

Maunalua Commercial Operators meeting-

April 23, 2014

MM introduction

- Share CAP process (were commercial operators a part of the CAP process)
- Pakini and Fisher Assessment conducted for bay
- Fisher Hui established to address CAP threat of fisheries

Fisher Hui

- Need enforcement to solve problems of violations
- Lawyer clarified / interpreted rules (1 year ago)
- Monitoring- Report violations to 643 DLNR
- Not disclosing names at this point

DOCARE Pilot

- Need to look at reporting process closer
- Can DOCARE respond/evaluate better
- What happens with 643-DLNR
 - How DOCARE receive info
 - Are they actual violations
 - Administrative vs Criminal

Commercial Operators

- Doors have been open for 29 years
- Went to Legislation and needed support from DLNR
- Engaged as volunteers with community groups (MM)
- Operators pay % fee to general fund (is there a way to get those fees specific to Maunalua)
- Kayaks are used to block boats, bad mouthing, boarding vessels

Jeff Grantz – sent in letters to put corrections into place for bay regulations

- Issue of Jet Pack
- Never take 3rd permit to allow Marshall Rosa some space

Violation Clarifications

1. No commercial operations on Sunday
2. Lay net violations
 - ?What can operators do if they find/see illegal netting
3. Surf Schools-No permit required as long as staying outside designated area
 - No permit needed for Ocean waters either

4. Commercial Activity has decreased 50%; commercial diving has increased

5. Staying outside of Maunalua Waters Boundary

? What if operators float over line by 10ft?

DOCARE: if you are over the line whether 1 mile or 10 ft; you are still in violation

Is there a way to move moorings to keep them outside of Maunalua Bay Waters?? Or move the boundary line?

- Need to check on history/creation of boundary

Maunalua Makai Watch - Clarification of Rules and Regulations:

1. No commercial activity within Maunalua Bay Waters on Sunday and no jet ski, parasail, or watersleds on any weekends or holidays within Maunalua Bay Waters? (HRS 200-37)

- No commercial dive tours, surf schools/ stand up paddle lessons, Sunset Cruises, or any other type of commercial activity allowed on Sundays within Maunalua Bay Waters (Portlock Point to Wailupe Peninsula).

- No Jet Ski, Parasail, or Watersleds on any weekends or holidays within Maunalua Bay Waters.

(1) No commercial operator shall operate a thrill craft, engage in parasailing, water sledding or commercial high speed boating, operate a motorized vessel towing a person engaged in parasailing, or operate a motor vessel towing a person engaged in water sledding during all weekends, and state or federal holidays.

(2) All commercial ocean recreation activities in Maunalua Bay waters are prohibited on Sunday, effective January 1, 1991.

2. Operating surf schools without permits and in places that aren't designated for surf schools for instance Paikos? (answered by DOBOR @ mtg; no permit needed)

- At this time, permits are not necessary to conduct commercial surfing lessons in the bay. However, no commercial surfing operations are allowed within Maunalua bay waters on Sundays.

3. Using portlock beach or the waters outside of portlock beach for commercial activity (SUP)? (answered by DOBOR @ mtg;)

- As long as the commercial activities don't leave from the beach, they are allowed to pass through the waters outside of portlock beach.

4. Commercial Operations going outside of the designated jet ski/banana boat zone?(13-256-18b)

- Operators are not to allow the jet skis or banana boats to go outside of designated zones. Commercial operators are responsible for their clients. One recommendation was to put buoys on the boundaries of the zone and have operators instructed to stay on the inside of the buoys.

