

HARBOR TENANT HANDBOOK



USER RESOURCE SERIES

HARBOR TENANT HANDBOOK

PREFACE

Welcome and congratulations for securing a mooring permit in a Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DLNR/DOBOR, the department) facility. This document applies to all tenants, including those who also have a live-aboard use permit and summarizes conditions for maintaining a mooring permit, securing a parking permit for your automobile, who may stay aboard, hours for visitation, etc.

There is a separate handbook for commercial tenants moored in the harbor or using loading docks in the harbor as a vessel moored elsewhere (VME).

This document cites passages from the Hawaii Revised Statutes (HRS) and the Hawaii Administrative Rules (HAR). They are often criticized for being too wordy or written in a style that is difficult to understand. Unfortunately, there are guidelines on how they need to be written and DOBOR is required to follow these guidelines. If you are unsure of the intent of a statute or administrative rule, you can always ask your harbor staff members to help explain these laws for you in easy-to-understand terms.

HAWAII REVISED STATUTES (HRS)

This set of laws gives broad authority to DLNR to regulate the mooring, docking, or anchoring of recreational and commercial vessels; the launching of recreational or commercial vessels at small boat harbors, launching ramps, and other boating facilities; uses of the boating facilities; and requirements for permits and fees for use of a vessel as a principal place of habitation while moored at a state small boat harbor (**HRS §200-4**). This is a very short list of the authority granted to the department.

To access Hawaii Revised Statutes Chapter 200, Ocean Recreation and Coastal Areas Program navigate to:

https://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0200/HRS_0200-.htm

HAWAII ADMINISTRATIVE RULES (HAR)

One of the most critical things the statutes empower an agency like DLNR to do is create Administrative Rules. Usually, the statutes are written in a way that covers certain aspects of a topic in broad, sweeping strokes. The administrative rules provide the much finer details on how the department must manage its facilities and responsibilities. To get an accurate perspective on an issue, you should look at the pertinent statutes and administrative rules together.

To access Hawaii Administrative Rules, Title 13, Subtitle 11, Ocean Recreation and Coastal Areas, Chapters 13-230 through 13-257 navigate to:

<https://dlnr.hawaii.gov/dobor/rules/>

DISCLAIMER

THE FOLLOWING PASSAGES ARE EXERPTS OF STATUTES (HRS) AND ADMINISTRATIVE RULES (HAR) PERTINENT TO DLNR/DOBOR HARBOR TENANTS AND THE MANGEMENT OF STATE RECREATIONAL BOATING FACILITIES. THE STATEMENTS MADE IN THIS DOCUMENT PARAPHRASE THE HRS AND HAR FOR READABILITY AND ARE NOT BINDING. REFER TO THE FULL VERSIONS OF THESE LAWS FOR THE COMPLETE TEXT.

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PURPOSE AND USE OF STATE SMALL BOAT HARBORS

HRS §200-9 State small boat harbors are constructed, maintained, and operated for recreational boating activities, landing of fish, and commercial vessel activities. Only vessels in good material and operating condition that are regularly navigated beyond the confines of the small boat harbor and that are used for those purposes are permitted to moor, anchor, or berth at a state small boat harbor or use any of its facilities.

AVAILABLE BERTHS

The total number of berths in the DLNR/DOBOR system fluctuates on a daily basis depending on their state of readiness. Some may be unavailable to be occupied based on needed maintenance. Vessels used for principal habitation of the owners shall occupy no more than one hundred twenty-nine berths at Ala Wai boat harbor and thirty-five berths at Keehi boat harbor.

PERCENTAGE OF COMMERCIAL PERMITS

Commercial Use Permits for Ala Wai small boat harbor (SBH) shall not exceed 15% of the total number of berths. Vessels are limited to 65 feet in length. Commercial Use Permits for Keehi SBH shall not exceed thirty-five per cent of the total number of berths.

PERMIT REQUIREMENTS, AGREEMENTS

PERMIT REQUIREMENTS

HRS §200-10 The following are the basic requirements. The applicant:

- must be the primary/managing owner of the vessel;
- must provide a marine surveyor's inspection or a vessel inspection by the department, no more than two years old, certifying that the vessel has been inspected and fulfills the requirements set by DLNR;
- must provide documentation that the applicant is the owner of the vessel. The documentation shall meet requirements established by the department;
- must provide satisfactory proof that the person has attained the age of eighteen years prior to obtaining a permit or being placed on the waitlist for a permit;
- must actively use the vessel on a periodic basis (leave the confines of the harbor to perform a buoy run at minimum) to prove the vessel is not dormant. See the section on BUOY RUNS in this manual for details.

HRS §200-10 (c) The permittee shall pay moorage fees to the department for the use permit that shall be based on but not limited to the use of the vessel, the vessel's effect on the harbor, use of facilities, and the cost of administering the mooring program.

See the full text of HRS §200-10 for additional details on fees and permit transfers found in statute at:

https://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0200/HRS_0200-0010.htm

FEES

HAR §13-234 Fees and charges for mooring rates, vessels absent for more than 14 days, for non-residents, stay-aboard or principal habitation, use of on-site showers, storage, lockers, etc. are detailed in this HAR. **HAR §13-234** also provides details on how to make payment, security deposits, delinquency, etc. Refer to the full text of this rule for the current information at:

<https://dlnr.hawaii.gov/dobor/files/2023/01/190823-13-234-13-253-Standard-for-Public-Distribution.pdf>

STANDARDS FOR VESSELS

Even though an inspection is typically performed prior to issuance of a permit and when the permit is renewed, the owner is required to keep his/her vessel in good condition at all times.

HAR §13-232-40 Every vessel and all other personal property and facilities at a small boat harbor shall be kept in such a condition of repair, maintenance, neatness, and orderliness so as not to constitute a common nuisance, substantial danger to person or property, or obstruction to proper public use and to be in conformity with these rules, the Hawaii state boating law, the rules of the Department of Health, and all other applicable state and federal laws.

ALLOCATION OF BERTHS AND OFFSHORE MOORINGS

HAR §13-231-80 It is the policy of the department to promptly assign an available berth on a first-come, first-served basis to the first qualified applicant, provided that the proposed use by the vessel affords maximum, safe, convenient, and efficient utilization of facilities and provided that assignment is not contrary to public interests, or otherwise unlawful or contrary to these rules.

Since each berth and each vessel presents unique ship handling and other peculiar berthing problems in relation to the small boat harbor, the department reserves the right to utilize its fair and impartial judgment, flexibility, and discretionary authority to allocate berths based upon its knowledge of available facilities, prevailing small boat harbor conditions, safe boating practices,

effective harbor management procedures, and other factors which must be thoroughly considered prior to acceptance of an application and allocating a berth to a vessel.

HAR §13-231-80 contains additional, detailed information explaining how allocations of berths and offshore moorings are made. Please refer to the full text for details.

AGREEMENT FOR USE OF HARBOR PROPERTY, FACILITIES, OFFSHORE MOORING AREA

§13-231-2 Upon accepting an offer for a slip in a harbor, the vessel owner must sign an “Agreement For Use Of Small Boat Harbor Property, Facilities And Offshore Mooring Area.” This document sets conditions that you must follow. It states that to keep your use permit in force, you and your vessel must be in compliance with **ALL** State and Federal laws and rules of the department.

HAR §13-231-3 describes the types of use permits that may be issued, including regular, temporary, stay aboard, vacation, principal habitation, commercial use, storage and miscellaneous permit. The HAR requires the applicant to provide documentation of the applicant’s ownership structure of any entity that would own or control the mooring permit.

CONDITIONS OF A PERMIT FOR A BERTH OR OFFSHORE MOORING

This is a list of the general conditions of a permit you agreed to when you accepted the offer of a berth or an offshore mooring in a DLNR/DOBOR facility. The language in the following list may differ slightly from what is stated on the actual permit.

- The PERMITTEE shall agree to abide by all rules promulgated by the Department of Land and Natural Resources (the Department or DLNR) and conditions of the permit. Rules are available online at <http://hawaii.gov/dlnr/dbor/borrules.htm>.
- The permitted vessel will be moored at the location in the facility designated by the official representative of the DLNR and tied up in a manner approved by the representative.
- The mooring permit shall not exceed (1) year from date of issue. The permit termination date will be indicated on the permit.
- A new mooring permit may be obtained up to ninety (90) days prior to the termination dated of an existing permit only if all fees and charges due, per Hawaii Administrative Rules (HAR), have been paid and upon completion of a satisfactory vessel inspection and buoy run. Failure to obtain a new mooring permit prior to the termination date listed on the permit shall result in the owner being charged the

rate for vessels moored without a permit, and a one-time payment of \$250.00 shall be paid, as long as it is within 30 days from the date of the expiration. Failure to comply with the 30-day extension shall result in the vessels being required to vacate the harbor, offshore mooring area, and/or ramp facility.

- The PERMITTEE will pay the DLNR fees and charges in advance or before the first day of each month for the use of the berth and any additional facilities or services assigned or provided to the PERMITTEE by the DLNR, in such sums to be calculated according to the provisions of Hawaii Revised Statutes (HRS) Section 200-10 (c) and HAR Chapter 13-234, and amendment or increase of such fees. The permit will state the fees that are due for the permitted vessel, including but not limited to (if applicable) mooring charges, electricity, shower fees, gear locker rentals.
- A mooring permit may be cancelled by a boat owner upon thirty (30) days written notification as prescribed in HAR 13-231-9, and charges will be made in accordance with HAR 13-234-2(d). The Security Deposit paid by the PERMITTEE will be applied to any outstanding balance. The remaining will be returned via mail within a reasonable time.
- The mooring privilege may be terminated by the DLNR by written order and the boat will be moved from the mooring at any time should necessity arise. Failure to comply may result in the impoundment of the vessel.
- The mooring permit and related use permits will AUTOMATICALLY EXPIRE if the vessel is absent from its assigned berth, mooring, and/or assigned offshore anchorage area for more than fourteen (14) days unless the holder of the permit applies for and receives permission from the DLNR to retain the use of the assigned berth and related permits upon the vessel's return (HAR13-231-11).
- The DLNR retains the right to not issue a new permit after the termination date of the permit.
- The PERMITTEE shall obtain and continue to secure a Certificate of Insurance policy for General Liability insurance in the amount of \$500,000 and name the State of Hawaii as an additional insured, for as long as the permit is valid. Commercial Permittees shall refer to HAR 13-231-65 on minimum insurance requirements. Vessel owners will be required to show proof of insurance when applying or reapplying for mooring permits. Acceptable coverage would include a minimum of \$500,000 in boat liability insurance (protection and indemnity) that names the State of Hawaii, DLNR Division of Boating and Ocean Recreation as additional insured.

ONE PERMIT PER VESSEL

HAR §13-231-4 limits a vessel to one use permit in a State facility and prohibits a vessel from having a second mooring in a private marina or yacht club. A temporary mooring permit may be issued to authorize temporary mooring in any small boat harbor or offshore mooring area. A temporary mooring permit shall not exceed a cumulative period of one hundred and twenty days in the same calendar year except for commercial vessels authorized for use at Heeia Kea SBH. The department may issue additional offshore mooring permits to owners of vessels with a valid commercial use permit pursuant to **HAR 13-231-59**.

