

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

October 22, 2021

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 Hawaii Administrative Rules (HAR) Title 13, Chapter 256, Ocean Recreation Management Rules and Areas, Subchapter 11, West Hawaii Island Ocean Recreation Management Area, Section 13-256-152, Kahaluu Bay ocean waters, to clarify commercial activity provisions, and compilation of HAR Chapter 13-256, making technical, nonsubstantive, and conforming amendments.

The proposed rule amendment can be reviewed in person at the Division of Boating and Ocean Recreation (DOBOR) District Offices, including the Hawai'i District Office from 8:00 am to 3:30 pm, Monday through Friday, except state holidays: Honokōhau Small Boat Harbor, 74-380 Kealahou Parkway, Kailua-Kona, HI 96740.

The proposed rules, including a statement on the topic of the proposed rule amendment, can be reviewed online at: <https://itgov.hawaii.gov/the-office/administrative-rules/proposed-changes/>. The proposed rules can also be viewed online at: <https://dlnr.hawaii.gov/dobor/draft-rules>. Location and contact information for DOBOR offices is available online at: <https://dlnr.hawaii.gov/dobor/contact>

BACKGROUND:

DOBOR received the following regulatory approvals to hold the public hearing for these amendments:

- June 17, 2021: The Small Business Regulatory Review Board (SBRRB) voted to recommend that the proposed amendments proceed to public hearing. DOBOR informed SBRRB that there would be an impact to small business because Kahalu'u Bay surf school operators would be affected.
- July 9, 2021: The Board of Land and Natural Resources (Board) approved DOBOR's request to begin the rulemaking process for HAR Section 13-256-152, pursuant to Hawaii Revised Statutes (HRS) Chapter 91.

- July 12, 2021: DOBOR received approval from the Governor to hold a public hearing.

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

PURPOSE:

The purpose of the rulemaking is to make clarifying amendments to HAR § 13-256-152 regarding commercial activity regulations relating to surfing instruction permit holders at Kahalu'u Bay on Hawai'i Island and to make amendments for organization and clarity.

REMARKS:

The proposed amendments to HAR § 13-256-152 will only affect Kahalu'u Bay on the Island of Hawai'i. Significant proposed changes include: increasing the commercial permit limit from four to eight; separating the permitted operators by shifts; and removing the requirement that a permit applicant be authorized by the County of Hawai'i to operate commercially on Kahalu'u Bay. Map exhibits are not being amended and remain unchanged.

Kahalu'u Bay rules were last amended in May 2016, where County of Hawai'i Administration and the Department agreed to implement a limit of four permits authorizing surfing instruction. The County of Hawai'i selected a non-profit organization that would solicit bids from surfing instruction operators in order to select the four entities that would receive a commercial permit. This system would have allowed the County of Hawai'i to take the lead in choosing permittees through a fair and neutral process. However, the non-profit organization retained by the County of Hawai'i failed to make any selections.

After the Department discussed the issue of commercial surfing instruction in Kahalu'u Bay with the County of Hawai'i, both agreed that DOBOR would take the lead in selecting permittees, which led to removal of the requirement that an applicant have approval from the County of Hawai'i as a prerequisite to obtain a commercial use permit for Kahalu'u Bay from DOBOR. Other instructor requirements will otherwise remain in place.

For Kahalu'u Bay ocean waters zone A surf instruction site, in the event of health, safety, or welfare concerns, the Department also is adding a provision stating that the designated site of instruction may be temporarily changed.

As instructed by the State Legislative Reference Bureau, the entire chapter 13-256 is compiled as part the amendment to section 13-256-152, and technical and nonsubstantive amendments are made for purposes of consistency and conformity.

PUBLIC HEARING ASSESSMENT

Because the proposed amendments would only affect Kahalu'u Bay on Hawai'i, legal ads were only placed in the Hawaii Tribune Herald and West Hawaii Today newspapers, in accordance with HRS Section 91-3, to notify the public of the public hearing on the proposed amendments. Print copies of the proposed amendments were made available for viewing at the DOBOR Hawai'i District Office. The assessment of the public hearing is as follows:

9/8/2021 PUBLIC HEARING ASSESSMENT:

ATTENDANCE:

Approximately forty (40) individuals attended the public hearing held by Zoom webinar on 9/8/2021.

VERBAL TESTIMONY:

Twenty (20) individuals provided verbal testimony at the public hearing: One (1) individual supported the proposal; eleven (11) individuals opposed; and eight (8) individuals provided comments.

WRITTEN TESTIMONY:

No individuals submitted written testimony at the public hearing.

MAILED TESTIMONY (POSTMARKED BY 9/15/2021):

Two (2) individuals submitted hardcopy testimony by postal mail. Both testifiers provided comments.

EMAILED TESTIMONY (RECEIVED BY 9/15/2021 11:59PM):

DOBOR received email testimony from forty-six (46) individuals: five (5) individuals supported the proposal; seventeen (17) individuals opposed; and twenty-four (24) individuals provided comments.

SUMMARY

Testifiers who opposed were in two separate groups: (1) those who oppose all commercial activity at Kahalu'u Bay; and (2) those who opposed commercial operation shifts, largely composed of commercial operators. DOBOR does not support an outright ban on commercial activity at Kahalu'u Bay.

Testifiers also brought to DOBOR's attention the reference to surfboards and prohibition of other types of watersports equipment. It is not DOBOR's intent to restrict equipment use only to surfboards, so DOBOR recommends that the Board revise the amendment to allow any type of non-motorized vessels and equipment in order to clarify the types of equipment that may be used.

