

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96819

June 14, 2019

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Land Board Members:

SUBJECT: REQUEST FOR APPROVAL AND ADOPTION OF AMENDMENTS TO TITLE 13, HAWAII ADMINISTRATIVE RULES (HAR), CHAPTERS 13-234, FEES AND CHARGES, AND 13-253, CATAMARAN REGISTRATION CERTIFICATE, OTHER REGISTRATION, AND COMMERCIAL USE PERMIT FEES FOR THE PURPOSE OF REVISING FEE AND CHARGE REQUIREMENTS AND INCREASING BOATING AND OCEAN RECREATION FEES AND CHARGES, INCLUDING, BUT NOT LIMITED TO, MOORING FEES, STATE BOATING FACILITY-RELATED FEES, COMMERCIAL USE PERMIT FEES, RAMP DECAL FEES, AND PASSENGER CRUISE-RELATED FEES.

The proposed rules can be reviewed in person at a Division of Boating and Ocean Recreation (DOBOR) district office from 8:00 am to 3:30 pm, Monday through Friday, except state Holidays as follows: Hawai'i District: Honokōhau Small Boat Harbor 74-380 Kealakehe Parkway Kailua-Kona, HI 96740; Kaua'i District: Nawiliwili Small Boat Harbor 2494 Niumalu Road Līhu'e, HI 96766; Maui District: Ma'alaea Small Boat Harbor 101 Ma'alaea Boat Harbor Road Wailuku, HI 96793; O'ahu District: Ke'ehi Small Boat Harbor 4 Sand Island Access Road Honolulu, HI 96819.

The proposed rules can be reviewed online at: <http://ltgov.hawaii.gov/the-office/administrative-rules>. The proposed rules can also be viewed online at: <http://dlnr.hawaii.gov/dobor/draft-rules>. Location and contact information for DOBOR offices is available online at: <http://dlnr.hawaii.gov/dobor/contact>.

PURPOSE:

The purpose of these amendments is to increase fee amounts in HAR Chapter 13-234 in order to improve revenue-generating potential of boating and ocean recreation related activities within state small boat harbors and nearshore waters, and to reorganize HAR provisions relating to DOBOR fees and charges in an effort to place as many fee-related rules in the same HAR chapter. Reorganization of fees and charges will allow affected individuals to find information more quickly and easily.

STATUTES:

Hawaii Revised Statutes (HRS) §§ 200-2, 200-3, 200-4, 200-6, 200-8, 200-10, 200-12, 200-19, 200-22, 200-24, 200-25, 200-39

BACKGROUND:

At the October 12, 2018 Board of Land and Natural Resources (Board) meeting, DOBOR brought the proposed amendments to Chapters 13-234 and 13-253 to request to begin the HRS Chapter 91 rulemaking process. The Board deferred action on this request and directed DOBOR to bring this item back to the October 26, 2018 Board meeting. DOBOR was directed to provide the following information to the Board at the October 26, 2018 meeting:

- Mooring fee appraisal, of which a hardcopy was sent to each Board member.
- Financial breakdown of deferred maintenance projects
- Revenue and expense report
- Expected revenue generation for certain major small boat harbors

On October 17, 2018, DOBOR went before the Small Business Regulatory Review Board (SBRRB) to discuss small business impacts. DOBOR informed SBRRB that there would be an impact to small business due to the fact that mooring and commercial use fees were to be increased, which would increase operating costs for small business. SBRRB voted unanimously to recommend that the proposed amendments proceed to public hearing.

At the Board's October 26, 2018 meeting, the Board again deferred action on DOBOR's request to hold public hearings. At the Board's December 7, 2018 meeting, the Board approved public hearings for the proposed amendments to HAR Chapters 13-234 and 13-253.

In advance of the public hearings, the proposed rules package was sent to all staff in DOBOR, as well as to as many members of the public that would be affected, for informal comment and feedback. DOBOR staff sent notices to boaters through various methods, including: along with registration renewal documents, along with billing statements, and through email. DOBOR began sending these notices out in October 2017 and has sent in excess of 10,000 notices to date. The notices state that DOBOR is planning to amend HAR Chapters 13-234 and 13-253 and that the public is welcome to view proposed amendments online at the DOBOR website or in person at any DOBOR district office.

The Department of the Attorney General, Land and Transportation Division has reviewed the draft rules and approved them as to form, pending approval by the Board, SBRRB, and the Governor pursuant to HRS Chapter 91.

Based on testimony received during the public hearing process, DOBOR is recommending revisions to its proposed language in HAR §13-234-2, Payment and delinquency, HAR § 13-234-10, Electricity fee, HAR § 13-234-11, Shower fee, HAR § 13-234-25, Fees for commercial

use permits, and HAR § 13-253-1.2, No additional fees. DOBOR is also recommending that the Board remove proposed changes to HAR § 13-234-26, Passenger fees, because of an error in language. DOBOR staff will revisit HAR § 13-234-26 in a separate rule package and plans to work with affected stakeholders to create language. The revised proposed rules package contains the following amendments (see ATTACHED **EXHIBIT A**):

1. Increases fee amounts for the following:
 - a. State boating facility mooring fees under HAR § 13-234-3
 - b. Offshore mooring fees under HAR § 13-234-4
 - c. Stay-aboard and principal habitation fees for transient vessels under HAR § 13-234-8(b)
 - d. Electricity fees under HAR § 13-234-10
 - e. Shower fees under HAR § 13-234-11
 - f. Dry storage fees under HAR § 13-234-12
 - g. Gear locker fees under HAR § 13-234-13
 - h. Permit processing fees under HAR § 13-234-16
 - i. Commercial use permit fees under HAR § 13-234-25(a)
 - j. Service charge for any dishonored check, draft, certificate of deposit, or other negotiable instrument under HAR § 13-234-28(a)
 - k. Vessel inspection fees under HAR § 13-234-29
 - l. Application fee for recognition as an approved marine surveyor under HAR § 13-234-30
 - m. Fees for commercial use of boat launching ramps and other boating facilities under HAR § 13-234-31
 - n. Facility shower key deposit under HAR § 13-234-32
 - o. Recreational ramp decal fee under HAR § 13-234-34
2. Makes payments due on or before the last day of the month in which they are incurred; changes the time period for which a payment becomes delinquent from thirty days after it is due to four days after it is due and specifies that delinquent payments will be referred to the Credit Bureau Services if unpaid twenty-five days after the account becomes delinquent. Clarifies delinquent payment provisions for commercial operators who pay DOBOR a percentage of gross revenues.
3. Imposes a delinquent service charge of the greater of five per cent or one hundred dollars per month on any delinquent account; also imposes interest of one per cent per month on an unpaid balance for all delinquent payments, which includes the unpaid balance, all prior interest charges, and all delinquent service charges.
4. Removes Schedule A and Schedule B mooring rates in HAR § 13-234-3 and replaces mooring fee categories with "Catwalk" and "Tahiti Moor" categories.
5. Increases the minimum age allowed to obtain a shower key under HAR § 13-234-11 from four to eighteen; specifies that each eligible individual eligible to obtain a shower key

cannot obtain more than one male key and one female key per mooring permit; clarifies that the shower key fee is for access and not actual usage.

6. Revises dry storage requirements under HAR § 13-234-12 to require that a person wishing to use any location on land under DOBOR jurisdiction must, in addition to holding a valid use permit to moor their vessel in a state small boat harbor, have their vessel registered with the department, have a properly registered and inspected trailer, if the vessel is trailered, and have a properly insured vessel; reduces the time period for dry storage without a fee from ten days to seven days; charges fees for storage of equipment or items used in connection with vessels for trailers; creates increased fees for vessels, trailers, or other items stored on land under the jurisdiction of the department without permission.
7. Allows a person who pays a fee not required under HAR Chapter 13-234 to request a refund in writing; requires such a request to be made within thirty days after the date of the payment.
8. Imposes a requirement in HAR § 13-234-18(b) that any fresh water provided at boating facilities must be used in relation to proper activities at small boat harbors or other boating facilities.
9. Repeals HAR § 13-234-19, Parking fees – reserved space. This section is irrelevant because DOBOR does not have any reserved parking spaces.
10. Repeals fees for copies of DOBOR administrative rules under HAR § 13-234-27.
11. Specifies that the business transfer fee assessed by HAR § 13-234-33 does not apply to transfers between spouses or first-generation lineal descendants.
12. Removes use of fresh water as a resource to be provided for the payment of a ramp decal fee under HAR § 13-234-34.
13. Amends HAR Chapter 13-253, Catamaran Registration Certificate, Other Registration, and Commercial Use Permit Fees, to remove any outlying fees and move the fees to Chapter 13-234, Fees and Charges.
14. Makes technical edits for style, grammar, and consistency with other HAR sections.

