

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to and compilation of
Chapters 13-234 and 13-253
Hawaii Administrative Rules

June 14, 2019

SUMMARY

1. Chapter 13-234 is amended and compiled.
2. Chapter 13-253 is amended and compiled.

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 234

FEES AND CHARGES

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Historical note: The administrative jurisdiction for recreational boating and related vessel activities were 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 **AUG 23 2019**]



§13-234-1 General statement. (a) The fees and charges relative to the use of state property and facilities at a small boat harbor are:

- (1) Calculated to produce an amount sufficient to pay the expenses of operating, maintaining, and managing the facilities and services and the cost including interest, of amortizing capital improvements for boating facilities including, but not limited to, berths, slips, launch ramps, related accommodations, general navigation channels, breakwaters, aids to navigation, and other harbor structures; and
- (2) Fixed with due regard to the primary purposes of providing public recreational facilities.

(b) Nothing contained in this subchapter shall be construed to limit the authority and power of the department to waive any late fees and related interest, or to assess any reasonable fees and charges in addition to those specifically provided in this subchapter for trivial or infrequent uses of state property, facilities, or services if fees for the uses are not contained herein or as the circumstances may warrant.

(c) The acceptance of payment, or billings therefor, shall not waive the nature of trespass or ratify or permit illegal mooring, docking, storage, or parking. [Eff 2/24/94; am 1/22/10; am and comp **AUG 23 2019**] (Auth: HRS §§200-2, 200-3, 200-4, 200-8, 200-10) (Imp: HRS §§200-2, 200-3, 200-4, 200-8, 200-10)

§13-234-2 Payment and delinquency. (a) Security deposit and method of payment:

- (1) Security deposit. A permittee upon being issued a use permit shall, in addition to paying fees and charges as they become due, deposit with the State in legal tender or in such other form as may be acceptable to the State, an amount equal to two months' fees

and charges at the rate prescribed in the rules in effect on the date of issuance of the permit as security for the faithful performance on the permittee's part of all the terms and conditions, specified therein. On the effective date of any increase in fees and charges, the permittee shall deposit such additional amount to cover the increase. The State shall refund any excess deposit if the fees and charges are reduced. The deposit will be returned, without interest, to the permittee upon the termination of the permit only if the terms and conditions have been faithfully performed to the satisfaction of the department. In the event the permittee does not so perform, the department may declare the deposit forfeited or apply it as an offset to any amounts owed by the permittee to the State under the use permit, or to any damages or loss caused to the State by the permittee. The exercise of the permittee's option is without prejudice to the right of the State to institute action for debt or damages against the permittee or to take any other or further action against the permittee as may be provided by law or these rules for the enforcement of the rights of the State under the use permit.

- (2) As a prerequisite to the issuance of a use permit the permittee shall make a security deposit pursuant to section 13-234-2, pay the permit processing fee, one month's fees and charges, and any other fees and charges that may be due and payable to the State; provided that if the effective date of the use permit is other than the first day of the month, charges shall be properly prorated for the balance of the month and these prorated charges shall be paid.
- (3) Method of payment of fees and charges. The following fees and charges shall be paid

without notice or demand on the last day of each and every month during the life of the use permit, except that the amounts due for the first month shall be paid prior to the issuance of the permit as described in section 13-234-2:

- (A) Mooring;
- (B) Residence;
- (C) Electricity;
- (D) Shower;
- (E) Dry storage;
- (F) Gear locker; and
- (G) Rent and other fixed recurring fees and charges.

(b) Permit processing fees are due and payable in advance.

(c) All fees and charges required by this chapter, except for fees and charges pursuant to section 13-234-25, are due and payable on or before the last day of the month in which they are incurred. Fees and charges assessed pursuant to section 13-234-25 shall be due and payable in accordance with section 13-234-25(f).

(d) Fees and charges for the last month shall be properly prorated. If the termination is at the owner's option, unless a written notice of intent to vacate has been received by the department from the boat owner at least thirty calendar days in advance of the termination date as prescribed in section 13-231-9 the owner shall be liable for the full amount of the monthly fees and charges.

(e) All fees and charges shall become delinquent four calendar days after they become due and payable. All delinquent accounts will be referred to the Credit Bureau Services if they remain unpaid twenty-five calendar days from the day the account becomes delinquent.

(f) For all delinquent payments due to the department, interest shall be charged at the rate of one per cent per month on the unpaid balance, including prior interest charges and delinquent account service charges, beginning on the first day

payment is delinquent and continuing monthly thereafter until the amount due is paid. Additionally, regardless of the delinquency amount and without prejudice to any other remedy available to the department, a delinquent account service charge of the greater of five per cent of the amount owed or \$100 per month shall be assessed on any delinquency. The interest charge and delinquent account service charge shall continue to be assessed until the delinquency is paid in full.

