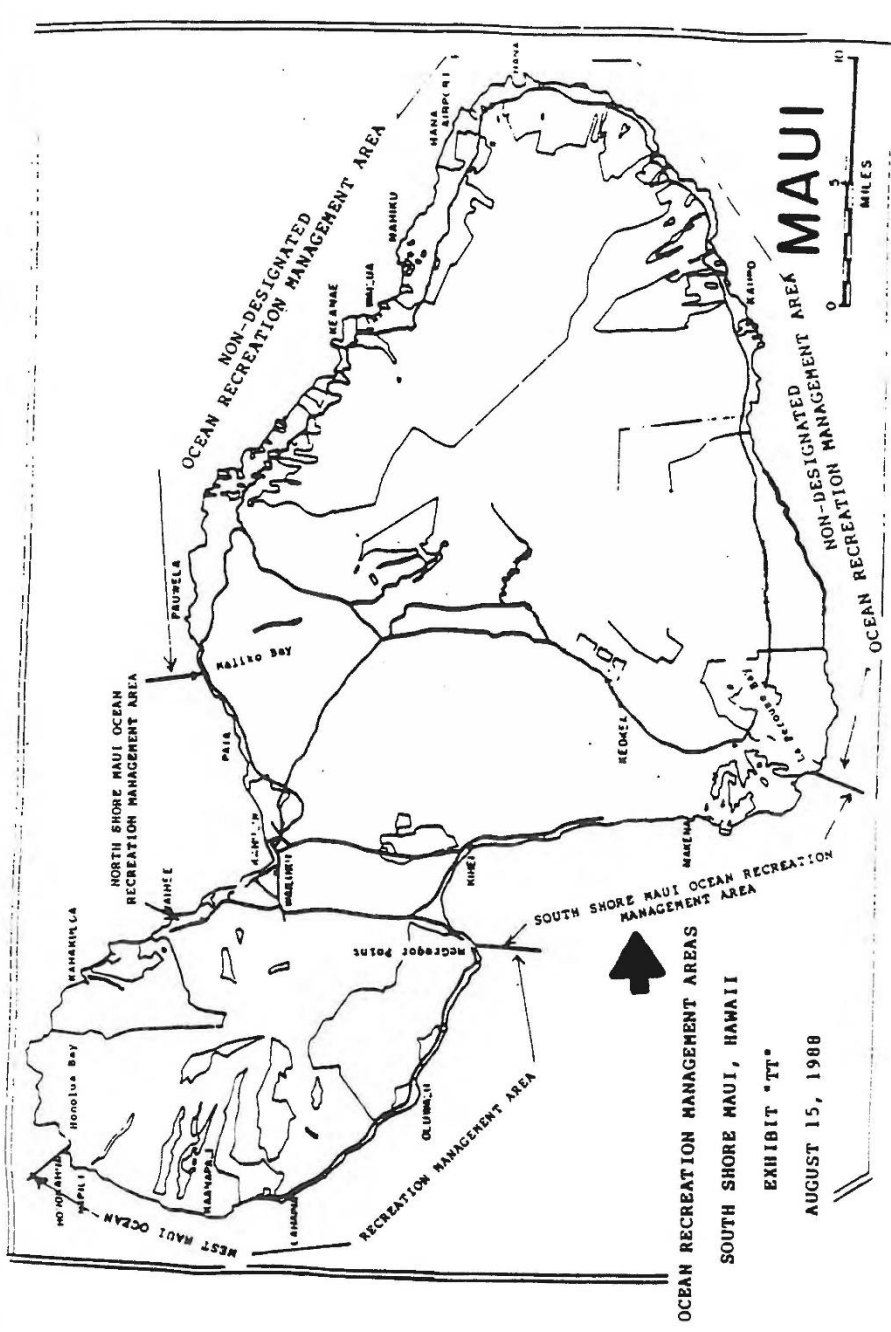


SUBCHAPTER 8

SOUTH MAUI OCEAN RECREATION MANAGEMENT AREA

§13-256-116 Definition. [~~The~~] "South Maui Ocean Recreation Management Area" means all ocean waters and navigable streams from the eastern boundary of La Perouse Bay to McGregor Point, Maui, Hawaii, extending three thousand feet seaward of the territorial sea base line as shown on Exhibit "TT", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; am and comp \_\_\_\_\_] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§§13-256-117 to 13-256-125 (Reserved)



OCEAN RECREATION MANAGEMENT AREAS  
 SOUTH SHORE MAUI, HAWAII  
 EXHIBIT "TT"  
 AUGUST 15, 1980

SUBCHAPTER 9

NORTH MAUI OCEAN RECREATION MANAGEMENT AREA

§13-256-126 Definition. [~~The~~] "North Shore Maui Ocean Recreation Management Area" means all ocean waters and navigable streams from the eastern boundary of Maliko Bay to Waihee Point, Maui, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "VV", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; am and comp \_\_\_\_\_] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-127 Hookipa Restricted Zones. [~~(a)~~] Zones A, B, C, and D, Hookipa restricted zones means the areas confined by the boundaries shown [~~for said zones~~] on Exhibit "WW", dated August 20, 1988, located at the end of this subchapter. The boundaries are as follows:

~~[(b) Zone A,]~~ (1) Hookipa restricted Zone[-] A boundaries are as follows:

~~[(1)]~~ Beginning at a point at the low water mark at the northern tip of Hookipa Point; thence measured clockwise from True South, 075 degrees for a distance of seven hundred fifty feet; 360 degrees to the boundary of Zone D; then along the boundary of Zone D and the low water mark of the shoreline to the point of beginning.

~~[(2) Restriction.]~~ Restrictions. Zone A is designated for swimming and surfing only. No person shall operate a sailboard or other water craft within this area.

~~[(c) Zone B,]~~ (2) Hookipa restricted Zone[-] B boundaries are as follows:

~~[(1)]~~ Beginning at a point at the low water mark at the northern tip of Hookipa Point; thence measured clockwise from True South,

to a beginning point in the water 075 degrees for a distance of seven hundred fifty feet; then continuing at 075 degrees for a distance of five hundred fifty feet; 360 degrees to the shoreline; then along the shoreline to Zone D and along the boundary of Zone D to the boundary of Zone A; then by straight line north to the point of beginning.

~~[(2) Restriction.]~~ Restrictions. Zone B is designated for surfing when at least five or more persons (5-man rule) are engaged in surfing within this zone. No person shall operate a sailboard within this zone within the surf break area.

~~[(d) Zone C.]~~ (3) Hookipa restricted Zone ~~[.]~~ C boundaries are as follows:

~~[(1)]~~ Beginning at a point at the low water mark at the northern tip of Hookipa Point; thence measured clockwise from True South, to a beginning point in the water 075 degrees for a distance of thirteen hundred feet; then continuing at 075 degrees for a distance of four hundred seventy-five feet; 360 degrees to the shoreline; then along the shoreline to the boundary of Zone B; then by straight line north to the point of beginning.

~~[(2) Restriction.]~~ Restrictions. Zone C is designated for surfing when at least ten or more persons (10-man rule) are engaged in surfing within this zone. No person shall operate a sailboard within this zone within the surf break area. Access for sailboards between the surf break and the shoreline shall be provided at all times.

~~[(e) Zone D.]~~ (4) Hookipa restricted Zone D boundaries are as follows:

~~[(1)]~~ Beginning at a point at the low water mark three hundred ninety feet from the western boundary of Hookipa Beach Park, thence measured clockwise from True South;

180 degrees for a distance of one hundred feet; 270 degrees for a distance of four hundred ten feet; 238 degrees for a distance of five hundred forty feet; then in a straight line to the shoreline; then along the shoreline to the point of beginning.

~~[(2) Restriction.]~~ Restrictions. Zone D is designated for pole and net fishing. No person shall operate a sailboard within this zone. [Eff 2/24/94; am and comp  
] (Auth: HRS §§200-2, 200-3, 200-4)  
(Imp: HRS §§200-2, 200-3, 200-4)

§13-256-128 Baldwin Park-Paia Bay Restricted Area. (a) ~~[The]~~ Baldwin Park-Paia Bay restricted area means the area confined by the boundaries shown ~~[for said zone]~~ on Exhibit "XX/YY", dated August 23, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark at the northern tip of Fly Water Point, then by azimuth measured clockwise from True South, 157 degrees for a distance of five hundred feet; 070 degrees for a distance of six thousand two hundred feet; 344 degrees to the low water mark of the shoreline; then along the low water mark of the shoreline in an easterly direction to the point of beginning.

(b) Restrictions. ~~[The]~~ Baldwin Park-Paia Bay restricted area is designated for swimming, diving, and fishing. No person shall operate a motor at a speed in excess of slow-no-wake, or operate a sailboard within this area. [Eff 2/24/94; am and comp  
] (Auth: HRS §§200-2, 200-3, 200-4)  
(Imp: HRS §§200-2, 200-3, 200-4)

§13-256-129 Papa'ula Point Restricted Zone. (a) Papa'ula Point Restricted Zone ~~[mean]~~ means the area confined by the boundaries shown ~~[for said zone]~~ on

Exhibit "ZZ", dated August 22, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark being an extension of the east boundary of Kahului Airport thence by azimuth measured clockwise from True South; 155 degrees for a distance of one thousand six hundred seventy-five feet, 120 degrees for a distance of four hundred fifty feet; 080 degrees for a distance of nine hundred twenty-five feet; 350 degrees to the low water mark of the shoreline, then along the shoreline in an easterly direction to the point of beginning.

(b) [~~Restriction.~~] Restrictions. Papa'ula Point restricted zone is designated for fishing and diving. No person shall operate a vessel or sailboard within this area. Windsurfing access west of the restricted zone shall be permitted after 11:00 a.m. [~~Eff~~ 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-130 Kanaha Beach Park Restricted Zones.

(a) Kanaha Beach Park Swimming Zones A, B, and C mean the areas confined by the boundaries shown [~~for said zones~~] on Exhibit "AAA", dated August 20, 1988, located at the end of this subchapter. The boundaries are as follows:

[~~(b)~~] (1) The boundaries of Swimming Zone A [~~are~~]  
are as follows:

[~~(1)~~] Beginning at a point at the low water mark in line and being an extension of the east boundary of Kanaha Beach Park; thence by azimuth measured clockwise from True South, 180 degrees for a distance of three hundred feet; 228 degrees for a distance of seven hundred ten feet; 315 degrees to a point at the low water mark at the shoreline; then along the low water mark of the shoreline of Kanaha Beach

Park in a westerly direction to the point of beginning.

~~[-e-]~~ (2) The boundaries of Swimming Zone B ~~[-]~~ are as follows:

~~[-1-]~~ Beginning at a point at the low water mark at the tip of the groin located by azimuth measured clockwise from True South, 093 degrees for a distance of four hundred seventy feet from the east boundary of Kanaha Beach Park; 135 degrees for a distance of three hundred ten feet; 047 degrees for a distance of six hundred feet; 350 degrees to a point at the low water mark at the shoreline; then along the low water mark of the shoreline of Kanaha Beach Park in a easterly direction to the point of beginning.

~~[-d-]~~ (3) The boundaries of Swimming Zone C ~~[-]~~ are as follows:

~~[-1-]~~ Beginning at a point at the low water mark at the northeast tip of the groin located by azimuth measured from True South, 090 degrees for a distance of one hundred fifty feet from the west boundary of Kanaha Beach Park; 180 degrees for a distance of three hundred feet; 248 degrees for a distance of eight hundred thirty feet; 315 degrees to a point at the low water mark at the shoreline; then along the low water mark of the shoreline of Kanaha Beach Park in a westerly direction to the point of beginning.

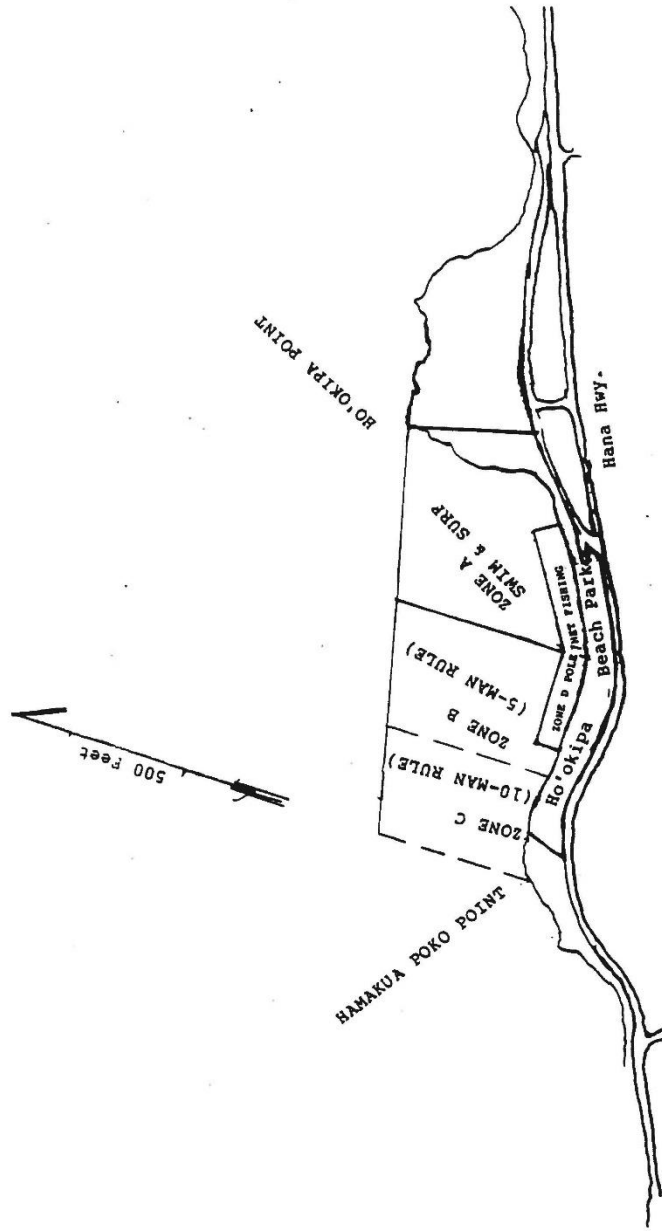
~~[-e-]~~ (b) Restrictions. ~~[The]~~ Kanaha Beach Park swim zones A, B, and C are designated for swimming only. No person shall operate a vessel or sailboard within these zones. No person shall launch a sailboard from Kanaha Beach Park prior to 11:00 a.m., except that windsurfing instruction and beginning windsurfing may be conducted within three hundred feet of the shoreline between swimming zones A and B after 9:00

a.m.[-] [Eff 2/24/94; am and comp ]  
(Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2,  
200-3, 200-4)

§§13-256-131 to 13-156-139 (Reserved)







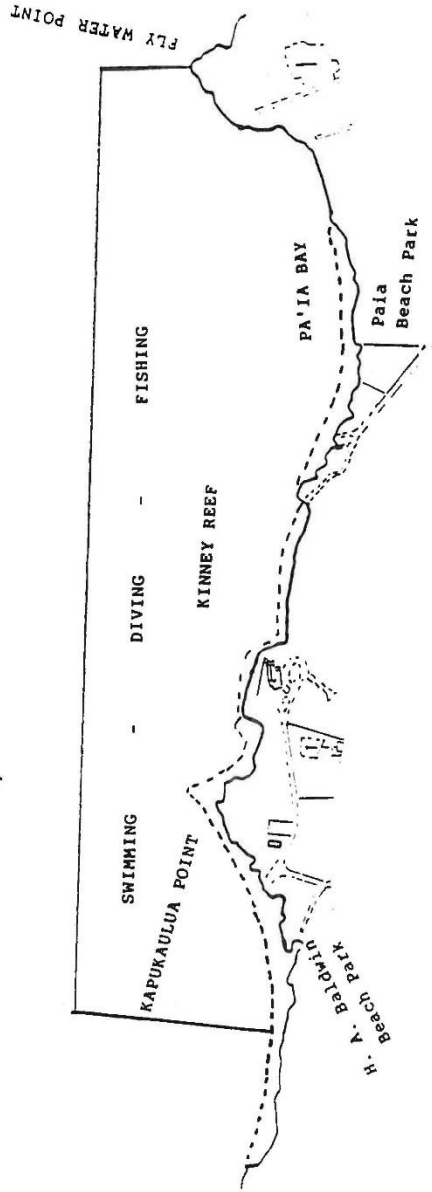
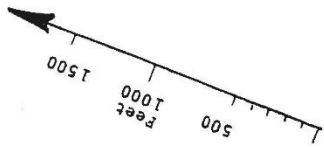
OCEAN RECREATION MANAGEMENT AREAS

HOOKIPA BAY, HAWAII

EXHIBIT "WW"

AUGUST 20, 1988

1730

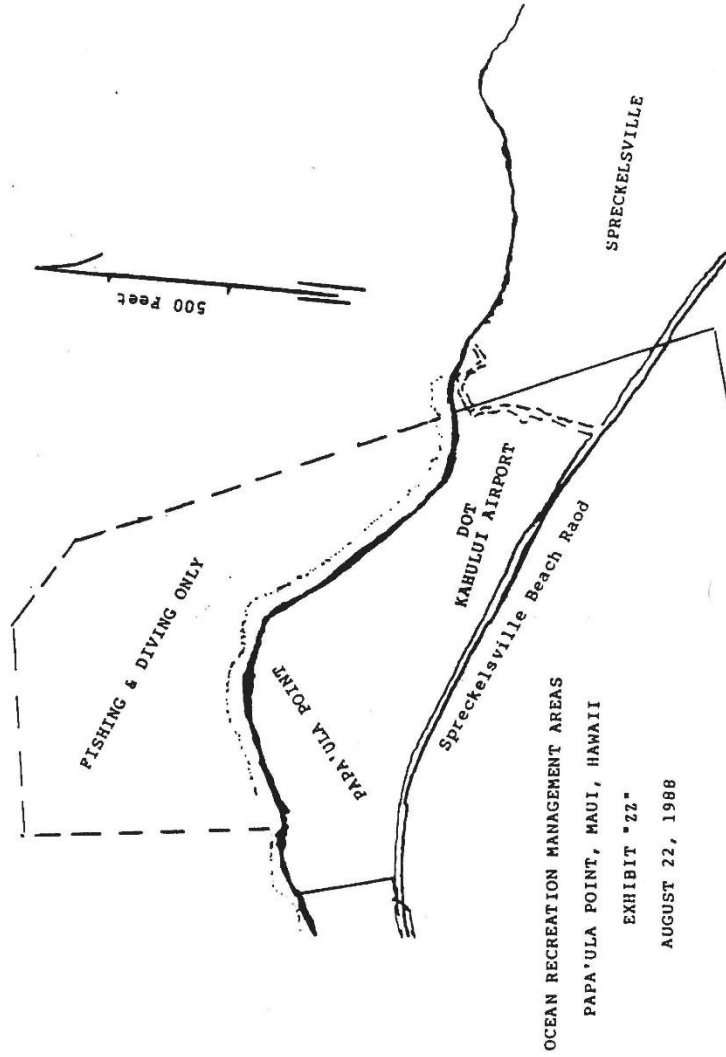


OCEAN RECREATION MANAGEMENT AREAS

H. A. BALDWIN PARK - PAIA BAY RESTRICTED AREA  
 MAUI, HAWAII

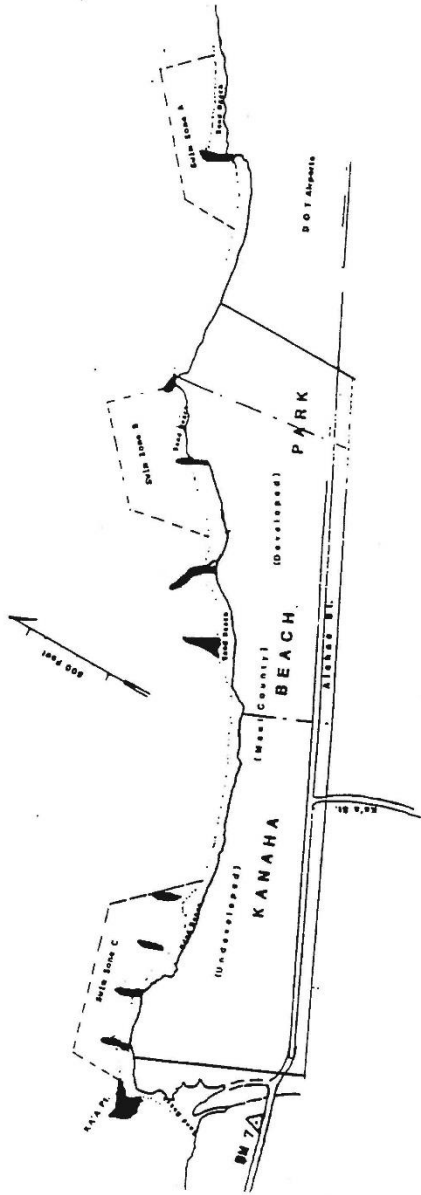
EXHIBIT "XX/YY"  
 AUGUST 23, 1988

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OCEAN RECREATION MANAGEMENT AREAS  
 PAPA'ULA POINT, MAUI, HAWAII  
 EXHIBIT "22"  
 AUGUST 22, 1988