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

5. Commercial Business operating without proper insurance (13-231-65; 13-256-9)

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

- (§13-231-65 Insurance requirements. A permittee issued a commercial permit shall, concurrently with the execution of the permit, tender to the department a copy of either a comprehensive general liability insurance policy or policies or a protection and indemnity insurance policy, or a certificate of insurance in lieu thereof, evidencing that such policy has been and is in force, with a combined single limit of not less than \$300,000 for commercial vessels not authorized to carry passengers and for those authorized to carry not more than six passengers; not less than \$500,000 for vessels authorized to carry more than six passengers, but less than twenty-six passengers; and not less than \$750,000 for vessels authorized to carry more than twenty-five passengers for bodily injury and damage to property per occurrence. The specification of limits contained

231-54

Herein shall not be construed in any way to be a limitation on the liability of the permittee for any injury or damage proximately caused by it. This insurance shall:

(1) Be issued by an insurance company or surety company authorized to do business in the State and approved in writing by the department;

(2) Name the State as an additional insured;

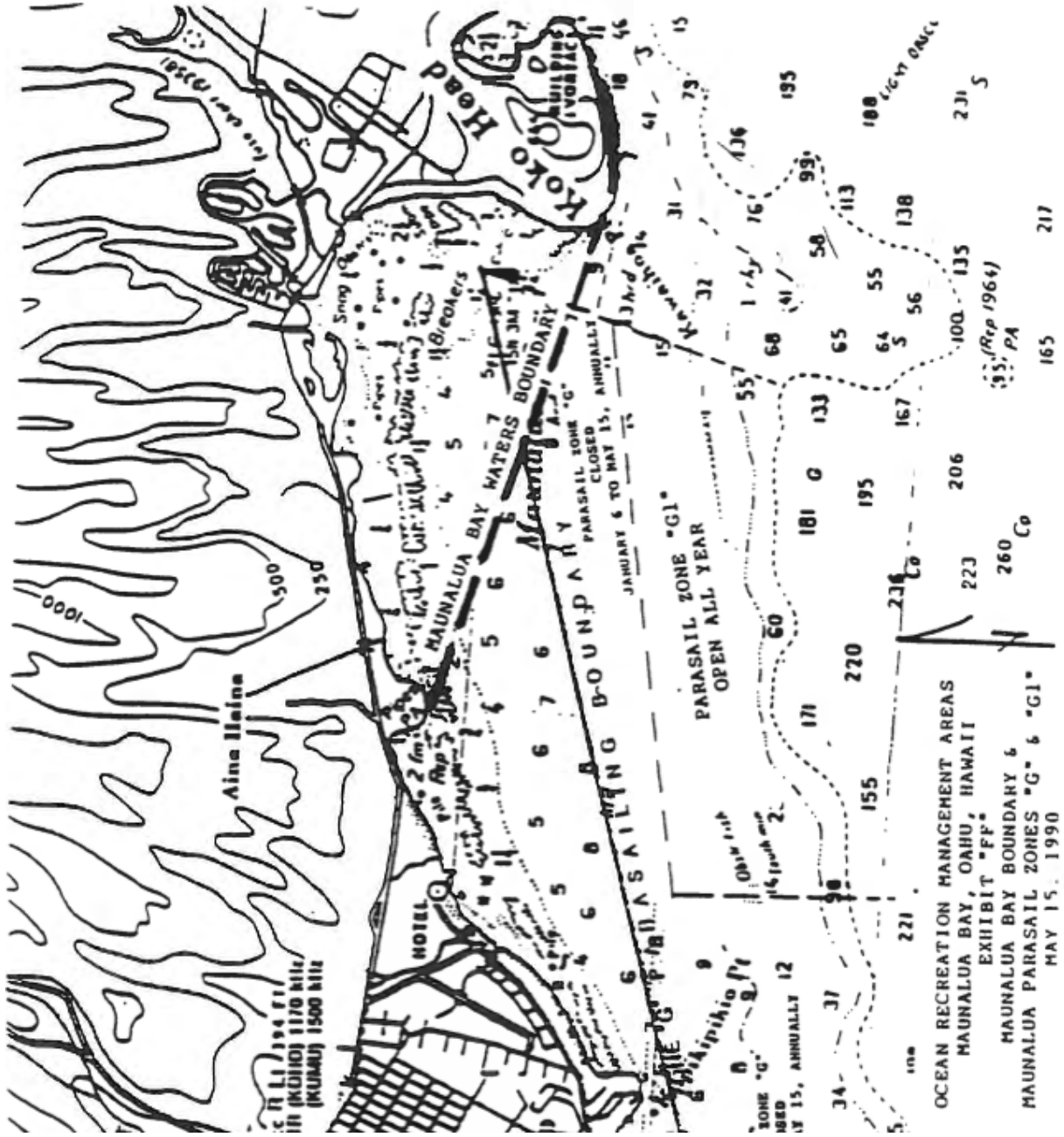
(3) Provide that the department shall be notified at least thirty days prior to any termination, cancellation, or material change in its insurance coverage;