(g) In the event the fees and charges which have accrued in favor of the department have not been paid as provided in these rules, the department may, after reasonable notice, take possession of the vessel, its tackle, apparel, fixtures, equipment, and furnishings, and may retain such possession until all charges then owed and any charges which thereafter accrue are fully paid. The remedy provided in this section shall be in addition to and not in lieu of any other remedies which the department may pursue by statute or otherwise. [Eff 2/24/94; am and comp **AUG 23 2019**] (Auth HRS §§200-2, 200-3, 200-4, 200-10) (Imp HRS §§200-2, 200-3, 200-4, 200-10)

§13-234-3 Mooring rates. (a) The mooring rate schedule in this subsection shall be per foot of vessel length overall or maximum length of berth or mooring, whichever is greater. All mooring rates shall be determined by a state-licensed appraiser in accordance with section 200-10, Hawaii Revised Statutes.

Small Boat Harbor	District	Catwalk (\$/foot)	Tahiti Moor (\$/foot)
Nawiliwili	Kauai	12.00	N/A
Port Allen	Kauai	11.00	N/A
Ala Wai	Oahu	13.00	8.00
Keehi	Oahu	13.00	N/A
Haleiwa	Oahu	10.00	6.00
Heeia Kea	Oahu	10.00	6.00

Waianae	Oahu	11.00	N/A
Manele	Lanai	10.00	N/A
Lahaina	Maui	11.00	7.00
Maalaea	Maui	10.00	6.00
Manele	Maui	10.00	N/A
Kaunakakai	Molokai	9.00	5.00
Honokohau	Hawaii	10.00	6.00
Kailua-Kona	Hawaii	N/A	6.00
Kawaihae, North	Hawaii	N/A	5.00
Kawaihae, South	Hawaii	10.00	6.00
Wailoa	Hawaii	9.00	5.00

(b) The mooring rate schedule in subsection (a) shall apply to single-hulled vessels, except as otherwise provided in this section, or in sections 13-234-5, 13-234-7, and 13-234-25. The fees for a vessel moored in any state small boat harbor not listed in the mooring rate schedule in subsection (a) shall be a flat rate of ten dollars per foot for catwalks and six dollars per foot for tahiti moorings, until such time as an appraisal can be completed.

(c) A multi-hulled vessel shall be charged mooring fees in proportion to berths used in increments of one, one and one-half, or two times the fee prescribed in subsection (a) or subsection (b) for a single-hulled vessel of equal length.

(d) The amounts set out in the mooring rate schedules in subsections (a) through (c) are the minimum charges per month. [Eff 2/24/94; am 12/16/06; am 1/22/10; am and comp **AUG 23 2019**] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-12, 200-22, 200-24)

§13-234-4 Mooring rates for offshore mooring and anchoring. (a) The mooring rate schedule is per foot of vessel length overall or maximum mooring capacity of the mooring system, whichever is greater, per month:

Offshore mooring and anchoring rates shall be as follows:	
On state Buoy, Anchor, or Cable	On Permittee's Own Buoy or Anchor
\$5.00/foot	\$3.00/foot

(b) The fee for barges, platforms, and commercial vessels having no operating means of propulsion shall be two times the rate listed in subsection (a).

(c) The fee for vessels anchored or moored without a permit issued by the department shall be at the rate as provided in section 13-234-5.

(d) Persons issued a mooring permit under this section shall be entitled to the use of any designated dinghy mooring area at no charge.

(e) The fee for vessels moored offshore within the confines of a state small boat harbor shall be the same as the rate listed in subsection (a). [Eff 2/24/94; am 12/16/06; am and comp (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)]

§13-234-5 Mooring fees for vessels assigned temporary moorings or occupying moorings without permission. (a) Persons assigned a mooring for a temporary period shall make the security deposit and pay mooring fees as prescribed in this chapter.

(b) Persons assigned a mooring for a period of thirty calendar days or less shall not be required to make the security deposit as provided in section 13-234-2 but shall be required to pay fees in advance.

(c) The fees prescribed in subsection (d) shall apply for the entire period that a vessel is in a state boating facility.

(d) The mooring fees for a vessel assigned a mooring for thirty calendar days or less shall be as provided in section 13-234-3 or 13-234-4, plus thirty per cent for each twenty-four hour period or any fraction thereof.

(e) The mooring fees for a vessel moored in a state boating facility without written permission from the department or in violation of section 13-231-17 shall be as follows:

Length of stay	Fee
(1) 30 days or less	1.5 times the fees stated in subsection (d);
(2) 31-60 days	2 times the fees stated in subsection (d) for the period over 30 days;
(3) More than 60 days	3 times the fees stated in subsection (d) for the period over 60 days.