PERMITS ARE VALID FOR UP TO ONE YEAR

HAR §13-231-5 details the period of validity and renewal of various types of use permits. All permits, excluding temporary permits, are valid for any period up to, but not exceeding, one year. If a permittee should fail to reinstate a use permit on or before the expiration date, the permittee shall have a 30-day grace period and pay a one-time penalty of \$250 along with other applicable fees.

VESSEL INSURANCE

In December 2009, DOBOR instituted mandatory insurance for vessels moored in state boating facilities as a condition of a mooring permit. Acceptable coverage would include a minimum of \$300,000* in boat liability insurance (protection and indemnity) that names the State of Hawaii, Division of Boating and Ocean Recreation as "additional insured" or "additional interest." **As of 1/1/2014, the minimum coverage was increased from \$300,000 to \$500,000.**

Beginning 3/1/2020, Hawaii Revised Statutes **HRS §200-13.5** required boats 26 feet in length and greater that are registered or documented and operated in State waters to have at least \$100,000 in insurance, in a form and content to ensure that removal and salvage of a grounded vessel are covered.

To acquire and maintain a mooring permit in a DOBOR facility and operate your vessel in State waters, a permit holder/vessel owner must satisfy **both** insurance requirements.

Be sure that your insurance policy covers the (\$500,000) minimum to satisfy the mooring permit requirement AND the (\$100,000) minimum to ensure removal and salvage of your grounded vessel or you will be held responsible for the cost of removing your vessel if it is left in State waters. You should not assume a \$500,000 policy (for protection and indemnity) also covers removal and salvage.

DETERMINATION OF RESIDENCE

HAR §13-230-25 provides categories to aid in determining resident status. Categories include situations for minors, unemancipated minors, unemancipated minors of divorced, separated or deceased parents, nonresident unemancipated minors attending school or on active duty with the US Armed Forces, aliens, military personnel, married persons. For a complete list of categories and the associated resident status, refer to the administrative rule.

Per HAR §13-230-26, 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 along with proof of residency which will aid the department in determining the applicant's resident, nonresident, or Armed Forces status.

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 and proof of residency.

HAR §13-230-27 requires a permittee to report a change of residence while continuing to moor in the harbor within seven (7) days. An individual that agrees to assume responsibility of the vessel must be identified and must live on the same island where the vessel is moored.

HAR §13-230-29 states that it is illegal for any person to misrepresent any fact on any form or document used in determining resident status.

CONDITIONS FOR REVOCATION OF A PERMIT

HAR §13-231-6 sets conditions for revocation of a permit. The department may terminate a use permit if it issues a notice of deficiency to a permittee and the conditions of the permit are not corrected in a reasonable amount of time. The department may also revoke a permit if misstatements were made in the application or reapplication process or there is a failure to disclose material facts during vessel registration, vessel documentation or application of any use permit. Failure to pay fees owed to the department within 30 days of the due date will result in a suspension or even revocation of a commercial use permit.

HAR §13-231-9 A use permit may be cancelled by a boat owner upon thirty days written notice to the department.

TRANSFER OF PERMIT

No use permit shall be transferable. Whenever a permittee transfers the title to or interest in the vessel identified in the permit to another person by any arrangement, the use permit shall expire except as provided in **HAR §13-231-13**. The new possessor, transferee, or owner shall have no

right to use the permit. If the original permittee sells or otherwise transfers the vessel assigned the permit, the permittee may retain the mooring space if another appropriate vessel owned by the permit holder is moved into the space and the appropriate fees are paid. There are several other specific instances in which a transfer of ownership will allow a permit to stay in force. The department may extend the deadline for a new vessel to be moved into the assigned berth to prevent undue hardship. An extension shall not exceed one hundred twenty days from the date of sale or transfer of the previously assigned vessel.

The department may permit a one-time change in ownership of the permittee's vessel from personal ownership to corporate or other business ownership. Conditions apply.

NOTICE OF CHANGE OF OWNERSHIP, ADDRESS, ETC.

HAR §13-231-15 A vessel owner is required to report change of ownership, address, and other changes in writing within seven days. This applies even if a permitted vessel is chartered, leased, or rented and if there is a change in an agent's telephone number or address.

Change of Status Form:

<https://dlnr.hawaii.gov/dobor/files/2013/08/statusch050516.pdf>

IMPORTANT NOTE: As a reminder, the department may revoke a permit if misstatements were made in the application or reapplication process or there is a failure to disclose material facts during vessel registration, vessel documentation or application of any use permit. This is allowed under **HAR §13-231-6**. Concealing the transfer of ownership of a vessel on a mooring permit in a DLNR/DOBOR facility is grounds for termination. Per **HAR §13-231-15**, misstatement of facts or omission of facts regarding ownership of a vessel is cause for immediate termination of the permit. Holders of catamaran permits may be barred from holding permits.

HOUSEBOATS

HAR §13-231-20 States that no permits will be issued for houseboats except in Keehi Lagoon. Criteria exist in this administrative rule that aids in determining that a vessel is a houseboat.

HAR §13-231-21 restricts living aboard a vessel except at Ala Wai and Keehi small boat harbors. Exceptions include a yacht engaged in carrying passengers for hire on international voyages, vessels owned by the United States Government, a tugboat or towboat. The department may permit the operator and other persons accompanying the operator of a visiting or transient vessel to moor the vessel and live aboard for a period not to exceed thirty days at any one small boat harbor during the calendar year. Conditions apply. Per **HAR §13-231-22**, a stay aboard permit authorizing persons to stay aboard a transient or visiting vessel moored in a small boat

harbor or offshore mooring area may be issued not to exceed one hundred twenty nights in a calendar year.

INTERIM USE OF A VACANT BERTH

HAR §13-231-23 During the absence of a permitted vessel, the department may assign its berth to another person for up to thirty days. The interim vessel must be removed as directed by harbor staff or risk being impounded.

EXCHANGING OF BERTHS

HAR §13-231-25 With approval, a permittee holding a regular mooring permit may exchange berths with another permittee in the same small boat harbor if the vessels are suitable for the berths, there is mutual agreement, and the berths are comparable.

VESSELS AS A PLACE OF PRINCIPAL HABITATION; LIVE ABOARD

HAR §13-231-26 A vessel owner who holds a valid regular mooring permit in Ala Wai or Keehi small boat harbors may use that vessel as a place of principal habitation if the owner has applied for and secured a principal habitation permit.

A permit for this purpose will not be issued for:

- a vessel owned by a corporation,
- a vessel in Berths 23 through 79,
- the area leased to the Waikiki Yacht Club,
- the area leased as a marine fueling facility or a haul-out facility.

A vessel owner may use his/her vessel as a place of principal habitation while moored in the area leased to the Hawaii Yacht Club.

Only the vessel owner, co-owner, the spouse or, in the alternative, one reciprocal beneficiary of each, and their legal dependents may be issued a principal habitation permit.

While living together on the vessel, the vessel owner principal habitation permittee and reciprocal beneficiary shall not have a landlord-tenant relationship.

The department shall retain the right to limit the total number of people allowed to live on a vessel based on reasonable health, safety, security, or environmental concerns.

LIMIT ON THE NUMBER OF PRINCIPAL HABITATION PERMITS

Per **HRS §200-9** there shall be:

No more than one hundred twenty-nine vessels moored at Ala Wai small boat harbor shall be issued permits to use their vessels as a place of principal habitation.

No more than thirty-five vessels moored at Keehi small boat harbor may be issued such permits.

APPLICATION FOR PRINCIPAL HABITATION (LIVE ABOARD) PERMIT

Per **HAR §13-231-27** an application for the issuance of a principal habitation permit shall be made in writing on a form provided by the department. An application fee must be paid by the applicant. The application is valid for one year and may be renewed up to ninety-days before the expiration date. 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. This HAR provides detailed reasons why an application may be rejected.

It is critical for the information in the application to be kept current, especially the applicant's contact information. Updates must be conveyed in writing.

An application may be withdrawn from consideration in writing.

OFFSHORE MOORING

PERMITS AND RESTRICTIONS

HAR §13-235-3 No person shall anchor or moor a vessel on the ocean waters or navigable streams of the State surrounding the island of Oahu without a permit issued by the department.

No person shall moor a houseboat, or live aboard any vessel or use any vessel as a principal place of habitation except as provided in Keehi Lagoon.

No permit issued for mooring or anchoring shall be valid for a period exceeding one year from the date of issuance.

Staying aboard a vessel used as a vacation site may be permitted in **HAR §13-231-22, 28, 29**.

Other restrictions apply. See the full text of this rule for details.

FEEES

HAR §13-235-4 The fees for anchoring or mooring on the ocean waters and navigable streams of the State shall be as prescribed in **HAR §13-234-4**.

CHANGE IN OWNERSHIP, ETC. NOTICE REQUIRED

HAR §13-235-5 Owners are required to report a change in ownership of the vessel, address and other changes. The permittee is required to notify the department in writing within seven days if:

- the owner no longer has possession of the vessel, houseboat or contrivance,
- all or any interest in the vessel, houseboat, or contrivance is transferred to or assigned to another person or business entity,
- the owner's address or telephone number changes.

Failure to comply this section will result in automatic termination of the offshore mooring permit.

Request for offshore Mooring denied due to on adverse environmental impact.

HAR §13-235-6 An application for mooring or anchoring at a location which is found to be detrimental to the habitat or spawning ground of marine life by the National Marine Fisheries Service or the department of land and natural resources shall be denied.

REVOCAATION

HAR §13-235-7 The department may revoke an offshore mooring permit without a hearing for any activity which may endanger health or safety of the public.

The department may revoke an offshore mooring permit issued for violation of state or federal laws or rules of the department if, after seventy-two hours written notice, the permittee fails to cure the violation.

MOORING HARDWARE, MAINTENANCE AND INSPECTION

HAR §13-235-8 A vessel owner shall be responsible for maintaining the vessel's mooring hardware except where mooring buoys are installed and maintained by the State.

A vessel owner shall inspect the mooring hardware for safety and security no less than semi-annually and provide notice to the department of the date of the inspection.

The department may conduct inspections of the mooring hardware for compliance with the rules.

No person shall remove, alter or replace any mooring hardware installed by the State without prior written permission of the department.

The vessel owner is responsible for installing and maintaining anti-chafing gear on all mooring lines.

RESTRICTIONS ON MOORING OUTSIDE A DESIGNATED OFFSHORE MOORING AREA

HAR §13-235-9 No person shall anchor a vessel in an Ocean Recreation Management Area (ORMA) or a non-designated area for a cumulative period of time exceeding seventy-two hours within any fourteen-day period subject to the following restrictions:

- calculation of the seventy-two hour time limit shall not restart if a vessel is relocated or temporarily moved and then later returned to the same site or location or in close proximity to the original mooring site,
- the department may authorize an extension of the seventy-two hour time limit if an extension of time is reasonable and warranted,
- no person shall anchor or moor a houseboat on the ocean waters or navigable streams of the State outside of a designated mooring area,
- no person shall live aboard any vessel outside of a designated mooring area, provided that staying aboard or use of a vessel as a vacation site may be permitted in accordance with provisions set forth in **HRS §13-231-22, 28, and 29**.