1780



OCEAN RECREATION MANAGEMENT AREAS  
 KANAHA BEACH PARK, MAUI, HAWAII  
 EXHIBIT "AAA"  
 AUGUST 20, 1988

SUBCHAPTER 10

EAST HAWAII ISLAND OCEAN RECREATION MANAGEMENT AREA

§13-256-140 Definition. [~~The~~] "East Hawaii Ocean Recreation Management Area" means all ocean waters and navigable streams from Leleiwi Point, South Hilo, to Pepeekeo Point, North Hilo, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "BBB", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-141 Hilo Bay Recreational Thrill Craft Zone. (a) Hilo Bay recreational thrill craft zone means the area confined by the boundaries shown on Exhibit "CCC", dated June 30, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point at the low water mark which is three thousand six hundred feet east of the tip of Hilo Breakwater; then by azimuth measured clockwise from True South, 005 degrees for a distance of one thousand one hundred feet; 095 degrees for a distance of three thousand nine hundred feet; 185 degrees for a distance of two thousand feet; 275 degrees for a distance of one thousand one hundred feet; 005 degrees to the low water mark on the seaward side of the breakwater; then along the low water mark to the point of beginning.

(b) Restrictions[÷] . This area is designated a recreational thrill craft zone. No person shall operate a commercial thrill craft in this area. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-22, 200-23, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)

§13-256-142 Waiakea Access Corridor. (a) [~~The~~] Waiakea Access Corridor means the area confined by the boundaries shown on Exhibit "DDD", dated August 19, 1988, located at the end of this subchapter. The boundaries of the corridor are as follows:

Beginning at a point at the low water mark at the north tip of the Wailoa River Channel; then by azimuth measured clockwise from True South, 187 degrees for a distance of four hundred fifty feet; 097 degrees for a distance of one hundred fifty feet; 007 degrees for a point at the low water mark of the shoreline; then along the shoreline to the point of beginning.

(b) Restrictions[+] . The corridor is for access to the beach from Hilo Bay for recreational thrill craft and waterski activities. No person shall operate a commercial thrill craft or waterski activity in this corridor. [Eff 2/24/94; am and comp

] (Auth: HRS §§200-22, 200-23, 200-24, 200-37)

(Imp: HRS §§200-22, 200-23, 200-24, 200-37)

§13-256-143 Puhi Bay - Leleiwi Point Restricted Zones. (a) [~~Zone A~~.

~~(1)~~] Leleiwi Point Restricted Zone A means the area confined by the boundaries shown on Exhibit "EEE", dated August 19, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point at the low water mark which is an extension of the center line of Pua Avenue; then by azimuth measured clockwise from True South, 220 degrees for a distance of one thousand six hundred feet; 310 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

~~(2)~~] Restrictions. Zone A is designated as a swimming area. No person shall operate or moor a vessel within this area.

- (b) [~~Zone B.~~  
(1)] Leleiwi Point Restricted Zone B means the area confined by the boundaries shown on Exhibit "EEE" dated August 19, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:  
Beginning at a point at the low water mark on the shoreline which is the northeast boundary of Zone A; then by azimuth measured clockwise from True South, 130 degrees for a distance of two hundred feet; 245 degrees for a distance of five hundred feet; 214 degrees for a distance of one thousand feet; 283 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.
- (c) [~~Zone C.~~  
(1)] Leleiwi Point Restricted Zone C means the area confined by the boundaries shown on Exhibit "EEE" dated August 19, 1988, located at the end of this subchapter. The boundaries of Zone C are as follows:  
Beginning at a point at the low water mark on the shoreline of Keokea Point; then by azimuth measured clockwise from True South, 245 degrees for a distance of five hundred feet; 270 degrees for a distance of one thousand eight hundred feet; 359 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.
- (d) [~~Zone D.~~  
(1)] Leleiwi Point Restricted Zone D means the area confined by the boundaries shown on Exhibit "EEE" dated August 19, 1988, located at the end of this subchapter. The boundaries of Zone D are as follows:  
Beginning at a point at the low water mark of Mahikea Island; then by azimuth



measured clockwise from True South, 318 degrees for a distance of four hundred fifty feet; 290 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

~~[(2)]~~ Restrictions. Zones B, C, and D are designated as a diving, swimming and surfing zones. No person shall operate or moor a vessel, except at a speed of slow-no-wake or when diving with dive flag displayed.

(e) ~~[Zone E-~~

~~(1)]~~ Leleiwi Point Restricted Zone E means the area confined by the boundaries shown on Exhibit "EEE", dated August 19, 1988, located at the end of this subchapter. The boundaries of Zone E are as follows:

Beginning at a point at the low water mark of the shoreline by azimuth measured clockwise from True South, 054 degrees for a distance of five hundred feet from Richardson's Ocean Center; 045 degrees for a distance of two hundred feet; 074 degrees for a distance of four hundred feet; 177 degrees for a distance of eight hundred feet; 260 degrees to the low water mark on the shoreline; then along the low water mark to the point of beginning.

~~[(2)]~~ Restrictions. Zone E is designated as a surfing, canoeing, kayaking, diving, and swimming zone. No person shall operate or moor a vessel within this zone, except at a speed of slow-no-wake or when diving with dive flag displayed.

(f) ~~[Zone F-~~

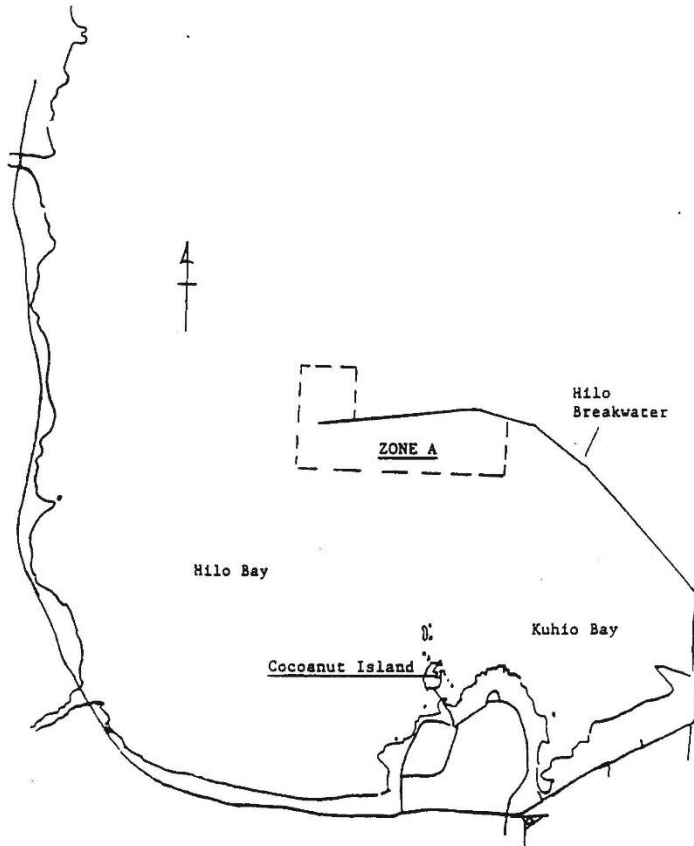
~~(1)]~~ Leleiwi Point Restricted Zone F means the area confined by the boundaries shown on Exhibit "EEE", dated August 19, 1988, located at the end of this subchapter. The boundaries of Zone F are as follows:

Beginning at a point at the low water mark of the shoreline which is the southeast boundary of Zone E; then along the low water mark to the southwest boundary of Zone E; then along the southern boundary of Zone E to the point of beginning.

[~~(2)~~] Restrictions. Zone F is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone.  
[Eff 2/24/94; am and comp  
] (Auth: HRS §§200-2, 200-3, 200-4)  
(Imp: HRS §§200-2, 200-3, 200-4)

§§13-256-144 to 13-256-149 (Reserved)



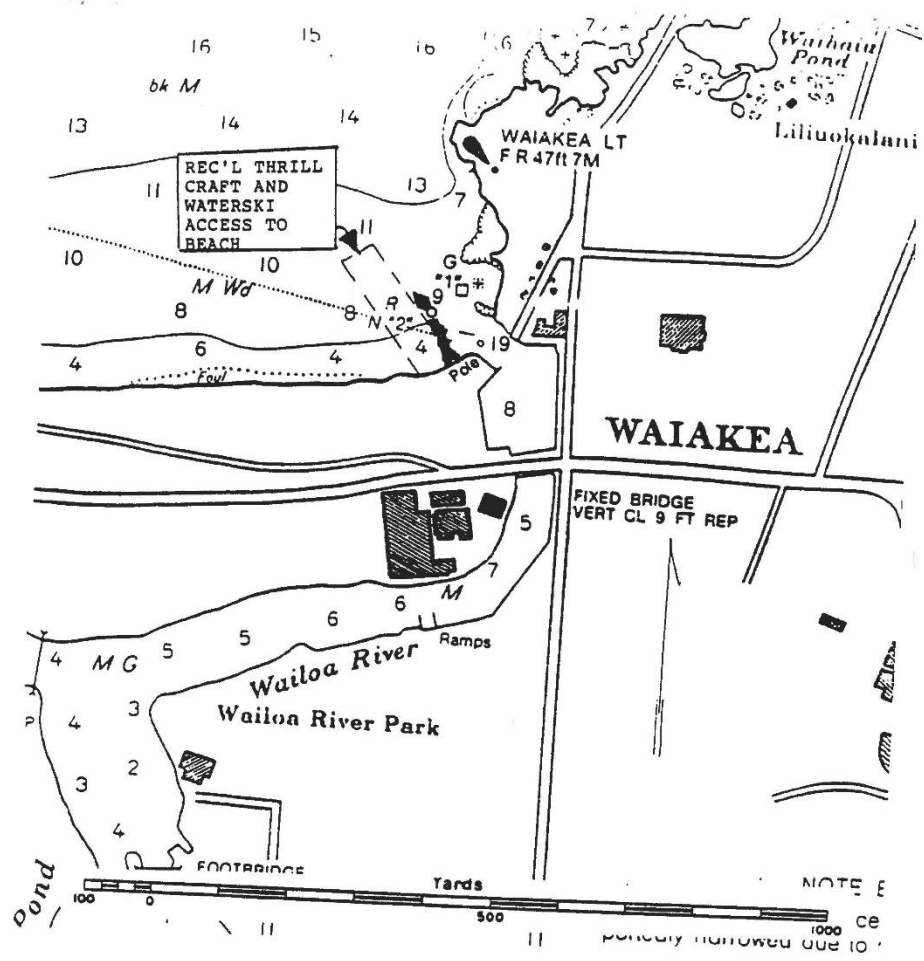


OCEAN RECREATION MANAGEMENT AREAS

HILO BAY, HAWAII, HAWAII  
 RECREATIONAL THRILL CRAFT ZONE  
 EXHIBIT "CCC"

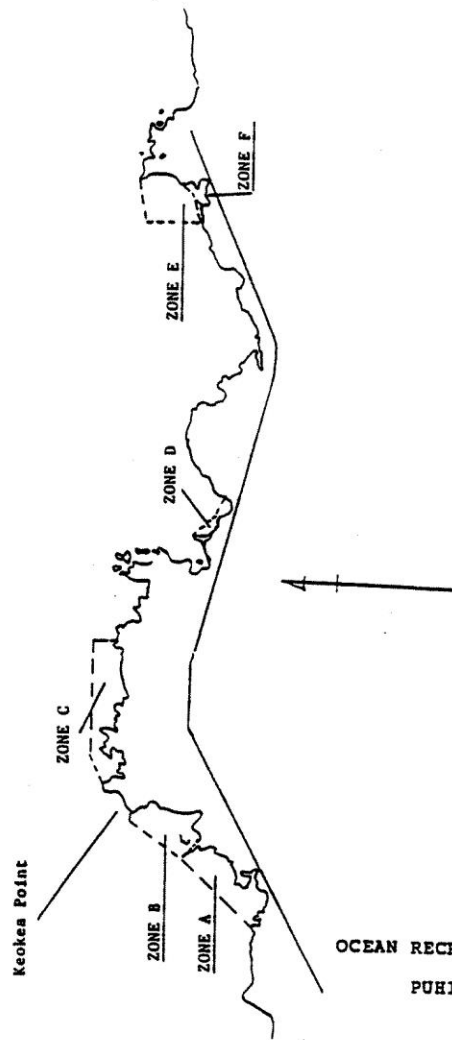
JUNE 30, 1988

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OCEAN RECREATION MANAGEMENT AREAS  
 HILO BAY, HAWAII, HAWAII  
 WAIAKEA ACCESS CORRIDOR  
 EXHIBIT "DDD"  
 AUGUST 19, 1988

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OCEAN RECREATION MANAGEMENT AREAS 3

PUHI BAY/LELEWI POINT  
HAWAII, HAWAII

EXHIBIT "EEE"

AUGUST 19, 1988

SUBCHAPTER 11

WEST HAWAII ISLAND OCEAN RECREATION MANAGEMENT AREA

§13-256-150 Definition. [~~The~~] "West Hawaii Ocean Recreation Management Area" means all ocean waters and navigable streams from the southernmost boundary of Honaunau Bay, South Kona, to the north west boundary of Honokoa Gulch, North Kohala, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "FFF", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-151 Honaunau Bay Swimming Zone. (a) Honaunau Bay Swimming Zone means the area confined by the boundaries shown on Exhibit "GGG", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark on the shoreline which is four hundred feet east of Mana Point; then by azimuth measured clockwise from True South, 360 degrees for a distance of four hundred feet; 270 degrees for a distance of nine hundred feet; then along the low water mark to the point of beginning.

(b) Restrictions. Honaunau Bay Swimming Zone is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone. [Eff 2/24/94; comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-152 Kahaluu Bay Swimming Zone. (a) Kahaluu Bay Swimming Zone means the area confined by the boundaries shown on Exhibit "HHH-1", dated February 7, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark of Kalaau o Kalakani Point; then by azimuth measured clockwise from True South, 166 degrees to a point on the low water mark on the northern side of the Kahuluu Bay; then along the shoreline in a southerly direction to the point of beginning.

(b) Restrictions. Kahuluu Bay Swimming Zone is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone. [Eff 2/24/94; comp \_\_\_\_\_] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-153 Kalaepaakai Point Commercial Thrill Craft Zone. (a) Kalaepaakai Point Commercial Thrill Craft Zone [~~A is~~] means the area [~~encompassed~~] confined by the boundaries shown on Exhibit "HHH", dated February 7, 1990, [~~and~~] located at the end of this subchapter, and identified as Zone A. The boundaries are as follows:

Beginning at a point at the low water mark of [~~Kalaepaaki~~] Kalaepaakai Point; then by azimuth measured clockwise from True South, 078 degrees for a distance of seven hundred feet; then on a radius of two hundred feet around that point.

(b) Restrictions. Zone A is designated a commercial thrill craft area. No more than six rental thrill craft shall operate within the area at one time. [Eff 2/24/94; am and comp \_\_\_\_\_] (Auth: HRS §§200-21, 200-22, 200-22, 200-24, 200-37) (Imp: HRS §§200-22, 200-24, 200-37)

§13-256-154 Oneo Bay Swimming Zone. (a) Oneo Bay Swimming Zone means the area confined by the boundaries shown on Exhibit "HHH", dated February 7, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark of Kalaepaakai Point; then by azimuth measured clockwise from True South, 157 degrees to the low



water mark of the shoreline; then along the low water mark to the point of beginning.

(b) Restrictions. Oneo Bay Swimming Zone is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone. [Eff 2/24/94; comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-155 Kailua Bay Restricted Zones. (a) Kailua Bay Restricted Zone B [~~is~~] means the area [~~encompassed~~] confined by the boundaries shown on Exhibit "HHH", dated February 7, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, 341 degrees for a distance of two thousand one hundred ninety feet from the south tip of Kukailimoku Point; then 330 degrees for a distance of three thousand seven hundred fifty feet; 090 degrees for a distance of three thousand eight hundred forty feet; 210 degrees to the point of beginning.

~~[(b)]~~ Restrictions. Kailua Bay Restricted Zone B is designated for parasailing and recreational thrill craft. No person shall operate a commercial thrill craft in this zone. No more than two commercial operating area use permits for parasailing shall be issued for this zone. No permittee shall operate more than one vessel with a parasail aloft at any one time. This zone shall be closed to parasail and all thrill craft operations during the whale season, from December 15 to May 15 of the following year.

~~[(c)]~~ (b) Kailua Bay Restricted Zone C [~~is~~] ~~designated for parasailing and recreational thrill craft. No permittee shall operate more than one parasail vessel at any one time in this zone. This inshore operating zone shall be open to parasail and all thrill craft operations during the whale season from December 15 to May 15 of the following year. The inshore operating zone is the area defined]~~ means the area confined by the boundaries shown on Exhibit

"HHH", dated, February 7, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, measured clockwise from True South, 060 degrees at a distance of six hundred sixty feet from Kalaepaakai Point, then 330 degrees for a distance of three thousand five hundred forty feet; 090 degrees for a distance of one thousand seven hundred forty feet; then in a straight line to the point of beginning.