Many individuals who commented stated that there are issues with surf school conduct, such as natural resource violations (coral damage and sea life injuries), parking issues, user conflicts, and overcrowding. Many individuals who commented also brought up issues with lack of enforcement at Kahalu'u Bay.

Some testifiers also recommended prohibiting commercial operations on weekends or Sundays. Because a restriction on the times that commercial activity can take place was not considered in the original proposal, DOBOR will revisit this section to consider prohibiting commercial operation on weekends or Sundays in a future rule amendment.

DOBOR's primary concerns are for the safety of ocean users and protection of the natural resources. Therefore, DOBOR's recommendations focus on the area's capacity for commercial use. Although there would not be enough commercial use permits to accommodate every commercial operator, authorizing eight (8) permits with shifts rather than the existing limit of four (4) would allow for more opportunities to obtain a permit. Permits would be transferrable with the purchase of the company holding the permit, which would allow entry by new operators or operators wishing to operate in a different shift period. DOBOR's recommended amendments are included in the revised amendments, attached as **EXHIBIT A**.

RECOMMENDATION:

DOBOR requests that the Board approve adoption of amendments to HAR Section 13-256-152 with one revision: to clarify that operating or mooring motorized vessels is prohibited in Kahaluu Bay ocean waters zone A.

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. Revised proposed amendments to HAR Section 13-256-152

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendments to and Compilation of Chapter 13-256,
Hawaii Administrative Rules

[Date of adoption by agency]

1. Chapter 13-256, Hawaii Administrative Rules,
entitled "Ocean Recreation Management Rules and
Areas", 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 256

OCEAN RECREATION MANAGEMENT RULES AND AREAS

Subchapter 1 General Provisions

Exhibit A

Historical note

- §13-256-1 Purpose and scope
- §13-256-2 Interpretation
- §13-256-3 Commercial use permit or catamaran registration certificate requirements
- §13-256-4 Commercial vessel and water sports equipment registration requirements
- §13-256-5 Commercial use permits; public auction
- §13-256-6 Transferability of commercial use permits
- §13-256-7 Business transfer fee
- §13-256-8 Owner required to report change in ownership, address and other changes
- §13-256-9 Insurance
- §13-256-10 Revocation
- §13-256-11 Fees
- §13-256-12 Gross receipts
- §13-256-13 Mooring of rafts and platforms
- §13-256-14 Safety and enforcement
- §13-256-15 Commercial vessel shoreline access
- §13-256-16 Thrill craft operations; general provisions
- §13-256-17 Recreational thrill craft operations
- §13-256-18 Commercial thrill craft operations, commercial high speed boating and water sledding operations
- §13-256-19 Parasailing activities
- §13-256-20 Windsurfing
- §13-256-21 Ultralight float equipped aircraft
- §13-256-22 Tow-in surfing
- §13-256-23 Oahu tow-in surfing areas
- §13-256-24 Kauai tow-in surfing areas
- §13-256-25 Maui tow-in surfing areas
- §§13-256-26 to 13-256-30 (Reserved)

Subchapter 2 North Shore Kauai Ocean
Recreation Management Area

Historical note

- §13-256-31 Definition
- §13-256-32 Commercial operator licensee experience

requirements
 §13-256-33 Priority and procedures in the issuance
 of commercial vessel permits
 §13-256-34 Review, acceptance, or rejection of the
 application
 §13-256-35 Repealed
 §13-256-36 Repealed
 §13-256-37 Fees
 §13-256-38 Anini Beach ocean waters
 §13-256-39 Hanalei Bay ocean waters, general
 restrictions
 §13-256-40 Haena ocean waters, general restrictions
 §13-256-41 Na Pali Coast ocean waters, general
 restrictions
 §§13-256-42 to 13-256-49 (Reserved)

Subchapter 3 South Shore Kauai Ocean Recreation Management Area

§13-256-50 Definition
 §13-256-51 Hanamaulu Bay restricted zones
 §13-256-52 Nawiliwili Bay restricted zones
 §13-256-53 Nukumoi restricted zones
 §13-256-54 Koloa Landing restricted area
 §13-256-55 Salt Pond Park restricted area
 §13-256-56 Wailua River restricted area
 §§13-256-57 to 13-256-59 (Reserved)

Subchapter 4 North Shore Oahu Ocean Recreation Management Area

§13-256-60 Definition
 §13-256-61 Haleiwa restricted zones
 §13-256-62 Repealed
 §13-256-63 Sharks Cove, Three Tables, and
 Waimea Bay ocean waters
 §13-256-64 Sunset Beach restricted area
 §13-256-65 Kawela Bay restricted area

§§13-256-66 to 13-256-70 (Reserved)

Subchapter 5 Windward Oahu Ocean Recreation
Management Area

- §13-256-71 Definitions
- §13-256-72 Kualoa waters restricted zones
- §13-256-72.1 Kualoa waters restricted zones permit
- §13-256-73 Kaneohe Bay ocean waters
- §13-256-73.1 Kaneohe Bay ocean waters commercial
use permits
- §13-256-73.2 Large full service permit restrictions
- §13-256-73.3 Small full service permit restrictions
- §13-256-73.4 Small full service permit restrictions
without thrill craft, water sledding,
and high speed towing activities
- §13-256-73.5 Large snorkel tour permit restrictions
- §13-256-73.6 Small sail/snorkel tour permit
restrictions
- §13-256-73.7 Glass bottom boat tour permit
restrictions
- §13-256-73.8 Replacement vessels size restrictions
- §13-256-73.9 Shuttling restrictions
- §13-256-73.10 Permit issuance
- §13-256-73.11 Temporary mooring of vessels authorized
for commercial use in Kaneohe Bay
at Heeia Kea small boat harbor
- §13-256-73.12 Kaneohe Bay ocean waters commercial use
permit revocation
- §13-256-73.13 Ahu o Laka safety zone
- §13-256-74 Kailua ocean waters restricted zones
- §13-256-75 Waimanalo ocean waters restricted zones
- §13-256-76 Makapuu ocean waters restricted zones
- §13-256-77 Kaneohe recreational thrill craft zone
- §§13-256-78 to 13-256-85 (Reserved)