Legal ads were placed in newspapers in accordance with HRS § 91-3 to notify the public of the public hearings on the proposed amendments, a press release was issued notifying the public of the upcoming public hearings, paper notices were placed in DOBOR small boat harbors notifying the public of the upcoming public hearings, the proposed rule amendment package file was uploaded on the DOBOR website for public viewing, and email notices were sent out to persons who requested such notices. Print copies of the proposed amendments were made available for viewing at DOBOR district offices.

PUBLIC HEARING ASSESSMENTS

DOBOR received comments from the public with the majority of comments opposing the proposed fee increases. DOBOR also received comments on commercial operator fees in HAR § 13-234-25 and passenger fees for cruise vessels in HAR § 13-234-26. The comments received are broken down as follows:

OAHU 3/2/2019 PUBLIC HEARING ASSESSMENT:

ATTENDANCE

Roughly 115 to 120 individuals attended the O‘ahu District public hearing on 3/2/19. One hundred thirteen individuals signed in on the DOBOR sign-in sheet.

ORAL TESTIMONY

Forty-four individuals provided oral testimony at the public hearing.

WRITTEN TESTIMONY

Six individuals submitted written testimony at the public hearing.

SUMMARY

One testifier provided comments on HAR § 13-234-26, regarding passenger fees for cruise vessels that use DOBOR facilities.

Forty-three individuals provided testimony opposing amendments to HAR § 13-234-3, regarding mooring fees for state small boat harbors. Testifiers also discussed: harbor repair and maintenance issues; harbor program mismanagement; issues with illegal liveaboard tenants; harbor enforcement and security issues; opposition to the electricity fee; using meters to determine water and electricity fees; cleanup of abandoned and derelict vessels; paperwork processing and turnaround time; and the possibility of gradual fee increases.

HAWAII ISLAND 3/4/2019 PUBLIC HEARING ASSESSMENT (KONA):

ATTENDANCE

Roughly 45-50 individuals attended the Hawai‘i District public hearing in Kona on 3/4/19. Forty-one individuals signed in on the DOBOR sign-in sheet.

ORAL TESTIMONY

Five individuals provided oral testimony.

WRITTEN TESTIMONY

No written testimony received from attendees.

SUMMARY

One individual discussed maintenance and security issues at the Honokōhau and Kawaihae Small Boat Harbors and recommended implementing gradual increases.

One individual commented that they would be open to the proposed fee increases.

Three individuals opposed the fee increases.

MAUI 3/6/2019 PUBLIC HEARING ASSESSMENT:

ATTENDANCE

Roughly 35-40 individuals attended the Maui District public hearing on 3/6/19. Sixteen individuals signed in on the DOBOR sign-in sheet.

ORAL TESTIMONY

Nineteen individuals provided oral testimony.

WRITTEN TESTIMONY

One individual submitted written testimony at the public hearing.

SUMMARY

Three individuals supported the proposed fee increases.

Twelve individuals opposed the proposed fee increases. One of the individuals in opposition specifically opposed HAR § 13-234-34, regarding boat launch ramp fee increases. One of the individuals in opposition specifically opposed offshore mooring fee increases in HAR § 13-234-4. Two of the individuals in opposition had issues with commercial fee delinquency provisions in HAR § 13-234-2.

Four individuals provided comments on the proposed fee increases. Comments included: repair and maintenance at the harbor and boat launching ramp; navigational aid maintenance; groundskeeping at DOBOR facilities; creating a harbor advisory group; and implementing gradual fee increases.

HAWAII ISLAND 3/7/2019 PUBLIC HEARING ASSESSMENT (HILO):

ATTENDANCE

Roughly 40-45 individuals attended the Hawai‘i District public hearing in Hilo on 3/7/19. Thirty-four individuals signed in on the DOBOR sign-in sheet.

ORAL TESTIMONY

Thirteen individuals provided oral testimony.

WRITTEN TESTIMONY

Three individuals submitted written testimony at the public hearing.

SUMMARY

Nine individuals opposed the proposed fee increases.

Four individuals provided comments on the proposed rules. Comments included: harbor security concerns; repair and maintenance issues;

KAUAI 3/9/2019 PUBLIC HEARING ASSESSMENT:

ATTENDANCE

Roughly 40 to 50 individuals attended the Kaua‘i District public hearing on 3/9/2019. Forty-four individuals signed in on the DOBOR sign-in sheet.

ORAL TESTIMONY

Nine individuals provided oral testimony. One individual testified twice to provide follow-up testimony.

WRITTEN TESTIMONY

No written testimony received at the public hearing.

SUMMARY

Nine individuals opposed mooring fee increases in HAR § 13-234-3. Five individuals commented on the electricity fee in HAR § 13-234-10, suggesting setting fees according to metered rates or allowing tenants to opt out if not using electricity supplied by the State. One individual suggested setting priorities for deferred maintenance projects and privatizing state harbors.

One individual testified in support of the proposed amendments to HAR §§ 13-234-3, 13-234-4, and 13-234-5.

MAILED TESTIMONY (POSTMARKED BY 3/15/2019)

Four individuals submitted hardcopy testimony. Two of these testifiers submitted identical letters that opposed the fee increases, specifically the offshore mooring rate in HAR § 13-234-4. One individual opposed the mooring rate and electricity fee, recommending allowing tenants to opt out of electricity if not using state-supplied electricity. One individual opposed the fee increases and provided comments unrelated to the fee increases, including harbor maintenance and enforcement.

EMAILED TESTIMONY (RECEIVED BY 3/15/2019 11:59 P.M.):

Forty-five individuals emailed their testimony to DOBOR staff. Twenty individuals opposed the proposed rules, specifically the mooring rate increases in HAR §§ 13-234-3 and 13-234-4, and the electricity fee in HAR § 13-234-10. Twenty-five individuals provided comments on the proposed rules. Of the individuals who provided comments, topics covered included: the CBRE proposal that DOBOR used in determining its mooring fee amounts; conditions and maintenance of harbors; and alternatives to fee language and calculations. One of the individuals discussed clarification to language regarding the commercial use permit fees in HAR §§ 13-234-2, 13-234-25, and 13-253-1.2. Two individuals discussed HAR § 13-234-26, Passenger fees, and alternatives to calculating and implementing the proposed fees for HAR § 13-234-26.

**ADDITIONAL PUBLIC INFORMATIONAL MEETINGS ON MOLOKA'I (4/13/19)
LĀNA'I (4/15/19)**

DOBOR held public informational meetings on Moloka'i (4/13/19 from 9:00am to 11:00am) and Lāna'i (4/15/19 from 9:00am to 10:45am) to address questions community members had regarding the proposed amendments. The DOBOR Maui District Manager and Kaunakakai Harbor Agent held the Moloka'i meeting, and thirteen individuals attended. Moloka'i attendees opposed the proposed fee increases, recommended a gradual increase, opposed the increase in stay-aboard fees, and discussed other topics unrelated to the proposed fee increases. The DOBOR Maui District Manager held the Lāna'i meeting, and six individuals attended. Lāna'i attendees opposed the proposed fee increases and discussed topics unrelated to the proposed fee increases.

CONCLUSION

Based on the oral testimony received at the public hearings as well as written (including email) testimony received during this process, DOBOR staff recommends the adoption of the proposed HAR amendment package with changes to HAR §13-234-2, Payment and delinquency, HAR § 13-234-10, Electricity fee, HAR § 13-234-11, Shower fee, HAR § 13-234-25 Fees for commercial use permits, and HAR § 13-253-1.2, No additional fees, as specified below. DOBOR staff also recommends removing proposed amendments to HAR § 13-234-26,

Passenger fees, so that staff can work with affected stakeholders to amend HAR § 13-234-26 and return to the Board at a later date.

RECOMMENDATION:

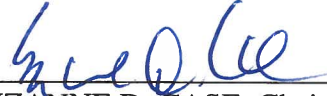
DOBOR requests that the Board:

1. Approve adoption of the amendments to Hawaii Administrative Rules Chapters 13-234 and 13-253, with the following changes:
 - a. Revise the amendments to HAR § 13-234-2, 13-234-25, and 13-253-1.2 to clarify payment deadlines and delinquency provisions for commercial use permit fees;
 - b. Revise the amendments to HAR § 13-234-10 to decrease the electricity fee and provide an exemption from the fee for tenants who do not use state-supplied electricity;
 - c. Revise the amendments to HAR § 13-234-11 to clarify that the shower fee is assessed for access to shower facilities, not use of shower facilities;
 - d. Remove proposed amendments to HAR § 13-234-26; and
2. Approve transmittal of the amendments to the Governor for final approval and filing with the Office of the Lieutenant Governor.