(f) In addition to any civil remedy or criminal action available to the department, vessels moored without permission shall be liable for the payment of fees chargeable to the moorage. The department's acceptance of such a payment shall not waive the nature of trespass, or ratify or permit the unlawful or illegal mooring. [Eff 2/24/94; am 12/16/06; am 1/22/10; am and comp **AUG 23 2019**] (Auth: HRS §§200-4, 200-6, 200-10, 200-12, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-6 Fees for vessel absent for more than fourteen days. Any holder of a use permit who has applied as prescribed in section 13-231-11 to retain the permit to use the assigned berthing space and any other related use permits upon the permittee's return, and whose application has been approved by the department shall continue, during any absence of thirty calendar days or less from the assigned berth, to pay fees for the berthing space and any other use permits designated in the application at the rate established in section 13-234-3 and any other applicable sections of these rules. Where the absence permitted under section 13-231-11 exceeds thirty calendar days, then for the period in excess of thirty calendar days, the mooring fees for the berth retained

and the fees prescribed in these rules for any facilities or services actually utilized by the permittee during the permittee's absence shall be due and payable to the department. During such absence, the department may issue a temporary use permit for the use of the berthing space by another vessel and charge mooring fees from the temporary permittee at the rate prescribed in these rules. [Eff 2/24/94; am and comp **AUG 23 2019**] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-7 Mooring fee for vessels owned by nonresident. The mooring fee for vessels assigned a permanent berth in any state small boat harbor and owned by nonresidents shall be ten per cent higher than the mooring rate schedule in section 13-234-3. [Eff 2/24/94; am and comp **AUG 23 2019**] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-8 Stay-aboard or principal habitation fee. (a) The owner of a vessel moored in a state small boat harbor and authorized to be used as a place of principal habitation shall pay, in addition to mooring or any other applicable fee or charge, a principal habitation fee computed according to vessel length as follows:

- (1) \$5.25 per foot of vessel length per month if the owner is a state resident; and
- (2) \$7.80 per foot of vessel length per month if the owner is a non-resident;

provided that for any calendar year beginning after January 1, 1987, upon thirty calendar days prior written notice from the department, the principal habitation fees established by this subsection shall be increased based on the increase in the annual cost of living index (U.S. Department of Labor, U.S. City Average Urban Consumer Price Index for "all items"),

but the increase for any calendar year shall not exceed five per cent.

(b) The owner or operator of a transient vessel or visiting vessel shall pay a stay-aboard fee of \$10.00 per person staying aboard a vessel, in addition to mooring or any other fees and charges, for each and every night that any person remains on board the vessel while the vessel is moored in a state small boat harbor. [Eff 2/24/94; am and comp **AUG 23 2019**] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-9 Stay-aboard or principal habitation fee for offshore mooring or anchoring. The owner of a vessel or houseboat moored or anchored outside a small boat harbor and authorized to be used as a principal place of habitation or for staying aboard shall pay, in addition to any other applicable fee or charge, a principal habitation fee, or a stay-aboard fee as appropriate, which shall be the same as the rate specified in section 13-234-8. [Eff 2/24/94; am and comp **AUG 23 2019**] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-10 Electricity fee. (a) The monthly fee for the use of electricity when furnished by the State at a small boat harbor shall be as follows:
(1) When no person lives aboard.....\$40.00
(2) When persons live aboard\$100.00
(3) Commercial vessels\$40.00
(b) Persons not using electricity furnished by the State at a small boat harbor shall not be assessed an electricity fee; provided that if a person is later found to be using electricity furnished by the State but is not paying the fee required by this section, the person shall be assessed the full monthly fee required by this section. [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10,

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200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-11 Shower fee. (a) Showers with hot water, when provided, are for use by persons having properly permitted vessels moored in the Ala Wai and Keehi state small boat harbors only.

(b) A monthly fee of \$15.00 shall be assessed for each person who has been granted access to shower facilities. Shower facility keys shall be connected to mooring permits. Each person having a properly permitted vessel moored in the Ala Wai or Keehi state small boat harbor and authorized by the department to utilize shower facilities, except those under the age of eighteen, may secure no more than one male shower facility key and one female shower facility key per mooring permit.

(c) Each person shall deposit the amount set by section 13-234-32 with the department prior to receiving a shower key, as security for the prompt return of the key upon termination of the use permit. This deposit shall be forfeited in the event the permittee does not return the shower key to the department on or before the date of termination of the use permit. [Eff 2/24/94; am and comp

AUG 23 2019
] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-12 Dry storage. (a) No person shall use any location on land under the jurisdiction of the division of boating and ocean recreation for dry storage of vessels, vessels upon trailers, empty trailers, or any other equipment or items used in connection with vessels or trailers without written authorization from the department. In order for a person's vessel or trailer, or both, to be eligible for dry storage, the following must be met:

- (1) The person holds a valid use permit allowing that person to moor the vessel in a state small boat harbor;

- (2) The vessel to be stored is properly registered with the department;
- (3) Any trailer to be stored, whether holding a vessel or not, is properly registered and has a valid safety inspection; and
- (4) The vessel or trailer, or both, to be stored are properly insured, as required by section 13-231-2.