Subchapter 6 South Oahu Ocean Recreation

Management Area

- §13-256-86 Definition
- §13-256-87 Hanauma Bay restricted zone
- §13-256-88 Maunalua Bay waters
- §13-256-89 Waialae-Kahala restricted areas
- §13-256-90 Diamond Head restricted area
- §13-256-91 Waikiki ocean waters restricted zones
- §13-256-92 South Shore parasail area
- §13-256-93 Kahakaaulana Islet (Harris Island)
commercial zone
- §13-256-94 Reef Runway Zone F
- §13-256-95 Koko Head and Makapuu commercial high
speed boating zone
- §13-256-96 Ke'ehi Lagoon canoe racing zone
- §13-256-97 Ke'ehi Lagoon competitive water ski zone
- §§13-256-98 to 13-256-105 (Reserved)

Subchapter 7 West Maui Ocean Recreation Management Area

- §13-256-106 Definition
- §13-256-107 Napili Bay restricted area
- §13-256-108 Lahaina-Kaanapali offshore restricted
area
- §13-256-109 Kaanapali commercial thrill craft areas
- §13-256-110 Olowalu Beach restricted area
- §13-256-111 Kaanapali commercial water sledding zone
- §13-256-112 Maui humpback whale protected waters
- §§13-256-113 to 13-256-115 (Reserved)

Subchapter 8 South Maui Ocean Recreation Management Area

- §13-256-116 Definition
- §§13-256-117 to 13-256-125 (Reserved)

Subchapter 9 North Maui Ocean Recreation
Management Area

- §13-256-126 Definition
- §13-256-127 Hookipa restricted zones
- §13-256-128 Baldwin Park-Paia Bay restricted area
- §13-256-129 Papa'ula Point restricted zone
- §13-256-130 Kanaha Beach Park restricted zones
- §§13-256-131 to 13-256-139 (Reserved)

Subchapter 10 East Hawaii Island
Ocean Recreation Management Area

- §13-256-140 Definition
- §13-256-141 Hilo Bay recreational thrill craft zone
- §13-256-142 Waiakea access corridor
- §13-256-143 Puhi Bay-Leleiwi Point restricted zones
- §§13-256-144 to 13-256-149 (Reserved)

Subchapter 11 West Hawaii Island
Ocean Recreation Management Area

- §13-256-150 Definition
- §13-256-151 Honaunau Bay swimming zone
- §13-256-152 Kahaluu Bay ocean waters
- §13-256-153 Kalaepaakai Point commercial thrill craft
zone
- §13-256-154 Oneo Bay swimming zone
- §13-256-155 Kailua Bay restricted zones
- §13-256-156 Kailua Pier restricted zones
- §13-256-157 Honokohau swimming zone
- §13-256-158 Kua Bay swimming zone
- §13-256-159 Kahuwai Bay restricted zone
- §13-256-160 Kiholo Bay speed zone
- §13-256-161 Anaehoomalu Bay restricted zones
- §13-256-162 Makaiwa Bay swimming zones
- §13-256-163 Hapuna Bay swimming zone

§13-256-164 Kaunaoa Bay restricted zones
§§13-256-165 to 13-256-175 (Reserved)

Historical note. This chapter is based on the Ocean Recreation Management Rules and Areas, effective October 1, 1988, and as amended thereafter by 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. 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]

SUBCHAPTER 1

GENERAL PROVISIONS

§13-256-1 Purpose and ~~Scope~~ scope. (a) The purpose of these rules is to reduce conflicts among ocean water users, especially in areas of high activity. The department has designated ten "Ocean Recreation Management Areas", which are described in subchapters 2 through 11, of this chapter.

(b) All other waters of the ~~[state]~~State within three thousand feet seaward of the base line of the territorial sea are established as non-designated ocean recreation management areas subject to this chapter. [Eff 2/24/94; am and comp]
(Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-2 Interpretation. (a) If any section of these rules is inconsistent with any law of the State of Hawaii, or any laws of the United States, or any rule, or standard established pursuant to federal law, the ~~[State]~~state law or federal law, rule or standard shall govern. Nothing contained in these rules shall be construed to limit the powers of any department or agency of the ~~[state]~~State.

(b) These rules shall be construed liberally, consistent with the purpose stated in section 13-256-1.

(c) In areas designated for a specific use, if another use is not specifically restricted, that use is presumed to be allowed in addition to the use for which the area is designated, unless otherwise prohibited by this chapter. [Eff 2/24/94; am and comp] (Auth: HRS §§200-22, 200-24)
(Imp: HRS §§200-22, 200-24)

§13-256-3 Commercial use permit or catamaran registration certificate requirements. All operators of commercial vessels, water craft or water sports equipment or activities conducting commercial tours or instruction on [~~State~~]state ocean waters must obtain a commercial use permit or where applicable a catamaran registration certificate to be issued by the department, except for those operating out of a state commercial harbor. The applicant for such permit shall comply with the applicable provisions stated in sections 13-231-50 to 13-231-70. [Eff 2/24/94; am 9/25/14; am 12/31/18; am and comp] (Auth: HRS §§200-22, 200-24) (Imp: HRS §§200-22, 200-24)

§13-256-4 Commercial [~~Vessel~~]vessel and water sports equipment registration requirements. (a) All commercial vessels, water craft or water sports equipment shall be registered with the department for commercial use in compliance with sections 13-231-50 to 13-231-70.