The owner of a vessel desiring to moor a vessel outside a designated mooring area may be issued a permit by the department, provided that:

- there is no designated mooring area within a reasonable distance of the desired location specified in the permit application;
- a permit for installation of a mooring at that location is approved by the board of land and natural resources; and
- in the case of commercial vessels, a permit is also approved for installation of the mooring by the U. S. Army Corps of Engineers.

Transient or visiting vessels may be issued a temporary permit to anchor outside of a designated mooring area for a period not to exceed one hundred twenty days.

REMOVAL OF A VESSEL OR CONTRIVANCE

The department may remove a vessel or contrivance from its moored or anchored location in accordance with **HAR §13-231-10** and **HRS §200**.

MULTIPLE MOORING OR RAFTING

HAR §13-235-11 No more than one vessel shall be moored to a single mooring buoy or anchor within a designated offshore mooring area, except for tenders, dinghies and work rafts.

EXCHANGE OF MOORINGS

HAR §13-235-12 The exchange of moorings may be permitted in accordance with **HAR §13-231-25**, upon prior approval by the department.

FRESH WATER

HAR §13-235-13 Use of fresh water by a vessel moored or anchored on the ocean waters or navigable streams of the State is included in the mooring fee required by **HAR §13-235-4**. Use of fresh water at washdowns requires a valid launch ramp permit.

SANITATION

HAR §13-235-14 No person shall anchor, moor or stay aboard a vessel except those equipped with an approved marine sanitation device in proper working condition, or those vessels exempt from marine sanitation device requirements in accordance with U. S. Coast Guard regulations.

MOORING OF RAFTS AND PLATFORMS

HAR §13-235-15 No raft or platform shall be located in a designated offshore mooring, anchorage, navigable stream or small boat harbor without a valid permit issued by the department.

TENDERS AND DINGHIES

HAR §13-235-16 Tenders and dinghies, if not issued a certificate of number, shall be identified with the name of the host vessel.

A tender or dinghy shall be either tied alongside or tethered not more than one and one-half times its length from any part of the host vessel.

INSPECTIONS

HAR §13-235-17 Any vessel anchored or moored in or on the ocean waters and navigable streams of the State shall be subject to inspection by the department or any law enforcement officer of the State or its political subdivisions at any time when necessary and proper for the purpose of ensuring compliance with federal or state laws or these rules.

SAFETY AND ENFORCEMENT

HAR §13-235-18 Restrictions cited in this chapter shall not apply in the event of an emergency to law enforcement or rescue craft, or to vessels participating under a valid ocean waters event permit issued by the department or the U.S. Coast Guard.

STANDARDS FOR VESSELS

HAR §13-235-19 All vessels anchored or moored on the ocean waters and navigable streams of the State shall be maintained in a reasonable condition of cleanliness and repair so as not to constitute a hazard to navigation, a common nuisance, or a danger to public health.

Any articles or materials stacked or placed on deck of any unattended vessel shall be secured to avoid the possibility of their loss overboard.

OFFSHORE MOORING AREAS FOR OAHU

KEEHI LAGOON ANCHORAGE AREA

HAR §13-235-31 The Keehi Lagoon mooring area is described in the full text of this rule. Details are provided on a covenant regarding overflight of aircraft, locations of moorings, height restrictions, installation of lights or electromagnetic devices, declaration of a vessel becoming abandoned and derelict.

No person shall sink, or allow to be sunk, any vessel, contrivance or other object in Keehi Lagoon.

Any structure extending above the main deck shall conform to minimum safety standards used in the marine construction industry.

A houseboat must be equipped with a U. S. Coast Guard approved type III marine sanitation device, which has the overboard discharge closed and sealed. Time allotted to comply with sanitation requirements is specified.

No overboard discharge of untreated sewage from the MSD is permitted.

No new applications to anchor or moor a houseboat within Keehi Lagoon shall be accepted after February 3, 1992.

Additional restrictions for principal habitation permits, stay aboard permits and fire suppression exist.

Mooring categories are listed in **HAR §13-235-31**.

HAR §13-235-32 This rule provides details on the Keehi Lagoon anchorage area and outlines restrictions for its use.

KAPUA CHANNEL MOORING AREA

HAR §13-235-33 This rule provides details on the Kapua Channel mooring area and outlines restrictions for its use.

MAUNALUA BAY MOORING AREA

HAR §13-235-34 This rule provides details on the Maunalua Bay mooring area and outlines restrictions for its use.

KANEOHE BAY DESIGNATED MOORING AREAS "A", "B", "C" AND "D"

HAR §13-235-35 This rule provides details on the Kaneohe Bay designated mooring areas "A", "B", "C" and "D" and outlines restrictions for their use.

OFFSHORE MOORING AREAS FOR MAUI

KAUNAKAKAI HARBOR MOORING ZONE

HAR §13-235-63 This rule provides details on the Kaunakakai Harbor mooring zone and outlines restrictions for its use.

KAANAPALI MOORING ZONES "A", "B", "C" & "D"

HAR §13-235-65 This rule provides details on the Kaanapali mooring zones "A", "B", "C" & "D" and outlines restrictions for their use.

MALA WHARF MOORING ZONE

HAR §13-235-66 This rule provides details on the Mala Wharf mooring zone and outlines restrictions for its use.

LAHAINA MOORING ZONES "A" & "B"

HAR §13-235-67 This rule provides details on the Lahaina mooring zones "A" & "B" and outlines restrictions for their use.

KIHEI MOORING ZONE

HAR §13-235-68 This rule provides details on the Kihei mooring zone and outlines restrictions for its use.

LILIOHOLO MOORING ZONE

HAR §13-235-69 This rule provides details on the Lilioholo mooring zone and outlines restrictions for its use.

MAKENA BAY MOORING ZONE

HAR §13-235-70 This rule provides details on the Makena Bay mooring zone and outlines restrictions for its use.

HANA BAY MOORING ZONE

HAR §13-235-71 This rule provides details on the Hana Bay mooring zone and outlines restrictions for its use.

HARBOR AND VESSEL MANAGEMENT, VESSEL OPERATION

USE OF LOADING DOCK

HAR §13-231-44 Vessel loading zone. Vessel loading zone means a portion of a small boat harbor facility reserved for the exclusive use of vessels during fueling, loading, or unloading. No person shall stop or moor a vessel for any purpose other than for the expeditious loading, unloading, or fueling in any place marked as a vessel loading zone during the hours when the regulations applicable to such loading zone are applicable. Except when otherwise prescribed by signs, the use of a vessel loading zone by any one vessel shall not exceed thirty minutes. No person shall leave a vessel unattended at a vessel loading zone.

REASSIGNMENT

Holders of mooring permits may be temporarily assigned or reassigned to berths and spaces within the same small boat harbor according to **HAR §13-231-7**. This is to accommodate small boat harbor repairs, improvements, maintenance, construction, emergencies, or when necessary, during a special event.

TEMPORARY ABSENCE

HAR §13-231-11 outlines the impact on a permit if a vessel is absent for more for than fourteen days. It states that a permit shall automatically expire unless the holder of the permit submits an application prior to departure. The application must be approved for the period of absence and shall not exceed one year. The permittee must continue to pay the fees and charges payable to the department. If the assigned vessel does not return within thirty days after the agreed date of return all use permits shall automatically expire. The permittee may apply for an extension to prevent undue hardship. A temporary mooring permit and related use permits issued for a vessel shall automatically expire if the vessel is absent from its assigned berth or mooring for more than fourteen days. The holder of a temporary permit may apply for an extension within the fourteen-day absence if there are extenuating circumstances.

DISCONTINUATION OF SERVICE

HAR §13-231-12 When necessary, the department may, discontinue any service or withdraw the use of any utility, property, or facility at a small boat harbor after giving reasonable notice.

MARINE INSPECTIONS

HRS §200-13 The department has a list of minimum requirements for vessels seeking permits to moor in State boat harbors. Harbor staff and approved marine surveyors may conduct these surveys. DLNR/DOBOR maintains a list of approved, qualified Marine Surveyors. An inspection by an approved Marine Surveyor is valid for two years. **Call 808-587-3254 for a current list.**

Per HAR §13-231-8, all vessels housed in a small boat harbor or offshore mooring are subject to inspections for enforcement of statutes and administrative rules.

HAR §13-231-45 states that a vessel must be inspected prior to issuance of a mooring permit and when a permit is renewed. Exhibit B, located at the end of **HAR §13-231-45** lists minimum requirements. This rule says, specifically, that vessel owners must demonstrate that their vessels are capable of navigating beyond the confines of the harbor and returning on its own power to its assigned mooring/berth prior to a permit being issued. Owners have 30 days to correct deficiencies. Owners may contest the findings of a vessel inspection in arbitration. **HAR §13-234-29** provides information on the fee for a vessel inspection performed by the department. **HAR §13-231-45** outlines the steps for a satisfactory vessel inspection.

RECONSTRUCTED VESSELS

According to **HAR §13-231-45**, a marine survey is required for all vessels that have undergone substantial reconstruction, alteration or modification. The rule also states that protection and indemnity insurance for the reconstructed, altered, or modified vessel in an amount no less than \$100,000 and naming the State as additionally insured is required in addition to a marine survey. No modification or alteration to a houseboat moored in Keehi Lagoon which changes the length, beam or size of silhouette area from that which existed at the time of issuance of the initial mooring permit shall be allowed without prior approval of the department.

LAHAINA SBH OPERATIONAL LIMITATION

No vessel of any size will be allowed to moor on the makai side of the Lahaina loading (fuel) dock from sunset to sunrise per **HAR §13-231-46**. This limitation is due to the restricted entrance and turning area in Lahaina small boat harbor. Mooring from sunrise to sunset will be limited to fifteen minutes.

OPERATION IN ALA WAI CANAL

HAR §13-231-77 Operation of vessels in Ala Wai canal shall be accomplished in a manner that will not create a nuisance to area residents.

VESSELS MAINTAINED IN A SANITARY CONDITION AT ALL TIMES

HAR §13-232-2 requires vessels and any property used at a small boat harbor to be kept clean and sanitary at all times.

GARBAGE AND OTHER OFFENSIVE MATTER

HAR §13-232-3 No person shall keep any substance giving off an offensive odor aboard their vessel except when the substance is being disposed of as garbage and is kept in a closed receptacle with a tight-fitting cover only opened when being filled or emptied.

FLIES

HAR §13-232-4 No person shall keep any substance aboard their vessel which may breed flies, unless the substance is securely protected from flies.

RODENTS

HAR §13-232-5 No rubbish or waste of any kind shall be placed, left, dumped, or permitted to accumulate or remain on any vessel or in the vicinity of the same, in such a way as to constitute a breeding place for rodents.

LITTERING LAND AREAS IS PROHIBITED

HAR §13-232-6 No person shall abandon any litter within a small boat harbor, except in receptacles designated by the department for the disposal of such materials.

No person shall bring litter into a DLNR/DOBOR facility for disposal in trash receptacles except for litter generated by a permitted vessel during a voyage.

