

Q&A for October 3, 2023, Meeting Regarding Lahaina Harbor Recovery

QUESTIONS	ANSWERS
<ul style="list-style-type: none"> How will DLNR support permit holders if DLNR is not able to renew their permits before they expire? What can DLNR commit to? 	<p>Limited “holdover” status will be automatically afforded to all permittees holding use permits authorizing use of Lahaina Harbor or Mala Boat Ramp. For more information on these limitations, please see the Holdover letter on the DOBOR website. Upon a complete re-opening of the facilities, permittees formerly in holdover status will be given priority opportunity to fulfill all requirements and continue their existing permit; holdover permittees who do not have a vessel and are up to date on all fees will be given priority for a new permit once requirements are fulfilled.</p>
<ul style="list-style-type: none"> Why is that DOBOR can bend the rules for sharing a slip but not for not having a vessel for a permit? 	<p>All permittees in holdover status will be eligible to continue their use permit when the Lahaina harbor reopens. DOBOR is working to provide permittees with options to work at Maalaea SBH if there is space available.</p>
<ul style="list-style-type: none"> Only two of the vessels are in the safety zone, why do we need to ask for access? 	<p>Access to Mala Wharf from land needs to be approved by Maui County. Access to the secure ocean area established by the USCG needs USCG approval.</p>
<ul style="list-style-type: none"> If Mala is only open Monday – Friday, what happens to the vessels offshore if some type of weather activity happens? 	<p>Mala Wharf will reopen on October 14, 2023 fulltime for recreational vessel activity and limited commercial vessel activity. Vessel owners will need to seek safe harbor if severe weather comes.</p>
<ul style="list-style-type: none"> Can I use a skiff from Mala in Kaanapali ocean waters? 	<p>Once Mala is reopened, there are no restrictions for using a vessel in the Kaanapali ocean waters.</p>
<ul style="list-style-type: none"> Can we use the area near Lahaina for storage of vessels and/or extending the harbor? 	<p>The area is under DOE jurisdiction. DLNR explore this possibility with DOE.</p>
<ul style="list-style-type: none"> Can the Lahaina ramp to be redone to alleviate the pressure on Mala and give the community back the ramp so that the commercial operators can work there and not at Mala? 	<p>This option has been raised recently, and DLNR will contact DOE to see if they would be interested in transferring jurisdiction of the school property to DOBOR.</p>
<ul style="list-style-type: none"> What is DOBOR doing about facility management at Maalaea SBH? 	<p>Facility management is being done according to Hawaii Revised Statutes and Hawaii Administrative Rules.</p>
<ul style="list-style-type: none"> Why is DOBOR making it so that these commercial permittees don’t have their slips anymore since they paid a lot of money for those slips? 	<p>Commercial permittees are being placed in a “holdover” status until the harbor reopens. At that time, they will be given an opportunity to reinstate their use permits.</p>

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<ul style="list-style-type: none"> • Why doesn't Mala Wharf have the capacity to open? What are the safety concerns even if there isn't water and electricity? 	<p>Mala Wharf will reopen on October 14, 2023 full-time for recreational vessel activity and commercial vessel activity on weekdays only. Please see the Mala Wharf Reopening letter on the DOBOR website.</p>
<ul style="list-style-type: none"> • Lahaina vessel owners are now being allowed access/the ability to move their vessels. Is there a place for them to go? 	<p>Please work with Paul Sensano, DOBOR Maui District Manager, to see what is available in the offshore moorings or in another facility: 808-243-5824. USCG is not forcing vessels to leave Lahaina harbor, and the contractor can work around them, if need be.</p>
<ul style="list-style-type: none"> • Will a Lahaina master plan be created? 	<p>Under consideration.</p>
<ul style="list-style-type: none"> • When the office is open at Mala what will be the hours? 	<p>To be determined.</p>
<ul style="list-style-type: none"> • Ramp at Lahaina harbor - will the area turn into a trailer parking area since they are relocating the school out of the area? 	<p>DLNR is contacting DOE to see if they would be interested in transferring the school property to DOBOR.</p>
<ul style="list-style-type: none"> • Can moorings be installed for recreational boaters coming from Molokai and Lanai? 	<p>Under consideration.</p>
<ul style="list-style-type: none"> • If we had a slip in Lahaina SBH, prior to the fire, can we get our same slip back when the harbor is rebuilt? 	<p>Slip holders will be offered a slip in the rebuilt harbor, but we are unable to guarantee that it will be the same slip.</p>
<ul style="list-style-type: none"> • Zoom Poll: Do you support having discussions about moving Mala commercial operators to the area where the school is, if DOBOR is able to get the area from DOE? 	<p>85% yes, 15% no. In order to accomplish this, Hawaii Administrative Rules would need to be amended.</p>
<ul style="list-style-type: none"> • Shoreline permits – will DOBOR be renewing those permits near Mala? 	<p>DOBOR committed to not issuing any new commercial shoreline permits. Existing commercial shoreline permits are currently on hold due to water quality concerns.</p>
<ul style="list-style-type: none"> • Can DOBOR provide a dinghy dock at Lahaina SBH for some of the offshore moorings owners to use? 	<p>Under consideration.</p>
<ul style="list-style-type: none"> • What water testing has been done and where can the results be found? 	<p>DLNR's Division of Aquatic Resources has taken the lead on this matter, and results are still pending.</p>
<ul style="list-style-type: none"> • Why is an office and staff needed at Mala if none was there previously? 	<p>We will be basing operations at Mala Wharf until the Lahaina harbor office is reopened. We anticipate extensive use of the facility and feel staff presence is warranted to ensure public health and safety.</p>