(b) Commercial use permits issued by the department for commercial vessels operating from state harbors or boating facilities are exempt from the requirements of this section. [Eff 2/24/94; am 9/25/14; am and comp] (Auth: HRS §§200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-256-5 Commercial use permits; public auction. (a) Unless otherwise provided by law, all commercial use permits issued by the department under this chapter for thrill craft or parasail operations may be made at public auction under sealed bid after public notice.

(b) Before any prospective bidder is entitled to submit a bid for a commercial use permit, the prospective bidder shall, not less than six calendar days prior to the day designated for opening bids, give written notice of its intention to bid to the officer charged with issuing the commercial use permits. Each prospective bidder shall submit answers, under oath, to questions contained in a questionnaire, provided by the department, setting forth a complete statement of the experience, competence and financial standing of the prospective bidder. The names and the number of persons who have submitted a notice of intention to bid shall not be divulged. Information contained in the answers to the questionnaire shall remain confidential, and any government officer or employee who knowingly divulges or permits to be divulged any such information to any person not fully entitled thereto shall be fined not more than \$250. A questionnaire so submitted shall be returned to the bidder after having served its purpose.

(c) Advertisement for bids. Publication of a call for tenders shall be made not less than three times on not less than three different days in a newspaper of general circulation printed and published within the State and in a newspaper of general circulation published in the county in which the designated area is located. The first publication shall be not less than three weeks prior to the date designated for the opening of tenders. Notice of the call for tenders shall contain the following:

- (1) Location where the bid questionnaire is available;
- (2) Time and place of the opening of tenders;
- (3) General description of the designated area;
- (4) Specific use for which the commercial use permit is intended; and
- (5) The upset price as established by the department. Unless a higher amount is specified for a specific commercial use permit the annual upset price shall be \$900.00, which is the monthly charge of

\$75.00. If the commercial use permit is located within an area which requires less than twelve months of operation, the upset price shall be adjusted accordingly.

(d) All bids shall be sealed and delivered to the officer advertising therefor and shall be opened by the officer at the time and place to be stated in the call for tenders which time shall not be less than ten days after the last publication, in the presence of all bidders who attend, and may be inspected by any bidder. All bids which do not comply with the requirements of the call for tenders shall be rejected. The officer calling for bids may reject any or all bids and waive any defects when in the officer's opinion such rejection or waiver will be in the best interest of the public.

(e) All bids shall be accompanied by a deposit of legal tender, or a certificate of deposit, cashier's check or certified check on a bank that is insured by the Federal Deposit Insurance Corporation, or on a savings institution insured by the Federal Savings & Loan Insurance Corporation or by a share certificate issued by a credit union insured by the National Credit Union Administration, in a sum of not less than five per cent of the amount bid, payable at sight to the officer advertising for tenders. A bid deposit may also be in the form of a surety bond conforming to the requirements of [~~Section 103-31,~~ section 102-8, Hawaii Revised Statutes.

(f) If the highest bidder to whom the commercial use permit is awarded fails or neglects to fully comply with the terms and conditions for the issuance of the commercial use permit within ten days after the award or within such further time as the officer awarding the permit may allow, the bidder shall forfeit the bid deposit to the State. If the permit is issued, the bid deposit shall be returned to the permittee upon receipt of the first monthly payment. The deposits made by the unsuccessful bidders shall be returned to them after the commercial use permit is issued or if the commercial use permit is not awarded or issued after the officer's determination to publish

another call for tenders or not to issue any commercial use permit.

(g) The commercial use permit shall be awarded to the highest qualified bidder. If there is more than one authorized commercial operating area in a particular designated area, then the permit for each operating area shall be made by a separate call for tenders.

(h) No commercial operator shall be awarded more than one commercial use permit per designated area. Each bidder shall be awarded only one commercial use permit per designated area. Thus, if a bidder is the highest qualified bidder on more than one operating area then that bidder shall choose one operating area and the bidder's other bids shall be deemed withdrawn.

(i) Each commercial use permit shall be valid for one year with an option to renew the commercial use permit no more than four times, which shall be accomplished on or before the anniversary date of its initial issuance. A permittee interested in renewing its commercial use permit, shall however, notify the department sixty days before the expiration of the commercial use permit of its intent to renew. The terms and conditions during the renewal period shall be the same as those applicable to the initial issuance except as to the renewal option which shall in no event cause the commercial use permit to be renewed more than four times. At the end of the fourth renewal period of the permit, the permit may again be offered for public auction, provided that the previous permittee shall be offered the right of first refusal at the new upset price.

(j) Monthly payments for a commercial use permit shall be based [~~upon 1) one-twelfth of the bid price or 2) a percentage of the monthly gross receipt equal to two per cent, whichever is greater. Gross receipt is defined in §13-256-12.~~] upon:

- (1) One-twelfth of the bid price; or
- (2) A percentage of the monthly gross receipts equal to three per cent, whichever is greater.

Gross receipts are defined in section 13-230-8.