Respectfully Submitted,


EDWARD R. UNDERWOOD, Administrator
Division of Boating & Ocean Recreation

APPROVED FOR SUBMITTAL:


SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

Attachment:

- A. Proposed amendments to HAR Chapters 13-234 and 13-253, including DOBOR's recommended revisions

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to and compilation of chapters 13-234 and
13-253

Hawaii Administrative Rules

[Date of adoption by agency]

1. Chapter 13-234, Hawaii Administrative Rules,
is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 11

OCEAN RECREATION AND COASTAL AREAS

PART 1

SMALL BOAT FACILITIES AND PROVISIONS GENERALLY
APPLICABLE TO ALL STATE NAVIGABLE WATERS

CHAPTER 234

FEES AND CHARGES

Historical note

| | |
|-----------|---|
| §13-234-1 | General statement |
| §13-234-2 | Payment [7] <u>and</u> delinquency [and liens] |
| §13-234-3 | Mooring rates |
| §13-234-4 | Mooring rates for offshore mooring and anchoring |
| §13-234-5 | Mooring fees for vessels assigned temporary moorings or occupying moorings without permission |

Exhibit A

§13-234-6 Fees for vessel absent for more than
fourteen days
 §13-234-7 Mooring fee for vessels owned by
nonresident
 §13-234-8 Stay aboard or principal habitation fee
 §13-234-9 Stay-aboard or principal habitation fee
for offshore mooring or anchoring
 §13-234-10 Electricity fee
 §13-234-11 Shower fee
 §13-234-12 Dry storage
 §13-234-13 Gear locker fee
 §13-234-14 Mooring fees - facilities constructed by
others
 §13-234-15 Waiver or return of fees
 §13-234-16 Permit processing fees
 §13-234-17 Fees for vessels moored at yacht club
berths and other areas covered by
specific agreements
 §13-234-18 Excessive water usage fee
 §13-234-19 [~~Parking fees - reserved stall~~] Repealed
 §13-234-20 Salvage fee
 §13-234-21 Principal habitation application fee
 §13-234-22 Exemption from fee differential
 §13-234-23 Application fee for moorage
 §13-234-24 Fee for residency status appeal; refund
if status determination reversed
 §13-234-25 Fees for commercial [~~vessels using state
boating facilities, Kaneohe Bay ocean
waters, and beaches of the State~~] use
permits
 §13-234-26 Passenger fees
 §13-234-27 [~~Fees for copies of rules~~] Repealed
 §13-234-28 Negotiable instruments; service charge
 §13-234-29 Marine inspection fee
 §13-234-30 Application fee for approved marine
surveyor
 §13-234-31 Fees for commercial use of boat launching
ramps and other boating facilities
 §13-234-32 Small boat harbor facility [-] key
deposits
 §13-234-33 Business transfer fee

- §13-234-34 [User] Fee for [~~recreational~~] use of
state boat launching ramps
- §13-234-35 Fees for signs and ticket booths

Historical note: [~~This chapter is based on the schedule of fees and charges of the small boat harbors rules, effective November 5, 1981, and as amended thereafter, under the jurisdiction of the Department of Transportation, Harbors Division.~~] The administrative jurisdiction for recreational boating and related vessel activities were transferred from the Department of Transportation, Harbors Division to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, effective July 1, 1992, in accordance with Act 272, SLH 1991. [Eff 2/24/94, am and comp]

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

- (1) Calculated to produce an amount [~~at least~~] sufficient to pay the expenses of operating, maintaining, and managing the facilities and services and the cost including interest, of amortizing capital improvements for boating facilities [~~appropriated after July 1, 1975,~~] including, but not limited to, berths, slips, launch ramps, [~~and~~] related accommodations, [~~exclusive of the costs of constructing, operating, and maintaining~~] general navigation channels, [~~protective~~] breakwaters, aids to navigation, and other harbor structures [~~, and aids to navigation~~]; and
- (2) Fixed with due regard to the primary purposes of providing public recreational facilities [~~and promoting the fishing industry. See sections 200-2 and 200-08, Hawaii Revised Statutes~~].

~~[(3) The mooring fees shall be set by categories, schedule A and schedule B, to be determined by the department, provided that:~~

~~(A) Schedule A shall include existing mooring holders with an annual increase toward schedule B rates of twenty per cent per year; and~~

~~(B) Schedule B shall apply to all new mooring applicants and transient slips on or after the effective date of these 2010 rule amendments.]~~

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

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

§13-234-2 Payment~~[τ]~~ and delinquency ~~[and liens]~~. (a) Security deposit and method of payment:

(1) Security deposit. A permittee upon being issued a use permit~~[τ]~~ shall, in addition to paying fees and charges as they become due, deposit with the State in legal tender or in such other form as may be acceptable to the State, an amount equal to two months' fees and charges at the rate prescribed in the rules in effect on the date of issuance of the permit as security for the faithful performance on the permittee's part of all the terms and conditions, specified therein.

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

- (2) [~~Advance payment required.~~] As a prerequisite to the issuance of a use permit the permittee shall make a security deposit pursuant to section 13-234-2, pay the permit processing fee, one month's fees and charges, and any other fees and charges that may be due and payable to the State; provided that if the effective date of the use permit is other than the first day of the month, charges shall be properly prorated for the balance of the month and these prorated charges shall be paid.
- (3) Method of payment of fees and charges. The following fees and charges shall be paid [~~in advance~~] without notice or demand on the [~~first~~] last day of each and every month during the life of the use permit, except that the amounts due for the first month

shall be paid prior to the issuance of the permit as described in section 13-234-2:

- (A) Mooring;
- (B) Residence;
- (C) Electricity;
- (D) Shower;
- (E) Dry storage;
- (F) Gear locker; and
- (G) ~~[Facilities constructed by others; and~~
- ~~(H)]~~ Rent and other fixed recurring fees and charges.

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

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

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

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

(f) ~~[Without prejudice to any other remedy available to the State, interest and, regardless of the amount of the delinquency, a \$25.00 per month service charge shall be assessed on all delinquencies. The interest shall be computed at a rate of one per cent per month, annual percentage rate of twelve per cent, on the the delinquent amount. The interest and service charges shall continue to be assessed until~~

~~the delinquency is paid in full.] For all delinquent payments due to the department, interest shall be charged at the rate of one per cent per month on the unpaid balance, including prior interest charges and delinquent account service charges, beginning on the first day payment is delinquent and continuing monthly thereafter until the amount due is paid. Additionally, regardless of the delinquency amount and without prejudice to any other remedy available to the department, a delinquent account service charge of the greater of five per cent of the amount owed or \$100 per month shall be assessed on any delinquency. The interest charge and delinquent account service charge shall continue to be assessed until the delinquency is paid in full.~~

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

§13-234-3 Mooring rates. (a) [~~The mooring fees shall be set by categories, schedule A and schedule B, provided that:~~

- ~~(1) Schedule A shall include existing mooring holders with an annual increase toward schedule B rates of twenty per cent per fiscal year; and~~
- ~~(2) Schedule B shall apply to all new mooring applicants and transient slips on or after~~

~~the effective date of these 2010 rule amendments.]~~

The mooring rate schedule in this subsection [~~is~~] shall be per foot of vessel length overall [~~per month effective upon the applicant's acceptance of the offer of an available berth.~~] or maximum length of berth or mooring, whichever is greater. All mooring rates shall be determined by a state-licensed appraiser in accordance with section 200-10, Hawaii Revised Statutes. [~~Mooring rates shall apply to the harbor facilities in the following categories: Category "A," Ala Wai; Category "B," Kechi Lagoon, Honokohau, Maalaea, & Lahaina; Category "C," Haleiwa, Heeia Kea, Waianae, Nawiliwili, Port Allen, Kailua-Kona, Keauhou, and Manele; Category "D," Wailoa, Kikiaola, Kaunakakai, North Kawaihae, and Kukuiula; Category "E," South Kawaihae, Hana, & Hale O Lono.~~]