"Litter" as used in this section means any and all types of debris and substances, whether liquid or solid, and materials such as garbage, refuse, rubbish, glass, cans, bottles, paper, wrappings, fish or animal carcasses, or any other nauseating or offensive matter or any machinery, appliance or automobile, or parts thereof, or any other substances which render small boat harbor lands or facilities unsightly, noxious, or otherwise unwholesome to the detriment of the public health and welfare or the enjoyment of the small boat harbor for recreational purposes.

LITTERING OR POLLUTING WATER OF THE HARBOR IS PROHIBITED

HAR §13-232-7 No person shall place or discharge, into the waters of a small boat harbor, any materials which render the water unsightly, noxious, or otherwise unwholesome so as to be detrimental to the public health and welfare or to the enjoyment of the water for recreational purposes.

MARINE TOILETS – RESTRICTIONS

HAR §13-232-8 No toilet on a vessel or contrivance shall discharge any untreated sewage directly or indirectly into the waters of a small boat harbor.

No person shall use a toilet on a vessel unless the toilet is in good operating condition that will adequately treat, hold, or otherwise handle sewage in a manner that is capable of preventing water pollution.

No person shall live on board a vessel or contrivance in any small boat harbor unless it contains one or more toilets equipped with water pollution control devices in good operating condition and of a type acceptable to the director of health.

A visiting vessel may not use an onboard toilet if on-shore toilet facilities are within a walking distance of not more than two hundred feet.

WASTE OUTLETS

HAR §13-232-9 Permits are required. See the full text of the rule for details.

BACKFLOW PREVENTION DEVICE REQUIRED

HAR §13-232-10 No person shall connect a vessel's water supply system to a small boat harbor portable water supply system unless an approved backflow prevention device has been installed at the hose bib or other point of connection.

No person shall use any water-operated siphon or other water operated dewatering device or mechanism connected to a small boat harbor water supply system for the purpose of removing water or any liquid from the bilges of a vessel. Such a device may be temporarily used when necessary, during an emergency to prevent a distressed vessel from sinking if an approved backflow prevention device has been installed as specified.

VESSEL MAINTENANCE

Per **HAR §13-231-18** vessel reconstruction or major modification shall be accomplished only in an area designated by the small boat harbor supervisor. The vessel owner must apply for a “hot work” permit if reconstruction requires this type of work.

DEFACING VESSEL HULL IDENTIFICATION NUMBERS

HRS §200-72 No person shall deface, destroy, remove, or alter the vessel hull identification number affixed to the hull of a vessel for the purpose of identifying the hull.

UNLAWFUL TO POSSESS CERTAIN VESSELS OR HULLS

HRS §200-73 No person shall possess a vessel or hull, knowing that the vessel hull identification number, has been changed, altered, erased, or mutilated for the purpose of changing the identity of the vessel or hull thereof.

DORMANT VESSELS

HRS §200-13 outlines laws pertaining to unauthorized vessels in State waters.

HAR §13-231-1 is a general statement about mooring dormant vessels. It states that occupancy of berths at any small boat harbor or offshore mooring area shall be limited to vessels actively

used as a means of transportation on water. The department is empowered to issue a notice detailing why it believes a vessel is dormant. An unanswered notice can result in termination of the use permit for a vessel. The owner shall have five working days to inform the department of his/her plan to correct deficiencies outlined in the notice.

Harbor staffers are observing the fouling on your hull. Excess growth is a sign of a dormant vessel. Communicate with staff on options for keeping your hull clean.

Per HAR §13-231-45 All vessel owners shall demonstrate to the department that their vessel is capable of navigating beyond the confines of the harbor and returning under its own power to its assigned mooring/berth prior to the mooring permit being issued.

BUOY RUNS ARE A CONDITION OF YOUR PERMIT

A “buoy run” witnessed by harbor staff are required to prove a vessel is capable of leaving the confines of the harbor, is seaworthy, is active (as opposed to dormant) and is eligible for a mooring permit.

Buoy runs are required as a condition of the mooring permit.

To perform a buoy run, the vessel in question must exit the harbor and the harbor ingress/egress channel on its own power, access the open ocean and make a turn around a seaward aid to navigation designated by harbor staff. It must then return to its designated slip.

The buoy run must be witnessed by harbor staff on a day and time designated by harbor staff.

HARBOR CLOSURES FOR HURRICANE AND TSUNAMI

Harbor offices may close and access to DLNR/DOBOR facilities may be restricted when there is threat of a hurricane or a tsunami. Every boater should have a personalized plan of action for these types of events and should be able to implement them without assistance from harbor staff. As the time of arrival for a hurricane or tsunami approaches, DLNR/DOBOR will follow shutdown and staff evacuation procedures posted at:

<https://files.hawaii.gov/dlnr/dobor/contacts/Plan-HURRICANE.pdf>

<https://files.hawaii.gov/dlnr/dobor/contacts/Plan-TSUNAMI.pdf>

EMERGENCY CONTACTS

The DOBOR web site features a page with emergency contact numbers for various situations. You can access this information at:

<https://dlnr.hawaii.gov/dobor/contact/emergency-contacts/>

REPORTING VIOLATIONS

The DLNRTip app and tip411 are completely anonymous – the technology removes all identifying information before officers see tips. There is no way to identify senders. DLNRTip is available for download for free via the Google Play Store, iTunes App Store, or by visiting the DOCARE website at dlnr.hawaii.gov/docare.

People without a smartphone can send an anonymous text tip via their cell phone to DOCARE by texting keyword DLNRTIP and their message/tip to 847411 (tip411). Anonymous tips can also be submitted through the DOCARE website and the Statewide Hotline at 643-DLNR.

UNAUTHORIZED VESSEL OR CONTRIVANCE IN HARBORS AND OFFSHORE MOORING AREAS. NOTICES, IMPOUNDMENT AND DISPOSAL PROCEEDINGS

HRS §200-16 No person shall moor a vessel in a state small boat harbor or offshore mooring area without obtaining a use permit; nor shall a person continue to moor a vessel in any state small boat harbor or offshore mooring area if the vessel's use permit has expired or has otherwise been terminated.

If this should occur, the department shall post a notice to remove vessel, and that the vessel must be removed within seventy-two hours. An unauthorized vessel may be impounded by the department if the vessel is not removed after the seventy-two-hour period or if during that period the vessel is removed and re-moored in the harbor, anchorage area or any other state harbor or mooring without a use permit.

Custody of an unauthorized vessel shall be returned to the person entitled to possession upon payment to the department of all fees and costs due.

The department, within seventy-two hours of impoundment, shall send by certified mail, return receipt requested, a notice of impoundment to the registered or documented owner or any lien holder or operator of the impounded vessel on record with the department or the United States Coast Guard. The owner, lien holder, or operator of the impounded vessel shall have ten days after receipt of notice of impoundment of the vessel to request in writing an administrative hearing.

Any unauthorized vessel impounded under this section that is unclaimed for more than thirty days by the registered or documented owner, a lien holder, or operator of record, may be sold by the department at public auction.

If the department is unable to sell the vessel at public auction, or if its appraised value is less than \$5,000, it may dispose of it as junk.

Related statutes include HRS §200-41 Disposition of certain abandoned vessels, HRS §200-42 Notice to owner, HRS §200-43 Public auction, HRS §200-44 Possession by interested party, HRS §200-45 When public auction not required, HRS §200-48 Derelict vessel, HRS §200-49 Disposition of derelict vessel.

HAR §13-230-6 contains language pertaining to posting of notices. **HAR §13-230-7** states that it is unlawful for anyone other than the owner or agent of a vessel to remove a notice posted by the department.

HAR §13-231-10 states that the department may impound and remove or dispose of any vessel or contrivance moored or left at a small boat harbor or offshore mooring area seventy-two hours after notice is given to remove the vessel or contrivance from the small boat harbor or an offshore mooring area when its presence is contrary to law or these rules or when the department determines that the removal is necessary to protect human life and property. Unclaimed material impounded under this section, can be sold by the department at public auction.

Abandoned vessels may be sold to collect delinquent fees under **HAR §13-231-14**.

HAR §13-231-17 echoes **HAR §13-231-10** in that it prohibits a vessel, contrivance or material being placed anywhere in a DLNR/DOBOR facility where it is not assigned or when placement is contrary to the direction of facility staff. This rule allows harbor staff to affix a notice on the item, impound it and sell it at auction.

Similar language about unauthorized vessels and materials is found in **HAR §13-231-42**, but with an emphasis on interference with navigation.

VESSEL AGROUND ON STATE PROPERTY

HRS §200-47.5 All vessels grounded on state submerged lands, shorelines, or coral reefs shall be removed immediately by the owner or operator at the owner's or operator's expense. Vessels grounded on a sand beach, sandbar, or mudflat and not in imminent danger of breaking up shall be removed within seventy-two hours, unless otherwise agreed to by the department. Damage to state or private property caused by a grounded vessel shall be the sole responsibility of the vessel's owner or operator.

This includes a vessel that sank in its slip and is resting on the sea floor.

SALVAGE

If a vessel is moored so as to be in danger of wreckage, damaging other property, or sinking, Per **HAR §13-231-19** the department shall issue notice and after reasonable time has elapsed, not to exceed ten days, to allow the owner or the owner's agent to take appropriate action to save or rescue the vessel and prevent damage to other property or the obstruction of waterways. Remedial action may be taken by the department without prior notice in an emergency or where life or property are endangered, or navigation is obstructed.

VESSELS OR PROPERTY TAKEN INTO LEGAL CUSTODY - UNAUTHORIZED CONTROL

HRS §200-15 No person shall exercise control over a vessel or other property that is under legal custody, seizure, or detention by the department.

FIRE SAFETY AND VESSEL EQUIPMENT REQUIREMENTS

FIRE SAFETY

HAR §13-232-21 All vessels and all state property or facilities use at a small boat harbor shall be used in such a manner and maintained in such a condition as not to constitute a potential fire hazard. The failure to conform to any statute, rule, standard, or ordinance affecting fire safety may be considered by the department in determining any violation.

APPLIANCES AND ELECTRICAL WIRING

HAR §13-232-22 All cooking or heating appliances used at a small boat harbor and could be the cause of fire shall be so constructed, installed, wired, situated, maintained, and used so as to meet the standard set out in **HAR §13-232-21**.

FIRE EXTINGUISHING EQUIPMENT

HAR §13-232-23 All vessels on the waters of a small boat harbor shall be equipped with fire extinguishers approved by Underwriters Laboratories, Inc. or the United States Coast Guard, and as prescribed in **HAR §13-243**. In addition, a vessel shall also be equipped with at least one hand portable B-1 or larger fire extinguisher for each twenty-five feet or fraction thereof of vessel length before any person shall be issued a permit authorizing the use of the vessel as a place of principal habitation or vacation site. **The fire extinguishers shall be readily accessible and maintained in good and serviceable condition for immediate and effective use at all times.**

FUELING

HAR §13-232-24 The fueling of vessels at a small boat harbor where a marine fueling station has been established, shall be accomplished only at that station. The fueling procedure is detailed in the rule. See the full text of the rule for details. **Make inquiry with harbor staff for fueling options at your facility.**

SMOKING

HAR §13-232-25 Smoking prohibited where signed. Regardless of the absence of posted signs, **NO** smoking or lighting of a match or any other fire-creating device shall be permitted within fifty feet of any fueling operation.