(k) The commercial use permit does not give the permittee any vested property rights. The department reserves the right not to issue or renew any commercial use permits. [Eff 2/24/94; am 12/31/18; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-6 Transferability of commercial use permits. (a) A commercial use permit issued to an individual is non-transferable, so that whenever the permittee parts with possession or transfers the title to or interest in the vessel identified in the commercial use permit to another person or business entity by any arrangement, the commercial use permit shall expire. The new possessor, transferee, or owner of the vessel shall have no right to use the commercial use permit. Notwithstanding the prohibition of individuals transferring commercial use permits, the department will allow the one-time transfer of ownership of the vessel from personal ownership to corporate or other business ownership without terminating the rights to operate the commercial vessel under the commercial use permit.

(b) The following rights, conditions, and restrictions apply to commercial use permits issued to a corporation or other business entity.

(1) Any person owning an interest in a corporation or other business entity possessing a valid commercial use permit issued by the department may transfer any or all stock or other interest to another person without terminating the right of the corporation or business entity to retain or renew its commercial use permit; provided that the corporation or business entity has been engaged in the same commercial vessel activity for a minimum of one year and provided that the department is notified within 7 days of the transfer of all transactions that amount to a transfer of

the stock or interest, as defined in section 13-256-7 in the corporation or business entity by the owners of record.

(2) The business transfer fee must be paid before any transfer is permitted.

(c) A commercial use permit issued for a thrill craft or parasail operating area shall automatically terminate upon the transfer of any or all interest in the corporation or other business entity holding the permit. [Eff 2/24/94; comp] (Auth: HRS §§200-4, 200-24) (Imp: HRS §200-2, 200-3, 200-4, 200-2, 200-3, 200-10)

§13-256-7 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 stock or interest in the corporation, either as a single transaction or [~~as aggregate of~~] through several transactions, to any other person or business entity who is not a stockholder or owner of record on February 24, 1994, the seller or person transferring such stock or interest shall pay to the department a business transfer fee which is the greater of:

(1) Two per cent of the gross receipts which are directly attributable to the use of the commercial use permit issued by the department for the twelve month period prior to the date of sale; or

(2) Ten per cent of the net value of the sale of the stock or interest in the business as determined by the difference between the sale price and an equal percentage of the appraised value of the assets of the business.

(b) The value of the stock or interest transferred shall be as mutually agreed to by the seller and the department. In the case of a business which engages in more than one type of business activity, only the value of the business activity

which is dependent upon the possession and use of the commercial use permit shall be considered for the purposes of this section. In those cases where the transfer is made for consideration other than legal tender, the appraised or market value of the item of consideration given in exchange for the interest in the business shall be used.

(c) If the seller and the department are unable to agree on the value of the interest transferred, that value shall be determined through arbitration by an independent party acceptable to both the seller and the department. The cost of the arbitration shall be borne by the party in whose favor the final value is determined. [Eff 2/24/94; am 12/31/18; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-8 Owner required to report change in ownership, address and other changes. In addition to the provisions in section 13-251-44, the holder of any commercial use permit issued under this chapter shall notify the department in writing within seven days if:

- (1) The owner no longer has possession of the permitted vessel or water sports equipment.
- (2) All or any interest in the permitted vessels or water sports equipment is transferred to or assigned to another person or business entity as defined in these rules; or
- (3) The owner's address or telephone number changes. [Eff 2/24/94; am 12/31/18; comp] (Auth: HRS §§200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-256-9 Insurance. The insurance requirements for commercial vessels shall be not less than \$50,000 for property damage and not less than \$500,000 personal liability for vessels authorized to carry one

to twenty-five passengers, and not less than \$1,000,000 for personal liability for vessels authorized to carry more than twenty-five passengers. The liability insurance shall name the State as additional insured. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-10 Revocation. (a) The department may immediately revoke a commercial use permit without the necessity for a hearing for any activity which does or may endanger the health or safety of passengers or the public.

(b) The department may revoke a commercial use permit for violation of any rules of the department if after 72 hours notice of the violation by the department the permittee fails to cure the violation. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-11 Fees. (a) Fees required to be paid to the department are as follows:

- (1) Registration fee. A registration fee payable at time of issuance and renewal shall be as prescribed in section 13-253-1;
- (2) Operator permit fee. A commercial operator permit fee payable at time of issuance and or renewal of the permit shall be as prescribed in §13-253-2;
- (3) Commercial operating area use permit fee. A monthly commercial use permit fee shall be the greater of \$75.00 per month, payable in advance, or 2% of the monthly gross receipts. 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. A permittee possessing both a harbor commercial use permit and a commercial operating area use permit who is paying 2% of gross receipts under the commercial harbor use permit shall not be required to pay an additional 2% of gross receipts under the commercial operating area use permit.

(b) Delinquency in the payment of any fees owed to the department will result in automatic revocation of the commercial operating area use permit. [Eff 2/24/94; comp] (Auth: HRS §200-4)
(Imp: HRS §§200-2, 200-3, 200-4)

§13-256-12 Gross receipts. Each commercial permittee shall be responsible for submitting to the department a monthly statement of its gross receipts. [Eff 2/24/94; am 12/31/18; comp]
(Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-13 Mooring of rafts and platforms. Except as permitted by the department, permanent or temporary mooring of rafts and platforms for use in thrill craft, parasailing and other water sports activities is prohibited. Rafts and platforms shall be removed daily from state waters or located in a designated anchorage or harbor in accordance with a valid permit issued by the department. Ground tackle for mooring of rafts and platforms shall not be placed on live coral. [Eff 2/24/94; am 6/16/03; comp] (Auth: HRS §§200-22, 200-24)
(Imp: HRS §§200-6, 200-22, 200-24)

§13-256-14 Safety and enforcement. The restrictions cited in this chapter shall not apply in the event of an emergency, to law enforcement or

rescue craft, or to vessels participating under a valid ocean waters event permit issued by the department or the U.S. Coast Guard. [Eff 2/24/94; comp] (Auth: HRS §200-40) (Imp: HRS §§200-2, 200-3, 200-40)

§13-256-15 Commercial vessel shoreline access.