~~TYPE OF MOORING AND STATE BOATING FACILITIES~~

- ~~A = Ala Wai~~
- ~~B = Kechi Lagoon, Honokohau, Maalaea, & Lahaina~~
- ~~C = Haleiwa, Heeia Kea, Waianae, Nawiliwili, Port Allen, Kailua-Kona, Keauhou, North Kawaihae & Manele~~
- ~~D = Wailoa, Kikiaola, Kaunakakai, North Kawaihae, & Kukuiula~~
- ~~E = South Kawaihae, Hana, Hale O Lono~~

| Schedule A Mooring Rates: | | | | | |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|
| Category | A | B | C | D | E |
| Along catwalk: | \$5.67 | \$4.32 | \$4.05 | \$3.78 | \$1.62 |
| Bow-stern mooring: | \$4.67 | \$3.82 | \$3.55 | \$3.28 | \$1.62 |
| —On state buoy, anchor or cable | | | | | |
| —Minimum fee per month: | \$56.00 | \$47.00 | \$41.00 | \$39.00 | \$21.00 |
| On owner's buoy or anchor: | \$2.97 | \$2.48 | \$2.16 | \$2.00 | \$1.62 |
| —Minimum fee per month: | \$39.00 | \$36.20 | \$33.50 | \$31.30 | \$21.00 |
| In harbor basin: | \$4.32 | \$3.68 | \$3.24 | \$3.00 | \$1.62 |
| —On state cable, buoy or anchor | | | | | |

| | | | | | |
|---|--------------------|--------------------|--------------------|--------------------|--------------------|
| Minimum fee per month: | \$52.00 | \$43.00 | \$38.00 | \$35.00 | \$21.00 |
| On owner's buoy or anchor: | \$2.92 | \$2.27 | \$2.10 | \$2.05 | \$1.62 |
| Minimum fee per month: | \$35.60 | \$27.00 | \$25.40 | \$23.70 | \$21.00 |
| Skiff and dinghy moorings fore and aft, all types: | \$1.95 | \$1.84 | \$1.68 | \$1.57 | \$0.55 |
| Minimum fee per month: | \$26.00 | 23.20 | 21.35 | 18.80 | \$5.25 |
| Work docks (per foot/vessel length/day): | \$0.60 | \$0.55 | \$0.43 | \$0.38 | \$0.32 |
| Minimum fee per month:} | \$7.50 | \$6.50 | \$5.40 | \$4.30 | \$3.25 |

| [Schedule B Mooring Rates: | | | | | |
|---|--------------------|--------------------|--------------------|--------------------|--------------------|
| Category | A | B | C | D | E |
| Along catwalk: | \$9.14 | \$7.79 | \$7.52 | \$7.25 | \$5.09 |
| Bow-stern mooring: | \$5.12 | \$4.17 | \$3.87 | \$3.58 | \$1.75 |
| On state buoy, anchor or cable | | | | | |
| Minimum fee per month: | \$60.00 | \$50.00 | \$45.00 | \$42.00 | \$22.00 |
| On owner's buoy or anchor: | \$3.20 | \$2.68 | \$2.33 | \$2.16 | \$1.75 |
| Minimum fee per month: | \$42.00 | \$39.00 | \$36.00 | \$33.00 | \$22.00 |
| In harbor basin: | \$4.67 | \$4.00 | \$3.50 | \$3.25 | \$1.75 |
| On state cable, buoy or anchor | | | | | |
| Minimum fee per month: | \$56.00 | \$46.00 | \$42.00 | \$38.00 | \$22.00 |
| On owner's buoy or anchor: | \$3.15 | \$2.45 | \$2.27 | \$2.21 | \$1.75 |
| Minimum fee per month: | \$38.50 | \$29.00 | \$27.00 | \$25.00 | \$22.00 |
| Skiff and dinghy moorings fore and aft, all types: | \$2.10 | \$2.00 | \$1.81 | \$1.70 | \$0.60 |
| Minimum fee per month: | \$28.00 | \$25.00 | \$23.00 | \$20.00 | \$5.50 |
| Work docks (per | \$0.65 | \$0.60 | \$0.46 | \$0.41 | \$0.35 |

| | | | | | |
|---|--------|--------|--------|--------|--------|
| foot/vessel length/day: Minimum fee per month:] | \$8.00 | \$7.00 | \$6.00 | \$5.00 | \$3.50 |
|---|--------|--------|--------|--------|--------|

| <u>Small Boat Harbor</u> | <u>District</u> | <u>Catwalk (\$/foot)</u> | <u>Tahiti Moor (\$/foot)</u> |
|--------------------------|-----------------|--------------------------|------------------------------|
| <u>Nawiliwili</u> | <u>Kauai</u> | <u>12.00</u> | <u>N/A</u> |
| <u>Port Allen</u> | <u>Kauai</u> | <u>11.00</u> | <u>N/A</u> |
| <u>Ala Wai</u> | <u>Oahu</u> | <u>13.00</u> | <u>8.00</u> |
| <u>Keehi</u> | <u>Oahu</u> | <u>13.00</u> | <u>N/A</u> |
| <u>Haleiwa</u> | <u>Oahu</u> | <u>10.00</u> | <u>6.00</u> |
| <u>Heeia Kea</u> | <u>Oahu</u> | <u>10.00</u> | <u>6.00</u> |
| <u>Waianae</u> | <u>Oahu</u> | <u>11.00</u> | <u>N/A</u> |
| <u>Manele</u> | <u>Lanai</u> | <u>10.00</u> | <u>N/A</u> |
| <u>Lahaina</u> | <u>Maui</u> | <u>11.00</u> | <u>7.00</u> |
| <u>Maalaea</u> | <u>Maui</u> | <u>10.00</u> | <u>6.00</u> |
| <u>Manele</u> | <u>Maui</u> | <u>10.00</u> | <u>N/A</u> |
| <u>Kaunakakai</u> | <u>Molokai</u> | <u>9.00</u> | <u>5.00</u> |
| <u>Honokohau</u> | <u>Hawaii</u> | <u>10.00</u> | <u>6.00</u> |
| <u>Kailua-Kona</u> | <u>Hawaii</u> | <u>N/A</u> | <u>6.00</u> |
| <u>Kawaihae, North</u> | <u>Hawaii</u> | <u>N/A</u> | <u>5.00</u> |
| <u>Kawaihae, South</u> | <u>Hawaii</u> | <u>10.00</u> | <u>6.00</u> |
| <u>Wailoa</u> | <u>Hawaii</u> | <u>9.00</u> | <u>5.00</u> |

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

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

(d) ~~[When more than one vessel occupies a single~~

~~berth end to end, the charge shall be computed at the rate provided in subsection (a).~~

~~(c) Except for fees for work docks, which set out the minimum charges per day, the] The amounts set out in the mooring rate schedules in [subsection (a)] subsections (a) through (c) are the minimum charges per month. [Eff 2/24/94; am 12/16/06; am 1/22/10; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-12, 200-22, 200-24)~~

§13-234-4 Mooring rates for offshore mooring and anchoring. (a) ~~[The following mooring rate schedule set forth in paragraph (1) shall become effective on the first day of the first full month occurring after the effective date of the 2006 amendments to this section and shall be increased twice thereafter, as set forth in (2) and (3) on the first day of the fiscal year(s) in which a CIP bond issue is to be funded for the small boat facilities.]~~ The mooring rate schedule is per foot of vessel length overall or maximum mooring capacity of the mooring system, whichever is greater, per month:

| [(1) Offshore mooring and anchoring rates as of the first day of the first full month occurring after the effective date of the 2006 amendments to this section:] | | |
|--|---|--|
| Vessel Length Overall | On State Buoy, Anchor or Cable | On Owner's Own Buoy, or at Anchor |
| 0 - 30' | \$1.31 | \$0.88 |
| 31 - 40' | \$1.44 | \$1.00 |
| 41 - 50' | \$1.56 | \$1.13 |
| 51 - 60' | \$1.69 | \$1.25 |
| 61 - 70' | \$1.81 | \$1.38 |
| 71 - 80' | \$1.94 | \$1.50 |
| 81 - 90' | \$2.06 | \$1.63 |
| over 90' | \$2.19 | \$1.75 |
| Minimum monthly fee: | \$31.25 | \$20.63 |