(b) If the requirements of subsection (a) are met, the department may authorize the permittee to use a designated location on land within the harbor for which their use permit applies, subject to the exception in subsection (h), to refurbish or repair the permittee's vessel.

(c) If a vessel, trailer, or other items are stored for a period exceeding seven calendar days per calendar year, the permittee shall be required to pay a dry storage fee, as specified in this section. State holidays shall not count towards the seven-day limit on free dry storage.

(d) A permittee whose vessel is utilizing dry storage facilities shall not be entitled to a reduction in the mooring fees applicable to the permittee's temporarily vacated berth.

(e) Subject to any additional fees pursuant to subsection (g), the fee for the storage of vessels and trailers on land at a state small boat harbor shall be as follows:

- (1) Vessels stored on land,
per foot of vessel
length, cradle length,
or trailer length,
whichever is greater,
per month.....\$3.00;
- (2) Empty boat trailer per month.....\$100.00;

The minimum monthly charge for vessel storage shall be \$100. The charge for a storage period of less than sixteen calendar days shall be one-half of the monthly rate, with a minimum monthly charge of \$50.

(f) Subject to additional fees pursuant to subsection (g), the charges for use of storage for other equipment or items used in connection with

vessels or trailers shall be \$1.50 per month, per square foot. The minimum charge per month shall be \$25. The charge for a storage period of less than sixteen calendar days shall be one half the monthly rate, with a minimum charge of \$12.50.

(g) The fees for any vessels, trailers, or other items stored on land under the jurisdiction of the division of boating and ocean recreation without written permission from the department or contrary to this section shall be as follows:

Duration of time	Fee
(1) 30 days or less	1.5 times the fees stated in subsections (e) and (f);
(2) 31-60 days	2 times the fees stated in subsection (e) and (f) for the period over 30 days;
(3) More than 60 days	3 times the fees stated in subsection (e) and (f) for the period over 60 days.

(h) A person who does not hold a valid mooring permit for a particular state small boat harbor may be permitted by the department to use a designated location on land within that harbor for a period not to exceed thirty calendar days to repair or refurbish a vessel, or twelve calendar months if utilizing the location solely for storage. The charge shall be the same as specified in subsection (e).

(i) The department shall not be responsible for any claim for loss or damage by reason of theft, fire, or any other cause in connection with any personal property stored in the designated storage area. [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

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§13-234-13 Gear locker fee. (a) The charge for the use of a gear locker provided by the department shall be \$10.00 per month.

(b) If the department gives written permission for a boat owner to construct a personal gear locker pursuant to section 13-232-44, the charge, while the owner's permit remains in effect, shall be the same as the rate established in section 13-234-12(f). [Eff 2/24/94; am and comp **AUG 23 2019**] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-14 Mooring fees - facilities constructed by others. Where a mooring facility is constructed by others pursuant to section 13-232-43, reimbursement of costs may be authorized by the department pursuant to section 200-19, Hawaii Revised Statutes. [Eff 2/24/94; am and comp **AUG 23 2019**] (Auth: HRS §§200-4, 200-6, 200-10, 200-19, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-19, 200-22, 200-24)

§13-234-15 Waiver or return of fees. (a) The department reserves the right to waive or reduce any late fees and related interest contained in this chapter.

(b) Whenever the department, through error, collects any fee not required to be paid by this chapter, the fee shall be refunded to the person paying the fee upon written application made to the department within thirty calendar days after the date of the payment. [Eff 2/24/94; am and comp **AUG 23 2019**] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-16 Permit processing fees. (a) The charge for the issuance, re-issuance, and revision of a use permit shall be as follows:

- (1) Issuance and re-issuance of a regular mooring permit as defined in section 13-231-3.....\$10.00;
- (2) Issuance and re-issuance of a commercial permit.....\$25.00;

- (3) Issuance and re-issuance of all other permits listed in section 13-231-3...\$10.00;
- (4) Revision of a use permit at an owner's request.....\$10.00.
[Eff 2/24/94; am and comp **AUG 23 2019**
] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-17 Fees for vessels moored at yacht club berths and other areas covered by specific agreements. Owners of vessels moored or anchored in areas or portions of state small boat harbors covered by specific agreements or other arrangements with the State, as in the case of yacht clubs and the like, and who are paying mooring charges to the lessees or other parties of such agreements or arrangements, shall be exempt from the mooring fees set out in section 13-234-3; provided that the owners shall enter into an agreement and obtain use permits as required in section 13-231-3 and all fees and charges other than mooring fees shall be assessed as the same shall properly apply. [Eff 2/24/94; comp **AUG 23 2019**
] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-18 Excessive water usage fee. (a) A fee of ten dollars per day for each day or fraction thereof will be charged for excessive use or waste of fresh water at all state small boat harbor and launch ramp facilities, which includes, but is not limited to, use of water for the prolonged operation of ejectors to pump water out of vessels and permitting hoses to run unattended.