Restrictions. Zone C is designated for parasailing and recreational thrill craft. No permittee shall operate more than one parasail vessel at any one time in this zone. This zone shall be open to parasail and all thrill craft operations during the whale season from December 15 to May 15 of the following year.

~~[(d)]~~ Zone C shall be closed to parasail and all thrill craft operations from May 15 to December 15 of each year. [Eff 2/24/94; am and comp

] (Auth: HRS §§200-21, 200-22, 200-22, 200-24, 200-37) (Imp: HRS §§200-22, 200-24, 200-37)

§13-256-156 Kailua Pier Restricted Zones. ~~[(a)]~~ Kailua Pier Restricted Zones means the areas ~~[defined by the boundary lines as]~~ confined by the boundaries shown on Exhibit "III", dated June 30, 1988, located at the end of this subchapter. The boundaries and restrictions are ~~[are]~~ as follows:

~~[(b)]~~ (1) Zone A~~[-]~~ :

~~[(1)]~~ Beginning at a point at the low water mark on the east side of Kailua Pier; then by azimuth measured clockwise from True South, 317 degrees for a distance of two hundred twenty feet; 336 degrees for a distance of three hundred twelve feet; 026 degrees 30 minutes for a distance of four hundred sixty-five feet; 158 degrees for a distance of three hundred four feet; 214 degrees for a distance of one hundred eighteen feet to the western seaward edge of Kailua Pier.

~~[(2)]~~ Restrictions. This area is designated for boating use only. Swimming is prohibited.

~~[(e)]~~ (2) Zone B~~[-]~~ :

~~[(1)]~~ Beginning at a point at the low water mark on the east side of Kailua Pier; then by azimuth measured clockwise from True South; 317 degrees for a distance of two hundred twenty feet; 292 degrees for a distance of six hundred eighty-three feet to intersect with the low water mark fronting the western property line of Hulihee Palace; thence along the low water mark to the beginning.

~~[(2)]~~ Restrictions. This area is designated a swimming zone. No person shall operate or moor a vessel within this zone, except for commercial fishing vessels engaged in baitfishing operations. Vessels operating near the shoreline of Kailua Bay between Hulihee Palace and the Kona Hilton Hotel shall exercise caution due to swimming activity. [Eff 2/24/94; am and comp  
] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-157 Honokohau Swimming Zone. (a)  
Honokohau Swimming Zone means the area confined by the boundaries shown on Exhibit "JJJ", dated August 15, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark located by azimuth measured from True South from the N. E. Range Marker at Noio Point 160 degrees for a distance of four hundred seventeen feet; then 243 degrees to a point at the low water mark of the shoreline south of Honokohau Harbor entrance; then along the shoreline in a southwesterly direction to the point of beginning.

(b) Restrictions. Honokohau Swimming Zone is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone. [Eff 2/24/94; comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-158 Kua Bay Swimming Zone. (a) Kua Bay Swimming Zone means the area confined by the boundaries shown on Exhibit "KKK", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark on the shoreline of Papiha Point; then by straight line to the low water mark at Punalua Point; then along the low water mark to the point of beginning.

(b) Restrictions. Kua Bay Swimming Zone is designated as a swimming zone. No person shall operate or moor a vessel, surfboard, sailboard, or other watercraft within this zone. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-159 Kahuwai Bay Restricted Zone. (a) Kahuwai Bay restricted zone means the area confined by the boundaries shown on Exhibit "KKK", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark on the shoreline of southern boundary of the bay; then by azimuth measured clockwise from True South, 225 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

(b) Restrictions. Kahuwai Bay is designated a slow-no-wake zone. No person shall operate a vessel at a speed in excess of slow-no-wake. [Eff 2/24/94; comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-160 Kiholo Bay Speed Zone. (a) Kiholo Bay Speed Zone means the area confined by the boundaries shown on Exhibit "KKK", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the point on the low water mark of Nawaikulua Point; then by azimuth measured clockwise from True South, 065 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

(b) [~~Restrictions.~~] Restriction. No person shall operate a vessel in excess of a speed of slow-no-wake. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-161 Anaehoomalu Bay Restricted Zones. (a) Anaehoomalu Bay Restricted Zone A[-

~~(1) Zone A]~~ means the area confined by the boundaries shown on Exhibit "LLL", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline by azimuth measured clockwise from True South, 256 degrees for a distance of two hundred ninety feet from the westernmost tip of Lae O Hiiaka Point; then 177 degrees for a distance of six hundred feet; 260 degrees for a distance of three hundred feet; 324 degrees to a point on the low water mark on the shoreline; then along the shoreline in a westerly direction to the point of beginning.

(b) Anaehoomalu Bay Restricted Zone B[-

~~(1) Zone B]~~ means the area confined by the boundaries shown on Exhibit "LLL", dated September 19, 1988, located at the end of

this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline one hundred feet from the westernmost tip of the Kahapapa weir, then by azimuth measured clockwise from True South, 077 degrees for a distance of five hundred seventy-five feet; 155 degrees to a point on the low water mark on the shoreline; then along the shoreline in a southeasterly direction to the point of beginning.

(c) Restrictions. Anaehoomalu Bay Restricted Zones A and B are designated for swimming and diving only. No person shall operate or moor a vessel within these zones.

(d) Zone C, Ingress/egress corridor

~~[(1) Zone C]~~ means the area confined by the boundaries shown on Exhibit "LLL", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark of the shoreline one hundred fifty feet from the westernmost tip of the Kahapapa weir, then by azimuth measured clockwise from True South, 065 degrees for a distance of six hundred fifty feet; 000 degrees for a distance of one hundred fifty feet; 245 degrees to a point on the low water mark on the shoreline; then along the shoreline in a northerly direction to the point of beginning.

(e) Restriction. Zone C is designated an ingress/egress corridor for vessels and sailboards. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-162 Makaiwa Bay Swimming Zones. (a) Makaiwa Bay Swimming Zone A[-

~~(1) Zone A~~] means the area confined by the boundaries shown on Exhibit "MMM", dated July 10, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark of the shoreline on the northwestern tip to the entrance of the boat ramp; then by azimuth measured clockwise from True South, 110 degrees for a distance of seven hundred ten feet to a point of low water of the shoreline; then along the shoreline in a south and easterly direction to the point of beginning.

(b) Makaiwa Bay Swimming Zone B[-

~~(1) Zone B~~] means the area confined by the boundaries shown on Exhibit "MMM", dated July 10, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark of the shoreline on the northeastern tip to the entrance of the boat ramp; then by azimuth measured clockwise from True South, 226 degrees for a distance of five hundred forty feet to a point of low water of the shoreline; then along the shoreline in a south and westerly direction to the point of beginning.

(c) Restrictions. [~~The~~] Makaiwa Bay swimming zones A and B are designated for swimming and diving only. No person shall operate or moor a motor vessel within this zone. [Eff 2/24/94; am and comp

] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-163 Hapuna Bay Swimming Zone. (a) [~~The~~] Hapuna Bay Swimming Zone means the area confined by the boundaries shown on Exhibit "NNN", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, by azimuth measured clockwise from True South, 311 degrees

for a distance of four hundred feet; 268 degrees to a point on the low water mark of the shoreline; then along the low water mark in a southerly direction for a distance of one thousand three hundred feet; 088 degrees for a distance of one hundred feet; then by a straight line to the point of beginning.

(b) Restrictions. The Hapuna Bay Swimming Zone is designated for swimming and diving. No person shall operate or moor a motorized vessel, within this zone. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-164 Kaunaoa Bay Restricted Zones. (a)

Zone A, Kaunaoa Bay Swimming Zone[~~-~~

~~(1) Zone A]~~ means the area confined by the boundaries shown on Exhibit "NNN", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the northern boundary of Kaunaoa Beach five hundred forty feet from Kaaha Point, then in a straight line to the southern boundary of Kaunaoa Beach; then along the low water mark of the shoreline to the point of beginning.

[~~(2)~~] Restrictions. The Kaunaoa Bay Swimming Zone is designated as a swimming and diving zone. No person shall operate or moor a motorized vessel within this zone.

(b) Zone B, Kaunaoa Bay Ingress/Egress Corridor[~~-~~

~~(1) Zone B]~~ means the area confined by the boundaries shown on Exhibit "NNN", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:



Beginning at a point on the water which is measured clockwise by azimuth from True South, 360 degrees for a distance of five hundred fifty feet from the northern boundary of Kaunaoa Beach; 270 degrees to the low water mark of the shoreline; then along the shoreline in a southerly direction for one hundred fifty feet to the point of the northern boundary of the swimming zone; 090 degrees coincident to the northern swimming zone boundary to its seaward point; then in a straight line to the point of beginning.

~~[-(2) Restriction.]~~ Restrictions. Zone B is designated an ingress/egress corridor to the beach for commercial motorized vessels. No person shall operate a vessel in excess of slow-no-wake within this zone. [Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-165 Makako Bay Manta Ray Viewing Zone.

(a) "Makako Bay Manta ray viewing Zone" means the area confined by the boundaries shown on exhibit "FFF1", dated xx, 2018, located at the end of this subchapter and incorporated herein. The boundaries are as follows:

Beginning at 19°44'26.5956"N, 156°3'15.6168"W; then in a clockwise direction along a path five feet seaward of the shoreline to 19°43'53.7456"N, 156°3'31.9176"W; then to the point of beginning. The Makako Bay Manta ray viewing Zone campfire, shown on exhibit "XX" shall be located at [coord], [coord].

(b) Restrictions. During manta ray viewing hours, Makako Bay Manta Ray Viewing Zone is designated for swimming and diving only. Except as otherwise provided in section 13-256-26, no person shall navigate a vessel within Makako Bay Manta Ray Viewing

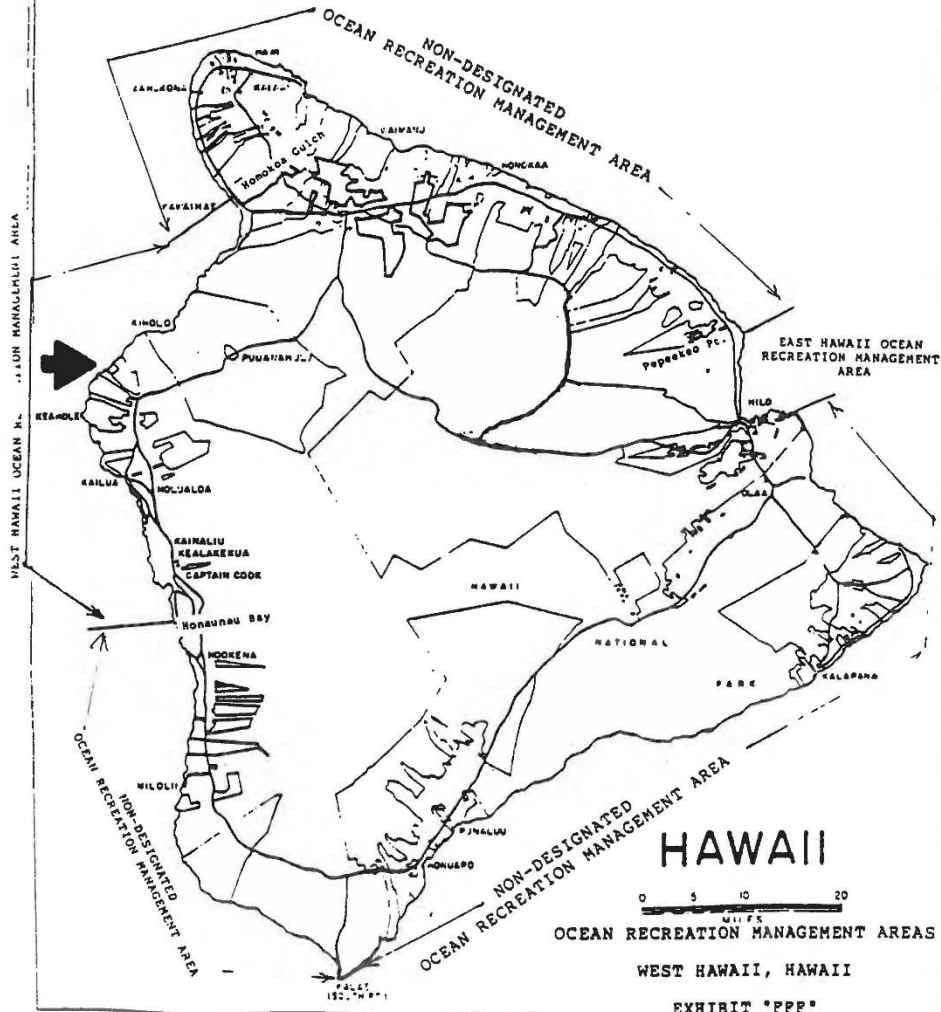
Zone during manta ray viewing hours. [Eff  
] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS  
§§200-2, 200-3, 200-4)

§13-256-166 Kaukalaelae Point Manta Ray Viewing Zone. (a) "Kaukalaelae Point Manta ray viewing Zone" means the area confined by the boundaries shown on exhibit "FFF2", dated xx, 2018, located at the end of this subchapter and incorporated herein. The boundaries are as follows:

Beginning at 19°33'40.5864"N, 155°57'57.7944"W;  
then in a clockwise direction along a path five  
feet seaward of the shoreline to 19°33'22.2912"N,  
155°57'58.446"W; then in a clockwise direction to  
19°33'22.3848"N, 155°58'12.1944"W; then in a  
clockwise direction to 19°33'40.0932"N,  
155°58'10.9236"W; then to the point of beginning.  
The Kaukalaelae Point Manta ray viewing Zone  
campfire, shown on exhibit "XX" shall be located  
at [coord], [coord].

(b) Restrictions. During manta ray viewing  
hours, Kaukalaelae Point Manta Ray Viewing Zone is  
designated for swimming and diving only. Except as  
otherwise provided in section 13-256-26, no person  
shall navigate a vessel within Kaukalaelae Point Manta  
Ray Viewing Zone during manta ray viewing hours." [Eff  
] (Auth: HRS §§200-2, 200-3, 200-4)  
(Imp: HRS §§200-2, 200-3, 200-4)

§§13-256-167 to 13-256-175 (Reserved)



**HAWAII**

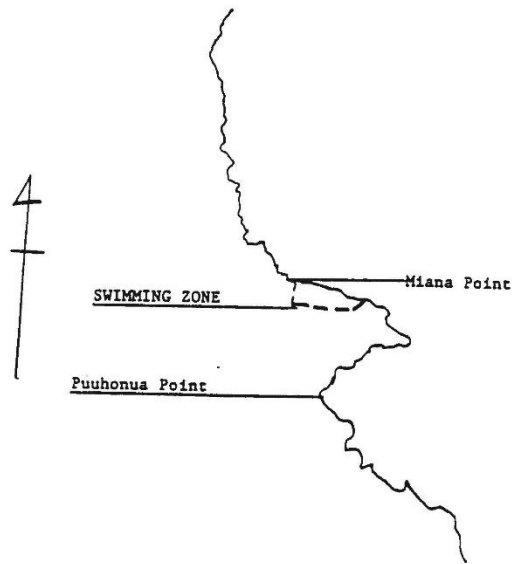
OCEAN RECREATION MANAGEMENT AREAS

WEST HAWAII, HAWAII

EXHIBIT "PPP"