| (2) Offshore mooring and anchoring rates that will become effective on the first day of the first financial year, after the rates in paragraph (1) become effective, in which a CIP bond issue is funded for the small boat facilities: | | |
|--|---|--|
| [Vessel Length Overall | On State Buoy, Anchor or Cable | On Owner's Own Buoy, or at Anchor |
| 0 - 30' | \$1.41 | \$0.95 |
| 31 - 40' | \$1.56 | \$1.08 |
| 41 - 50' | \$1.68 | \$1.22 |
| 51 - 60' | \$1.83 | \$1.35 |
| 61 - 70' | \$1.95 | \$1.49 |
| 71 - 80' | \$2.10 | \$1.62 |
| 81 - 90' | \$2.22 | \$1.76 |
| over 90' | \$2.37 | \$1.89 |
| Minimum monthly fee: | \$33.75 | \$22.28 |

| (3) Offshore mooring and anchoring rates that will become effective on the first day of the second financial year, after the rates in paragraph (1) become effective, in which a CIP bond issue is funded for the small boat facilities: | | |
|---|---|--|
| Vessel Length Overall | On State Buoy, Anchor or Cable | On Owner's Own Buoy, or at Anchor |
| 0 - 30' | \$1.52 | \$1.03 |
| 31 - 40' | \$1.68 | \$1.17 |
| 41 - 50' | \$1.82 | \$1.32 |
| 51 - 60' | \$1.97 | \$1.46 |
| 61 - 70' | \$2.11 | \$1.61 |
| 71 - 80' | \$2.26 | \$1.75 |
| 81 - 90' | \$2.40 | \$1.90 |
| over 90' | \$2.56 | \$2.04 |
| Minimum monthly fee:] | \$36.45 | \$24.06 |

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

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

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

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

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

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

(b) [~~These~~] Persons assigned a mooring for a period of thirty calendar days or less shall not be required to make the security deposit as provided in section 13-234-2[~~7~~] but shall be required to pay fees in advance.

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

(d) The mooring fees for a vessel assigned a mooring for thirty calendar days or less shall be as provided in section 13-234-3 or 13-234-4, plus thirty

per cent for each twenty-four [~~hours~~] hour period or any fraction [~~of that time.~~] thereof.

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

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

(f) [~~The fees for a vessel moored in a state boating facility work dock area in violation of this section or section 13-231-17 shall be:~~

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

~~(g)~~ In addition to any civil remedy or criminal action available to the department, vessels moored without permission shall be liable for the payment of fees chargeable to the moorage. The department's acceptance of [~~the~~] such a payment shall not waive the nature of trespass, or ratify or permit the unlawful or illegal mooring. [Eff 2/24/94; am 12/16/06; am

1/22/10; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-12, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-6 Fees for vessel absent for more than fourteen days. Any holder of a use permit who has applied as prescribed in section 13-231-11 to retain the permit to use the assigned berthing space and any other related use permits upon the permittee's return, and whose application has been approved by the department[7] shall continue, during any absence of thirty calendar days or less from the assigned berth, to pay fees for the berthing space and any other use permits designated in the application at the rate established in section 13-234-3 and any other applicable sections of these rules. Where the absence permitted under section 13-231-11 exceeds thirty calendar days, then for the period in excess of thirty calendar days, the mooring fees for the berth retained[7] and the fees prescribed in these rules for any facilities or services actually utilized by the permittee during the permittee's absence[7] shall be due and payable to the department. During such absence, the department may issue a temporary use permit for the use of the berthing space by another vessel and charge mooring fees from the temporary permittee at the rate prescribed in these rules [~~and credit a portion of such fees collected to the account of the permanent permittee amounting to fifty per cent of the regular mooring fee, prorated on a daily basis, for the period that temporary mooring fees are collected for the use of the berth~~]. [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-7 Mooring fee for vessels owned by nonresident. The mooring fee for vessels assigned a permanent berth in any state small boat harbor and owned by nonresidents[~~7-assigned a permanent berth in~~

~~any state small boat harbor,~~] shall be ten per cent higher than the mooring rate schedule in section 13-234-3~~[(a) and (b)(1)]~~. [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-8 Stay-aboard or principal habitation fee. (a) The owner of a vessel moored in a state small boat harbor and authorized to be used as a place of principal habitation~~[τ]~~ shall pay, in addition to mooring or any other applicable fee or charge, a principal habitation fee computed according to vessel length ~~[(not vessel length overall) which is:]~~ as follows:

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

provided that for any calendar year beginning after January 1, 1987, upon thirty calendar days prior written notice from the department, the principal habitation fees established by this subsection shall be increased based on ~~[this]~~ the increase in the annual cost of living index (~~[U.S.]~~ U.S. Department of Labor, ~~[U.S.]~~ U.S. City Average Urban Consumer Price Index for "all items"), but the increase for any calendar year shall not exceed five per cent.

(b) The owner or operator of a transient vessel~~[τ]~~ or visiting vessel~~[τ]~~ shall pay a stay-aboard fee of ~~[\$2.00]~~ \$10.00 per person staying aboard a vessel, in addition to mooring or any other fees and charges, for each and every night that any person remains on board the vessel while the vessel is moored in a state small boat harbor. [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-9 Stay-aboard or principal habitation fee for offshore mooring or anchoring. The owner of a vessel or houseboat moored or anchored outside a small boat harbor and authorized to be used as a principal place of habitation or for staying aboard shall pay, in addition to any other applicable fee or charge, a principal habitation fee, or a stay-aboard fee as appropriate, which shall be ~~[one-half]~~ the same as the rate specified in section [13-234-7.] 13-234-8. [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-10 Electricity fee. (a) The monthly fee for the use of electricity when furnished by the State at a small boat harbor shall be as follows:

- (1) When no person lives aboard...~~[\$5.75]~~ \$40.00
- (2) When persons live aboard\$100.00
- (3) Commercial vessels\$40.00
- ~~[-(2) When no person lives aboard but electricity is used for refrigeration..... \$11.00]~~
- ~~[-(3) When persons live aboard but electricity is not used for cooking or refrigeration.....\$11.00]~~
- ~~[-(4) When persons live aboard and use electricity for cooking or refrigeration.....\$25.00]~~

(b) Persons not using electricity furnished by the State at a small boat harbor shall not be assessed an electricity fee; provided that if a person is later found to be using electricity furnished by the State but is not paying the fee required by this section, the person shall be assessed the full monthly fee required by this section. [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-11 Shower fee. (a) Showers with hot water, when provided, are ~~[intended primarily]~~ for ~~[the]~~ use ~~[of]~~ by persons having properly permitted

vessels moored in the Ala Wai and Keehi state small boat [harbor.] harbors only. [~~If sufficient shower facilities are available, the department may permit, if reasonable under the circumstances, persons who are authorized to conduct business on small boat harbor premises pursuant to section 13-231-51 to utilize such facilities.~~]

(b) A monthly fee of [~~\$6.00~~] \$15.00 shall be assessed for each [~~such persons using the showers, except those under the age of four and those paying residence service fees. No persons shall utilize the aforementioned shower facilities unless that person has secured a use permit from the department authorizing use of the facilities.~~] person who has been granted access to shower facilities. Shower facility keys shall be connected to mooring permits. Each person having a properly permitted vessel moored in the Ala Wai or Keehi state small boat harbor and authorized by the department to utilize [the] shower facilities, except those under the age of [four,] eighteen, may secure [one shower facility key.] no more than one male shower facility key and one female shower facility key per mooring permit.

(c) [~~The~~] Each person shall deposit the [following] amount set by section 13-234-32 with the [State] department prior to receiving [the] a shower key, as security for the prompt return of the key upon termination of the use permit[+]

- (1) ~~\$20 if the use permit is valid for a period of more than ninety days.~~
- (2) ~~\$30 if the use permit is valid for a period of ninety days or less].~~

This deposit shall be forfeited in the event the permittee does not return the shower key to the department on or before the date of termination of the use permit. [Eff 2/24/94; am and comp

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

§13-234-12 Dry storage [and vessel repair]. (a) [~~A person, holding~~] No person shall use any location

on land under the jurisdiction of the division of boating and ocean recreation for dry storage of vessels, vessels upon trailers, empty trailers, or any other equipment or items used in connection with vessels or trailers without written authorization from the department. In order for a person's vessel or trailer, or both, to be eligible for dry storage, the following must be met:

- (1) The person holds a valid use permit allowing [the] that person to moor [a] the vessel in a state small boat harbor[er] ;
- (2) The vessel to be stored is properly registered with the department;
- (3) Any trailer to be stored, whether holding a vessel or not, is properly registered and has a valid safety inspection; and
- (4) The vessel or trailer, or both, to be stored are properly insured, as required by section 13-231-2.