(b) Fresh water made available by the department at boating facilities shall only be consumed or used at the state small boat harbor or other boating facility where it is provided or while engaged in an activity on navigable waters from that harbor or boating facility, and such consumption or use must be

related to proper activities at small boat harbors and other boating facilities.

(c) Persons violating this section may be subject to penalties under Section 200-25, Hawaii Revised Statutes. [Eff 2/24/94; am and comp **AUG 23 2019**]
] (Auth: §§200-4, 200-6, 200-10, 200-22, 200-24, 200-25) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24, 200-25)

§13-234-19 REPEALED [R **AUG 23 2019**]

§13-234-20 Salvage fee. The owner of a vessel in danger that is saved, rescued, or secured pursuant to section 13-231-19 shall be charged a fee for services and materials based on prevailing commercial rates plus ten per cent. [Eff 2/24/94; comp **AUG 23 2019**]
] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-21 Principal habitation application fee. Prior to filing or renewing an application for the issuance of a principal habitation permit pursuant to section 13-231-27(a)(2), an applicant shall pay to the department a non-refundable application fee of fifteen dollars. [Eff 2/24/94; am and comp **AUG 23 2019**]
] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-22 Exemption from fee differential. Nonresident members of the United States Armed Forces on active duty who are stationed in Hawaii, or on order to be stationed in Hawaii and their dependents shall be exempt from payment of the nonresident fee differential prescribed in this subchapter during the period that the Armed Forces member is on active duty and stationed in Hawaii; provided that they submit relevant proof to the department of such status. [Eff 2/24/94; am and comp **AUG 23 2019**] (Auth: HRS

§13-234-22

§§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS
§§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-23 Application fee for moorage. If all suitable berths in a small boat harbor have been allocated to others, a person may apply, subject to the payment of application fees, for a future vacancy or to move in the future to another berth in the same harbor. In small boat harbors where categories of berths have been established, if any applicant applies for or renews applications for more than one category of berth, a separate application fee or fee for renewal of an existing application shall be charged for each additional category.

- (1) The application fee or fee for renewal of an existing application for a regular mooring permit shall be fifteen dollars for any person who is a Hawaii resident and one hundred dollars for all other persons.
- (2) The application fee or fee for renewal of an existing application for a temporary mooring permit or an application to transfer in the future to another berth with the same characteristics in the same harbor shall be fifteen dollars.
- (3) No application for moorage, renewal of such application, or for berth transfer shall be accepted until the applicant has paid the prescribed fee. The fee is not refundable if the department rejects the applicant's application or a renewal thereof pursuant to section 13-231-82. [Eff 2/24/94; am and comp **AUG 23 2019**] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-24 Fee for residency status appeal; refund if status determination reversed. The fee for filing an appeal concerning classification as a nonresident as defined in section 13-230-8 shall be

fifteen dollars. No petition shall be accepted until the prescribed fee has been paid. This fee shall be promptly refunded if, as a result of the appeal, the department reverses its original determination that the petitioner was a nonresident. In addition, in such instances any nonresident fee and charge differential paid by the petitioner shall be promptly refunded for the appropriate period. [Eff 2/24/94; am and comp **AUG 23 2019**] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-25 Fees for commercial use permits. (a) The following fees and charges shall be assessed for services provided by the department relating to commercial use of state boating facilities, waters of the State, and navigable streams:

- (1) The fee per month per vessel for a permittee with a commercial use permit and regular mooring permit who moors in and uses a small boat harbor or any of the facilities in the harbor shall be the greater of two times the mooring fees as provided in section 13-234-3 or three per cent of the monthly gross receipts. In addition to the mooring fee as provided in this section and section 13-234-3, the permittee shall also pay fees and charges in the amounts prescribed in these rules for any other facilities and services utilized in the small boat harbor.
- (2) The fee per month for a permittee with a commercial use permit for a boat ramp, wharf, or other state boating facility, except a state small boat harbor, or a catamaran registration certificate shall be the greater of three hundred dollars per month or three per cent of the monthly gross receipts. The single fee assessed for the use of a state boat ramp shall entitle the permittee to use any other state boat ramp on the same island without an additional

charge, except for those boat ramps listed in section 13-231-67. The department shall provide, upon issuance of a commercial use permit for a state boat ramp, a set of trailer decals that shall be displayed on each side of the forward end of the trailer tongue.