No commercial vessel shall land, embark or discharge passengers at any state or county facility, or at other public beaches except for locations at which the permittee has been issued an appropriate permit by the department or a lease or permit by the board of land and natural resources or a county, or within designated ingress/egress zones. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-16 Thrill craft operations; general provisions. (a) No person under fifteen years of age shall operate a thrill craft. No person shall permit, or mislead another person into permitting, a person under fifteen years of age to operate a thrill craft.

(b) No person shall operate thrill craft within a marine life conservation district or marine natural area reserve.

(c) Thrill craft operations shall be curtailed in certain designated areas as described in subchapters two through eleven as necessary, to:

- (1) Avoid possible adverse impacts on humpback whales or other protected marine life;
- (2) Provide for increased public access;
- (3) Reduce user conflicts; and
- (4) Promote overall public safety.

(d) Effective January 2005, all recreational thrill craft operators shall be required to possess, and make available upon demand of enforcement personnel, a certificate of completion from a state approved course on the safe use and operation of a

thrill craft. The State may recognize reciprocity with other states, i.e., the National Association of State Boating Law Administrators (NASBLA) approved portion of the personal water craft course; however, all operators shall be required to complete the portions of a certificate course for Hawaii that includes, but is not limited to:

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

(e) All thrill craft operators and passengers shall be required to wear a personal flotation device in accordance with section 13-243-1.

(f) All persons holding or receiving a certificate of completion under this section are exempt from section 13-244-15.5 for purposes of operating thrill craft. [Eff 2/24/94; am 7/5/03; am 12/31/18; comp] (Auth: HRS §§200-22, 200-24) (Imp: HRS §§200-22, 200-24)

§13-256-17 Recreational thrill craft operations.

(a) Access to and from designated recreational thrill craft operating areas shall be by the most direct route consistent with safety considerations. Thrill craft operators shall not exceed a speed of slow-no-wake when within three hundred feet of the shoreline.

(b) Thrill craft operation shall be prohibited in state waters surrounding the islands of Kahoolawe, Lanai, Molokai and Niihau. In all other non-designated ocean recreation management areas of state waters, recreational thrill craft may operate seaward of five hundred feet from the shoreline or the outer edge of the fringing reef whichever is greater.

(c) In designated ocean recreation management areas, recreational thrill craft may operate only within locations designated for recreational thrill craft use.

(d) No thrill craft shall be operated for profit or gain in a recreational thrill craft operating area.

(e) Recreational thrill craft may gain access to state waters only from launching or harbor facilities or from private beachfront property.

(f) The State may exempt thrill craft from the requirements of this section, and allow thrill craft to operate outside of designated thrill craft areas, as described in subchapters two through eleven, conditioned upon application for, and receipt of, a miscellaneous use permit pursuant to section 13-231-3(a)(8). [Eff 2/24/94; am 12/31/18; comp] (Auth: HRS §§200-22, 200-24) (Imp: HRS §§200-22, 200-24)

§13-256-18 Commercial thrill craft operations, commercial high speed boating and water sledding operations.

(a) No commercial thrill craft, high speed boating or water sledding activities shall be conducted on the waters of the State unless the owner has applied for and been issued a commercial operating area use permit for a designated commercial thrill craft, high speed boating or water sledding operating area, in addition to any commercial use permit required for state-owned facilities. No more than one commercial operating area use permit shall be issued to an owner to conduct commercial thrill craft, high speed boating or water sledding.

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

(c) No more than one vessel shall be permitted to operate under a commercial operating area use permit issued for high speed boating or water sledding.

(d) Access to and from designated areas shall be only from harbors and ramp facilities, or areas designated by a valid conservation district use permit issued by the Department of Land and Natural Resources or areas designated by the Department.

(e) Commercial thrill craft, high speed boating and water sledding operators shall proceed at a speed of slow-no-wake, or as otherwise posted, by the most direct route consistent with safety considerations. Thrill craft, high speed boating and water sledding operators shall not exceed a speed of slow-no-wake when within three hundred feet of the shoreline.

(f) No other activity is permitted in designated commercial thrill craft operating areas or recreational and commercial water skiing or water sledding areas during the time of authorized operations for safety purposes.

(g) Commercial thrill craft operators shall be required to establish a safety instruction program for customers that includes, but is not limited to, the safe use of a thrill craft, boundaries of operating areas and the use of a personal flotation device.

[Eff 2/24/94; am 7/5/03; am 8/8/11;
comp] (Auth: HRS §§200-4, 200-22,
200-24, 200-37) (Imp: HRS §§200-2, 200-4, 200-22,
200-24, 200-37)

§13-256-19 Parasailing activities. (a)

Parasailing operators shall comply with rules and regulations promulgated by the U. S. Coast Guard in addition to the following provisions:

- (1) All parasailing vessels shall have access to designated areas only from harbors or ramp facilities by the most direct route consistent with safety considerations.
- (2) No commercial parasailing vessel shall

operate on the waters of the State unless the owner has applied for and been issued a commercial operating area use permit for a designated parasail operating area, in addition to any commercial use permit required for state-owned facilities.