These restrictions are repeated in **HAR §13-232-51**.

DUMPING OF COMBUSTIBLES PROHIBITED

HAR §13-232-26 No person shall dump, discharge, or pump oil, spirits, gasoline, distillate, any petroleum product, or any other flammable material into the waters of a small boat harbor or designated offshore mooring area.

Any vessel equipped with an inboard motor moored in a small boat harbor or designated offshore mooring area shall maintain an oil absorbent pad in the bilge to separate petroleum products from bilge water. This requirement is an inspection item for the initial and annual vessel inspection required for obtaining a regular mooring permit.

EMERGENCY EXITS

HAR §13-232-27 Each vessel shall afford sufficient paths of escape in case of emergencies. The number and location of such exits shall be commensurate with the size, type, and make of each vessel.

OPEN FIRES

HAR §13-232-28 Charcoal grills and similar open fire cooking devices shall, while lighted, be attended at all times.

LIFESAVING EQUIPMENT REQUIRED

HAR §13-232-29 Any vessel utilizing the waters of a small boat harbor shall be equipped with approved lifesaving devices as prescribed in **HAR §13-243**. The lifesaving equipment shall at all times be kept in good and serviceable condition for immediate and effective use and shall be so placed as to be readily accessible provided, that if any person is living aboard any vessel or contrivance, it shall be equipped with at least an approved type life preserver, ring life buoy, buoyant vest, special purpose water safety buoyant device, or buoyant cushion for each adult person on board. If there are any children living aboard, approved life preservers suitable for children shall be provided for each child living aboard.

FIRE SIGNAL FOR VESSELS IN SMALL BOAT HARBORS

HAR §13-232-30 A vessel owner will sound five prolonged blasts, each from four to six seconds in duration, on a his/her whistle, horn, or other sound producing device to indicate there is a fire on board a vessel not underway or a fire at any facility to which the vessel is moored. This fire signal shall not be used for any other purposes in any small boat harbor.

WELDING, BURNING AND OTHER HOT WORK

HAR §13-232-31 Before any welding, burning or other hot work can be done in a state small boat harbor or on a vessel moored in a harbor, the party intending to do the work shall secure a permit from the harbor agent of the small boat harbor where the work is to be done. Applicants for permits shall fill out the form provided by DOBOR at:

<https://dlnr.hawaii.gov/dobor/files/2020/09/App-HotWork.pdf>

The party intending to do the work shall also secure permits from any other governmental agencies as required by law and notify the county fire department of the intended work.

SAFETY EQUIPMENT REQUIRED DURING VESSEL OPERATION

HAR §13-243 provides extensive details on vessel carriage requirements, including PFDs, navigational lights, sound-producing devices.

<https://dlnr.hawaii.gov/dobor/files/2019/04/13-243.pdf>

In Hawaii, children 12 and under must wear a properly fitting Personal Flotation Device (PFD) while the vessel they are aboard is docked, launching, underway, drifting and even while it is grounded and anchored offshore! However, children are not required to wear a PFD if they are below deck or in an enclosed cabin.

Hawaii law requires all recreational vessels going more than one mile offshore to be equipped with a USCG approved Emergency Position Indicating Radio Beacon (EPIRB) (406 MHz) or a VHF radio. Thrill craft, surfboards, paddleboards, kayaks and training vessels are exempt (**HRS 200-37.5**).

FACILITY STORAGE AND CONSTRUCTION

STORAGE

HAR §13-232-41 No person shall store or abandon any vessel, structure, supplies, material, equipment, etc., on catwalks, piers, sidewalks, roads, parking areas, or any other public area at a small boat harbor except in areas set aside by the department for storage with prior consent of the department.

CONSTRUCTION OR IMPROVEMENTS OF STRUCTURES

HAR §13-232-43 No structure, site improvement, landscape treatment, etc. shall be constructed, altered, moved, installed, or demolished at a state boating facility or other property under the jurisdiction of DOBOR unless permitted.

GEAR LOCKERS

HAR §13-232-44 No person shall construct a gear locker at a small boat harbor without prior written approval of the department.

CONDUCT OF THE PUBLIC

GENERAL STATEMENTS

HAR §13-232-50 All penal laws of the State prescribed in the HRS and HAR govern the conduct of any person coming upon or remaining at a small boat harbor.

ASSUMPTION OF RISK

HAR §13-232-59 Any person visiting or using a small boat harbor or facility, or offshore mooring area does so at the person's own risk. The department does not assume any responsibility for loss or damage to property, injury or death of any person visiting or using a DLNR/DOBOR facility.

RESTRICTED AREAS

HAR §13-232-52 Only authorized persons may enter or remain in restricted areas designated by signs, buoys, or other markings.

LOST, ABANDONED, OR MISLAID ARTICLES

HAR §13-232-53 Any person finding lost, abandoned, or mislaid articles at a small boat harbor shall report or turn those articles over to the chief of police of the county in which the articles are found.

SLEEPING OR CAMPING PROHIBITED

HAR §13-232-58 Sleeping or camping or both in any state facility or property under the jurisdiction of the division is prohibited except on board a vessel moored in a small boat harbor with the proper authorization of the department.

TRESPASS TO VESSEL

HRS §200-62 Whoever, without right, boards or remains in or upon any vessel of another within the waters of the State shall be guilty of a misdemeanor.

QUESTIONING AND DETAINING SUSPECTED PERSONS ABOARD A VESSEL

HRS §200-63 An enforcement officer may detain any person found upon a vessel and may demand the person's name, address, and the nature of the person's business upon the vessel. The enforcement officer may arrest the person without a warrant on the charge of violating **HRS §200-62**.

SERVING, SALE, AND CONSUMPTION OF LIQUOR IN DLNR/DOBOR FACILITIES

HAR §13-232-60 It is declared to be the intent of the department to prohibit the open and unrestricted use or consumption of liquor in state small boat harbors and boat launching facilities.

No person shall possess, other than in a container in the manufacturer's sealed condition, intoxicating liquor on any street or sidewalk, or in any public off-street parking area or any building located thereon within a state small boat harbor or state boat launching facility. This prohibition shall not apply to:

- liquor on board a vessel with a valid mooring permit,
- liquor procured from a vendor with a permit or license issued by the department when the liquor is possessed or consumed in a manner consistent with the terms and conditions of such permit or license,

- liquor in a motor vehicle upon any public street, road, or highway.

Other exemptions apply.

The penalties provided in this section are criminal penalties and the section shall be enforced by the DLNR Division of Conservation and Resources Enforcement (DOCARE), the county police department, and any other authorized entity as provided by law. More specifics are provided regarding enforcement of this rule.

See the full text of the rule for additional details on exemptions and penalties/enforcement.

SWIMMING

HAR §13-232-54 No person shall swim at a small boat harbor or boat launching facility or its channels where such activity is prohibited by signs, buoys, or other markers posted by the department.

No person shall dive from docks, piers or other constructed facilities into a small boat harbor, boat launching facility, or its channels.

FISHING

HAR §13-232-55 No person shall fish at a small boat harbor, boat launching facility, or channels thereto by pole where that activity is prohibited by signs, buoys, or other markers posted by the department.

Spearfishing and trolling from moving vessels is prohibited in small boat harbors, boat launching facilities, designated offshore mooring areas or channels.

No person shall use any throw net, or draw, drag, seine, or any other type of net except crab net or hand-held dip net, except at locations designated by rules of the department.

A person with a bait fishing license issued by the department may take certain species of fish for specific purposes. See the complete text of the rule for details.

TAMPERING WITH OR DAMAGING A VESSEL ON STATE PROPERTY

HAR §13-232-56 No person shall maliciously destroy or tamper with any state property or property belonging to another, including but not limited to, any vessel, signs, buoys, floats, notices, buildings, lawn, or any other property.

ANIMAL MANAGEMENT

DOGS, CATS OR OTHER DOMESTIC PETS

HAR §13-232-57 No person shall introduce or keep a dog aged three months or older in a small boat harbor unless the dog is licensed. Employees of the department and every other person authorized by law may seize any unlicensed dog found unleashed and at large within a small boat harbor, and confine and dispose of the dog.

No pet owner shall permit a dog or cat to become a stray.

The owner of a pet will promptly and voluntarily remove animal waste if deposited anywhere in the harbor other than their private property.

No person shall keep any animals except for birds, fish, or other common domestic pets in a small boat harbor.

No person shall introduce domestic pets where prohibited by signage.

This section shall not apply to service animals and law enforcement dogs, or an obedience trial approved by the department.

FEEDING OF COLONIES, STRAYS, WILDLIFE, OR FERAL ANIMALS IS PROHIBITED

HAR §13-232-57.1 No person shall feed any colony, stray, wildlife, or feral animal except as authorized by the department, including but not limited to birds, cats, chickens, deer, dogs, eels, fish, mongooses, pigs, rodents, seals, sharks, and turtles.

Nothing in this section prohibits the use of bait or chum to attract fish for fishing or harvesting purposes. See **HAR §13-232-55** for details.

ANIMAL ABANDONMENT AND CREATING OR CONTRIBUTING TO COLONIES PROHIBITED

HAR §13-232-57.2 No person shall abandon an animal or create or contribute to a colony.

Violators shall be fined not less than \$50 and not more than \$1,000 or sentenced to a term of imprisonment of not more than thirty days, or both, for each violation and shall also be subject to penalties in accordance with **HRS §143-2.6**.

MOTOR VEHICLE RULES

GENERAL STATEMENT ABOUT TRAFFIC CODE AND COUNTY ORDINANCES

HAR §13-233-1 The Statewide Traffic Code, **HRS §291C**, and any other applicable ordinances of the county a small boat harbor is located, shall apply to the operation of motor vehicles on the parking areas and roadways of a small boat harbor just as though the parking areas and roadways are a part of the public streets, roads, or highways of the particular county.

LICENSING AND SAFETY INSPECTION

HAR §13-233-2 No vehicle shall be operated or parked at a small boat harbor unless such vehicle is currently licensed by the appropriate governmental agency and has the required evidence of safety inspection.

OPERATION OF MOTOR VEHICLES

HAR §13-233-3 No motor vehicle shall be operated in a small boat harbor:

- in a careless or negligent manner
- in disregard of the rights and safety of others,
- at a speed or in a manner which endangers or is likely to endanger person or property,
- while the operator is under the influence of an intoxicant as defined under HRS §291E,
- if the vehicle is so constructed, equipped, loaded, or in a condition which would endanger or be likely to endanger other persons or other person's property.

TRAFFIC CONTROLS

HAR §13-233-4 All vehicular traffic shall comply with any lawful order, notice, signal, or direction of any regular or special police officer. When such traffic is controlled by signs and pavement markings, the signs and markings shall be obeyed unless a regular or special police officer directs otherwise.

SPEED RESTRICTIONS

HAR §13-233-5 Basic rules and maximum limits.

No person shall drive a vehicle on a roadway or in any parking lot maintained within a small boat harbor at a speed greater than is reasonable and prudent under the existing conditions. Vehicular speed shall be controlled as necessary and with due care to avoid colliding with any person, vehicle, or other structure.