- (3) For permittees with a commercial use permit only, the fee per month shall be the same as prescribed in section 13-234-25(a)(2).
- (4) For permittees who have been issued a valid commercial use permit for the use of more than one small boat harbor, the permittee shall designate the state small boat harbor of principal use, and the percentage of monthly gross receipts described in this section shall be paid to that account. The fees for commercial use permits issued for the other state small boat harbors shall be the minimum amount specified in paragraph (2) or paragraph (1) of this subsection for those permittees with state small boat harbor mooring permits.
- (5) For permittees issued a temporary mooring permit and a commercial use permit, the fee per month shall be the greater of the temporary mooring fees required by section 13-234-5 or three per cent of the monthly gross receipts.

(b) When a commercial use permit is issued, the department shall also provide a set of commercial trailer decals for commercial trailered vessels that shall be displayed on each side of the forward end of the trailer tongue. The fee for each commercial trailer decal shall be as prescribed in section 13-234-34.

(c) Vessels that moor at a state boating facility and which are used by a commercial use permittee for shuttle operations to transport passengers to and from the commercial use permittee's primary operating vessel or which are under contracts to perform shuttle operations for passenger cruises



shall be required to have a designated state boating facility of principal use, and the fee charged under this section shall be paid to the principal use account.

(d) The department may conduct a financial audit of the records of any commercial use permit account to determine the accuracy of reported gross receipts, or to inspect any other financial information, including Gross Excise Tax records directly related to the enforcement of these rules after providing notice, as described in section 13-230-6, not less than thirty calendar days prior to the audit.

(e) The department may, by lease, permit, or mooring permit, in accordance with Hawaii Revised Statutes, grant the use or possession of state boating facilities. The leases and permits shall provide for payments of rental, fees and charges, and other conditions in accordance with applicable statutes and administrative rules, in lieu of and notwithstanding the provisions for fees specified in this chapter.

(f) Fees and charges for commercial use of state boating facilities, waters of the State, and navigable streams shall be due and payable no later than the end of the month following the month in which the fees and charges are incurred. No commercial use permit shall be reissued unless the permittee meets the minimum gross receipts requirements required by section 13-231-61. A report of gross receipts shall be received by the department not later than the end of the month following the reported month and shall be submitted on a form acceptable to the department. Unless otherwise provided by Hawaii Revised Statutes, failure to submit the required report of gross receipts more than sixty calendar days after it becomes due shall constitute grounds for termination of the corresponding commercial use permit. [Eff 2/24/94; am 12/16/06; am and comp **AUG 23 2019**] (Auth: HRS §§200-2, 200-3, 200-4, 200-10, 200-22, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-10, 200-22, 200-24, 200-39)

§13-234-26 Passenger fees. (a) Any passenger or cruise vessel which is used for private gain and does not have a valid mooring permit or commercial permit and which uses state small boat harbors property or facilities shall pay the following fees in addition to any other fees required by this chapter:

- (1) Per passenger (includes in transit)--embarking to or from shore to ship.....\$2
- (2) Passengers in transit on a vessel on a continuous trip whose point of origin and termination is a state small boat harbor, a total of disembarking and embarking at each port per passenger.....\$1.50
- (3) Passengers embarking and disembarking on occasional and infrequent use on special charter when approved in advance of voyage as provided in section 13-231-57(c) (3).....\$1.50

(b) Any passenger vessel using a dock, pier or wharf in a state small boat harbor for disembarking and embarking passengers by means of any boat or lighter while moored offshore, shall pay a fee per passenger for disembarking and embarking at each small boat harbor as follows:

- (1) Passenger vessels engaging only in interisland commerce:.....\$.30
- (2) Passenger vessels engaging in international or inter-state commerce:.....\$1.00

Vessels operated by a federal or state agency are exempt from the provisions of this subsection.

(c) A report shall be filed with the department on a form acceptable to the department within thirty days after the date of embarking or disembarking of passengers over state facilities and the charges due shall be remitted along with the report. [Eff 2/24/94; comp AUG 23 2019] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-27 REPEALED. [R AUG 23 2019]

§13-234-28 Negotiable instruments; service charge. (a) The service charge for any dishonored check, draft, certificate of deposit, or other negotiable instrument is twenty-five dollars.