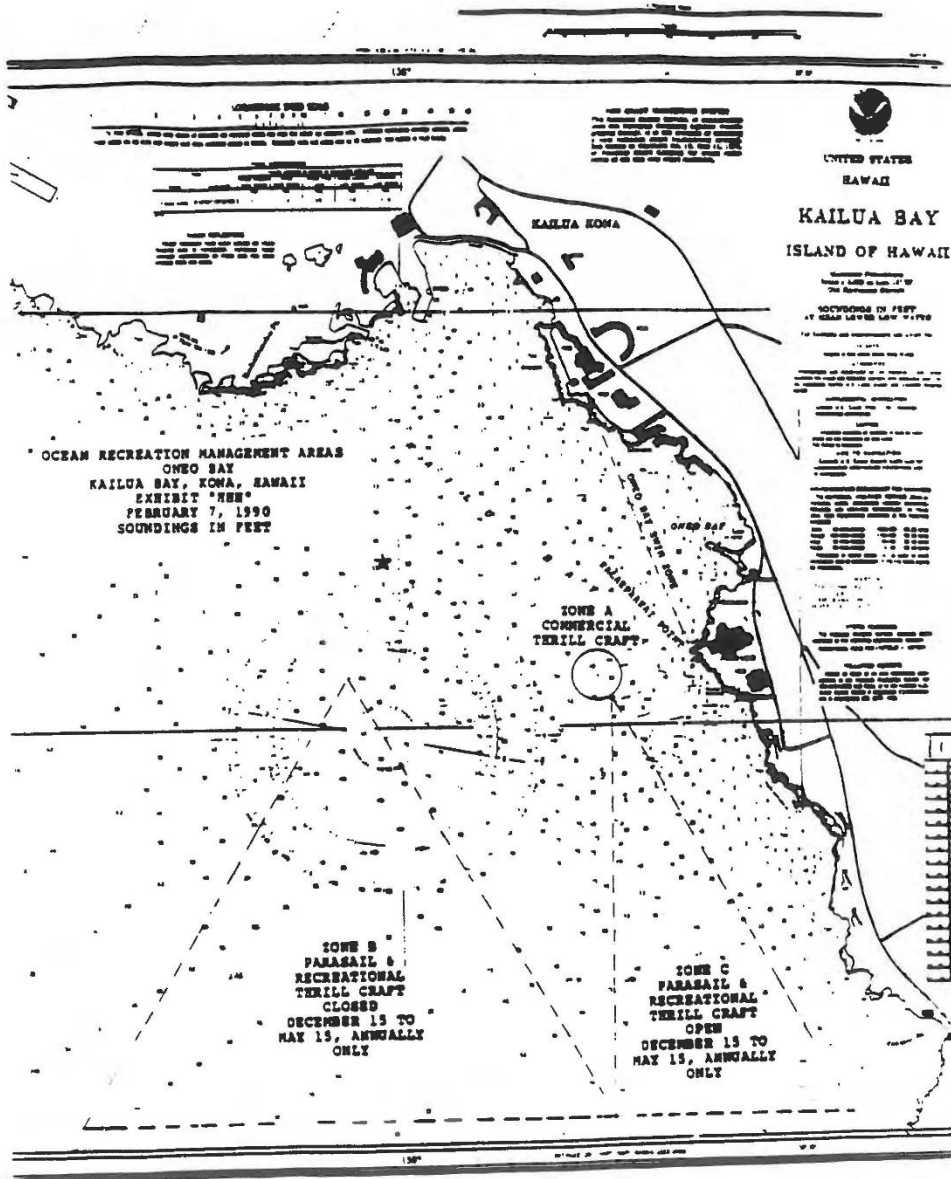
AUGUST 15, 1988

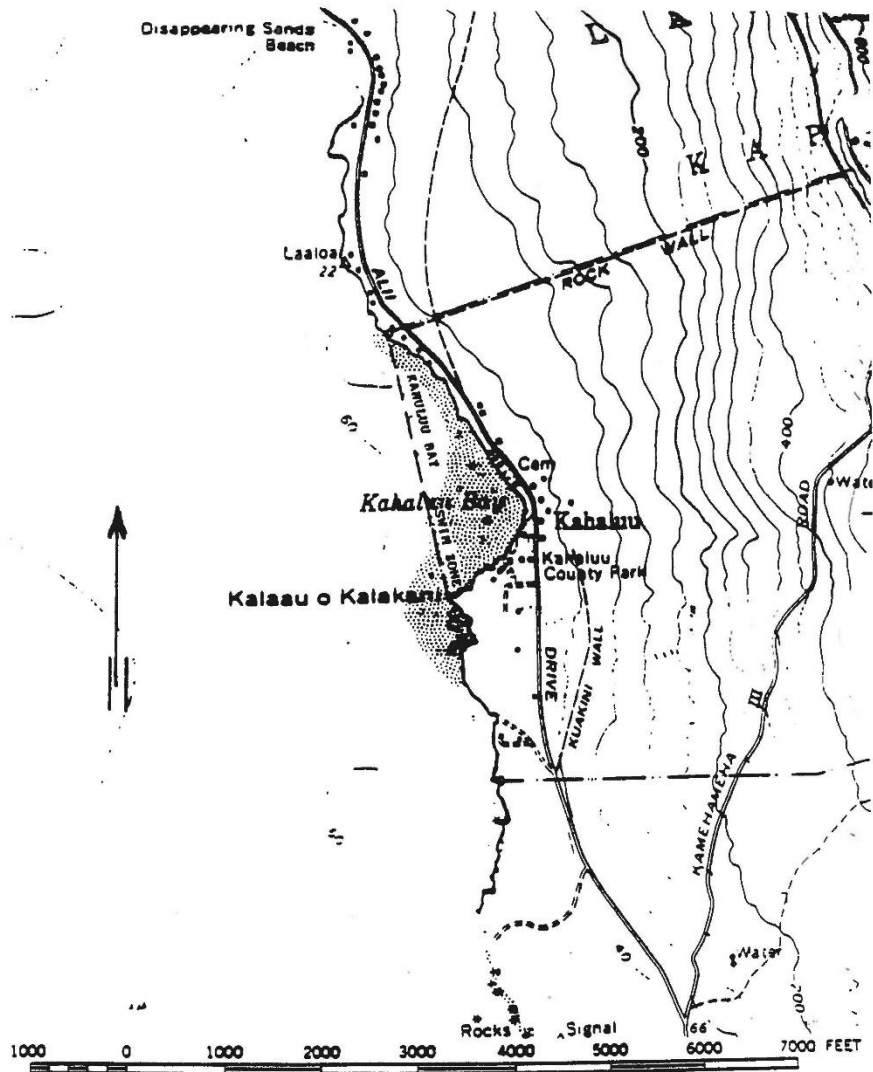
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OCEAN RECREATION MANAGEMENT AREAS  
HONAUNAU BAY, HAWAII, HAWAII  
EXHIBIT "GGG"  
JUNE 30, 1988

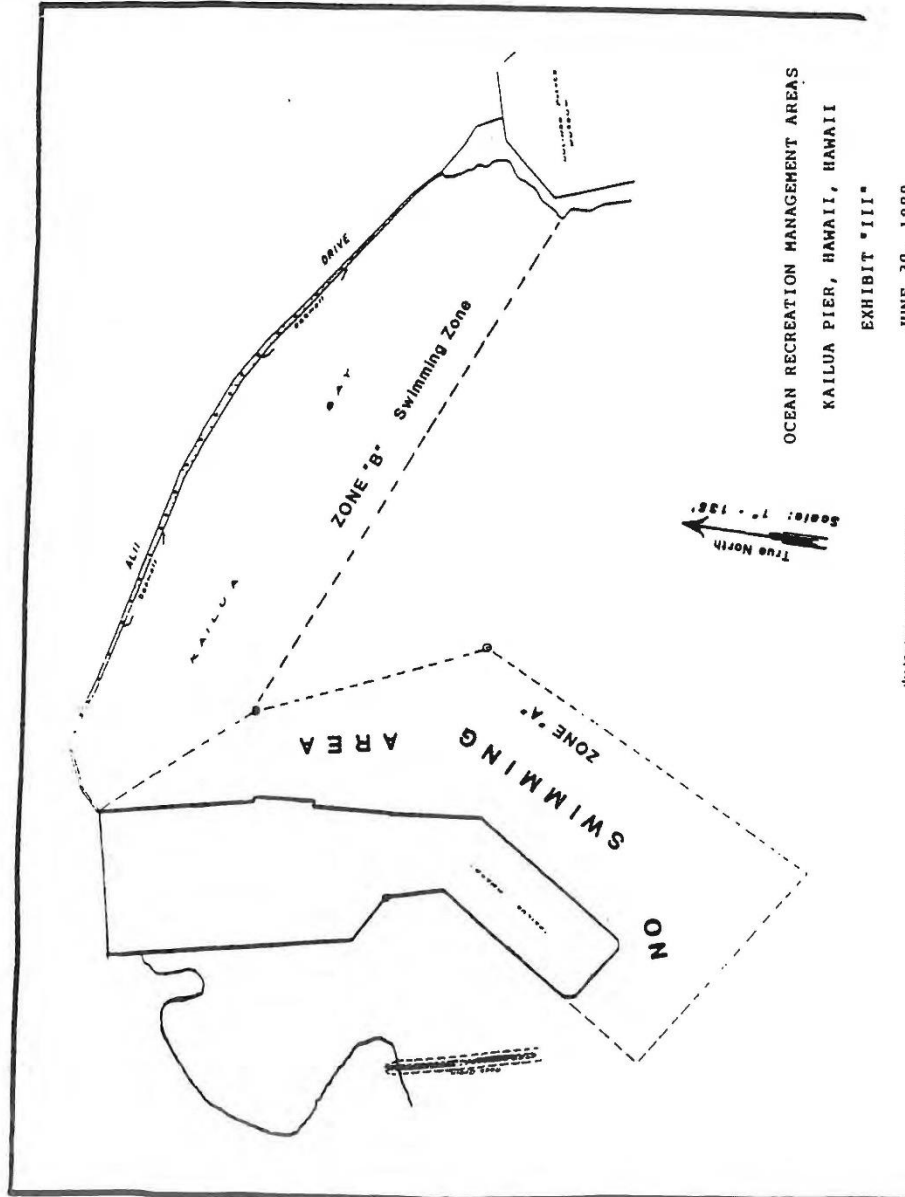
1730 1



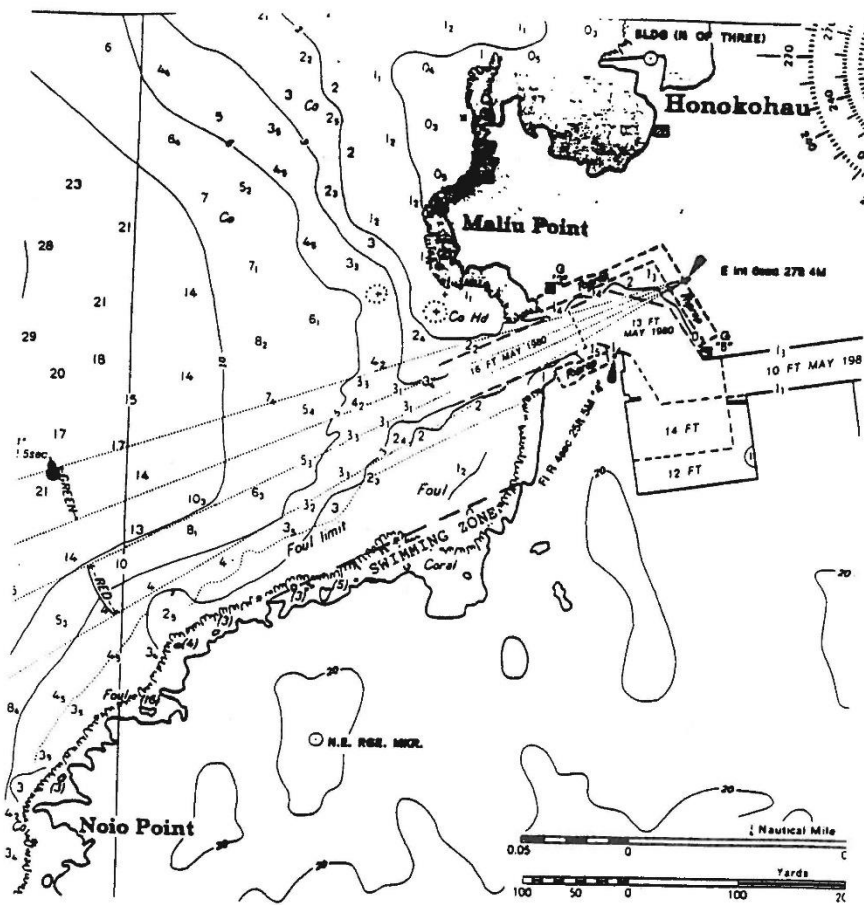


OCEAN RECREATION MANAGEMENT AREAS  
 KAHALUU BAY  
 NORTH KONA, HAWAII  
 EXHIBIT "HHH1"  
 FEBRUARY 7, 1990  
 SOUNDINGS IN FEET

1730



1730



OCEAN RECREATION MANAGEMENT AREAS

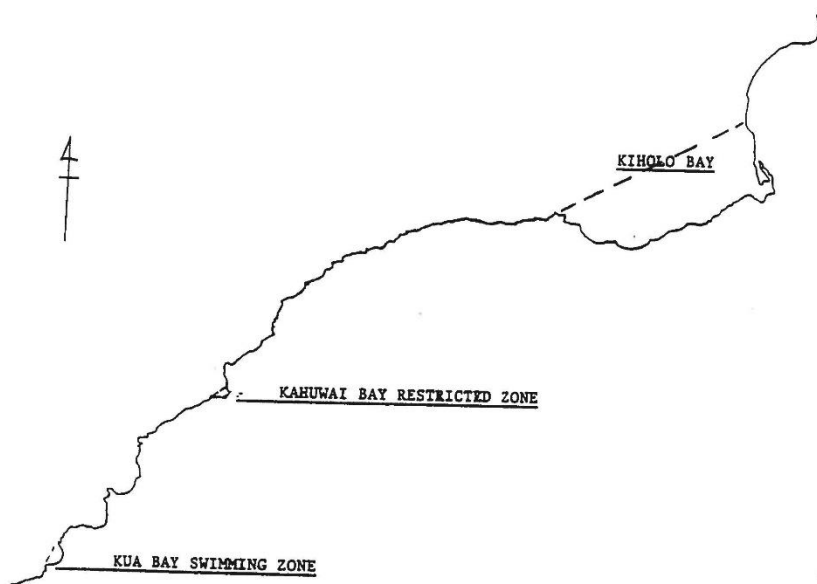
HONOKOHAU, HAWAII, HAWAII

EXHIBIT "JJJ"

AUGUST 15, 1988

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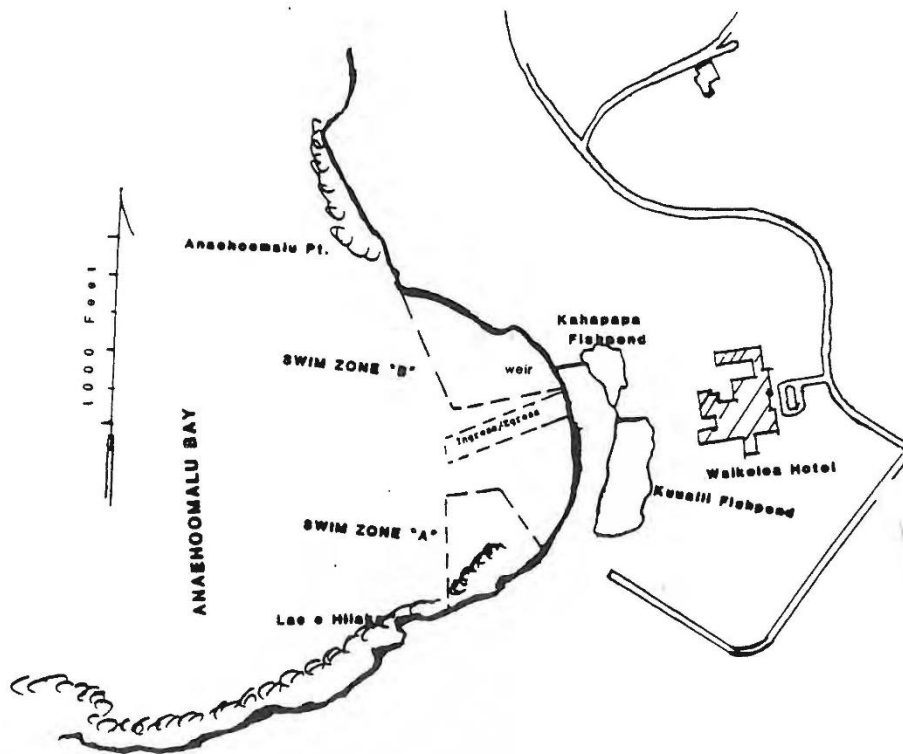
OCEAN RECREATION MANAGEMENT AREAS

KUA BAY  
KAHUWAI BAY  
KIHOLO BAY  
HAWAII, HAWAII

EXHIBIT "KKK"

SEPTEMBER 19, 1988

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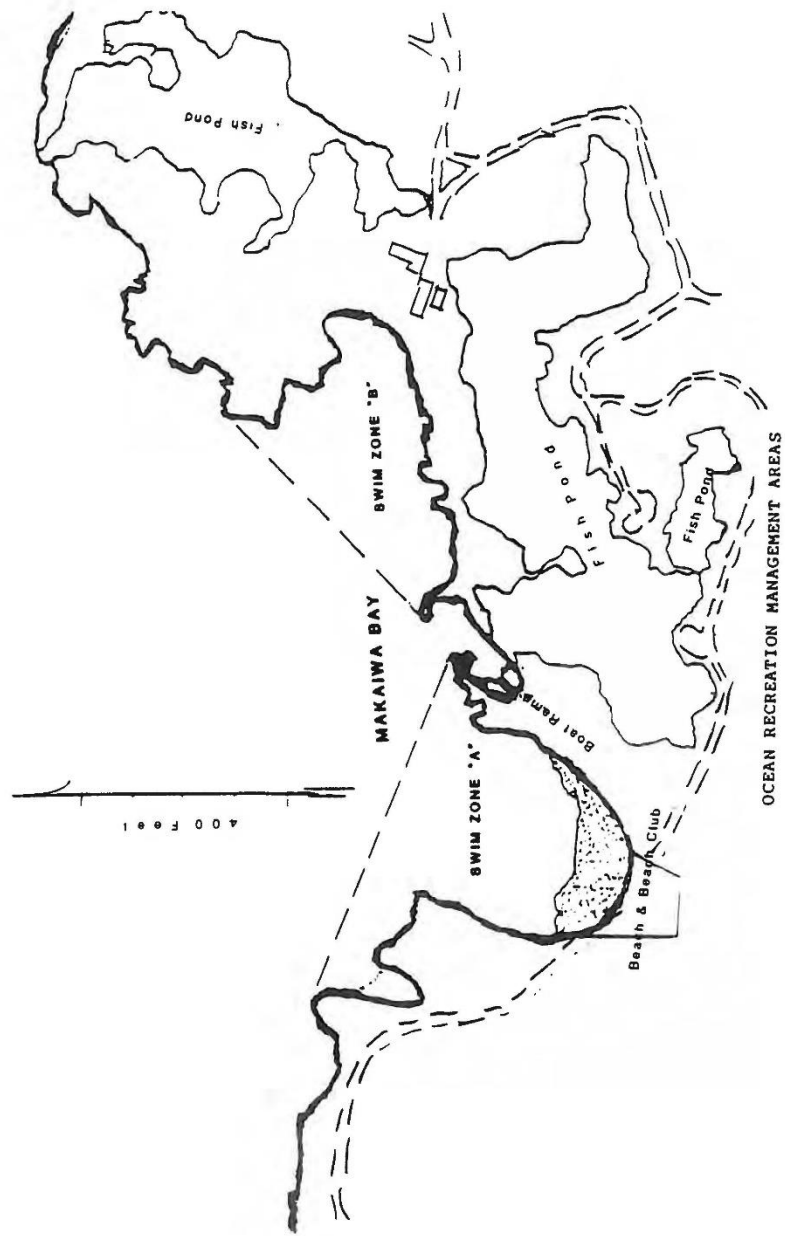


OCEAN RECREATION MANAGEMENT AREAS

ANAEOOMALU BAY  
HAWAII, HAWAII

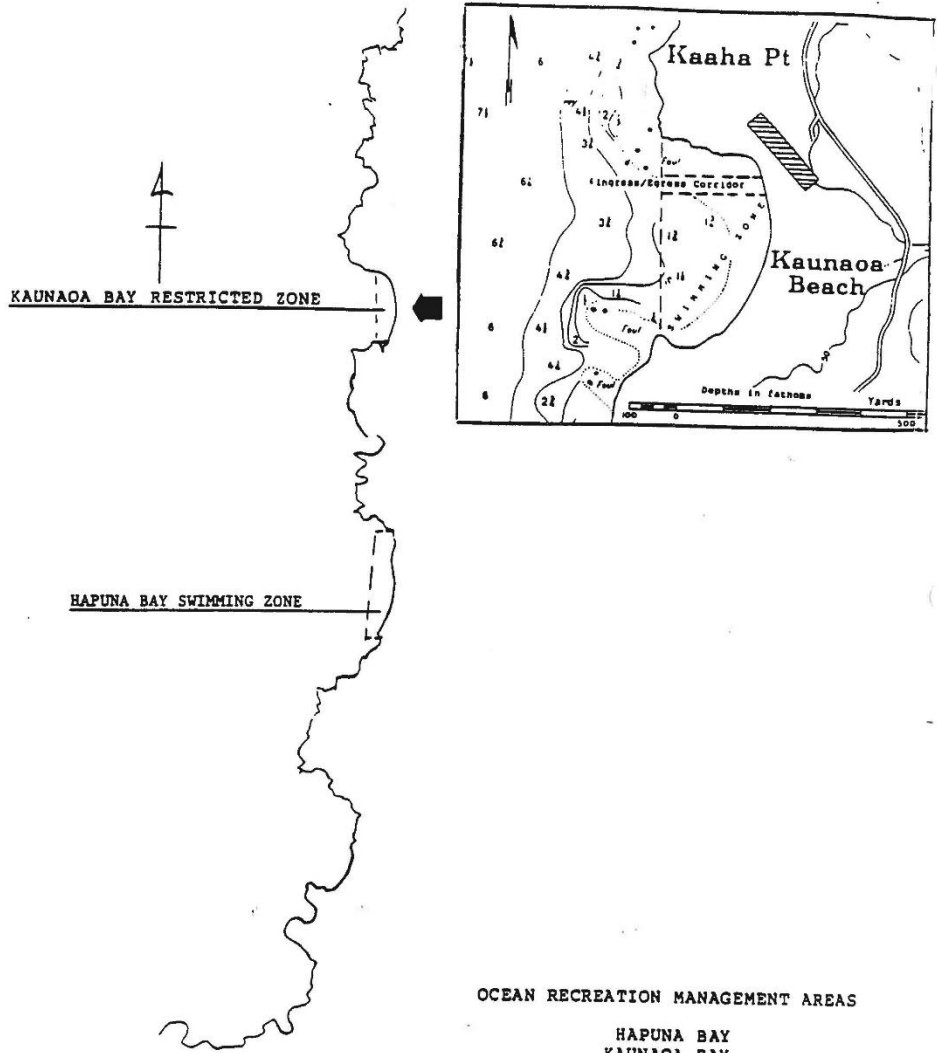
EXHIBIT "LLL"