(4) Cover all injuries, losses, or damages arising from, growing out of, or caused by any acts or omissions of the permittee, its officers, agents, employees, invitees, or licensees, in connection with the permittee's use or occupancy of the premises; and

(5) Be maintained and kept in effect at the permittee's own expense throughout the life of the permit. The permittee shall submit evidence to the department of renewals or other actions to indicate that the insurance policy remains in effect as prescribed herein. [Eff 2/24/94] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4))

**6. Clarifying Maunalua Bay Waters line (Portlock point to Wailupe Peninsula)?
(13-256-88)**

Maunalua Bay Waters Line is Portlock Point (Kawaihoa) to Wailupe Peninsula.





§13-256-88 Maunalua Bay waters. (a) Maunalua Bay waters means the area encompassed by the boundaries shown on Exhibit "FF", dated May 15, 1990, and located at the end of this subchapter. The boundaries are described as follows:

Beginning at the southern point on the shoreline of Kawaihoa Point, then by azimuth measured clockwise from True South, 107 degrees for a distance of seventeen thousand and eighty-five feet to the southwestern tip of Wailupe Peninsula, then along the shoreline of Maunalua Bay to the point of beginning.

7. Operation of jet skis and banana boats at same time? (13-256-88f)

Jet Skis and Banana Boats are not allowed to operate at the same time.

Commercial thrill craft are limited to operating within a two hundred foot radius of the permitted designated location except as otherwise designated. The number of thrill craft permitted to operate within each commercial thrill craft operating area shall be as directed by the department, not to exceed a limit of six

rental units and two safety units per area. **Water sledding operations may be conducted in the designated thrill craft areas only if no other thrill craft activity is ongoing in said area.**

8. Illegal Mooring (mooring w/out permits/insurance, living aboard, staying for longer than 72 hours (13-231-60,61))

§13-231-60 Allocation of commercial permits. (a) Commercial permits shall be issued to qualified applicants in the order in which applications are received by the department. Seniority begins on the date an application is received and accepted by the department. The allocation procedures specified in subchapter 5, Allocation of berths, shall also govern the allocation of commercial permits under this section; provided that waiting lists for commercial permits shall be established and maintained separately from waiting lists for berth assignment.

(b) The sale or transfer of any corporation or other business entity while on the waiting list which results in a change of the majority stockholder or person holding the majority interest in the business shall result in loss of seniority, and the applicant shall be placed at the bottom of the waiting list.

(c) The department may reject an application for a commercial permit if the type of commercial activity is determined by the department to be inappropriate for the facility or area for which the permit is being requested, in addition to the grounds for rejection of an application for a permit listed in section 13-231- 82.

(d) When a commercial permit becomes available for a vessel moored elsewhere, the permit issued shall be of the same category as the commercial permit which was previously in effect. [Eff 2/24/94] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §§200-2, 200- 3, 200-4, 200-10)

§13-231-61 Reissuance of commercial permits.