Except when a special hazard exists that requires lower speed for compliance with the preceding paragraph, the limits shall be maximum lawful speeds, and no person shall drive a vehicle on a roadway or in any parking lot within a small boat harbor at a speed in excess of:

- Ten miles per hour. Any pier, wharf, other structure, or parking lot,
- Fifteen miles per hour. Any roadway eighteen feet or less in width,
- Twenty-five miles per hour. Any roadway where the speed limit has not been otherwise established.

DLNR/DOBOR reserves the right to set speed limits around turns and establish speed zones. Additional limits exist for vehicles with solid rubber tires and vehicles carrying explosives.

It shall be unlawful for any person to engage in, or to aid or abet by whatever means, any motor vehicle speed contest or exhibition of speed within a small boat harbor.

Speed restrictions are not applicable to emergency vehicles responding to an emergency call, or when used in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm.

PARKING

HAR §13-233-6 No person shall stop, park, or permit to remain halted, a motor vehicle in a small boat harbor:

- in front of a driveway or land side of a launching ramp;
- for the purposes of washing, polishing, greasing, or repairing of a vehicle except for those minor repairs necessary to remove the vehicle to an authorized area or from a small boat harbor;
- other than in accordance with officially posted signs; or
- for more than 24 hours without a valid parking permit issued by the department, not to exceed a maximum of 120 hours.

PUBLIC PARKING

HAR §13-233-7 No person shall use any public parking area without payment of parking fees and charges and may only park in areas designated by the department.

REMOVAL OF VEHICLES

HAR §13-233-8 The department shall have the authority to detain, tow, move, or cause to be moved to an impounding area, at the owner's risk and expense and without liability for any damage which may result, any motor vehicle:

- for nonpayment of parking charges when the vehicle is parked in parking areas operated by the department or authorized representative, in a small boat harbor;
- which has been parked continuously anywhere in a vehicular parking area operated by the department or authorized representative in a small boat harbor for a period exceeding the posted time limits, except when prior arrangements have been made;
- when the position or location of the vehicle in a small boat harbor creates a nuisance or a hazard; provided, that any detention, towing, or moving, done or caused to be done by the department or authorized representative, of any vehicle legally parked at a small boat harbor, shall not be at the owner's risk and expense;
- when parked in violation of **HAR §13-233-6**;
- when any vehicle is used in any way for commercial or business use for storage of equipment or other business-related activity without a valid permit issued by the department.

APPLICATION OF PARKING RULES

HAR §13-233-9 These rules shall apply with equal force to motor vehicles on lease, rent, or loan to any person. The owner or operator of any motor vehicle using facilities or space within a small boat harbor shall be subject to all charges, rules, and conditions as prescribed by these rules.

PARKING IN CONSTRUCTION AREAS AND ON SPECIAL OCCASION

HAR §13-233-10 The chairperson may prohibit or restrict the parking of any vehicle in construction areas and on special occasions. When the signs placed prior to construction, repairs, maintenance, parade, procession, or special occasion, it shall be unlawful to park or leave unattended any vehicle in violation of the signs. The department may remove or cause to be removed at the owner's expense, any vehicle left unattended or parked in violation of the signs.

OPERATION, PARKING, OR STORAGE OF BICYCLES OR PLAY VEHICLES

HAR §13-233-13 This section applicable to bicycles and play vehicles ridden, operated, parked, or stored within the confines of a small boat harbor.

No bicycle shall be used for conveyance of any person within the confines of a small boat harbor unless the annual tax has been paid and a valid license tag is attached to the bicycle in accordance with **HRS §249-14**.

The department may prohibiting the riding of bicycles on any sidewalk, roadway, pier, wharf, catwalk, or other location.

No person shall park, store, place, or leave a bicycle on catwalks, piers, sidewalks, roads, parking areas, or any other public area except in bicycle parking racks.

Every person riding a bicycle within the confines of a small boat harbor shall be granted all the rights and shall be subject to all the duties applicable to the bicycle operator and to the driver of a vehicle by the Statewide Traffic Code, **HRS §291C**.

The parent of any child or the guardian of any ward shall not authorize or knowingly permit the child or ward to violate this section.

ESTABLISHMENT OF PAID PARKING ZONES

HAR §13-233-20 Paid parking zones may be established at small boat harbors and facilities and shall be so designated by signage.

CHARGES FOR PARKING

HAR §13-233-26 Charges will be made and collected for parking, stopping, or standing a vehicle in paid parking zones equal to or less than county or state rates in the county where the paid parking zone is located.

CHARGES FOR ENCLOSURE OR OBSTRUCTION OF PAID PARKING STALL, INCIDENTAL TO CONSTRUCTION, ETC.

HAR §13-233-27 A permit issued by the department is required before any person shall enclose or obstruct any parking stall. A fee will be charged for the occupied stalls. The person shall notify the department immediately upon termination of the enclosure or obstruction.

HARBOR TENANTS – PARKING PERMITS

HAR §13-233-28 A person may park a motor vehicle in a parking stall in a pay-for-parking zone, in excess of the time limit and without payment for the parking stall, if the person has been issued a parking permit and displays a valid parking sticker (decal) issued to that person by the department as prescribed or has been issued a temporary parking permit and displays this temporary parking permit in or on the vehicle so as to be clearly visible from the outside.

ELIGIBILITY FOR PARKING PERMITS - FEE PER VEHICLE

HAR §13-233-29 Fees for the permits described in section **HAR §13-233-28** are as follows.

Fees Per Vehicle:

- An owner holding a valid use permit (permittee) authorizing the mooring of the owner's vessel at the small boat harbor, and any co-owner of the vessel, \$25 per month;
- The spouse or reciprocal beneficiary of each owner, and their legal dependents 18 years of age or older, \$25 per month;
- The owner or co-owner holding a valid use permit authorizing the mooring of the owner's vessel at the small boat harbor may secure a temporary parking permit, for use by bona fide guests accompanying the owner on board the vessel on a voyage outside the confines of the small boat harbor, \$10 for each 24-hour period or fraction thereof;
- An owner or employee of a firm, business, or organization operating under a lease or other agreement authorizing the owner, employee, firm, business, or organization to engage in a business or commercial activity at the small boat harbor, \$90 per month;
- Other non-boating related person(s) parking in any paid parking stalls;
- not less than \$100 per month.

Fees for permits issued after the first month of a calendar quarter shall be prorated on a monthly basis.

Not more than one parking permit shall be issued to a person eligible for a parking permit.

REPLACEMENT OF MUTILATED STICKERS

HAR §13-233-30 The eligible holder of a parking sticker that becomes mutilated or illegible shall apply for and be issued a replacement sticker if the mutilated or illegible sticker is surrendered to the department. A fee of \$15 shall be paid prior to the issuance of a replacement sticker.

TRANSFER OF PERMITS

HAR §13-233-31 The holder of a parking sticker may upon surrender of a parking sticker apply for and be issued another parking sticker to be applied to another vehicle owned by the holder. A fee of \$15 payable in advance shall be paid prior to the issuance of a new sticker.

CANCELLATION OF PERMITS

HAR §13-233-32 The holder of a valid parking permit who disposes of the vehicle for which the permit was issued or who otherwise desires to cancel a parking permit may obtain a credit or refund for any remaining unexpired month or months, upon surrender of the parking sticker to the department. **No credit or refund shall be given for portions of a month.**

REVOCACTION OF PARKING PERMITS

HAR §13-233-33 The department reserves the right to further restrict the issuance of parking permits to those who observe the small boat harbors rules and make full and timely payments of fees and charges. A parking permit may be revoked as provided in **HAR §13-231-6**. Upon revocation the permittee shall surrender the parking sticker issued by the department.

VIOLATIONS AND PENALTIES

HAR §13-233-34 It shall be a violation of the department parking rules:

- for a vehicle owner to fail to pay posted fees;
- to park any vehicle so it is not entirely within the stall designated by the lines or markings;
- to park a towing vehicle with a boat trailer attached in a non-designated vehicle/trailer paid parking stall;
- to permit another person to use a parking sticker when that person is not entitled to its use;
- to alter, forge, counterfeit, or imitate a parking sticker;
- to possess or use a parking sticker, knowing it to have been altered, forged, counterfeited, or imitated;
- to avoid or attempt to avoid compliance with this section by affixing to a vehicle, a parking sticker not authorized by the department;
- to enclose or obstruct any paid parking stall unless a permit has been obtained from the department as required in **HAR §13-233-27**;
- to deface, injure, tamper with, open or willfully break, destroy, or impair the usefulness of any parking pay station;
- to disregard any official direction, instruction, or restriction indicated by or on official signs posted in a paid parking zone.

A person who has violated this section may be fined as provided in **HAR §13-230-4**.

HAR §13-233-44 restates the violations and penalties outlined in **HAR §13-233-34**.

VIOLATION OF RULES

HRS §200-14 Any person who violates any rule adopted by the department under this part shall be fined not more than \$1,000 or less than \$50 for each violation. The court may deprive the offender of the privilege of operating or mooring any vessel in state waters for a period of not more than thirty days.

Any person who violates any rule adopted by the department under this part regulating vehicular parking or traffic movement shall have committed a traffic infraction as set forth in chapter 291D. A person found to have committed such a traffic infraction shall be fined not more than:

- \$100 for a first violation;
- \$200 for a second violation; and
- \$500 for a third or subsequent violation.

Any person who violates any rule adopted by the department relating to unauthorized discharge, dumping, or abandoning, in any state boating facility or state waters, 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 not more than \$10,000 for each day of violation.

HAR §13-230-4 contains similar language on penalties and prosecution pertaining to vehicular parking and unauthorized discharge and dumping of various materials in violation of State water quality standards.

GENERAL ADMINISTRATIVE PENALTIES

HRS §200-14.5 The Board of Land and Natural Resources is authorized to recover administrative fees and costs, for damages or for the cost to correct damages resulting from a violation. All fines, fees and costs, or damages recovered by the department under this section shall be deposited in the boating special fund.

Additional fines and penalties are detailed in HRS §200-25.

HAR §13-230-4 contains similar language on administrative fines for damages resulting from a violation.

DEFINITIONS OF TERMS - HAWAII REVISED STATUTES (HRS)

§200-23 Definitions.

"Boat dealer" means a person engaged wholly or partly, for gain or compensation, in the business of selling vessels or offering vessels for sale, buying or taking in vessels for the purpose of resale, or exchanging vessels.

"Boating accident" means any occurrence involving a vessel or its equipment that results in:

- (1) The death of a person;
- (2) The loss of consciousness by any person, the receipt of medical treatment by any person, or the incapacity of any person for more than twenty-four hours;
- (3) Damage to the vessel and other property totaling more than \$200; or

(4) The disappearance of a person from the vessel under circumstances that indicate possible death or injury.

"Boat livery" means the business of holding out vessels for rent, lease, or charter.

"Boat manufacturer" means a person engaged in:

- (1) The manufacture, construction, or assembly of boats or associated equipment;
- (2) The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly; or
- (3) The importation into the United States for sale of boats, associated equipment, or components thereof.

"Certificate" means certificate of number for an undocumented vessel.

"C.F.R." means the Code of Federal Regulations.

"Coast Guard" means the Coast Guard of the United States, or its successor agency.

