

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART 1 MARINE LIFE CONSERVATION DISTRICTS

CHAPTER 31

MOLOKINI SHOAL MARINE LIFE CONSERVATION DISTRICT, MAUI

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- §13-31-2 Boundaries
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Historical note: Chapter 31 of title 13 is based substantially upon regulation 42 of the division of fish and game, department of land and natural resources, State of Hawaii. [Eff. 7/8/77; R May 26, 1981]

§13-31-1 Definitions. As used in this chapter unless otherwise provided:

"Trolling means trailing a line attached to either a baited hook or artificial lure from a boat moving faster than slow-no-wake speed;

"Slow-no-wake" means as slow as possible without losing steerage way and so as to make the least possible wake. This would almost always mean speeds of less than five miles per hour;

"Demonstrate" as is used in section 13-31-5(3) means proof such as in any combination of documents including but not limited to copies of commercial licenses, excise tax reports, brochures, affidavits, etc. The burden of proof lies with the applicant.

"Active commercial vessel operation" as used in section 13-31-5(3) means use no less than two times every quarter over four quarters (12 months) and greater than eight times per year [Eff and comp SEP 16 1995) (Auth: HRS §190-3) (Imp: §§190-3, 190-4.5)

§13-31-2 Boundaries. The Molokini shoal marine life conservation district shall include subzones A and B of that portion of the submerged lands and overlying waters surrounding Molokini islet, county of Maui, as follows:

- (1) Subzone A is defined as that portion of submerged lands and overlying waters within the crater, beginning at a point at the highwater mark of Lalilali Point, then along the highwater mark of the northorn shoreline eastward until Pahee O Lono Point, then west along a straight line to the end of the submerged ridge (shoal) extending from Lalilali Point, then along the top of the shoal back to the point of beginning; and
- (2) Subzone 3 is defined as that portion of submerged lands and overlying waters outside the crater, encircling the islet out to 100 yards, seaward of the point of beginning at the highwater mark of Lalilali Point then eastward along the highwater mark of the southern shoreline of the islet to Pahee O Lono Point, then west along a straight line from Pahee O Lono Point to the end of the shoal extending from Lalilali Point, then along the top of the shoal back to the point of beginning.

Subzone areas A and B are illustrated in "Map of Molokini Shoal Marine Life Conservation District, Maui 1/18/1981" attached at the end of this chapter. [Eff: 5/26/1981; am, ren, and comp SEP 16 1995] (Auth: HRS §190-3) (Imp: HRS §§190-1, 190-2, 190-3)

§13-31-3 Prohibited activities. No person shall engage in the following activities in the Molokini shoal marine life conservation district:

- (1) Fish for, catch, take, injure, kill, possess, or remove any finfish, crustacean, mollusk including sea shell and opihi, live coral, algae or limu, or other marine life, or eggs thereof except as provided for in section 13-31-4(1);
- (2) Have or possess in the water, any spear, trap net, crowbar, or any other device that may be used for the taking or altering of marine life, geological feature, or specimen;
- (3) Take, alter, deface, destroy, possess, or remove any sand coral, rock, or other geological feature, or specimen;

- (4) Feed or deliberately introduce any food material, substance, or attractant, directly to or in the vicinity of any aquatic organism, by any means for any purpose except as provided in section 13-31-4(1);
- (5) Moor boats for commercial activities except as provided for in section 13-31-5; or
- (6) Anchor a boat when a day use mooring system and management plan is established by this department. [Eff: 5/26/1961; am, ren, and comp SEP 16 1995] (Auth: §§190-3, 190-4.5) (Imp HRS §§190-1, 190-3, 190-4.5)

§13-31-4 Allowed activities. A person may

- (1) Fish for, catch, take, possess, or remove any finfish by trolling in subzone B only;
- (2) Possess in the water, any knife and any shark billy, bang stick, powerhead, or carbon dioxide (CO₂) injector for the sole purpose of personal safety. [Eff 5/26/1981; am, ren, and comp SEP 16 1995] (Auth: HRS §§190-3, 190-4.5) (Imp: HRS §§190-1, 190-3, 190-4.5)

§13-31-5 Exceptions; permits. The department may issue permits to engage in activities otherwise prohibited by law and section 13-31-3, under such terms and conditions it deems necessary to carry out the purpose of chapter 190, Hawaii Revised Statutes:

- (1) To take for scientific, propagation, or other purposes in conformance with chapter 190 and section 187A-6, Hawaii Revised Statutes, any form of marine life or eggs thereof otherwise prohibited by law;
- (2) Except as provided in chapter 13-257, subchapter 4, to engage in commercial activity, excluding the taking of marine life, with a marine life conservation district use permit. Each boat shall be required to obtain a separate permit. An applicant for this permit shall pay a non-refundable permit fee of \$50 valid for a two-year duration. Prior to its expiration, the permittee may apply for reissuance. Unless the permit is reissued, it shall automatically expire on the expiration date. The permittee shall indemnify, defend, and hold harmless the State of Hawaii, its successors, assigns, officers, employees, contractors, and agents from and against any

- loss, liability, claim or demand for property damage, personal injury and death arising from any act or omission related to this permit;
- (3) An application for this permit shall be accepted only from a commercial operator who can demonstrate active commercial vessel operation within the Molokini shoal marine life conservation district within the twelve-month period immediately prior to the effective date of these rules, and possesses 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. No application for a permit shall be accepted after ninety days of the effective date of these rules;
 - (4) The permit shall be incorporated as an addendum to the 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;
 - (5) The permit shall be non-transferrable, except as provided by section 13-231-62; and
 - (6) The board may revoke any permit for any infraction of the terms and conditions of the permit, and a person whose permit is revoked shall not be eligible to renew a permit until the expiration of one year from the date of revocation. [Eff: 5/26/1981; am 3/2/1987; am, ren, and comp SEP 16 1995] (Auth: §§187A-6, 190-3, 190-4.5) (Imp: HRS §§187A-6, 190-4)

§13-31-6 Penalty. A person violating the provisions of this chapter or the terms and conditions of any permit issued as provided by this chapter, shall be punished as provided by law. [Eff: 5/26/1981; am, ren, and comp SEP 16 1995] (Auth: HRS §§190-3, 190-4.5) (Imp: HRS §190-5)

Map of Molokini Shoal Marine Life Conservation District, Maui 1-18-94