(b) If the requirements of subsection (a) are met, the department may [be authorized by the department] authorize the permittee to use a designated location on land within [such harbor] the harbor for which their use permit applies, subject to the exception in subsection (h), [for a period not to exceed ten days in any calendar year] to refurbish or repair [such] the permittee's vessel [without payment of a dry storage fee; provided that suitable space is available and any such storage will not unduly interfere with maximum and efficient public utilization of a small boat harbor facilities. The] .

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

(d) A permittee whose vessel is utilizing dry storage facilities shall [however,] not be entitled to a reduction in the mooring fees applicable to [the] the permittee's temporarily vacated berth. [Saturdays, Sundays, and state holidays shall be

~~excluded in the computation of the ten days free time.]~~

~~[(b) Vessels, vessels upon trailers, or empty boat trailers may, upon approval of the department be stored on land at a small boat harbor; provided that suitable space is available and such storage will not unduly interfere with maximum and efficient public utilization of small boat harbor facilities. Except as provided in subsection (a),]~~ (e) Subject to any additional fees pursuant to subsection (g), the fee for the storage of vessels [or boat] and trailers on land at a state small boat harbor shall be as follows:

| [Ala-Wai and Kechi Boat Harbors | <u>All others]</u> |
|--|--------------------|
|--|--------------------|

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

[paved area \$1.25 ----- \$1.15
 unpaved area \$1.15 ----- \$1.00]
- (2) Empty boat trailer per
month[\$20.00 ----- \$15.00].....\$100.00;
- ~~[(3) Minimum]~~ The minimum monthly charge
for vessel storage shall be \$100. [\$20.00
\$15.00

~~(4)]~~ The [charges] charge for [one-half month or less] a storage period of less than sixteen calendar days shall be one-half of the monthly rate, with a minimum monthly charge of \$50.

~~[(c) Boating equipment or other items used in connection with boats moored in small boat harbors, upon approval of the department, may be stored at such harbors if it can be done without unduly interfering with small boat harbor operations. The]~~ (f) Subject to additional fees pursuant to subsection (g), the charges for use of [such] storage [space] for other equipment or items used in connection with vessels or

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

~~[Ala-Wai and
Kechi Boat
Harbors All others]~~

- ~~[(1) Open storage on paved areas, per square foot per month \$.35 \$.25~~
- ~~(2) Open storage on unpaved areas, per square foot per month \$.25 \$.15~~
- ~~(3) The minimum charge per month \$15.00 \$8.00~~
- ~~(4) For less than one-half month, the charge will be one-half of the above full monthly rate]~~

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

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

~~[(d)]~~ (h) A person who does not hold a valid mooring permit for a particular state small boat harbor may be permitted by the department to use a

designated location on land within that harbor for a period not to exceed ~~[six months]~~ thirty calendar days to repair or refurbish a vessel, ~~[provided that suitable space is available and such storage will not unduly interfere with maximum and efficient public utilization of small boat harbor facilities.]~~ or twelve calendar months if utilizing the location solely for storage. The charge shall be the same as specified in subsection ~~[(e)]~~ (e).

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

§13-234-13 Gear locker fee. (a) The charge for the use of a gear ~~[lockers]~~ locker provided by the ~~[State]~~ department shall be ~~[+~~

- ~~(1) Standard wood..\$5.50 per month~~
- ~~(2) Triangular fiberglass locker\$3.00 per month]~~ \$10.00 per month.

(b) ~~[In the event that]~~ If the department gives written permission [is given by the department] for a boat owner to ~~[provide]~~ construct a personal gear locker pursuant to section 13-232-44, the charge, while the owner's permit remains in effect, shall be ~~[thirty per cent of]~~ the same as the rate established in ~~[subsection (a).]~~ section 13-234-12(f). [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-14 Mooring fees - facilities constructed by others. Where a mooring facility is constructed by others pursuant to section 13-232-43 ~~[the mooring rate shall be thirty per cent of the fee established in section 13-234-3 for a period of time as established by the department which will allow the permittee to~~

~~amortize the capital most of the improvements.]~~ reimbursement of costs may be authorized by the department pursuant to section 200-19, Hawaii Revised Statutes. [Eff 2/24/94; am and comp

] (Auth: HRS §§200-4, 200-6, 200-10, 200-19, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-19, 200-22, 200-24)

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

(b) Whenever the department, through error, collects any fee not required to be paid by this chapter, the fee shall be refunded to the person paying the fee upon written application made to the department within thirty calendar days after the date of the payment. [Eff 2/24/94; am and comp

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

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

- ~~(1) Initial issuance of permanent permit for docking, mooring, or anchoring a vessel (see section 13-231-3) - \$5; initial issuance of commercial permit - \$25;~~
- ~~(2) Renewal of permanent permit for docking, mooring, or anchoring a vessel (see section 13-231-5) - \$5; renewal of commercial permit - \$15;~~
- ~~(3) Revision of permit:
 - ~~(A) At owner's request - \$5; or~~
 - ~~(B) By department's action (see section 13-231-7) - no charge; and~~~~
- ~~(4) All other use permits listed in section 13-231-3:
 - ~~(A) Initial issuance - \$5;~~~~

and

~~(B) Renewal of permit - \$3.~~

~~If a permittee utilizing any property or facility fails to renew a use permit on or before the date on which it expires, the applicable renewal fee plus a penalty fee of \$1 per month shall be collected from the permittee for each month or fraction of a month the permittee is late in applying for renewal of a permit and any other penalty fees provided by these rules.]~~

- (1) Issuance and re-issuance of a regular mooring permit as defined in section 13-231-3.....\$10.00;
- (2) Issuance and re-issuance of a commercial permit.....\$25.00;
- (3) Issuance and re-issuance of all other permits listed in section 13-231-3...\$10.00;
- (4) Revision of a use permit at an owner's request.....\$10.00.

[Eff 2/24/94; am and comp

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

§13-234-17 Fees for vessels moored at yacht club berths and other areas covered by specific agreements.

Owners of vessels moored or anchored in areas or portions of state small boat harbors covered by specific agreements or other arrangements with the State, as in the case of yacht clubs and the like, and who are paying mooring charges to the lessees or other parties of such agreements or arrangements, shall be exempt from the mooring fees set out in section 13-234-3; provided that the owners shall enter into an agreement and obtain use permits as required in section 13-231-3 and all fees and charges other than mooring fees shall be assessed as the same shall properly apply. [Eff 2/24/94; comp

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

§13-234-18 Excessive water usage fee. (a) A fee of [~~\$10~~] ten dollars per day for each day or fraction thereof will be charged for excessive use or waste of fresh water[~~;~~ ~~such as the~~] at all state small boat harbor and launch ramp facilities, which includes, but is not limited to, use of water for the prolonged operation of ejectors to pump water out of vessels and permitting hoses to run unattended.

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

(c) Persons violating this section may be subject to penalties under Section 200-25, Hawaii Revised Statutes. [Eff 2/24/94; am and comp

] (Auth: §§200-4, 200-6, 200-10, 200-22, 200-24, 200-25) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24, 200-25)

~~[§13-234-19 Parking fees - reserved space. (a) The fee for parking a vehicle in a space reserved by the department for the exclusive use of any person shall be as follows:~~

~~(1) Reserved parking, covered \$30 per month.~~

~~(2) Reserved parking, uncovered \$20 per month.~~

~~(b) The establishment of reserved parking spaces normally does not permit maximum efficient public utilization of parking facilities. Therefore, parking spaces shall not be designated for the exclusive use of any person, other than when necessary for the parking of government or other official vehicles, unless suitable space is available and such use will not interfere with maximum and efficient public utilization of small boat harbor facilities. Any reserved spaces established shall be assigned on a "first come, first served" priority system. The following shall be eligible for assignment to any~~

~~reserved parking space that is established for use by the public:~~

- ~~(1) A person holding a valid use permit authorizing the person to moor that person's vessel at the small boat harbor, the vessel owner, co-owner, and master; and~~
- ~~(2) An owner or employee of a business or organization operating under the provisions of a lease or other agreement authorizing the owner or employee or the business or organization to engage in a business or commercial activity at the small boat harbor.~~

~~(c) No person shall park a vehicle in a reserved parking space so designated by a posted sign unless authorized by the department.] [Eff 2/24/94; R
] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)~~

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

§13-234-21 Principal habitation application fee. Prior to filing or renewing an application for the issuance of a principal habitation permit [~~as provided in~~] pursuant to section 13-231-27(a)(2), [~~the~~] an applicant shall pay to the department [~~an~~] a non-refundable application fee of [~~\$15. The fee is not refundable.~~] fifteen dollars. [Eff 2/24/94; am and comp
] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-22 Exemption from fee differential.