(b) Payment to and acceptance by the department of the service charge for a check, draft, certificate of deposit, or other negotiable instrument shall not be construed as a waiver of any violation of the Hawaii Penal Code, chapters 701 to 712A, Hawaii Revised Statutes, or of these rules. [Eff 2/24/94; am and comp **AUG 23 2013**] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-29 Vessel inspection fee. For a vessel inspection performed by the department prior to the issuance or reissuance of a regular mooring permit, there shall be a non-refundable fee of forty dollars for each vessel to be inspected. The inspection shall be valid for two years. A vessel owner shall make an appointment with a harbor agent of the department not less than five working days prior to the date that the vessel is to be inspected. A fee of twenty dollars shall be charged if notice of cancellation by the vessel owner is not given to the harbor agent prior to the scheduled inspection. The inspection fee for vessels exempt from numbering pursuant to section 13-241-2 and for open skiffs and dinghies less than thirteen feet in length shall be ten dollars. [Eff 2/24/94; am and comp **AUG 23 2013**] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-30 Application fee for approved marine surveyor. Prior to filing or renewing an application for recognition as an approved marine surveyor by the department as provided in section 13-231-45, the applicant shall pay to the department a non-refundable

application fee of fifty dollars. [Eff 2/24/94; am and comp **AUG 23 2019**] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-31 Fee for commercial use of boat launching ramps and other boating facilities. The fee for commercial use of state launching ramps, wharves, or other state boating facilities, except state small boat harbors, shall be the same as prescribed in section 13-234-25(a)(2). The single fee assessed for the use of a state launching ramp shall entitle the permittee to use any other state launching ramp on the same island without additional charge, except for those launching ramps listed in section 13-231-67. [Eff 2/24/94; am and comp **AUG 23 2019**] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-32 Small boat harbor facility key deposits. (a) Each permittee with a valid regular mooring permit or temporary mooring permit authorized to secure a shower facility key shall deposit fifty dollars with the department as security for prompt return of the key upon termination or expiration of their use permit.

(b) Each person authorized to secure a key for other harbor facilities, such as security gates or restrooms, shall deposit the following amount with the department prior to receiving the key:

- (1) Twenty-five dollars for a permittee with a valid regular mooring permit; or
- (2) One hundred dollars for a permittee with a valid temporary mooring permit.

(c) Payment for fees assessed under this section shall be made only in the form of cash or credit card.

(d) Payments of key deposits under this section shall be forfeited in the event the permittee does not return the key to the department on or before the termination of permittee's use permit or when the

permittee is required to replace a key which has been lost or stolen. [Eff 2/24/94; am and comp **AUG 23 2019**]
] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-33 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 ten per cent or more of the stock or interest in the firm, either as a single transaction or an aggregate of several transactions, to any person who is not a stockholder or owner of record, except for transfers between spouses or first generation lineal descendants, 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 based on the passenger-carrying capacity of the vessel, and shall be as follows:

- (1) Vessels used for bare boat (demise) and sailing charters carrying six or less passengers.....\$2,500
- (2) Vessels registered by the State or documented by the U.S. Coast Guard to carry six passengers or less, used for charter fishing or other commercial purpose.....\$5,000
- (3) Vessels certified by the U.S. Coast Guard to carry seven to twenty-four passengers.....\$10,000
- (4) Vessels certified by the U.S. Coast Guard to carry twenty-five to forty-nine passengers.....\$15,000
- (5) Vessels certified by the U.S. Coast Guard to carry fifty to seventy-four passengers.....\$25,000
- (6) Vessels certified by the U.S. Coast Guard to carry seventy-five to ninety-nine passengers.....\$40,000
- (7) Vessels certified by the U.S. Coast Guard to carry one hundred to one hundred forty nine passengers.....\$75,000

(b) When less than one hundred per cent of the interest in the corporation is transferred, the business transfer fee shall be based upon a like percentage of the business transfer fee provided in subsection (a). [Eff 2/24/94; am and comp **AUG 23 2019**] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-34 Fee for use of state boat launching ramps. (a) An annual boat ramp decal user fee of seventy-five dollars shall be paid by owners of trailered vessels using facilities under the jurisdiction of the division of boating and ocean recreation for recreational and fishing purposes to gain access to the waters of the State. This fee is charged for the purpose of defraying costs of maintenance of state boating facilities.

(b) In addition to the vessel registration fee, the annual boat ramp decal fee described in subsection (a) shall be paid in full at the time of registration or registration renewal.

(c) The department shall provide an owner with a set of decals for the trailer upon payment of the fee required by this section. Current boat ramp decals shall be affixed to each side of the forward end of the trailer tongue whenever the vessel trailer is operated or stored at a state boating facility.

(d) Notwithstanding subsection (c), a boat dealer or manufacturer shall be allowed to place a ramp decal on the dashboard of the vehicle used to transport a demonstration vessel. [Eff 2/24/94; am 12/16/06; am and comp **AUG 23 2019**] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-234-35 Fees for signs and ticket booths.

(a) The fee for commercial signs posted in state small boat harbors shall be assessed monthly as follows:

- (1) Five dollars for each sign five square feet in size or smaller; and
- (2) One dollar per square foot for signs larger than five square feet, rounded to the nearest whole number.