- (3) No operator shall be issued more than one commercial operating area use permit for a designated parasailing operating area.
- (4) No permittee shall be allowed to operate more than one parasail vessel with a parasail aloft in the designated parasailing operating area.
- (5) No parasailing vessel shall be engaged in parasailing activities while it is within three hundred feet of the shoreline or any marked channel entrance.
- (6) All parasail vessels shall carry at least one crew member in addition to the captain whose duty it shall be to observe the passenger in the chute.

(b) Parasailing operations shall be curtailed in certain designated areas under this chapter as necessary to avoid possible adverse impacts on humpback whales or other protected marine life. In designated areas during the whale season, the maximum vessel speed for parasailing shall be eighteen (18) knots, and maximum transit speed for shuttling passengers to and from the parasailing zones shall be fifteen (15) knots or minimum planing speed, whichever is less, unless governed by other limits such as slow-no-wake zones or as marked by signs. [Eff 2/24/94; comp] (Auth: HRS §§200-22, 200-24) (Imp: HRS §§200-22, 200-24)

§13-256-20 Windsurfing. [~~a~~] Windsurfing activity shall be governed by the provisions of this chapter.

- (1) Ingress/egress to the shoreline shall be made by the most direct route dictated by

- wind conditions.
- (2) Maneuvering shall be in accordance with rules of the road pertaining to sailing vessels. (Navigation Rules, COMDTINST M16672.2B. Rule 12)
 - (3) Sailboard operators shall approach no closer than two hundred feet to a dive flag, indicating dive activity in progress. [Eff 2/24/94; am and comp]
(Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-21 Ultralight float equipped aircraft.

- (a) For the purpose of this section, ultralight or experimental float equipped aircraft means an ultralight or experimental aircraft as defined by section 13-230-8.
- (b) The takeoff, landing and inflight portions of all ultralight or experimental float equipped aircraft operations on or above any ocean recreation management area shall be governed by Parts 91 and 103 of the Federal Aviation Regulations, which are incorporated by reference. No person shall operate an ultralight or experimental float equipped aircraft in a careless or reckless manner so as to endanger the life or property of another.
- (c) The operator of any aircraft designed to maneuver on the water shall abide by all rules governing the operation of motorized vessels during the launching, retrieval and taxi. No person shall operate an ultralight or experimental aircraft registered as an experimental or ultralight aircraft by the Federal Aviation Administration when operating within a designated ocean recreation management area while carrying passengers for hire.
- (d) The use of shuttle vessels in support of ultralight or experimental float equipped aircraft operations is prohibited on the ocean waters of the State, except for small watercraft carried aboard the aircraft. [Eff 2/24/94; am 12/31/18;

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

§13-256-22 Tow-in surfing. (a) The State assumes no responsibility or liability associated with tow-in surfing.

(b) Only thrill craft may be used for tow-in surfing.

(c) All thrill craft being used for tow-in surfing shall be recorded with the department using forms provided by the department.

(d) Tow-in surfing decals shall be provided at the time the vessel is recorded with the department and shall be required to be prominently displayed on the front half of the vessel.

(e) Thrill craft not recorded with the department for tow-in surfing are prohibited from displaying a tow-in surfing decal.

(f) Effective September 1, 2004, both the thrill craft operator and surfer, who engage in, or operate a thrill craft for tow-in surfing, shall be required to possess, and make available upon demand of enforcement personnel, a certificate of completion from an accredited institution of higher education in Hawaii on the safe use and operation of a thrill craft in high surf, that includes but is not limited to:

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

(g) When operating a thrill craft for tow-in surfing, all operators shall:

- (1) Carry on board a two-way communicating device;
- (2) Tow-in a maximum of one person at any one

time;

- (3) Carry dive fins and a safety knife on their person; and
- (4) Yield right of way to all other boating or ocean recreation activities by leaving the same surfing break area and remaining a minimum of one thousand feet from the other activities.

(h) Notwithstanding section 13-256-17, within designated ocean recreation management areas, thrill craft used for tow-in surfing may enter the ocean recreation management area to gain access to and from a surfing site and for board and personnel recovery, rescue, and emergency purposes only in areas designated specifically for this activity as described in sections 13-256-23, 13-256-24 and 13-256-25.

(i) Unless otherwise provided by rule, towing surfers into waves within a designated ocean recreation management area shall be prohibited.

(j) Tow-in surfing may only be conducted during periods of high surf warning as declared by the National Weather Service in the region or around the island or islands for which the high surf warning has been issued.

(k) Notwithstanding section 13-244-18, surfers engaged in tow-in surfing shall not be required to wear a life-saving device.

(l) Thrill craft used for tow-in surfing may gain access to [~~State~~state] waters from boat ramps, harbor facilities or from private beach front property and access the designated tow-in surfing area by the most direct route consistent with safety considerations.

(m) In addition to equipment required by the U.S. Coast Guard for vessels, all thrill craft used for tow-in surfing shall be equipped with the following:

- (1) A rescue sled that is a minimum of three feet wide, four feet long and three inches thick. The sled shall have a minimum of five hand-grip handles, two of which shall be on the port side, two on the starboard

side and one at the bow of the sled. The sled shall not exceed the thrill craft load capacity recommended by the manufacturer;

(2) A quick-release tow-rope a minimum of thirty-feet long; and

(3) A bow tow-line a minimum of six feet long.

(n) Notwithstanding section 13-244-9, thrill craft used for tow-in surfing may be in proximity of the shoreline and tow-in surfers and travel at a speed greater than slow-no-wake when accessing the ocean or shoreline or when retrieving a surfboard or surfer in accordance with this subchapter.