SEPTEMBER 19, 1988



MAKAIWA BAY  
 HAWAII, HAWAII  
 EXHIBIT "MMH"  
 JULY 10, 1988

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OCEAN RECREATION MANAGEMENT AREAS

HAPUNA BAY  
 KAUNAOA BAY  
 HAWAII, HAWAII

EXHIBIT "NNN"

SEPTEMBER 19, 1988

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3. Chapter 13-257, Hawaii Administrative Rules, is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 11

OCEAN RECREATION AND COASTAL AREAS

PART III

OCEAN WATERS, NAVIGABLE STREAMS AND BEACHES

CHAPTER 257

DAY USE MOORING RULES

Subchapter 1 General Provisions

§13-257-1 Purpose and scope  
§13-257-2 Day use mooring [~~permit~~] buoy installation  
§13-257-3 [~~Time limit~~] Day use mooring locations  
§13-257-4 [~~Anchoring restrictions~~] Day use mooring permit  
§13-257-5 [~~Day use mooring buoy installation~~] Day use mooring limitations  
§13-257-6 Anchoring restrictions  
§13-257-7 Rafting prohibited  
§13-257-8 Liability  
§13-257-9 Safety and enforcement  
§§13-257-10 to 13-257-15 (Reserved)

Subchapter 2 Day Use Moorings, Island of Hawaii

§13-257-16 [~~Kaiholena to Malae Point day use mooring zone~~] Repealed

- §13-257-17 [~~Malae Point to Kaiopae Point day use mooring zone~~] Repealed
- §13-257-18 [~~Pauoa Bay to Honokaope Bay day use mooring zone~~] Repealed
- §13-257-19 [~~Kaauau Point to Kapalaoa Point day use mooring zone~~] Repealed
- §13-257-20 [~~Makako Bay to Kalihi Point day use mooring zone~~] Repealed
- §13-257-21 [~~Wawaloli Beach to Maliu Point day use mooring zone~~] Repealed

Subchapter 3 Day Use Moorings, Island of Maui

§§13-257-36 to 13-257-50 (Reserved)

Subchapter 4 Day Use Mooring Area, Molokini Shoal  
Marine Life Conservation District

- §13-257-51 [~~Molokini~~] Molokini day use mooring area
- §13-257-52 Commercial use restrictions
- §13-257-53 Commercial day use mooring permit fee
- §13-257-54 Recreational vessel use of [~~Molokini~~]  
Molokini day use moorings
- §13-257-55 Speed Restrictions
- §13-257-56 Anchoring restrictions
- §§13-257-57 to 13-257-60 (Reserved)

Subchapter 5 Day Use Moorings, Island of Lanai

§§13-257-61 to 13-257-70 (Reserved)

Subchapter 6 Day Use Moorings, Island of Molokai

§§13-257-71 to 13-257-80 (Reserved)

Subchapter 7 Day Use Moorings, Island of Oahu

§§13-257-81 to 13-257-90 (Reserved)

Subchapter 8 Day Use Moorings, Island of Kauai

§§13-257-91 to 13-257-120 (Reserved)

## SUBCHAPTER 1

### GENERAL PROVISIONS

§13-257-1 Purpose and scope. (a) The purpose of ~~[the]~~ day use mooring rules and zones is to reduce damage to coral and other marine life as a result of continuous use of anchors by commercial and recreational vessels in zones of high dive and mooring activity statewide.

(b) ~~[The rules describe the]~~ This chapter contains provisions for mooring at state day use mooring buoys~~[and the zones where the buoys are located].~~ [Eff 9/16/95; am and comp

] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-2 ~~[Day use mooring permit. An owner of a vessel using a day use mooring established under this chapter shall not be required to apply for a day use mooring permit from the department, except as otherwise provided in this chapter. Any use of a state day use mooring shall be at the sole risk of the owner or operator of the vessel using the mooring.]~~ Day use mooring buoy installation. (a) Design guidelines for day use mooring buoy installation is shown on exhibits "DM-00", "DM-00-A", and "DM-00-B", dated December 16, 1994, located at the end of this subchapter. The department shall adhere to the design guidelines specified in this subsection, and the Board shall have the discretion to approve mooring buoy designs that differ from the guidelines in this section if the Board finds that:

- (1) A specific design offers environmental or structural advantages over those specified in the day use mooring buoy guidelines; and
- (2) Such environmental or structural advantages outweigh any negative impacts to aquatic resources.



(b) For each day use mooring buoy site, the department shall develop a mooring buoy site proposal, subject to approval and modification by the Board, which shall consider:

- (1) Public input;
- (2) Impact upon aquatic resources;
- (3) Use patterns with respect to the proposed site; and
- (4) Any other information relevant to site selection and mooring buoy installation.

[Eff 9/16/95; am and comp  
] (Auth: HRS §§200-2, 200-3, 200-4,  
200-10) (Imp: HRS §200-10)

~~§13-257-3 [Time limit. (a) The time limit for use of a day use mooring buoy by any one vessel shall not exceed two and one half hours when another vessel is waiting for the use of that mooring buoy, except as provided by section 13-37-3 for the old Kona airport marine life conservation district.~~

~~(b) Overnight mooring is prohibited except in case of emergency or by enforcement or rescue craft.] Day use mooring buoy locations. The department shall maintain a listing of sanctioned day use mooring buoys installed in waters of the State. The listing shall be available on the division's website, may be maintained in print form, and shall provide GPS coordinates for the location of each mooring buoy. The department shall make a reasonable effort to ensure that the GPS coordinates on the listing provide an accurate location for each state-owned day use mooring buoy.~~

~~[Eff 9/16/95; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)~~

~~§13-257-4 [Anchoring restrictions. Anchoring is prohibited within one hundred yards of any day use mooring buoy, except as otherwise provided in these rules. Anchoring elsewhere in a day use mooring zone is permitted in areas of sand, rock, or rubble bottom types where no live corals exist.] Day use mooring~~

permit. An owner or operator of a vessel using a day use mooring buoy installed pursuant to this chapter shall not be required to apply for a day use mooring permit from the department, except as otherwise provided in these rules. [Eff 9/16/95; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-5 [~~Day use mooring buoy installation. (a) Design guidelines for a typical day use mooring buoy installation is as shown on Exhibits "DM-00", "DM-00-A" and "DM-00-B", dated December 16, 1994, located at the end of this subchapter.~~] Day use mooring limitations. (a) A vessel using a day use mooring buoy shall not exceed two and one half hours of use when another vessel is waiting for the use of that mooring buoy, except as provided by section 13-37-3 for the old Kona airport marine life conservation district. Calculation of the time limit begins when a vessel attaches to a day use mooring buoy.

(b) Overnight mooring at any day use mooring buoy shall be prohibited. [Eff 9/16/95; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-6 Anchoring restrictions. Unless otherwise provided in these rules, anchoring in a day use mooring zone shall be allowed only in areas of sand, rock, or rubble bottom types where no live corals exist; provided further that anchoring shall be prohibited within two hundred yards of any day use mooring buoy. [Eff ] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

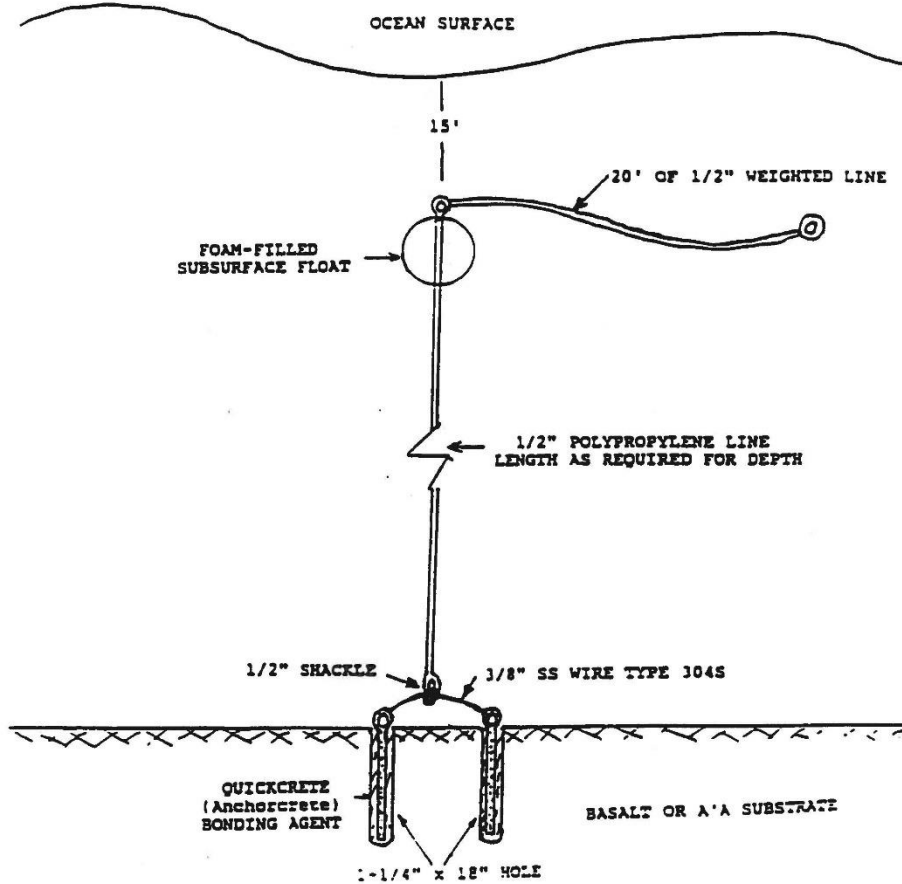
§13-257-7 Rafting prohibited. Rafting any vessel shall be prohibited in any day use mooring zone. [Eff ] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-8 Liability. By using a state-owned day use mooring buoy, a vessel owner or operator assumes the sole risk of using the mooring. The State assumes no liability or responsibility associated with the use of any day use mooring buoys, except as otherwise provided in this chapter. [Eff ]  
(Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-9 Safety and enforcement. The restrictions cited in this chapter shall not apply to the following:

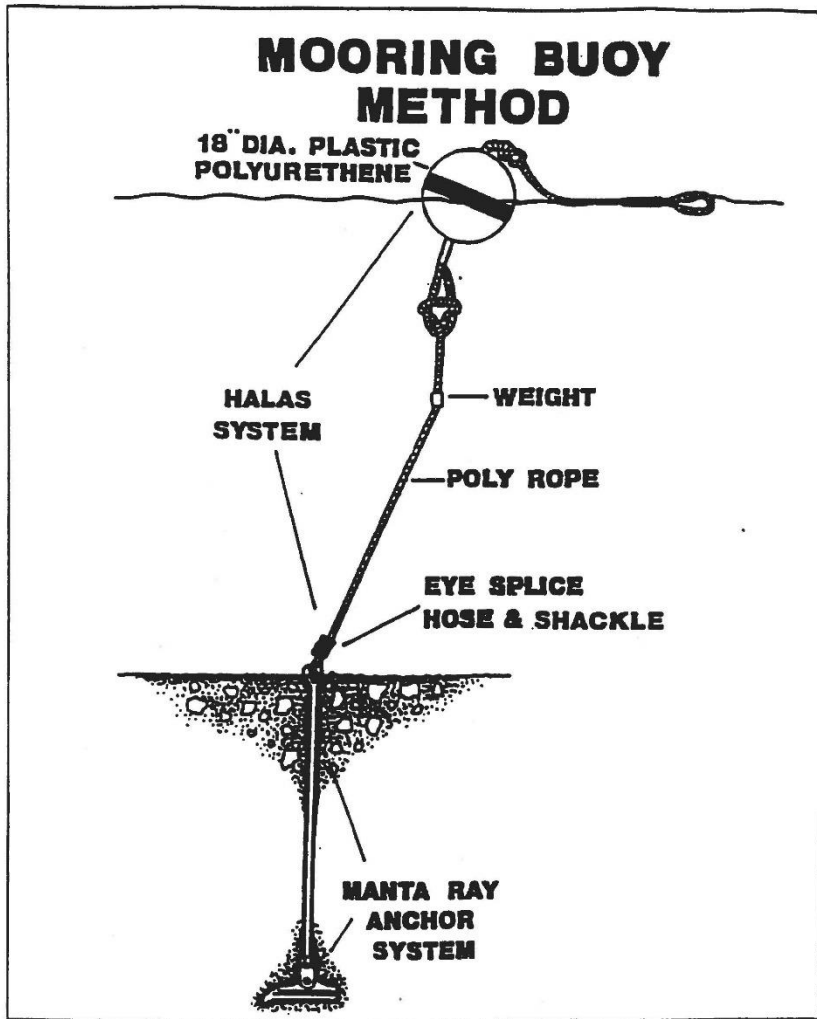
- (1) Emergency situations;
- (2) Law enforcement, patrol, or rescue craft;
- (3) Department vessels and personnel performing official duties;
- (4) Vessels and personnel performing authorized homeland security training operations; and
- (5) The U.S. Coast Guard. [Eff ] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §§200-2, 200-3, 200-10)

§§13-257-10 to 13-257-15 (Reserved)



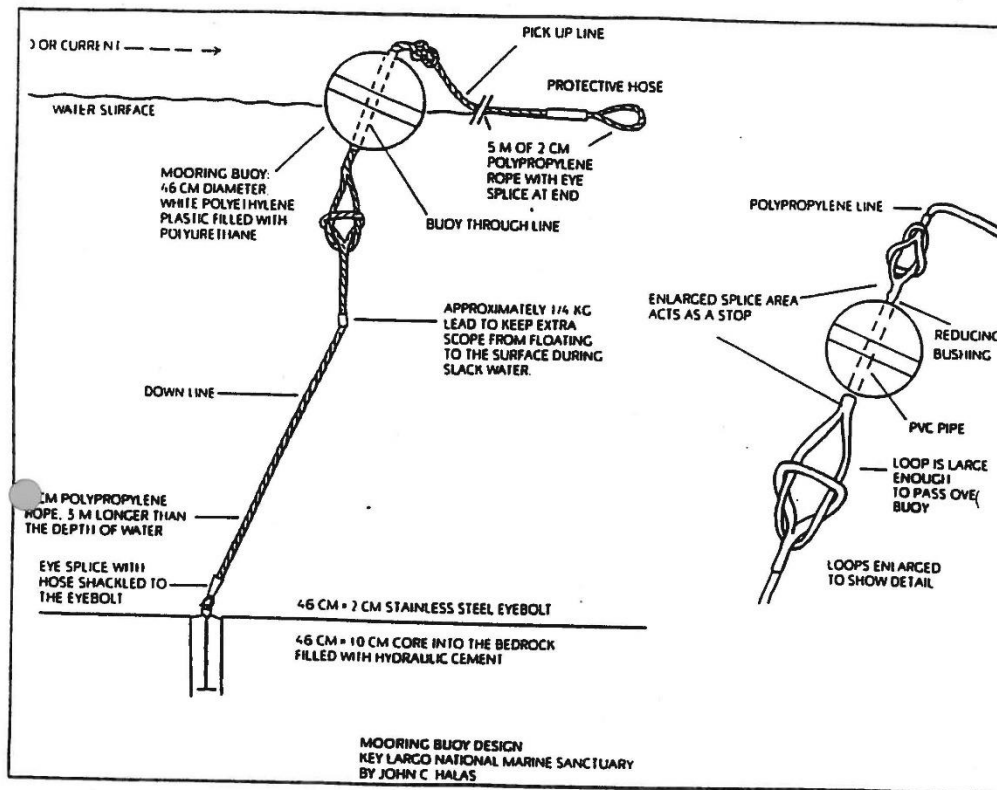
DAY USE MOORING RULES  
 TYPICAL SUB-SURFACE DAY USE  
 MOORING INSTALLATION  
 EXHIBIT "DM-00"  
 NOVEMBER 15, 1990

1858



DAY USE MOORING RULES  
 TYPICAL SUB-SURFACE DAY USE  
 "MANTA RAY"  
 MOORING INSTALLATION  
 EXHIBIT "DM-00-A"  
 DECEMBER 16, 1994

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DAY USE MOORING RULES  
TYPICAL SURFACE DAY USE  
MOORING INSTALLATION  
EXHIBIT "DM-00-B"  
DECEMBER 16, 1994

1858

SUBCHAPTER 2

DAY USE [~~MOORING,~~] MOORINGS, ISLAND OF HAWAII

~~§13-257-16 Kaiholena to Malae Point day use mooring zone. (a) Kaiholena to Malae Point day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-01" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the tip of Malae Point and measured by azimuth clockwise from True South; 050 degrees for a distance of four hundred seventy-five feet; 161 degrees for a distance of four thousand eight hundred fifty feet; 150 degrees for a distance of two thousand feet; 167.5 degrees for a distance of seven thousand three hundred thirty feet; 246.5 degrees to the high water mark at the shoreline; then along the shoreline to the point of beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

~~(1) Buoy "DM-01" located at a point on the water measured by azimuth clockwise from True South, 152.5 degrees for a distance of four thousand four hundred fifty feet from the southwest tip of Keaweula Bay.~~

~~(2) Buoy "DM-02" located at a point on the water measured by azimuth clockwise from True South, 143 degrees for a distance of two thousand eight hundred ten feet from the southwest tip of Keaweula Bay.~~

~~(3) Buoy "DM-03" located at a point on the water measured by azimuth clockwise from True South, 154 degrees for a distance of five hundred ninety feet from the southwest tip of Keaweula Bay.] [Eff 9/16/95; R~~

~~] (Auth: HRS §§200- 2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)~~

~~§13-257-17 Malae Point to Kaiopae Point day use mooring zone. (a) Malae Point to Kaiopae Point day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-02" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the tip of Kaiopae Point and measured by azimuth clockwise from True South; 056 degrees for a distance of six hundred ten feet; 137 degrees for a distance of six thousand five hundred eighty feet; 151 degrees for a distance of forty thousand six hundred feet; 148 degrees for a distance of six thousand nine hundred ninety-five feet; then in a straight line to the high water mark at the Malae Point shoreline; then along the shoreline to the point of beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