"Commercial high speed boating" means the use of an open power boat to provide high speed rides to passengers who pay compensation for the rides. "Commercial high speed boating" does not include:

- (1) The use of an open ocean racing boat during an official racing competition; or
- (2) The use of an open ocean racing boat while practicing for racing competition; provided that no passenger pays compensation for riding the boat during the practice.

"Federal laws and requirements" means all statutes, rules, and other laws of the United States, which may apply to any and all subject matter of this part, and of the rules adopted pursuant to this part.

"Length" means the measurement of a vessel from end to end over the deck.

"Open ocean racing boat" means a motorized vessel which:

- (1) Is designed, modified, or restored for the primary purpose of high speed boat racing; and
- (2) Has the capacity to carry not more than the operator and five passengers.

"Operate" means to navigate or otherwise use a vessel on or in the waters of the State.

"Operator" means a person who operates, or who has charge of the navigation or use of, a vessel.

"Parasailing" means the activity in which an individual is transported or carried aloft by a parachute, sail, or other material attached to a towline which is towed by a vessel.

"Person" means an individual, partnership, firm, corporation, association, or other legal entity.

"Recreational vessel" means any vessel that is being used for pleasure.

"State" means the State of Hawaii.

"Thrill craft" means any motorized vessel that falls into the category of personal watercraft, and which:

- (1) Is generally less than thirteen feet in length as manufactured;
- (2) Is generally capable of exceeding a speed of twenty miles per hour;
- (3) Can be operated by a single operator, but may have the capacity to carry passengers while in operation; or
- (4) Is designed to provide similar operating performance as a personal watercraft through a combination of small size, power plant, and hull design.

The term includes, but is not limited to, a jet ski, waverunner, wet bike, surf jet, miniature speed boat, hovercraft, and every description of vessel which uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on, or being towed behind the vessel.

"Underway" means that a vessel is not at anchor, or made fast to the shore, or aground.

"Undocumented vessel" means any vessel which does not have and is not required to have a valid marine document as a vessel of the United States.

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

"Water sledding" means the activity in which an individual is transported or carried over the surface of the water on an apparatus that is more than twelve inches wide and is attached to a towline which is towed by a vessel. If the apparatus is round with a hollow center, the width shall be measured as a straight line:

- (1) Starting from a point on the outer edge of the apparatus;

- (2) Bisecting the hollow center; and
- (3) Ending at the farthest point on the opposite outer edge.

"Waters of the State" means any waters within the jurisdiction of the State, the marginal seas adjacent to the State, and the high seas when navigated as part of a journey or ride to or from the shores of the State. [L 1991, c 272, pt of §2; am L 1992, c 172, §1; am L 1995, c 140, §1 and c 165, §§2, 3]

DEFINITIONS OF TERMS - HAWAII ADMINISTRATIVE RULES (HAR)

NOTE: This list of definitions is taken verbatim from the HAR. The term "section" is interchangeable with HAR.

HAR §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:

"Abandon" when applied to animals, means to leave an animal at any location, whether intentionally, recklessly, or negligently, without the owner intending to return for the animal and without the permission of the public or private property owner.

"Adult" means a person who has reached majority.

"Agreement" means the agreement between the boat owner and the State as required by section 13-231-2. 230-7 Unofficial Compilation

"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.

"Approved" means that a fitting, appliance, apparatus, or item of equipment to be fitted or carried in a vessel, or by any particular arrangement, is sanctioned by the commandant of the Coast Guard, unless otherwise stated by the department.

"Approved backflow prevention device" means a backflow prevention device that meets the requirements contained in standard 1001, American Society of Sanitary Engineers or the Uniform Plumbing Code adopted by the International Association of Plumbing and Mechanical Officials (IAPMO).

"Approved marine surveyor" means a person who has been approved by the chairperson to inspect a vessel for an owner seeking a permit to moor a vessel in a small boat harbor in accordance with section 13-231-45(h) and (i).

"Approved vessel inspector" means an employee of the department who has been designated by the chairperson to inspect a vessel for compliance with criteria necessary to obtain a mooring permit.

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

"Background" means that portion of the hull or superstructure, or a specially provided backing plate, upon which the numbers are placed, but shall not include any border, trim, outlining, or shading of the numerals or letters.

"Barge" means a non-self-propelled vessel.

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

"Bicycle" means every device propelled by human power upon which any person may ride, having two tandem wheels which are sixteen inches in diameter or greater, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels.

230-8 Unofficial Compilation

"Boat" means a small vessel propelled by oars or paddles or by sail or power.

"Boat dealer" means a person engaged wholly or partly, for gain or compensation, in the business of selling vessels or offering vessels for sale, buying or taking in vessels for the purpose of resale, or exchanging vessels.

"Boat livery" means a person or entity who is engaged in the business of renting, leasing, or chartering vessels.

"Boat manufacturer" means a person engaged in:

- (1) The manufacture, construction, or assembly of boats or associated equipment;
- (2) The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly; or
- (3) The importation into the United States for sale of boats, associated equipment, or components thereof.

"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).

"Recreational boating accident":

- (1) Means a collision, accident, or other casualty involving:
 - (A) A person's death;

- (B) Complete loss of a vessel;
 - (C) Damage to a vessel amounting to \$2,000 or more;
 - (D) The disappearance of a person from a vessel under circumstances indicating death or injury to that person; or
 - (E) The injury to a person requiring medical treatment beyond first aid.
- (2) Includes damage to a vessel or its equipment, loss of life, or injury to any person or object:
- (A) Caused by a moving vessel's wake, wash, or waves, or by a vessel's capsizing, or collision with another vessel or object;
 - (B) Caused by flooding, fire, or explosion;
 - (C) Caused when a person falls overboard; or
 - (D) On board a vessel.

"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.

"Buoy" means any floating aids to navigation moored to the seabed and used to convey a message.

"Business" means any and all activities engaged in or caused to be engaged in by any person or legal entity, including, but not limited to, solicitations and advertisements, with the object of making a profit or obtaining an economic benefit either directly or indirectly.

"C.F.R." means the Code of Federal Regulations.

"Camping" means the use and occupation of any portion of a state small boat harbor, boat launching facility, or any other property managed by the department as a temporary or permanent dwelling place or sleeping place (including the laying down of bedding for the purpose of sleeping). Camping includes being in possession of a backpack, tents, blankets, tarpaulins, or other obvious camping paraphernalia, or storing personal belongings, or making any fire, or using any tents, shelter, or other structure or vehicle for sleeping or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.

"Canoe" means outrigger canoe.

"Carrying passengers for hire" means the carriage of any person or persons by a vessel for compensation flowing, whether directly or indirectly, to the owner, charterer, operator, agent, or any other person interested in the vessel.

"Catamaran" means a multi-hulled vessel with a broad, flat deck that is affixed on top of closed cylinders which are used for buoyancy, the basic design of which is usually implemented with two rows of floats as a catamaran or with three rows of floats as a trimaran.

"Certificate" means a certificate of number issued by the department for an undocumented vessel.

"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, or its successor agency.

"Colony" means a collective of free-roaming, abandoned, stray, or feral cats.

"Commercial activity" means to engage in any action or attempt to engage in any action designed for profit, which includes, but is not limited to, the exchange or buying and selling of commodities; the providing of services relating to or connected with trade, traffic, or commerce in general; any activity performed by the commercial operator or its employees or agents in connection with the delivery of such commodities or services; and the soliciting of business, including the display or distribution of notices, business cards, or advertisements for commercial promotional purposes.

"Commercial fishing motorboat" means a motorboat used for taking fish for profit or gain or as a means of livelihood.

"Commercial high speed boating" means the use of an open ocean racing boat to provide high speed rides to passengers who pay compensation for the rides.

"Commercial high speed boating" does not include:

- (1) The use of an open ocean racing boat during an official racing competition; or
- (2) The use of an open ocean racing boat while practicing for a racing competition; provided that no passenger pays compensation for riding the boat during the practice.

"Commercial motorboat" means any motorboat used for hire, profit or gain.

"Commercial ocean recreation activities" means any ocean recreation activity offered for a fee.

"Commercial purposes" includes the staging, loading, and discharge of passengers or supplies at a state boating facility for further transport to a vessel's offshore location by means of a water

taxi or any other vessel, or provisioning a vessel before or after a voyage involving the carriage of passengers for hire.

"Commercial vessel" means a vessel engaged in any trade, business, or commercial activity, including, but not limited to, carrying passengers for hire, charter fishing, bare boat (demise) or any type of charter maintenance, harvesting coral or similar resources, construction, towing, tow-boating, or other trade or business wherein the vessel is used in any manner to promote the venture, or is registered with the State or documented by the United States Coast Guard for commercial use.

"Compensation" means any valuable consideration.

"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 within or on the water.

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

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

"Display area" means the area on a sign or buoy used for display of a waterway marker symbol.

"Diver's flag" means a red flag with a white diagonal running from the masthead to lower outside corner.

"Division" means the department of land and natural resources division of boating and ocean recreation.

"Documented vessel" means any vessel which has a valid marine document issued by the Coast Guard, in accordance with the Code of Federal Regulations, Subchapter G, Part 67, Documentation of Vessels.

"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.

"Enforcement officer" means a police officer and any other state or county officer charged with the enforcement of state laws.

"Federal laws and requirements" means all statutes, regulations, and other laws of the United States, which may be applicable to these rules.

"Feral" means having escaped or been released from domestication and reverted to a wild state and any offspring resulting therefrom.

"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.

"Foreign built vessel" means any vessel whose hull was constructed in a country other than the United States.

"Forward half of the vessel" means any portion of the vessel in front of a point equidistant from the stem and stern of the vessel.

"Free diver" means a person who is using a mask and snorkel, other than for SCUBA diving, who submerges under water or breaks the surface of the water.

"Global Positioning System" (GPS) means the method of terrestrial navigation using a GPS electronic instrument, receiving data from a network of orbiting satellites to locate one's position by latitude and longitude.

"Gross receipts" means all moneys paid or payable to the account of the commercial use permittee or catamaran registration certificate holder, 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, or sales have a direct relationship to the vessel or permitted activity.

"Guardian" means a person invested by a court of law with the power, and charged with the duty, of taking care of a 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.

"Handboard" means any type of surf riding board that is:

- (1) With or without skegs;
- (2) Worn on one or both of the operator's hands;
- (3) Is less than sixteen inches in overall length; and
- (4) Is used for the sport of wave riding.

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

"Hearing officer" means a person appointed by the chairperson to hear appeals.

"High seas" means all parts of the sea that are not included in the exclusive economic zone, in the territorial sea, or in the internal waters of the United States.

"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 capable of being moved by oars, sweeps, or towing.

"Hull" means the shell, frame, or body of a vessel, exclusive of masts, yards, sails, riggings, machinery, and equipment.

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

"Inland waters" mean the waters shoreward of the territorial sea baseline.

"Interest" 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 use permit.

"Kayak" means a watercraft that has an open or covered top and is designed to hold one or more participants and propelled by use of a single- or double-bladed paddle.