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<ul style="list-style-type: none"> • Is a private vessel with a non-profit doing research with a federal and state permit considered commercial or recreational? 	<p>A non-profit being compensated for the use of the vessel in state ocean waters would be considered commercial.</p>
<ul style="list-style-type: none"> • What is the definition of a vessel? 	<p>"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. HRS § 200-23.</p>
<ul style="list-style-type: none"> • Would a kayak qualify for a CUP? 	<p>Kayaks are considered ocean recreation equipment and may not be included under a permit as a passenger-carrying vessel.</p>
<ul style="list-style-type: none"> • What was the actual amount of permits originally allowed at Mala? 	<p>There were no limits when the administrative rules were first implemented in 1994. A limit of 15 commercial ramp permits for Mala was put in place in 2014. Since there were 16 commercial ramp permits at the time, the 16th permit was grandfathered and will be reduced by attrition. See HAR § 13-231-67.</p>
<ul style="list-style-type: none"> • Why are you not guaranteeing all permit holders who lost commercial vessels in Lahaina Harbor a moratorium until the harbor is operational? 	<p>All use permits will be placed in a "holdover" status until the harbor is reopened. At that time, permittees may reinstate their use permits.</p>
<ul style="list-style-type: none"> • What happens to the commercial permits that are not operational due to the time it takes to build a new vessel? Are those permits up for sale? 	<p>All DOBOR permits automatically terminate if sold or transferred, pursuant to Hawaii Administrative Rules. Commercial permittees may request additional time to obtain a vessel according to the Hawaii Administrative Rules.</p>
<ul style="list-style-type: none"> • Why are commercial operations still even being considered to operate out of Mala? All commercial operations should be out of Lahaina Harbor. 	<p>The Hawaii Administrative Rules allow for limited commercial activity at Mala Wharf. In order to reduce or eliminate commercial activity at Mala Wharf, the Hawaii Administrative Rules will need to be amended.</p>
<ul style="list-style-type: none"> • Why can't the rules be amended to accommodate the Lahaina harbor permit holders? 	<p>Administrative Rulemaking is governed by procedures set forth in chapter 91, HRS, which ordinarily take many months (and often, years) to develop. Emergency rules can only be implemented when there is an immediate threat to health, safety, or natural resources, and emergency rules are only valid for a limited amount of time.</p>
<ul style="list-style-type: none"> • Does DLNR or Coast Guard have any issues with people accessing Mala for surfing or shoreline fishing? 	<p>Until such time as the security zone is removed from Mala Wharf, no use of the near-shore waters may occur.</p>

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<ul style="list-style-type: none"> • How can I reach Paul Sensano? 	<p>(808) 243-5824 dlnr.bd.mauidistrict@hawaii.gov</p>
<ul style="list-style-type: none"> • 13-231-61 specifically contemplates the reissuance of a commercial permit when the permittee is unable to meet the gross receipts minimum due to the loss of a vessel. In these cases, the department can still issue the permit to the permittee. There is no vessel requirement in this rule. Accordingly, can DLNR use this rule to give the commercial operators assurance that their permit will be renewed? If a vessel is required, can DLNR please point to the rule that would negate the exception created by 13-231-61? 	<p>The vessel requirement can be found in HAR § 13-231-13. Use permits are being placed in a "holdover" status until the harbor reopens. At that time, permittees may reinstate their use permits.</p>
<ul style="list-style-type: none"> • Is there going to be the same number of permits? 	<p>The number of permits is set by administrative rules. Permits are only good for one year.</p>
<ul style="list-style-type: none"> • Have you consulted any harbormasters from around the country that have experienced a natural disaster that destroyed their harbor? If yes, what have you learned and what have you implemented from what you learned? If you have not contacted a harbormaster, why haven't you? 	<p>We are working with FEMA and USCG, who have extensive experience with disaster recovery.</p>
<ul style="list-style-type: none"> • What is the avenue to change the "rule" that takes away permits and puts people on wait list? 	<p>This is authorized under the Emergency Proclamation issued by the Governor.</p>
<ul style="list-style-type: none"> • When we renew a permit while waiting for our vessel to be built will we be allowed extensions up to 120 days to put the vessel in the slip? 	<p>Extensions will be granted according to Hawaii Administrative Rules.</p>
<ul style="list-style-type: none"> • Is there any consideration to adding additional moorings at mala to accommodate recreational boaters who had slips in Lahaina harbor? 	<p>At this time, we are not authorizing any new offshore mooring permits in the Mala Wharf area.</p>
<ul style="list-style-type: none"> • When Lahaina Harbor is ready to open, could the ones that were in good permit standing be told a month before, and be placed first on the list to get their position in line please? 	<p>Ideally, DOBOR will plan to offer permittees the same mooring slip area and they will be authorized to moor a vessel of the same size and characteristics as the one that was lost. We cannot guarantee that every permittee will be given the exact same slip as before.</p>