- ~~(1) Buoy "DM-04" located at a point on the water measured by azimuth clockwise from True South, 354 degrees for a distance of one thousand feet from the northwest tip of Kalala Gulch Cove.~~
- ~~(2) Buoy "DM-05" located at a point on the water measured by azimuth clockwise from True South, 333 degrees for a distance of two thousand six hundred feet from the northwest tip of Kalala Gulch Cove.~~
- ~~(3) Buoy "DM-06" located at a point on the water measured by azimuth clockwise from True South, 113.5 degrees for a distance of one thousand one hundred feet from the southeast tip of Kamilo Gulch Cove.~~
- ~~(4) Buoy "DM-07" located at a point on the water measured by azimuth clockwise from True South, 001 degrees for a distance of one thousand one hundred feet from the southeast tip of Kamilo Gulch Cove.~~
- ~~(5) Buoy "DM-08" located at a point on the water measured by azimuth clockwise from True South, 314 degrees for a distance of two~~



~~thousand six hundred fifty feet from the southeast tip of Kamilo Gulch Cove.~~

- ~~(6) Buoy "DM-09" located at a point on the water measured by azimuth clockwise from True South, 095 degrees for a distance of one thousand one hundred ten feet from the northwest tip of Keawewai Gulch Cove.] [Eff 9/16/95; R ] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)~~

~~[§13-257-18 Pauoa Bay to Honokaope Bay day use mooring zone. (a) Pauoa Bay to Honokaope Bay day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-03" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the tip of Lae o Panipou Point and measured by azimuth clockwise from True South; 124 degrees for a distance of one thousand two hundred feet; 060 degrees for a distance of two thousand nine hundred twenty feet; 044 degrees for a distance of seven thousand two hundred fifty feet; then in a straight line to the high water mark at the Anachoomalua "trig" shoreline; then along the shoreline to the point of the beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

- ~~(1) Buoy "DM-10" located at a point on the water measured by azimuth clockwise from True South, 081.5 degrees for a distance of one thousand one hundred fifty feet from Keanapukalua Point.~~
- ~~(2) Buoy "DM-11" located at a point on the water measured by azimuth clockwise from True South, 057 degrees for a distance of two thousand feet from Keanapukalua Point.] [Eff 9/16/95; R ] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)~~

~~§13-257-19 Kaauau Point to Kapalaoa Point day use mooring zone.~~ (a) ~~Kaauau Point to Kapalaoa Point day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-04" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the tip of Kaauau Point and measured by azimuth clockwise from True South; 053 degrees for a distance of four thousand one hundred eighty feet; then in a straight line to the high water mark at Kapalaoa Point shoreline; then along the shoreline to the point of beginning.~~

~~(b) The following buoy is within the mooring zone described in this section.~~

~~(1) Buoy "DM-12" located at a point on the water measured by azimuth clockwise from True South, 219 degrees for a distance of three thousand fifty feet from Kapalaoa Point.]~~

~~[Eff 9/16/95; R ] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)~~

~~§13-257-20 Makako Bay to Kalihi Point day use mooring zone.~~ (a) ~~Makako Bay to Kalihi Point day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-05" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the tip of Kalihi Point and measured by azimuth clockwise from True South; 062 degrees for a distance of five hundred fifty feet; 150 degrees for a distance of two thousand nine hundred seventy five feet; 012.5 degrees for a distance of one thousand three hundred twenty five feet; 040 degrees for a distance of three thousand four hundred feet; 270 degrees to the high water mark of the shoreline; then along the shoreline to the point of beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

~~(1) Buoy "DM-13" located at a point on the water measured by azimuth clockwise from True South, 214 degrees for a distance of three thousand two hundred fifty feet from Keahole Lighthouse.~~

~~(2) Buoy "DM-14" located at a point on the water measured by azimuth clockwise from True South, 178 degrees for a distance of one thousand three hundred forty feet from Keahole Lighthouse.] [Eff 9/16/95; R  
] (Auth HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)~~

~~[§13-257-21 Wawaloli Beach to Maliu Point day use mooring zone. (a) Wawaloli Beach to Maliu Point day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-06" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the tip of Maliu Point and measured by azimuth clockwise from True South; 140 degrees for a distance of ten thousand five hundred feet; 158.5 degrees for a distance of four thousand five hundred forty feet; 180 degrees for a distance of two thousand two hundred fifty feet; 151 degrees for a distance of three thousand ninety feet; 242 degrees to the high water mark of the shoreline; then along the shoreline to the point of beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

~~(1) Buoy "DM-15" located at a point on the water measured by azimuth clockwise from True South, 172 degrees for a distance of four thousand three hundred seventy-five feet from Puhili Point.~~

~~(2) Buoy "DM-16" located at a point on the water measured by azimuth clockwise from True~~

~~South, 170 degrees for a distance of two thousand six hundred twenty-five feet from Puhili Point.~~

- ~~(3) Buoy "DM-17" located at a point on the water measured by azimuth clockwise from True South, 152 degrees for a distance of one thousand one hundred fifty feet from Puhili Point.~~
- ~~(4) Buoy "DM-18" located at a point on the water measured by azimuth clockwise from True South, 002 degrees for a distance of nine hundred eighty feet from Puhili Point.~~
- ~~(5) Buoy "DM-19" located at a point on the water measured by azimuth clockwise from True South, 121 degrees for a distance of one thousand six hundred feet from Wawahiwaa Point (Heiau).~~
- ~~(6) Buoy "DM-20" located at a point on the water measured by azimuth clockwise from True South, 073 degrees for a distance of seven hundred fifty feet from Wawahiwaa Point (Heiau).~~
- ~~(7) Buoy "DM-21" located at a point on the water measured by azimuth clockwise from True South, 005 degrees for a distance of seven hundred fifty feet from Wawahiwaa Point (Heiau).~~
- ~~(8) Buoy "DM-22" located at a point on the water measured by azimuth clockwise from True South, 312 degrees for a distance of one thousand four hundred fifty feet from Wawahiwaa Point (Heiau).~~
- ~~(9) Buoy "DM-23" located at a point on the water measured by azimuth clockwise from True South, 143 degrees for a distance of one thousand seven hundred feet from Kaloko Point.~~
- ~~(10) Buoy "DM-24" located at a point on the water measured by azimuth clockwise from True South, 069 degrees for a distance of one thousand one hundred twenty-five feet from Kaloko Point.] [Eff 9/16/95; R~~

] (Auth: HRS §§200-2, 200-3, 200-4,  
200-10) (Imp: HRS §200-10)

~~§13-257-22 Kaiwi Point to Kukailimoku Point day use mooring zone.~~ (a) ~~Kaiwi Point to Kukailimoku Point day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-07" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the tip of Kukailimoku Point and measured by azimuth clockwise from True South, 000 degrees for a distance of nine hundred fifty feet; 117.5 degrees for a distance of seven thousand three hundred eighty feet; 099 degrees for a distance of two thousand five hundred feet; 140 degrees for a distance of three thousand eighty feet; 159 degrees for a distance of one thousand nine hundred feet; 270 degrees to the high water mark of the shoreline; then along the shoreline to the point of beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

- ~~(1) Buoy "DM-25" located at a point on the water measured by azimuth clockwise from True South, 001 degrees for a distance of seven hundred feet from Kaiwi Point.~~
- ~~(2) Buoy "DM-26" located at a point on the water measured by azimuth clockwise from True South, 351 degrees for a distance of one thousand six hundred ninety feet from Kaiwi Point.~~
- ~~(3) Buoy "DM-27" located at a point on the water measured by azimuth clockwise from True South, 115 degrees for a distance of one thousand five hundred fifty feet from Keahuolu Point.~~
- ~~(4) Buoy "DM-28" located at a point on the water measured by azimuth clockwise from True South, 010 degrees for a distance of five hundred feet from Keahuolu Point.~~

- ~~(5) Buoy "DM-29" located at a point on the water measured by azimuth clockwise from True south, 288 degrees for a distance of one thousand three hundred feet from Keahuolu Point.~~
- ~~(6) Buoy "DM-30" located at a point on the water measured by azimuth clockwise from True South, 293 degrees for a distance of three thousand three hundred eighty feet from Keahuolu Point.~~
- ~~(7) Buoy "DM-31" located at a point on the water measured by azimuth clockwise from True south, 113 degrees for a distance of four thousand three hundred ninety feet from Kukailimoku Point.~~
- ~~(8) Buoy "DM-32" located at a point on the water measured by azimuth clockwise from True South, 107 degrees for a distance of two thousand three hundred fifty feet from Kukailimoku Point.~~
- ~~(9) Buoy "DM-33" located at a point on the water measured by azimuth clockwise from True South, 039 degrees for a distance of six hundred feet from Kukailimoku Point.] [Eff 9/16/95; R ] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)~~

~~[§13-257-23 Kuamoo Bay to Paaoao Bay day use mooring zone. (a) Kuamoo Bay to Paaoao Bay day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-08" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the Keauhou Coast "trig station" and measured by azimuth clockwise from True South; 090 degrees for a distance of eight hundred thirty feet; 335 degrees for a distance of eight thousand four hundred feet; 270 degrees to the shoreline of the northwest tip of Paaoao Bay; then along the shoreline to the point of beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

- ~~(1) Buoy "DM-34" located at a point on the water measured by azimuth clockwise from True South, 025 degrees for a distance of eight hundred fifteen feet from the Keauhou Coast "trig station"~~
- ~~(2) Buoy "DM-35" located at a point on the water measured by azimuth clockwise from True South, 087 degrees for a distance of one thousand one hundred feet from Kalanui Point.~~
- ~~(3) Buoy "DM-36" located at a point on the water measured by azimuth clockwise from True South, 073 degrees for a distance of seven hundred feet from Kuamoo Point.~~
- ~~(4) Buoy "DM-37" located at a point on the water measured by azimuth clockwise from True South, 115 degrees for a distance of one thousand seventy-five feet from Leinokano Point.] [Eff 9/16/95; R ]  
(Auth: HRS §§200-2, 200-3, 200-4, 200-10)  
(Imp: HRS §200-10)~~

~~[\$13-257-24 Paaao Bay to Cook Point day use mooring zone. (a) Paaao Bay to Cook Point day use mooring zone is encompassed by the boundaries as shown on Exhibit "DM-09" dated November 15, 1990, located at the end of this subchapter and described as follows:~~

~~Beginning at a point at the high water mark at the northwest tip of Paaao bay and measured by azimuth clockwise from True South; 090 degrees for a distance of one thousand seventy-five feet; 015.5 degrees for a distance of five thousand nine hundred fifty-five feet; 329 degrees for a distance of eight thousand five hundred fifty feet; 009 degrees for a distance of three thousand three hundred feet; 335 degrees for a distance of one thousand nine hundred feet; 295 degrees for a distance of four thousand six hundred ninety feet; 213 degrees to the high~~

~~water mark at Cook Point; then along the shoreline to the point of beginning.~~

~~(b) The following buoys are within the mooring zone described in this section.~~

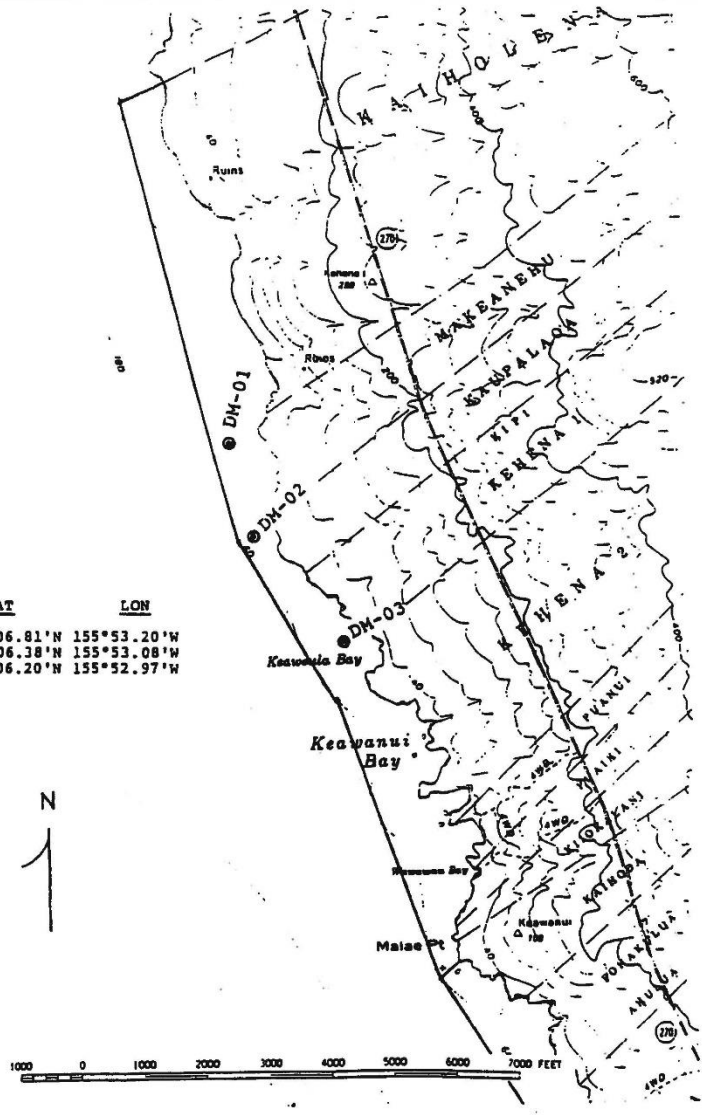
- ~~(1) Buoy "DM-38" located at a point on the water measured by azimuth clockwise from True South, 156 degrees for a distance of nine hundred eighty feet from Paaaoa Point.~~
- ~~(2) Buoy "DM-39" located at a point on the water measured by azimuth clockwise from True South, 090 degrees for a distance of eight hundred feet from Paaaoa Point.~~
- ~~(3) Buoy "DM-40" located at a point on the water measured by azimuth clockwise from True South, 155 degrees for a distance of eight hundred feet from Kekeiwaha Point.~~
- ~~(4) Buoy "DM-41" located at a point on the water measured by azimuth clockwise from True South, 069 degrees for a distance of seven hundred fifty feet from Keikiwaha Point.~~
- ~~(5) Buoy "DM-42" located at a point on the water measured by azimuth clockwise from True South, 130 degrees for a distance of two thousand seven hundred ten feet from the Puu Ohau "trig station".~~
- ~~(6) Buoy "DM-43" located at a point on the water measured by azimuth clockwise from True South, 075 degrees for a distance of one thousand six hundred seventy five feet from the Puu Ohau "trig station".~~
- ~~(7) Buoy "DM-44" located at a point on the water measured by azimuth clockwise from True South, 000 degrees for a distance of two thousand one hundred feet from the Keauhou Coast "trig station".~~
- ~~(8) Buoy "DM-45" located at a point on the water measured by azimuth clockwise from True South, 181 degrees for a distance of two thousand nine hundred ninety feet from Keawekaheha Point.~~
- ~~(9) Buoy "DM-46" located at a point on the water measured by azimuth clockwise from True~~



~~South, 168 degrees for a distance of one thousand three hundred fifty feet from Keawekaheha Point.] [Eff 9/16/95; R ] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)~~

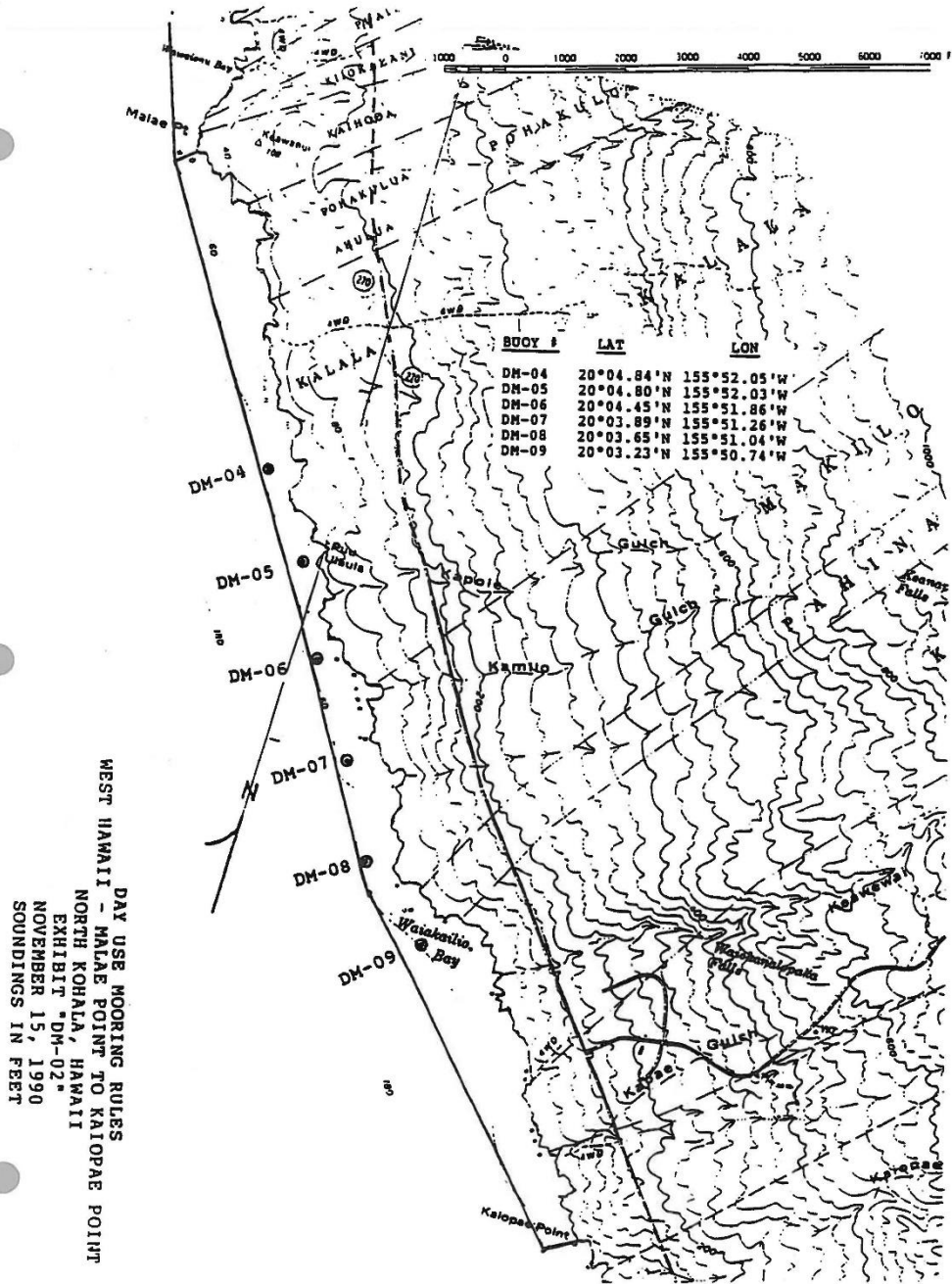
§§13-257-16 to 13-257-35 (Reserved)

<u>BUOY #</u>	<u>LAT</u>	<u>LON</u>
DM-01	20°06.81'N	155°53.20'W
DM-02	20°06.38'N	155°53.08'W
DM-03	20°06.20'N	155°52.97'W