(a) The department may reissue a commercial permit provided that:

(1) The gross receipts during the twelve-month period under the commercial permit for which the application for reissuance has been submitted, equals or exceeds the following minimums as applicable:

(A) Vessels used for bare boat (demise) charters and charter sail boats

- (B) Vessels registered by the State or documented by the U. S. Coast Guard to carry six passengers or less, including charter fishing boats
- (C) Vessels certified by the U. S. Coast Guard to carry seven to twenty-five passengers
- (D) Vessels certified by the U. S. Coast Guard to carry twenty-five to forty-nine passengers (
- E) Vessels certified by the U. S. Coast Guard to carry fifty to ninety-nine passengers
- (F) Vessels certified by the U. S. Coast Guard to carry more than ninety-nine passengers (G) Vessels engaged in another trade or business not delineated and governed by an appropriate paragraph above

\$ 7,000

\$15,000

\$45,000

\$85,000

\$125,000

\$250,000

\$ 7,000;

or (2) The permittee applies to the department in writing for reissuance of the permittee's commercial permit and concurrently presents evidence that any failure to generate gross receipts from the operation of the permittee's vessel as prescribed in this subsection was due to:

- (A) The sinking, loss, or destruction of the permittee's vessel;
- (B) The permittee's vessel being inoperative in excess of sixty days due to disability of the permittee;
- (C) The permittee's vessel was rendered inoperative in excess of sixty days due to damage to the vessel, or due to the necessity of replacing essential parts and gear, provided that reasonable and diligent efforts by the permittee to secure such items necessary to repair the vessel or replacement of parts is demonstrated; or
- (D) Where conditions and circumstances are demonstrated wherein a reissuance of the permittee's commercial

permit would be fair and warranted, and the application for reissuance is approved by the department; and

(3) All fees and charges due and payable to the department have been paid and no violations are outstanding.

(b) No commercial permit shall be issued to any permittee whose commercial permit has been terminated for cause, provided that the permittee may apply for a new commercial permit after one year has expired from the date of termination of the commercial permit, all fees and charges owing the State have been paid, and the permittee is in compliance with federal and state laws.

(c) A corporation must have been in continuous commercial operation as evidenced by the submission of monthly reports of gross receipts for a minimum of twelve months in order to retain use permits upon the transfer of any interest in that corporation. [Eff 2/24/94] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §§200-2, 200-3, 200-4, 200-10)

9. Enforcing recreational Jet Ski certificate (13-256-16)

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

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

10. Catching/spearfishing undersized fish/tako or out of season (13-95-55)

See: <http://state.hi.us/dlnr/dar/rules/ch95.pdf> for size minimums and off limit seasons.

11. Gill nets and Lay nets (13-75-12, 13-75-12.4)

See: <http://state.hi.us/dlnr/dar/rules/ch75.pdf>. Lay Nets (Laying the net then leaving unattended) are not allowed in Maunalua Bay. However, Surround Netting

(Actively using net to surround school of fish) is permitted. All nets should have tags registered with the state.

12. Out of season / over bag limit (varies by species 13-95)

See: <http://state.hi.us/dlnr/dar/rules/ch95.pdf> for size minimums and off limit seasons.

13. Does commercial fishing regulations differ from recreational fishing regulations?

Yes.

14. Is it legal to fuel vessels at the Maunalua boat ramp? (13-232-24)

§13-232-24 Fueling.

(a) The fueling of vessels at a small boat harbor where a marine fueling station has been established, shall be accomplished only at that station.

(b) Prior to fueling a vessel at a small boat harbor, the operator shall:

(1) Securely moor the vessel;

(2) Stop all engines, motors, fans, and devices liable to produce sparks;

(3) Extinguish all fires; and

(4) Close all ports, windows, doors, and hatches.

(c) Persons fueling a vessel at a small boat harbor shall:

(1) Refrain from smoking, striking matches, or throwing switches; and

(2) Keep nozzle of hose, or can, in continuous contact with fuel opening to guard against static sparks.

(d) After fueling is completed, the following actions shall be taken:

(1) Close fill openings;

(2) Wipe up all spilled fuel;

(3) Open all ports, windows, doors, and hatches;

(4) Permit vessel to ventilate for at least five minutes; and

(5) Check that there are no fuel fumes in the bilges or below deck spaces before starting machinery or lighting fires.