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<ul style="list-style-type: none"> • Would removal of commercial activity at Mala include the utilization of Mala Wharf itself as a snorkel and dive site? 	<p>Restrictions on commercial activity and/or ocean recreation activities such as snorkeling would ordinarily require amendments to the Hawaii Administrative Rules.</p>
<ul style="list-style-type: none"> • Does the state have other land in west Maui where a boat ramp can be built? 	<p>Not at this time.</p>
<ul style="list-style-type: none"> • Is Lahaina considered a functional "safe harbor" at the moment? 	<p>No.</p>
<ul style="list-style-type: none"> • What is the number of available slips at Ma'alaea? 	<p>This changes on a day-to-day basis; for current information, please contact the Maalaea harbor office at (808) 243-5824.</p>
<ul style="list-style-type: none"> • When can we have an in-person meeting? 	<p>To be determined, but we are trying to convene an in-person meeting on Maui at the end of the October.</p>
<ul style="list-style-type: none"> • When is the next meeting? 	<p>To be determined, but we are trying to convene an in-person meeting on Maui at the end of the October.</p>
<ul style="list-style-type: none"> • Wasn't Mala ramp originally only for recreational use? 	<p>All records for Mala ramp show that it was constructed with both recreational and commercial use of the launch ramp in mind. Commercial activity was taking place in 1991 when the facility was transferred from the Department of Transportation to the Department of Land and Natural Resources. The Hawaii Administrative Rules (HAR) that pertained to the Department's newly created Division of Boating and Ocean Recreation (DOBOR) took effect in 1994 and expressly authorized commercial activity at Mala Wharf. In 2014, the HAR were amended, and commercial permits authorizing the use of Mala ramp was limited to 15 ramp permits but at the time there were 16 permits. The 16th permit was grandfathered and the number of permits will be reduced to 15 by attrition. In order to amend the amount of authorized commercial activity set forth in the rule, DOBOR will need to engage in formal rulemaking.</p> <p>Relatedly, we note that there has been overwhelming support to explore moving the Mala Wharf commercial permittees to operate from Lahaina Harbor, if a trailer parking lot could be established and a safe launch ramp maintained. DOBOR will continue to explore this option, but no decision has been made at this time. Much more work needs to be done to restore facilities to a baseline, as well as upgrades (including capital</p>

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	improvements) to the Lahaina harbor. Therefore, this option, even if possible, is not likely to happen in the very near future. Thus, we need greater cooperation between commercial operators and recreational users at Mala Wharf in the meantime.
<ul style="list-style-type: none"> • If a presence for safety and or security is a concern, would the state be open to a community lead or private funded company put in place asap to get open at least for Molokai related traffic? 	This could be considered, and we have hired private security companies in the past. There are issues with private security and their extremely limited enforcement authority. As noted, DOBOR staff will be posted in a trailer at Mala until other facilities are re-built and re-opened.
<ul style="list-style-type: none"> • Will Mala Ramp users need a placard/decals to gain access? 	Not at this time.
<ul style="list-style-type: none"> • When is the EA/EIS process triggered? 	The Hawaii Environmental Policy Act (HEPA), HRS chapter 343, and related administrative rules, is complicated and extremely fact specific. The process is triggered depending on the proposed action and the existing environmental review in place, if any.
<ul style="list-style-type: none"> • Are loss of permits contingent on insurance claims? 	No.
<ul style="list-style-type: none"> • Can 3 day use moorings be installed for public use? 	This is a possibility and would require authorization from the Board of Land and Natural Resources, plans for mooring construction stamped by a Structural Engineer, day-use mooring rules will apply, and other rules and regulations could also apply.