Nonresident members of the United States Armed Forces on active duty who are stationed in Hawaii, or on order to be stationed in Hawaii and their dependents ~~[are exempted]~~ shall be exempt from payment of the nonresident fee differential prescribed in this subchapter during the period ~~[they are]~~ that the Armed Forces member is on active duty and stationed in Hawaii [if they] ; provided that they submit relevant proof to the department ~~[as may be necessary to the determination of such status as prescribed in section 13-230-16.]~~ of such status. [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-23 Application fee for moorage. If all suitable berths in a small boat harbor have been allocated to others, a person may apply, subject to the payment of application fees, for a future vacancy or to move in the future to another berth in the same harbor~~[, as prescribed in section 13-231-5].~~ In small boat harbors where categories of berths have been established ~~[pursuant to section 13-231-5 only a single application fee or fee for renewal of an existing application shall be levied if any applicant applies for or renews applications for more than one category of berth, provided that all applications were submitted on the same date.]~~ , if any applicant applies for or renews applications for more than one category of berth, a separate application fee or fee for renewal of an existing application shall be charged for each additional category.

- (1) The application fee or fee for renewal of an existing application for a regular mooring permit shall be ~~[\$15]~~ fifteen dollars for any person who is a Hawaii resident and ~~[\$100]~~ one hundred dollars for all other persons.
- (2) The application fee or fee for renewal of an existing application for a temporary mooring

permit or an application to transfer in the future to another berth with the same characteristics in the same harbor shall be [~~\$5.~~] fifteen dollars.

- (3) No application for moorage, renewal of such application, or for berth transfer shall be accepted until the applicant has paid the prescribed fee. The fee is not refundable [~~provided the application for moorage fee paid, less a \$5 service charge, shall be returned to an applicant~~] if the department rejects the applicant's application or a renewal thereof pursuant to section 13-231-82. [Eff 2/24/94; am and comp
] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-24 Fee for residency status appeal; refund if status determination reversed. The fee for filing an appeal concerning classification as a nonresident as [~~provided~~] defined in section [~~13-230-2~~] 13-230-8 shall be [~~\$15.~~] fifteen dollars. No petition shall be accepted until the prescribed fee has been paid. This fee shall be promptly refunded if, as a result of the appeal, the department reverses its original determination that the petitioner was a nonresident. In addition, in such instances any nonresident fee and charge differential paid by the petitioner shall be promptly refunded for the appropriate period. [Eff 2/24/94; am and comp
] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-25 Fees for [~~commercial vessels using state boating facilities, Kaneohe Bay ocean waters, and beaches of the State~~] commercial use permits. (a) [~~Notwithstanding the provisions of section 13-234-3, the~~] The following fees and charges shall be assessed

for services provided by the department relating to commercial use of [mooring in or using] state boating facilities, [Kaneohe Bay ocean waters, and beaches of the State:] waters of the State, and navigable streams:

- (1) The fee per month per vessel for a permittee with a commercial [activity] use permit and regular mooring permit who moors in and uses a small boat harbor or any of the facilities in the harbor shall be the greater of two times the mooring fees as provided in section 13-234-3 or three per cent of the monthly gross receipts. In addition to the mooring fee as provided in this section and section 13-234-3, the permittee shall also pay fees and charges in the amounts prescribed in these rules for any other facilities and services utilized in the small boat harbor.
- (2) The fee per month for a permittee with a commercial [activity] use permit for a boat ramp, wharf, or other state boating facility, except a state small boat harbor, or a catamaran registration certificate shall be the greater of [~~\$200~~] three hundred dollars per month or three per cent of the monthly gross receipts [~~, as of the first day of the first full month occurring after the effective date of the 2006 amendments to this section~~]. The single fee assessed for the use of a state boat ramp shall entitle the permittee to use any other state boat ramp on the same island without an additional charge, except for those boat ramps listed in section 13-231-67. The department shall provide, upon issuance of a commercial [activity] use permit for a state boat ramp, a set of trailer decals that shall be displayed on each side of the forward end of the trailer tongue.
- (3) For permittees with a commercial [activity] use permit only, the fee per month [~~, for the~~

~~use of a state boating facility, Kaneohe Bay ocean waters or beaches of the State, shall be the greater of \$200 or three per cent of the monthly gross receipts as of the first day of the first full month occurring after the effective date of the 2006 amendments to this section.~~

~~(4) The report of gross receipts shall be received by the department not later than the end of the month following the reported month and shall be submitted on a form acceptable to the department. Unless otherwise provided by statutes, failure to submit the report of gross receipts as required for a period in excess of sixty days shall be cause for automatic revocation of the commercial activity permit.] shall be the same as prescribed in section 13-234-25(a)(2).~~

[~~(5)~~] (4) For permittees who have been issued a valid commercial ~~[activity]~~ use permit for the use of more than one small boat harbor, the permittee shall designate the state small boat harbor of principal use, and the percentage of monthly gross receipts described in this section shall be paid to that account. The fees for commercial ~~[activity]~~ use permits issued for the other state small boat harbors shall be the minimum amount specified in paragraph (2) or paragraph (1) of this subsection for those permittees with state small boat harbor mooring permits.

[~~(6)~~] (5) For permittees issued a temporary mooring permit and a commercial ~~[activity]~~ use permit, the fee per month shall be the greater of the temporary mooring fees required by section 13-234-5 or three per cent of the monthly gross receipts ~~[as of the first day of the first full month occurring after the effective date of the 2006 amendments to this section.~~

~~(7) For the purpose of this section, until the first day of the first full month occurring after the effective date of the 2006 amendments to this section, the fees existing prior to the effective date shall remain in full force and effect].~~

(b) When ~~[the]~~ a commercial [activity] use permit is issued, the department shall also provide a set of commercial trailer decals for commercial trailered vessels ~~[, at no charge, which]~~ that shall be displayed on each side of the forward end of the trailer tongue. The fee for each commercial trailer decal shall be as prescribed in section 13-234-34.

(c) Vessels that moor at a state boating facility and which are used by a commercial ~~[activity]~~ use permittee for shuttle operations ~~[transporting]~~ to transport passengers to and from the commercial ~~[activity]~~ use permittee's primary operating vessel ~~[and vessels]~~ or which are under contracts to perform shuttle operations for passenger cruises ~~[, which moor at a state boating facility,]~~ shall be required to have a designated state boating facility of principal use, and the fee charged under this section shall be paid to the principal use account.

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

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

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

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

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

(b) Any passenger vessel using a dock, pier or wharf in a state small boat harbor for disembarking

and embarking passengers by means of any boat or lighter while moored offshore, shall pay a fee per passenger for disembarking and embarking at each small boat harbor as follows:

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

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

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

~~§13-234-27 Fees for copies of rules. The fee per copy of these rules shall be \$5. A copy of these rules shall be furnished to any person applying for the same upon payment of the prescribed fee, except no fee shall be charged for copies furnished to federal, state, or local governmental agencies or organizations, or for revisions to these rules. The fee may be waived in other instances at the discretion of the chairperson when a waiver is in the public interest.] [Eff 2/24/94; R] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)~~

§13-234-28 Negotiable instruments; service charge. (a) The service charge for any dishonored check, draft, certificate of deposit, or other negotiable instrument is [~~\$12~~] twenty-five dollars.

(b) Payment to and acceptance by the department of the service charge for a check, draft, certificate of deposit, or other negotiable instrument[~~7~~] shall not be construed as a waiver of any violation of the

Hawaii Penal Code, chapters 701 to ~~[713]~~ 712A, Hawaii Revised Statutes, or of these rules. [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-29 Vessel inspection fee. [~~The fee for~~] For a vessel inspection performed by the department prior to the issuance or reissuance of a regular mooring permit [~~shall be \$15. The fee is not refundable.~~] , there shall be a non-refundable fee of forty dollars for each vessel to be inspected. The inspection shall be valid for two years. A vessel owner shall make an appointment with [~~the~~] a harbor agent of the department not less than five working days prior to [~~having the vessel~~] the date that the vessel is to be inspected. A fee of [~~\$10~~] twenty dollars shall be charged if notice of cancellation by the vessel owner is not given to the harbor agent [~~not less than two working days~~] prior to the scheduled inspection. The inspection fee for vessels [~~exempted~~] exempt from numbering [~~in~~] pursuant to section [~~13-231-2, Hawaii Administrative Rules,~~] 13-241-2 and for open skiffs and dinghies less than thirteen feet in length shall be [~~\$5.~~] ten dollars. [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-30 Application fee for approved marine surveyor. Prior to filing or renewing an application for recognition as an approved marine surveyor by the department as provided in section 13-231-45, the applicant shall pay to the department [~~an~~] a non-refundable application fee of [~~\$15~~] fifty dollars. [~~The fee is not refundable.~~] [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-31 Fee for commercial use of boat launching ramps and other boating facilities. The fee for ~~[the]~~ commercial use of state launching ramps, wharves, or other state boating facilities, except state small boat harbors, shall be ~~[\$75 per month or two per cent of gross receipts, whichever is greater.]~~ the same as prescribed in section 13-234-25(a) (2). The single fee assessed for the use of a state launching ramp shall entitle the permittee to use any other state launching ramp on the same island without additional charge, except for those launching ramps listed in section 13-231-67. [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

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

- ~~[(1) \$30 if the use permit is valid for a period of more than thirty days; or
(2) \$50 if the use permit is valid for a period of thirty days or less;]~~

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

- (1) ~~[\$10 if the use permit is valid for more than thirty days]~~ Twenty-five dollars for a permittee with a valid regular mooring permit; or
(2) ~~[\$25 if the use permit is valid for thirty days or less]~~ One hundred dollars for a permittee with a valid temporary mooring permit.