(b) The fee for ticket booths in small boat harbors shall be two hundred fifty dollars per month. [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

AUG 23 2019

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 253

CATAMARAN REGISTRATION CERTIFICATE, OTHER
REGISTRATION, AND COMMERCIAL USE PERMIT FEES

Historical note

- \$13-253-1 Registration fees for canoes, surfboards,
and water sports equipment
- \$13-253-1.1 Commercial use permit and catamaran
registration certificate fees
- \$13-253-1.2 No additional fees
- \$13-253-1.3 Gross receipts
- \$13-253-2 Permit and registration certificate Fees
- \$13-253-3 Repealed
- \$13-253-4 Repealed
- \$13-253-5 Repealed

Historical note. 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; comp 9/25/14; am and
comp **AUG 23 2019**]

§13-253-1 Registration fees for canoes, surfboards, and water sports equipment. The following registration fees shall be paid to the department for the registration of canoes, surfboards, and watersports equipment that are used in a commercial operation:

	<u>Original</u>	<u>Renewals</u>
All vessels, each vessel	\$5.00	\$3.50
Surfboards, each board	\$1.00	\$1.00
Watersports equipment	\$1.00	\$1.00

The minimum fee for surfboards shall be one dollar. [Eff 2/24/94; am and comp 9/25/14; am and comp **AUG 23 2019**] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-253-1.1 Commercial use permit and catamaran registration certificate fees. The monthly fee for a commercial use permit or a catamaran registration certificate shall be the same as prescribed in section 13-234-25(a)(2). This fee shall be applicable to all commercial use permits and all catamaran registration certificates for waters of the State or navigable streams. [Eff and comp 9/25/14; am and comp **AUG 23 2019**] (Auth: HRS §§ 200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-253-1.2 No additional fees. (a) Fees required to be paid to the department for commercial activities in waters of the State including but not limited to ocean recreation management areas, shall be reported and paid in accordance with section 13-234-25(f).

- (1) A permittee possessing a harbor commercial use permit and a commercial use permit for state ocean waters or a navigable stream or a catamaran registration certificate, who is

paying three per cent of gross receipts per month under the harbor commercial use permit, shall not be required to pay an additional three per cent of gross receipts per month under the commercial use permit for state ocean waters or a navigable stream or a catamaran registration certificate, provided that the payment made to the department is based on the total of gross receipts acquired under the harbor commercial use permit and the commercial use permit for state ocean waters or a navigable stream or a catamaran registration certificate.

- (2) A permittee possessing a commercial use permit for state ocean waters or a navigable stream or a catamaran registration certificate who is operating from a private or County facility or land and said operation does not involve the use of state fast land or land within a shoreline area, shall be required to pay \$200 per month by the first day of each month under the commercial use permit or registration certificate, but shall be exempt from paying three per cent of gross receipts per month under the commercial use permit or registration certificate.

(b) Delinquency in the payment of any fees owed to the department, as specified in chapter 13-234, may result in revocation of the commercial use permit or catamaran registration certificate. [Eff and comp 9/25/14; am and comp **AUG 23 2019**] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2 ,200-3, 200-4, 200-22, 200-24)

§13-253-1.3 Gross receipts. Each commercial permittee or catamaran registration certificate holder shall be responsible for submitting to the department a monthly statement of its gross receipts. [Eff and comp 9/25/14; am and comp **AUG 23 2019**] (Auth:

§13-253-1.3

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

§13-253-2 Permit and registration certificate fees. A \$10.00 fee shall be paid to the department for the issuance or re-issuance of any commercial use permit or catamaran registration certificate pursuant to these rules. [Eff 2/24/94; am and comp 9/25/14; comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-253-3 REPEALED. [R **AUG 23 2019**]

§13-253-4 REPEALED. [R **AUG 23 2019**]

§13-253-5 REPEALED. [R 9/25/14]

DEPARTMENT OF LAND AND NATURAL RESOURCES

The amendments to and compilation of chapters 13-234 and 13-253, Hawaii Administrative Rules, on the Summary Page dated June 14, 2019, were adopted on June 14, 2019 following public hearings held on Hawaii, Kauai, Maui, and Oahu, after public notice was given in the Hawaii Tribune-Herald on January 31, 2019, the Honolulu Star-Advertiser on January 31, 2019, The Garden Island on January 31, 2019, The Maui News on January 31, 2019, and West Hawaii Today on January 31, 2019.

The amendments shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/ Suzanne D. Case

SUZANNE D. CASE

Chairperson

Board of Land and Natural Resources

/s/ David Y. Ige

DAVID Y. IGE

Governor

State of Hawaii

Dated: 8/13/2019

APPROVED AS TO FORM:

/s/ Cindy Y. Young

Deputy Attorney General

8/13/2019

Filed