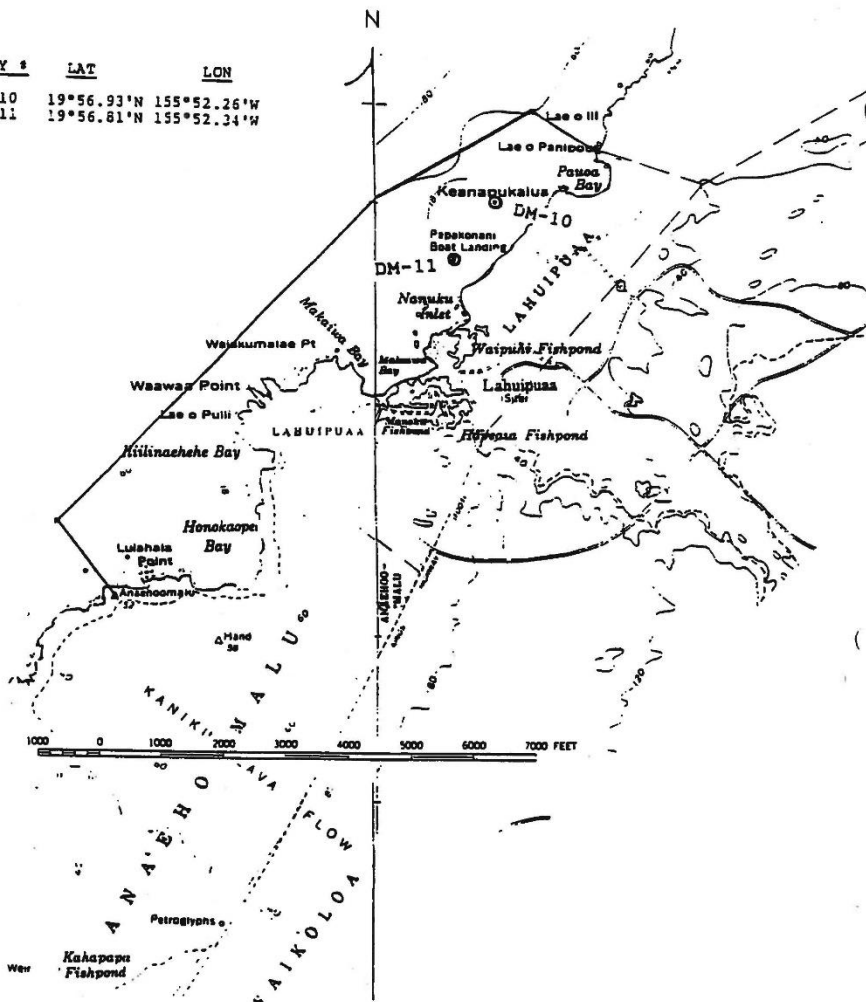


DAY USE MOORING RULES  
 WEST HAWAII - KAIHOLENA TO MALAE POINT  
 NORTH KOHALA, HAWAII  
 EXHIBIT "DM-01"  
 NOVEMBER 15, 1990  
 SOUNDINGS IN FEET

1858



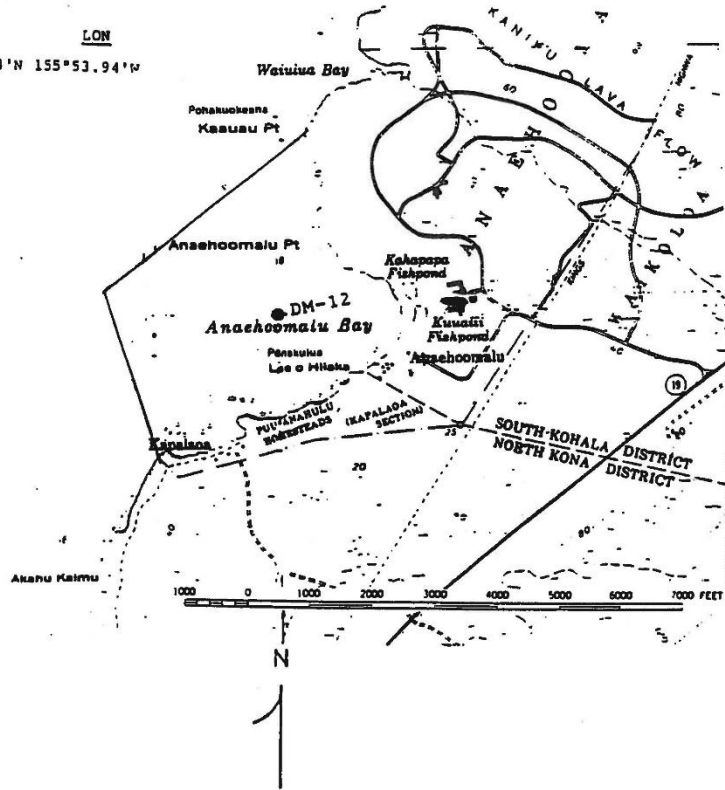
BUOY #	LAT	LONG
DM-10	19°56.93'N	155°52.26'W
DM-11	19°56.81'N	155°52.34'W



DAY USE MOORING RULES  
 WEST HAWAII - PAOUA BAY TO HONGKAOPE BAY  
 SOUTH KOHALA, HAWAII  
 EXHIBIT "DM-03"  
 NOVEMBER 15, 1990  
 SOUNDINGS IN FEET

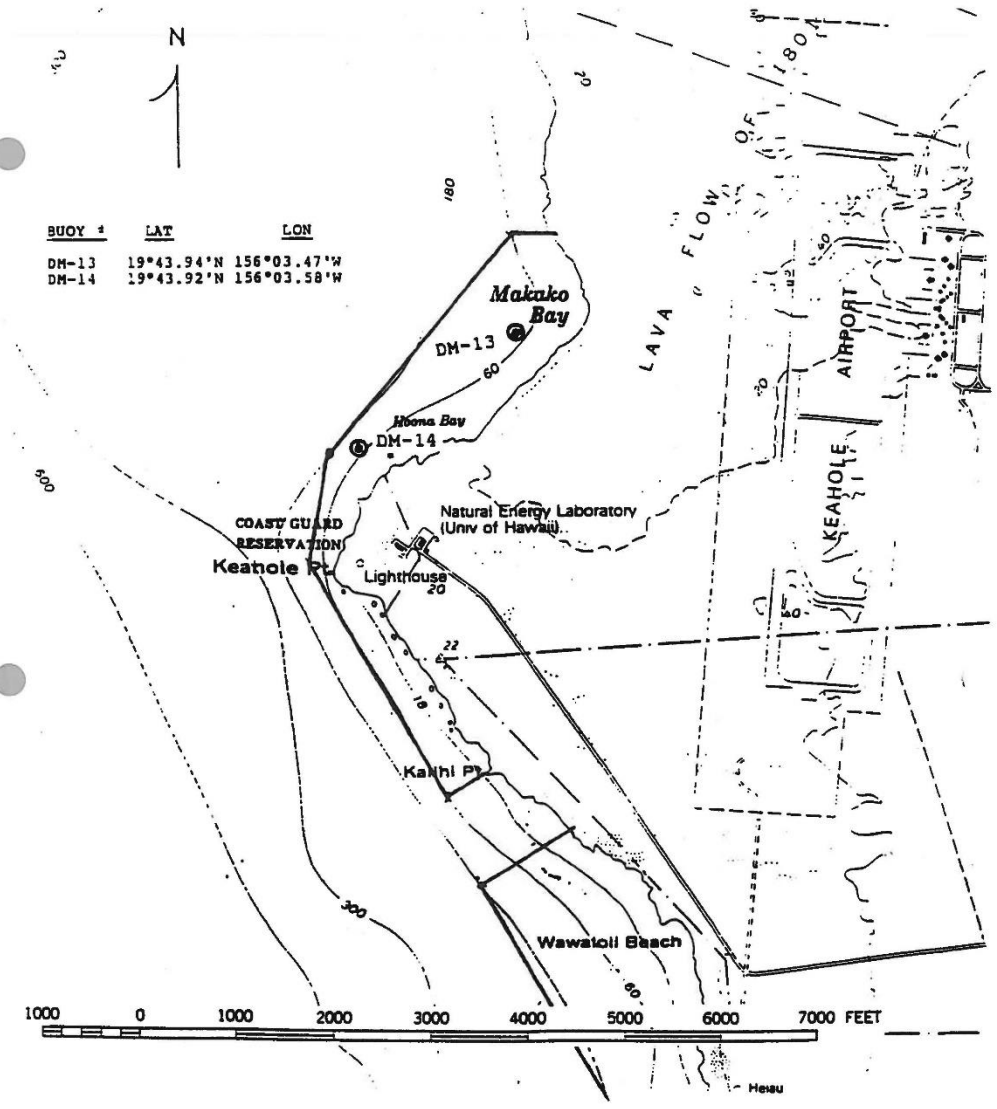
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SUOY #    LAT            LONG  
 DM-12    19°54.94'N 155°53.94'W



DAY USE MOORING RULES  
 WEST HAWAII - KAAUUAU POINT, SOUTH KOHALA  
 TO  
 KAPALAOA POINT, NORTH KONA, HAWAII  
 EXHIBIT "DM-04"  
 NOVEMBER 15, 1990  
 SOUNDINGS IN FEET

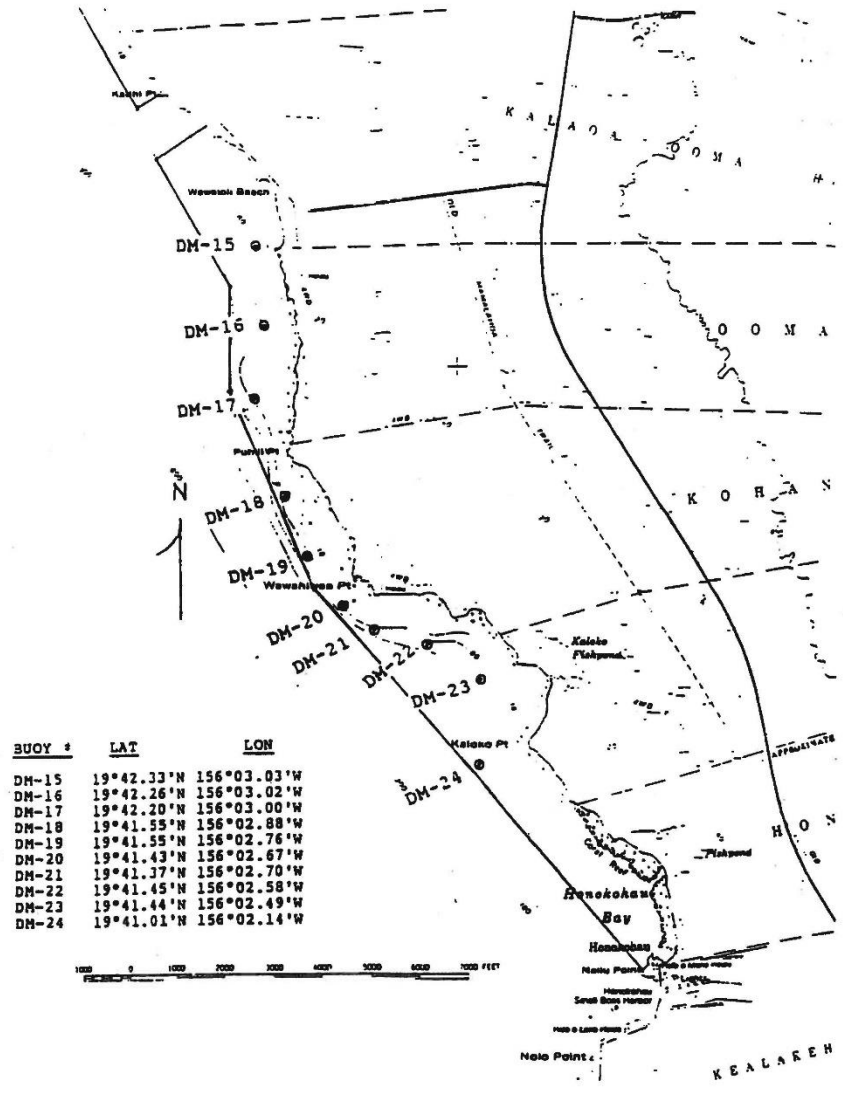
1858



BUOY #	LAT	LOX
DM-13	19°43.94'N	156°03.47'W
DM-14	19°43.92'N	156°03.58'W

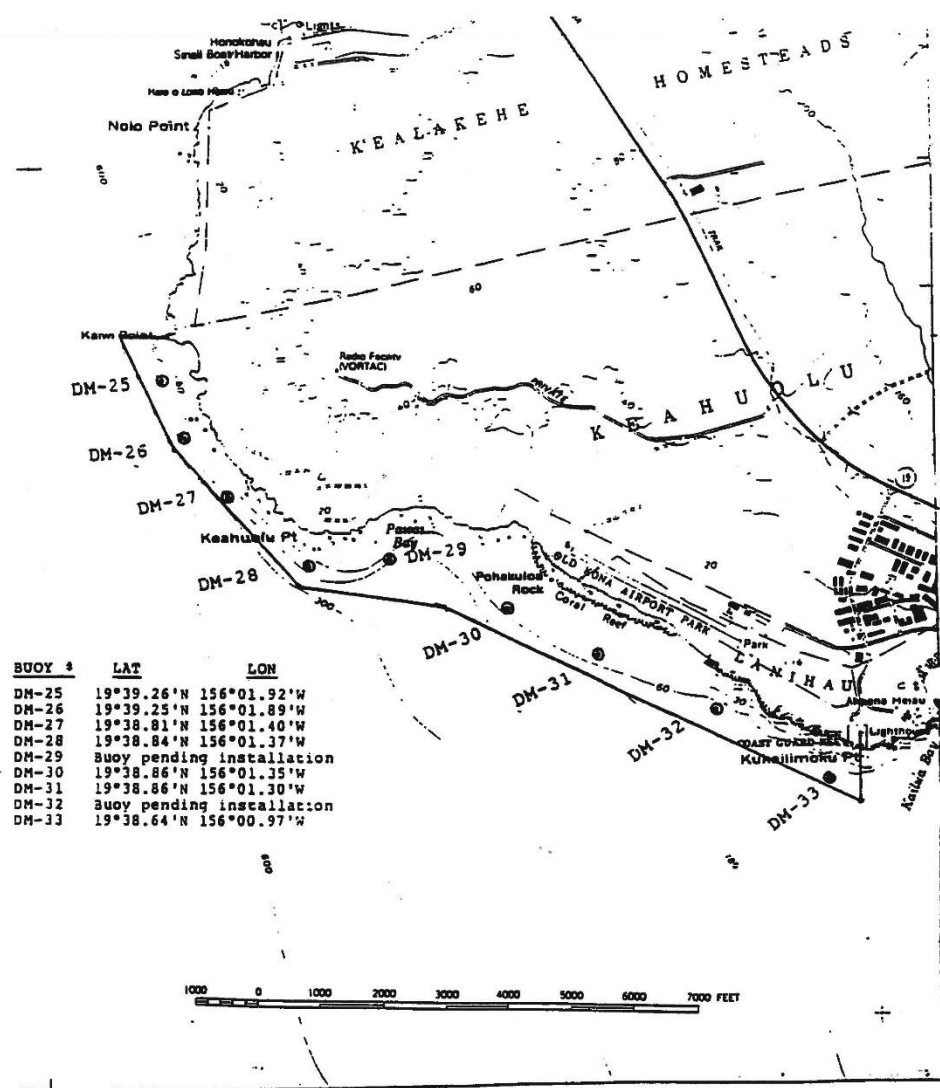
DAY USE MOORING RULES  
 WEST HAWAII - MAKAKO BAY TO KALIHI POINT  
 NORTH KONA, HAWAII  
 EXHIBIT "DM-05"  
 NOVEMBER 15, 1990  
 SOUNDINGS IN FEET

1858



DAY USE MOORING RULES  
 WEST HAWAII - WAWALOLI BEACH TO MALIU POINT  
 NORTH KONA, HAWAII  
 EXHIBIT "DM-06"  
 NOVEMBER 15, 1990  
 SOUNDINGS IN FEET

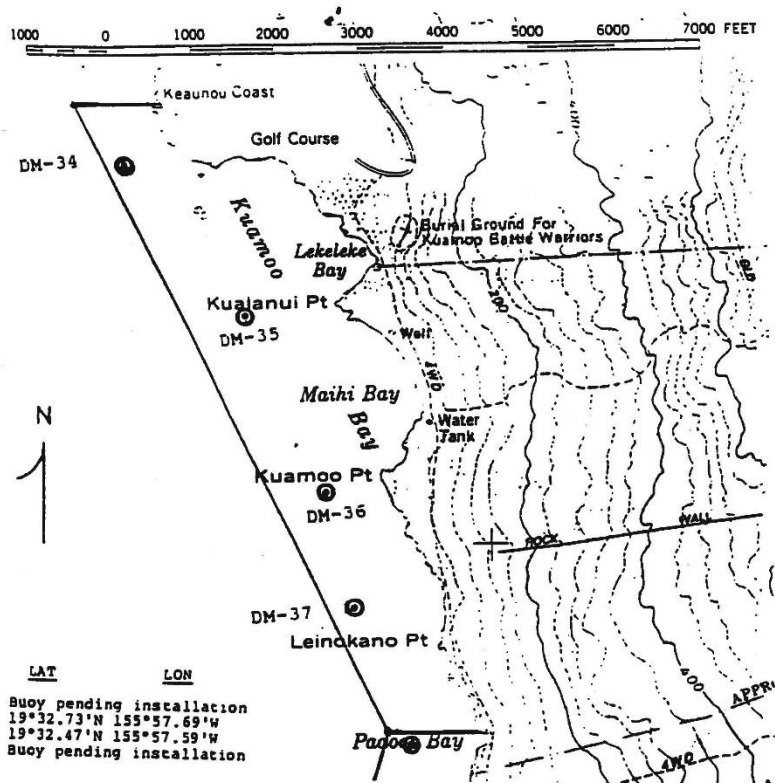
1858



DAY USE MOORING RULES  
 WEST HAWAII - KAILI POINT TO KUKAILIMOKU POINT  
 NORTH KONA, HAWAII  
 EXHIBIT "DM-07"  
 NOVEMBER 15, 1990  
 SOUNDINGS IN FEET