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

(d) [~~The key deposit~~] Payments of key deposits under this section shall be forfeited in the event the permittee does not return the key to the department on or before the termination of [the] permittee's use permit[7] or when the permittee is required to replace a key which has been lost or stolen. [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

§13-234-33 Business transfer fee. (a) Whenever a stockholder or owner of an interest in a corporation or other business which has been issued a commercial use permit sells or transfers ten per cent or more of the stock or interest in the firm, either as a single transaction or an aggregate of several transactions, to any person who is not a stockholder or owner of record, except for transfers between spouses or first generation lineal descendants, on the effective date of these rules, the seller or person transferring such stock or interest shall pay to the department a business transfer fee based on the passenger-carrying capacity of the vessel, and shall be as follows:

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

- (5) Vessels certified by the [~~U.S.~~] U.S. Coast Guard to carry fifty to seventy-four passengers.....\$25,000
- (6) Vessels certified by the [~~U.S.~~] U.S. Coast Guard to carry seventy-five to ninety-nine passengers.....\$40,000
- (7) Vessels certified by the [~~U.S.~~] U.S. Coast Guard to carry one hundred to one hundred forty nine passengers.....\$75,000

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

§13-234-34 [User] Fee for [recreational] use of state boat launching ramps. (a) An annual boat ramp decal user fee of [~~\$40~~] seventy-five dollars shall be paid by owners of trailered vessels using [~~state boating~~] facilities under the jurisdiction of the division of boating and ocean recreation for recreational and fishing purposes to gain access to the waters of the State. This fee is charged for the purpose of defraying costs of maintenance of [the] state boating facilities [and use of fresh water. ~~The \$40 boat ramp decal fee shall become effective on the first day of the first full month occurring after the effective date of the 2006 amendments to this section and shall increase to \$45 effective on the first day of the twelfth calendar month following the effective date of the \$40 fee, and shall again increase to \$50 effective on the first day of the twelfth calendar month following the effective date of the \$45 fee. Until the effective date of the \$40 fee, the fee provided in this section prior to the effective date of the 2006 amendments to this section shall remain in full force and effect].~~

(b) In addition to the vessel registration fee, the annual boat ramp decal fee described in subsection

(a) shall be paid in full at the time of registration or registration renewal.

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

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

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

(a) The fee for commercial signs posted in state small boat harbors shall be ~~[\$1 per square foot per month with a minimum fee of \$5 per month]~~ assessed monthly as follows:

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

(b) The fee for ticket booths in small boat harbors shall be ~~[\$250]~~ two hundred fifty dollars per month." [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§200-4, 200-6, 200-10, 200-22, 200-24)

2. Chapter 13-253, Hawaii Administrative Rules, is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 11

OCEAN RECREATION AND COASTAL AREAS

PART III

OCEAN WATERS, NAVIGABLE STREAMS AND BEACHES

CHAPTER 253

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

- §13-253-1 Registration fees for canoes, surfboards, and water sports equipment
- §13-253-1.1 Commercial use permit and catamaran registration certificate fees
- §13-253-1.2 No additional fees
- §13-253-1.3 Gross receipts
- §13-253-2 [~~Permit and registration certificate Fees~~] Repealed
- §13-253-3 [~~Duplicate permit or certificate fee~~] Repealed
- §13-253-4 [~~When fees returnable~~] Repealed
- §13-253-5 Repealed

Historical note. [~~This chapter is based on registration and permit fees of the Hawaii Shore Waters Rules, dated November 6, 1981, and as amended thereafter, under the jurisdiction of the Department of Transportation, Harbors Division.~~] The

administrative jurisdiction for recreational boating and related vessel activities was transferred from the Department of Transportation, Harbors Division, to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, effective July 1, 1992, in accordance with Act 272, SLH 1991. [Eff 2/24/94; comp 9/25/14; am and comp]

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

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

The minimum fee for surfboards shall be ~~[\$1.]~~ one dollar. [Eff 2/24/94; am and comp 9/25/14; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-253-1.1 Commercial use permit and catamaran registration certificate fees. ~~[A] The monthly fee for a commercial use permit or a catamaran registration certificate shall be the [greater of \$200.00 or 3% of the gross receipts per month. The monthly fee shall be payable to the department each month in advance.] same as prescribed in section 13-234-25(a)(2).~~ This fee shall be applicable to all commercial use permits and all catamaran registration certificates for ~~[state ocean waters]~~ waters of the State or navigable streams. [Eff and comp 9/25/14; am and comp] (Auth: HRS §§ 200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-253-1.2 No additional fees. (a) Fees required to be paid to the department for commercial activities in [~~state ocean waters,~~] waters of the State including but not limited to ocean recreation management areas, shall be reported and paid in [~~the following manner:~~

~~(1) The report of gross receipts shall be submitted to and received by the department not later than the end of the month following the month covered by the report and shall be submitted on a form acceptable to the department.] accordance with section 13-234-25(f).~~

[~~(2)~~] (1) A permittee possessing a harbor commercial use permit and a commercial use permit for state ocean waters or a navigable stream or a catamaran registration certificate, who is paying [~~3~~] three per cent of gross receipts per month under the harbor commercial use permit, shall not be required to pay an additional [~~3~~] three per cent of gross receipts per month under the commercial use permit for state ocean waters or a navigable stream or a catamaran registration certificate, provided that the payment made to the department is based on the total of gross receipts acquired under the harbor commercial use permit and the commercial use permit for state ocean waters or a navigable stream or a catamaran registration certificate.

[~~(3)~~] (2) A permittee possessing a commercial use permit for state ocean waters or a navigable stream or a catamaran registration certificate who is operating from a private or County facility or land and said operation does not involve the use of state fast land or land within a shoreline area, shall be required to pay \$200 per month by the first day of each month under the commercial use permit or registration

certificate, but shall be exempt from paying [3] three per cent of gross receipts per month under the commercial use permit or registration certificate.

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

§13-253-1.3 Gross receipts. [~~(a)~~ "~~Gross receipts~~" as used in this chapter 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 has a direct relationship to the vessel.

~~(b)~~] Each commercial permittee or catamaran registration certificate holder shall be responsible for submitting to the department a monthly statement of its gross receipts. [Eff and comp 9/25/14; am and comp] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

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

~~[§13-253-3 Duplicate permit or certificate fee.~~

~~A \$10.00 fee shall be paid to the department for a duplicate permit or registration certificate if such is lost or destroyed, provided that the duplicating fee for evidence of registration of surfboards will be \$1 for each board with a minimum of \$1 and \$1 for evidence of registration of canoes.] [Eff 2/24/94; am and comp 9/25/14; R] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)~~

~~[§13-253-4 When fees returnable. Whenever the department, through error, collects any fee not required to be paid by these rules, the fee shall be refunded to the person paying the fee upon application made within a month after the date of the payment.] [Eff 2/24/94; am and comp 9/25/14; R] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)~~

§13-253-5 REPEALED." [Eff 2/24/94; R 9/25/14]

3. Material, except source notes, to be repealed is bracketed and stricken. New material is underscored.

4. The amendments to and compilation of chapters 13-234 and 13-253 Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ by the Board of Land and Natural Resources, and filed with the Office of the Lieutenant Governor.

SUZANNE D. CASE,
Chairperson
Board of Land and Natural Resources

APPROVED AS TO FORM:

Deputy Attorney General