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

"Legal dependent" or "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, or 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;
 - (C) Unmarried and under twenty-two years if a full-time undergraduate student at a college; or
 - (D) 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;
- (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" when applied to vessels covered by these rules, means the measurement of a vessel from end to end over the deck. It is a straight-line measurement of the overall length from the foremost part of the vessel measured parallel to the centerline. Bowsprits, boomkins, rudders, motor brackets, and similar fittings or attachments or sheer are not to be included in the measurement. In case of a vessel of an open type or with a cockpit, the measurement is taken

between the foremost and aftermost extremities of the hull exclusive of sheer. In vessels having more than one deck, it is the length measured from the foremost part of the bow to the aftermost part at the stern exclusive of sheer.

"Lienholder" means a person holding a recorded security interest in a vessel.

"Lifeboat" means a boat carried aboard a vessel and used solely for lifesaving purposes, but not including dinghies, tenders, speedboats, or other types of craft carried aboard a vessel and used for other than lifesaving purposes.

"Liquor" or "intoxicating liquor" shall mean the same as defined in section 281-1, Hawaii Revised Statutes.

"Litter" means any and all types of debris and substances, whether liquid or solid, and materials such as garbage, refuse, rubbish, glass, cans, bottles, paper, wrappings, fish or animal carcasses, or any other nauseating or offensive matter or any machinery, appliance, or automobile, or parts thereof, or any other substances which render small boat harbor lands or facilities unsightly, noxious, or otherwise unwholesome to the detriment of the public health and welfare or the enjoyment of the small boat harbor for recreational purposes.

"Livery boat" means a vessel which is rented, leased, or chartered by a person who is engaged in the business of renting, leasing, or chartering vessels.

"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.

"Machinery" means all internal combustion engines located within the vessel and all motor or mechanical devices capable of propelling vessels.

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

"Minor" means a person who has not reached the age of majority.

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

"Mooring" means 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.

"Motorboat" means any vessel which is equipped with propulsion machinery, including steam. This term includes, but is not limited to, wet bikes, motorized surfboards, and any other vessel temporarily or permanently equipped with a motor.

"Navigable streams" means the waters of estuaries and tributaries of the streams of each island of the State, where boating and water related activities, recreational or commercial, may be carried on, whether the mouths of the streams are physically opened or not to ocean waters for intra or interstate commerce or navigation.

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

"Ocean recreation management area" (ORMA) means ocean waters of the State that have been designated for specific activities as described in chapter 13-256, Ocean Recreation Management Rules and Areas.

"Ocean waters" means all waters seaward of the shoreline within the jurisdiction of the State.

"Open ocean racing boat" means a motorized vessel which:

- (1) Is designed, modified, or restored for the primary purpose of high speed board racing; and
- (2) Has the capacity to carry not more than the operator and five passengers.

"Operate" means to navigate or otherwise use a vessel on or in the waters of the State.

"Operator" means a person who operates, or who has charge of the navigation or use of, a vessel.

"Operator permit" means the permit issued by the department which authorizes either the direct operation or the offering for a fee of surfboards and sailboards or any vessel, watercraft or water sports equipment on the ocean waters and navigable streams of the State.

"Outrigger canoe" means a canoe having the inclusion of a rig known as an outrigger which acts as a counterpoise or balance, rigged out from the side of the canoe. A number of spars (iako), usually two but up to as many as ten depending on the canoe's origin and purpose, are lashed across and to the canoe gunwales, extending outwards for a given distance and truncating with the attachment of a flotation device (ama).

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

"Paddleboard" means any type of board that is:

- (1) Without skegs;
- (2) Does not exceed four feet in length; and
- (3) Is used for the sport of surfriding.

"Paipo board" shall be synonymous with the word "paddleboard" as defined in this section.

"Parasailing" means the activity in which an individual is transported or carried aloft by a parachute, sail, or other material attached to a towline, which is towed by a vessel.

"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 the person has been in loco parentis to the minor for the twelve-month period immediately preceding the residence determination date.

"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 flotation device" is a technical term for a life preserver that has been approved and certified by the United States Coast Guard and capable of providing at least ninety per cent of factory-rated flotation capacity.

"Pet owner" means any person owning, harboring or keeping a dog, cat, or other domestic pet, or having custody thereof.

"Power driven catamaran" means a catamaran propelled by machinery whether under sail or not.

"Power-driven vessel" means any vessel propelled by machinery.

"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 as the primary owner or who is named as managing owner of a Coast Guard documented vessel.

"Principally used" means a measurement of the time when a vessel is on the waters of the United States, a state, territory, province, or country and includes the time when the vessel is not in motion, as, for instance, when the vessel is moored or at anchor, as well as the time when the vessel is being navigated.

"Reciprocal beneficiary" means an adult who is a party to a valid reciprocal beneficiary relationship and meets the requisites for a valid reciprocal beneficiary relationship as set forth in chapter 572C, Hawaii Revised Statutes.

"Recreation" means activities in which there is direct and intimate contact with water including, but not limited to, fishing, swimming, surfing, boating, water skiing, and viewing or enjoying historical, archeological, scenic, or scientific sites.

"Recreational vessel" means any vessel that is being used for pleasure and not for conducting commercial activity.

"Regatta" or "marine parade" means an organized water event of limited duration which is conducted according to a prearranged schedule.

"Registration sticker" means a pair of stickers, plates, tabs, or other devices issued by the department with certificates of number and renewals thereof to be affixed to the vessel to indicate that the vessel's certificate of number is current and valid.

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

"Regulatory marker" means a waterway marker which indicates the existence of regulatory areas, speed zones or restricted areas and which has no equivalent in the United States Coast Guard system of navigational aids.

"Residence" or "residence status" means 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 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.

"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, facilities under the jurisdiction of the division, and State ocean waters as set forth in Title 13, Subtitle 11 – _Ocean Recreation and Coastal Areas.

"Rules of the road" means the federal statutory and regulatory rules governing navigation of vessels. These rules are published by the Coast Guard in pamphlet form and known as Navigation Rules - International - Inland COMDTINST M16672.2B.

"Sailboard" means any type of board that exceeds four feet in length and is propelled by a detachable sail apparatus.

"Sailing vessel" means any vessel propelled by sail only. Every power-driven vessel which is under sail and not under power is to be considered a sailing vessel, and every vessel under power, whether under sail or not, is to be considered a power-driven vessel.

"SCUBA" means self-contained underwater breathing apparatus and includes all forms of self-contained underwater breathing apparatuses, e.g., re-breathers, open-circuit, semi-closed or closed circuit or surface-supplied breathing apparatuses.

"Security interest" means an interest in a vessel reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended for security. A security interest is "perfected" when it is valid against third parties generally, subject only to specific statutory exceptions contained in article 9, chapter 490 and section 490:1-201, Hawaii Revised Statutes.

"Sheer" means the longitudinal upward curve of the deck, gunwales, and lines of a vessel, when viewed from the side.

"Shore waters" or "shores" means any shores or waters between the three nautical mile limit and the shoreline of the islands of the State of Hawaii.

"Shoreline" means the upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves.

"Sign" means any device for carrying a message which is attached to another object such as a piling, buoy, structure, or land itself.

"Skeg" means any fin-like projection.

"Sleeping place" means a place used by a person for the purpose of sleeping, where the person is or may be asleep inside a tent, sleeping bag, or some form of temporary shelter or is or may be asleep atop of or covered by materials such as a cot, mat, bedroll, bedding, sheet, blanket, pillow, bag, cardboard, or newspapers.

"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 an hour.

"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 used as described in section 200-9, Hawaii Revised Statutes.

"Snorkeler" shall be synonymous with the word "free diver" as used in this section.

"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.

"State aid to navigation" means a waterway marker which is the equivalent of a United States Coast Guard aid to navigation.

"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.

"Stray" means any dog, cat, or other animal without a microchip or other registered owner-identifier or that is living or roaming off its owner's property without permission to be on other public or private property. Strays may also be feral or abandoned.

"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.

"Surfboard" means any type of board that exceeds four feet in length and is used for the sport of surf riding.

"Symbols" means geometric figures such as a diamond, circle, or rectangle, used to convey a basic message.

"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.

"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.

"Territorial sea baseline" means the line from which the territorial sea is measured, which is generally the low water line along the coasts including the coasts of islands and special closing lines drawn tangent to the headlands across the mouths of rivers, bays, inlets, and other similar indentations.

"Thrill craft" means any motorized vessel that falls into the category of personal watercraft, which:

- (1) Is generally less than thirteen feet in length as manufactured;
- (2) Is generally capable of exceeding a speed of twenty miles per hour;
- (3) Can be operated by a single operator, but may have the capacity to carry passengers while in operation; or
- (4) Is designed to provide similar operating performance as a personal watercraft through a combination of small size, power plant, and hull design.

The term includes, but is not limited to, a jet ski, waverunner, wet bike, surf jet, miniature speed boat, hovercraft, and every description of vessel which uses an internal combustion engine powering a water jet pump as its primary source of motive propulsion, and is designed to be operated by a person or persons sitting, standing, or kneeling on, or being towed behind the vessel.

"Tow-in surfing" means utilizing a surfboard, often equipped with foot straps, to surf waves with the assistance of a thrill craft that is equipped with a rescue sled, bow tow-line, and a tow-in-rope.

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

"Ultralight or experimental float equipped aircraft" means an aircraft of light weight construction and limited range, generally carrying not more than two individuals, able to land on water surfaces using floats.

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

"Underway" means the vessel is not at anchor, aground, or made fast to shore.

"Undocumented vessel" means any vessel which does not have a valid marine document issued by the Coast Guard, in accordance with the Code of Federal Regulations, Subchapter G, Part 67, Documentation of Vessels.

"Use permit" as used in these rules, means the authorization by the department to utilize state boating facilities, offshore mooring areas, offshore moorings, state ocean waters, and navigable streams, as evidenced by the fully executed "agreement" described in section 13-231-2.

"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, except a seaplane.

"Vessel carrying passengers for hire" means any vessel which carries any person or persons for a valuable consideration that goes directly or indirectly to the owner, charterer, operator, agent, or any person who has an interest in the vessel.

"Vessel engaged in fishing" means any vessel fishing with nets, lines, trawls, or other fishing apparatus which restrict maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict maneuverability.

"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 a 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, boomkin, 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 temporarily moored in a state small boat harbor while having a use permit applicable to a different state small boat harbor or other boating facility under the jurisdiction of the division.

"Water sledding" means the activity in which an individual is transported or carried over the surface of the water on an apparatus attached to a towline and towed by a vessel.

"Water sports equipment" means any equipment, contrivance, frame, or other device that one or more persons may wear, lie, sit, or stand upon or in, and which is primarily for use in or on the water for pleasure, recreation, or sports, and not necessarily for transportation.

"Waters of the State" means any waters within the jurisdiction of the State, the marginal seas adjacent to the State, and the high seas when navigated as part of a journey or ride to or from the shores of the State.

"Water taxi operations" means the shuttling of persons or cargo to or from the small boat harbor facility or a shoreside location authorized for such use under chapter 13-256 to a destination or vessel located outside the small boat harbor boundary.

"Waterway marker" means any device designed to be placed in, or near, the water to convey an official message to a boat operator on matters which may affect health, safety, or well-being, except that such devices of the United States or an agency of the United States are excluded from the meaning of the definition.

"Wildlife" means any member of any non-domesticated species of the animal kingdom, and game mammals and game birds living in a wild and non-domesticated state, whether reared in captivity or not, including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.