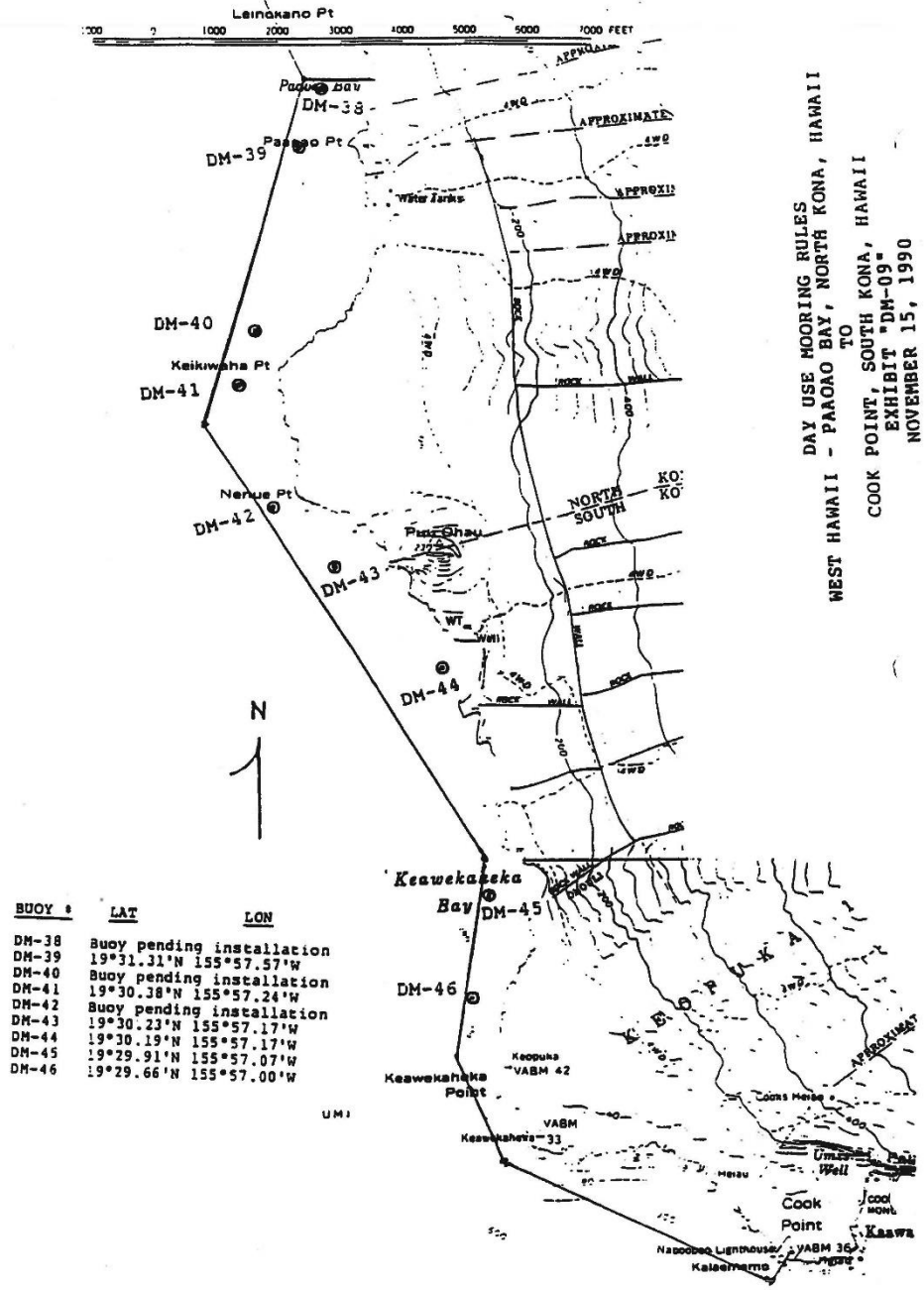
1858





DAY USE MOORING RULES  
 WEST HAWAII - KUAMOO BAY TO PAAOAO BAY  
 NORTH KONA, HAWAII  
 EXHIBIT "DM-08"  
 NOVEMBER 15, 1990  
 SOUNDINGS IN FEET

1858



SUBCHAPTER 3

DAY USE MOORINGS, ISLAND OF MAUI

§§13-257-36 to 13-257-50 (Reserved)

#### SUBCHAPTER 4

##### DAY USE MOORING AREA, MOLOKINI SHOAL MARINE LIFE CONSERVATION DISTRICT

§13-257-51 Molokini island day use mooring area. The boundary of the Molokini island day use mooring area is contiguous with the boundary of Subzone A of the Molokini shoal marine life conservation district, as described in section 13-31-2, and as shown on Exhibit "DM-10", dated March 3, 1994, located at the end of this subchapter and described as follows:

Beginning at a point at the high water mark at Pahe'e O Lono Point; then in a straight line to the end of the shoal at the northwest point of Molokini island; then in a counter-clockwise direction along the shoreline of Molokini island to the point of beginning. [Eff 9/16/95; comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-52 Commercial use restrictions. (a) No vessel shall use a day use mooring for commercial purposes unless the owner has been issued a marine life conservation district use permit by the department pursuant to section 13-31-5, as evidenced by its inclusion as an addendum to a commercial vessel use permit for the use of state boating facilities issued in accordance with section 13-231-57, or a commercial vessel registration issued in accordance with section 13-256-4 for that vessel.

(b) Mooring zone "A" is designated for use by commercial vessels carrying twelve or more passengers. Mooring zone "B" is designated for use by commercial vessels carrying less than twelve passengers. The use of any one particular mooring shall be on a first-come, first-served basis. Mooring zones "A" and "B" as shown on exhibit "DM-10" located at the end of this subchapter are generalized locations intended to reflect current mooring practices and are subject to

revision, pending development of a final mooring plan prior to installation of permanent moorings.

(c) The department may authorize ~~[the owner of]~~ a commercial vessel not having a marine life conservation district use permit ~~[occasional or infrequent use of the]~~ to use a day use [moorings,] mooring in the Molokini island day use mooring area, provided that:

- (1) The commercial vessel operator submits a written application to the department, and the applicant receives approval from the department at least seven calendar days in advance of the date of the intended use; and
- (2) The applicant may not ~~[to]~~ exceed eight ~~[times a]~~ uses in one calendar year~~[, when application is made and approved not less than seven days in advance of the date of intended use]~~. [Eff 9/16/95; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-53 Commercial day use mooring permit fee. The commercial day use mooring permit fee for a commercial Molokini day use mooring shall be the greater of ~~[\$100]~~ one hundred dollars per month or two per cent of gross receipts, provided that this fee shall be waived for commercial operators who are presently paying commercial vessel user fees for the use of state boating facilities in accordance with section 13-234-5. ~~[This]~~ The fee required by this section shall be in addition to the commercial use permit fee required under section 13-31-5. [Eff 9/16/95; am and comp ] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-54 Recreational vessel use of Molokini day use moorings. Mooring zone "C" is designated for primary use by recreational vessels, and is shown on exhibit "DM-10" located at the end of this subchapter. Recreational vessels may also use vacant moorings

located in zones "A" and "B" except during the period from 8:30 a.m. to 11:30 a.m. [Eff 9/16/95; comp  
] (Auth: HRS §§200-2, 200-3, 200-4, 200-10)  
(Imp: HRS §200-10)

§13-257-55 Speed Restrictions. No vessel shall operate at a speed in excess of "slow-no wake" within ~~[the]~~ Subzone A, as defined in section 13-257-51 and shown on exhibit "DM-10". [Eff 9/16/95; am and comp  
] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§13-257-56 Anchoring restrictions. (a) Anchoring is prohibited within the Molokini island day use mooring area, provided that anchoring is permitted within the designated area at locations of sand, rock, or rubble bottom types where no live corals exist ~~[until such time as new day use moorings are installed]~~.

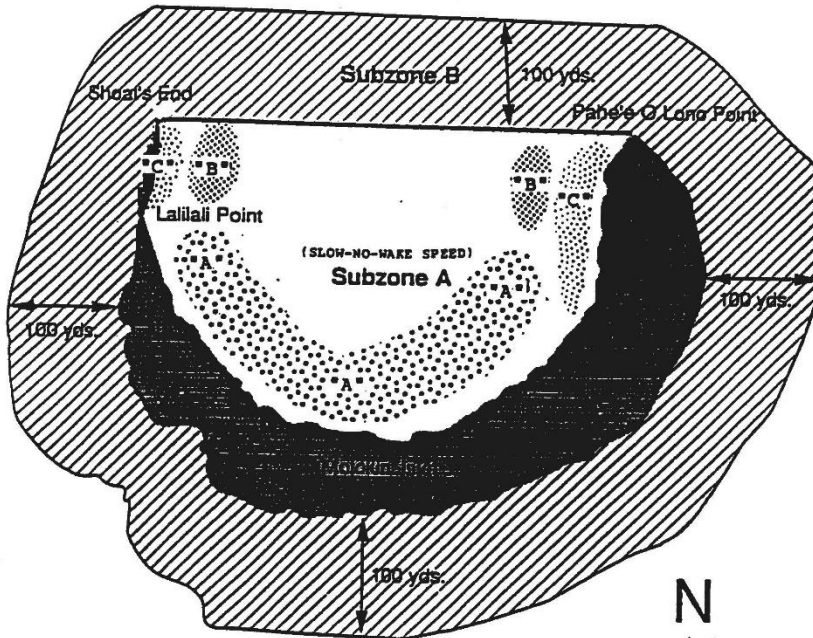
(b) Anchoring is prohibited within Subzone B of the Molokini shoal marine life conservation district." [Eff 9/16/95, am and comp  
] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §200-10)

§§13-257-57 to 13-257-60 (Reserved)

STATE OF HAWAII  
 MOLOKINI ISLAND DAY USE MOORING AREA  
 being a portion of the  
 MOLOKINI SHOAL MARINE LIFE CONSERVATION DISTRICT  
 EXHIBIT "DM-10"  
 DECEMBER 16, 1994

ALL DAY USE MOORINGS ON A "FIRST-COME, FIRST-SERVED BASIS".

1. zone "A" is designated for use by commercial vessels carrying twelve or more passengers.
2. zone "B" is designated for use by commercial vessels carrying less than twelve passengers.
3. zone "C" is designated for primary use by recreational vessels. Recreational vessels may also use vacant moorings located in zone "A" and "B", except from 8:30am to 11:30am.



Note: Exact locations of moorings will be determined at time of permanent installation.

1858

SUBCHAPTER 5

DAY USE MOORINGS, ISLAND OF LANAI

§§13-257-61 to 13-257-70 (Reserved)



SUBCHAPTER 6

DAY USE MOORINGS, ISLAND OF MOLOKAI

§§13-257-71 to 13-257-80 (Reserved)

SUBCHAPTER 7

DAY USE MOORINGS, ISLAND OF OAHU

§§13-257-81 to 13-257-90 (Reserved)

SUBCHAPTER 8

DAY USE MOORINGS, ISLAND OF KAUAI

§§13-257-91 to 13-257-120 (Reserved)

4. Material, except source notes, to be repealed is bracketed and stricken. New material is underscored.

5. Additions to update source notes to reflect these amendments are not underscored.

6. The amendments to and compilation of chapters 13-230, 13-256, and 13-257, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_ by the Board of Land and Natural Resources, and filed with the Office of the Lieutenant Governor.

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SUZANNE D. CASE  
Chairperson  
Board of Land and Natural Resources

APPROVED FOR PUBLIC HEARING:

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Deputy Attorney General

## **V. Legislative Matters**

### **A. Discussion on House Bill 539 Related to the Small Business Regulatory Review Board – Appropriates Funds**

# HB539

**Measure Title:** RELATED TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.  
**Report Title:** Small business regulatory review board, department of business, economic development and tourism, appropriation (\$)  
**Description:** Appropriation for staffing, commissioner inter-island travel, and other related operating expenses associated with the small business regulatory review board under the Department of Business, Economic Development and Tourism.  
**Companion:**  
**Package:** House Small Business Caucus  
**Current Referral:** EDB, FIN  
**Introducer(s):** WARD, SAY

<b>Sort by Date</b>	<b>Status Text</b>
1/18/2019	H Pending introduction.
1/22/2019	H Introduced and Pass First Reading.
1/22/2019	H Referred to EDB, FIN, referral sheet 4
2/1/2019	H Bill scheduled to be heard by EDB on Wednesday, 02-06-19 10:10AM in House conference room 309.
2/6/2019	H The committee(s) on EDB recommend(s) that the measure be deferred until 02-08-19.
2/6/2019	H Bill scheduled for decision making on Friday, 02-08-19 10:00AM in conference room 309.
2/8/2019	H The committee(s) on EDB recommend(s) that the measure be deferred.

**S** = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment  
Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

## HB539

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## A BILL FOR AN ACT

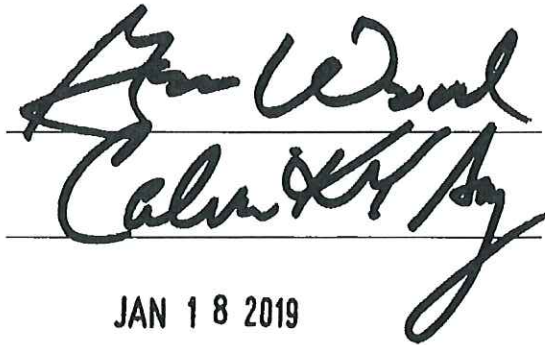
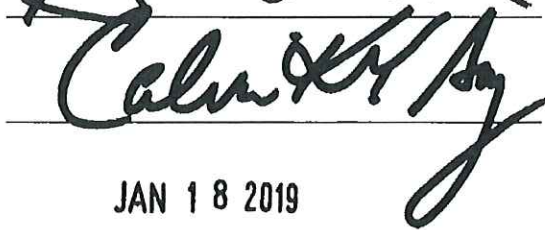
RELATED TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.

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

1           SECTION 1. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$74,000 or so much  
3 thereof as may be necessary for fiscal year 2019-2020 and the  
4 same sum or so much thereof as may be necessary for fiscal year  
5 2020-2021 for staffing, commissioner inter-island travel, and  
6 other related operating expenses of the small business  
7 regulatory review board.

8           The sums appropriated shall be expended by the department  
9 of business, economic development and tourism for the purposes  
10 of this Act.

INTRODUCED BY:

  
\_\_\_\_\_  
  
\_\_\_\_\_

JAN 18 2019



# H.B. NO. 539

**Report Title:**

Small business regulatory review board, department of business, economic development and tourism, appropriation

**Description:**

Appropriation for staffing, commissioner inter-island travel, and other related operating expenses associated with the small business regulatory review board under the Department of Business, Economic Development and Tourism.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*





## **V. Legislative Matters**

### **B. Discussion and Action on Senate Bill 1348 Relating to the Small Business Regulatory Review Board – Clarifies the intent of the board's powers, etc.**

JAN 24 2019

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## A BILL FOR AN ACT

RELATING TO THE SMALL BUSINESS REGULATORY REVIEW BOARD.

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

1           SECTION 1. Section 201M-5, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) There shall be established within the department of  
4 business, economic development, and tourism, for administrative  
5 purposes, a small business regulatory review board to review any  
6 proposed new or amended rule. If the board determines that a  
7 proposed rule will not have a significant economic impact on a  
8 substantial number of small businesses, the board shall submit a  
9 statement to that effect to the agency that sets forth the  
10 reason for the board's decision. If the board determines that  
11 the proposed rule will have a significant economic impact on a  
12 substantial number of small businesses, the board may submit to  
13 the agency suggested changes in the proposed rule to minimize  
14 the economic impact of the proposed rule, or may recommend the  
15 withdrawal of the proposed rule. The board may also consider  
16 any request from small business owners for review of any rule  
17 proposed, amended, or adopted by a state agency and to make



# S.B. NO. 1348

1 recommendations to the agency or the legislature regarding the  
2 need for a rule change or legislation. For requests regarding  
3 county [~~ordinances~~] rules, the board may make recommendations  
4 to the county council or the mayor for appropriate action."

5 SECTION 2. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 3. This Act shall take effect upon its approval.

8

INTRODUCED BY:

*Karl Rhoads*



# S.B. NO. 1348

**Report Title:**

Small Business Regulatory Review Board; Powers

**Description:**

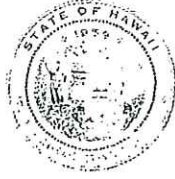
Clarifies the intent of the small business regulatory review board's powers when reviewing state and county administrative rules that impact small business.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



## **V. Legislative Matters**

### **C. Discussion and Action on Governor's Message 559, Submitting for Consideration of the Gubernatorial Nomination of Mr. Jonathan Shick to the Small Business Regulatory Review Board for a term to expire June 30, 2020**



**GOV. MSG. NO. 559**

EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

January 29, 2019

The Honorable Ronald Kouchi, President,  
And Members of the Senate  
Thirtieth State Legislature  
Hawai'i State Capitol, Room 409  
Honolulu, Hawai'i 96813

Dear Senate President Kouchi and Members of the Senate:

In accordance with the provisions of Article V, Section 6 of the Hawai'i State Constitution, I have the honor to submit herewith for your consideration and confirmation, the following nomination:

Jonathan Shick  
Small Business Regulatory Review Board  
Expiration Date: June 30, 2022.

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

## **VI. Administrative Matters**

### **A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M, HRS**

#### **1. Discussion and Action on sending Correspondence to State Department Directors to Introduce Board Members Assigned to the Departments as Discussion Leaders**



## SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)  
No. 1 Capitol District Building, 250 S. Hotel Street, Fifth Floor, Honolulu, HI 96813  
Mailing Address: P.O. Box 2359, Honolulu, HI 96804  
Email: [dbedt.sbrrb.info@hawaii.gov](mailto:dbedt.sbrrb.info@hawaii.gov)  
Website: [dbedt.hawaii.gov/sbrrb](http://dbedt.hawaii.gov/sbrrb)

Tel: 808 586-2594

February 28, 2019- **DRAFT SAMPLE**

David Y. Ige  
*Governor*

Michael McCartney  
*DBEDT Director*

**Members**

Anthony Borge  
*Chairperson  
O'ahu*

Robert Cundiff  
*Vice Chairperson  
O'ahu*

Garth Yamanaka  
*2nd Vice Chairperson  
Hawai'i*

Harris Nakamoto  
*O'ahu*

Nancy Atmospera-Walch  
*O'ahu*

Mary Albitz  
*Maui*

William Lydgate  
*Kaua'i*

Director, DBEDT  
*Voting Ex Officio*

Mr. Michael McCartney, Director  
Department of Business, Economic Development and Tourism (DBEDT)  
P.O. Box 2359  
Honolulu, HI 96804

Re: Small Business Regulatory Review Board

Dear Director McCartney:

On behalf of the Small Business Regulatory Review Board (SBRRB), congratulations on your appointment as the Director of DBEDT. The SBRRB members are looking forward to continuing to work with your department to help improve the regulatory climate for small business.

As an effective means of administrative rule review, each SBRRB member is assigned to one or more State department as a "discussion leader." Each discussion leader is responsible for the review of new, proposed, and existing administrative rules and may provide recommendations to their assigned agency on any rules that impact small business.

As the discussion leader assigned to DBEDT is Mr. Robert Cundiff, I am respectfully requesting a meeting with you and Mr. Cundiff in the near future. The purpose of this meeting is to introduce Mr. Cundiff to you, discuss the SBRRB's role, its function, and to learn about upcoming rule changes and activities in your department. We will be contacting you shortly.

Should you have any questions, please contact the SBRRB's administrator Ms. Dori Palcovich at 586-2594.

Thank you.

Sincerely,

*Anthony Borge*

Anthony Borge  
Chairperson

cc: Governor David Y. Ige  
Robert Cundiff, SBRRB Discussion Leader