(o) The thrill craft shall be operated at all times with due care for the rights and safety of people and property and the operator shall abide by any state or federal laws as they pertain to protected species.

(p) All participants in tow-in surfing special events shall be required to possess a certificate of completion as described in subsection (f).

(q) Notwithstanding section 13-256-17(d), operators of a thrill craft used for filming tow-in surfing shall possess a certificate of completion as required by subsection (f). [Eff 10/2/03; am 12/31/18; am and comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-37) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37)

§13-256-23 Oahu [~~Tow-in~~] tow-in surfing areas.

(a) Persons may conduct tow-in surfing seaward of the North Shore Oahu Ocean Recreation Management Area (ORMA) between Kaena Point at 21 degrees 34.488 minutes north, 158 degrees 16.835 minutes west, and Kahuku Point at 21 degrees 42.817 minutes north, 157 degrees 59.061 minutes west, and may extend their operation into the ORMA waters for board and personnel recovery, rescue, and emergency purposes, except within the following restricted areas as shown on Exhibit "I-A," titled "Ocean Recreation Management Areas Designated Tow-in Surfing Areas North Shore

Oahu," dated January 4, 2002, located at the end of this subchapter, and described as follows (all positions of latitude and longitude are provided in global positioning system (GPS) coordinates):

- (1) Area A, which includes all waters seaward and perpendicular to the shoreline within the ORMA boundary, including the waters of Kawela Bay, beginning at 21 degrees 42.573 minutes north, 157 degrees 59.902 minutes west, then proceeding along the shoreline to 21 degrees 41.617 minutes north, 158 degrees 01.155 minutes west, facing the "Dog Island";
- (2) Area B, which includes the waters seaward and perpendicular to the shoreline bounded by a line drawn from the shoreline at 21 degrees 40.753 minutes north, 158 degrees 02.530 minutes west, then west to the seaward boundary of the ORMA at 21 degrees 40.753 north, 158 degrees 03.580 minutes west, then south to the shoreline at 21 degrees 39.750 north, 158 degrees 03.580 minutes west;
- (3) Area C, which includes all waters seaward and perpendicular to the shoreline within the ORMA boundary beginning at the north end of Shark's Cove at 21 degrees 39.318 minutes north, 158 degrees 03.818 minutes west, then proceeding south along the shoreline to 21 degrees 38.351 minutes north, 158 degrees 04.227 minutes west at the west end of Waimea Bay; and
- (4) Area D, which includes all waters seaward and perpendicular to the shoreline within the ORMA boundary beginning at 21 degrees 35.019 minutes north, 158 degrees 08.090 minutes west facing the eastern edge of "Hammerheads" surf break, then proceeding west along the shoreline to 21 degrees 35.015 minutes north, 158 degrees 08.435 minutes west facing the western edge of "Hammerheads" surfbreak. No thrill craft,

except for rescue and enforcement units, shall operate in these restricted areas; provided that thrill craft operated under the direct supervision of an instructor who possesses a certificate of completion as described in section 13-256-22(g), and has been issued a permit pursuant to section 13-244-19 for tow-in surfing training, may be allowed in Area "B" during calm sea conditions in the summer months as provided in these rules.

(b) The following described areas are designated for training and instruction in tow-in surfing techniques, as shown on Exhibit "I-A," titled "Ocean Recreation Management Areas Designated Tow-in Surfing Areas North Shore Oahu," dated January 4, 2002, and located at the end of this subchapter. The trainee shall be under the direct supervision of an instructor who possesses a certificate of completion as described in section 13-256-22(g), and has been issued a permit pursuant to section 13-244-19:

- (1) Training Area 1, which includes all waters seaward and perpendicular to the shoreline within the ORMA boundary beginning at Kahuku Point at 21 degrees 42.817 minutes north, 157 degrees 59.061 minutes west, then proceeding to the western shore of Turtle Bay at 21 degrees 42.573 minutes north, 157 degrees 59.902 minutes west (contiguous with the eastern boundary of restricted area A); and
- (2) Training Area 2, which includes all waters seaward and perpendicular to the shoreline within the ORMA boundary beginning at 21 degrees 41.617 minutes north, 158 degrees 01.155 minutes west, facing "Dog Island", then southwest along the shoreline to 21 degrees 40.753 minutes north, 158 degrees 02.530 minutes west, fronting the "Revelations" surf site. [Eff 10/2/03; am and comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-37) (Imp: HRS

§§200-2, 200-3, 200-4, 200-22, 200-24, 200-37)

§13-256-24 Kauai [~~Tow-in~~]tow-in surfing areas.

(a) Areas of ocean waters, excluding the designated ocean recreation management areas (ORMA), surrounding the island of Kauai where tow-in surfing is allowed are shown on Exhibit "1-B," titled "Ocean Recreation Management Areas Designated Tow-in Surfing Areas Island of Kauai," dated January 4, 2002, located at the end of this subchapter, and described as follows (all positions of latitude and longitude are provided in global positioning system (GPS) coordinates):

- (1) Area I, which includes waters seaward and perpendicular to the shoreline beginning at Kailiu Point at 22 degrees 13.430 minutes north, 159 degrees 34.855 minutes west, then east along the shoreline (including Hanalei Bay) and ending at the southeastern point of Moloaa Bay at 22 degrees 11.675 minutes north 159 degrees 19.495 minutes west;
- (2) Area II, which includes waters seaward and perpendicular to the shoreline beginning at the northeast point of Papaa Bay at the 22 degrees 10.675 minutes north, 159 degrees 18.630 minutes west, then south along the shoreline and ending at Hanamaula Bay at 21 degrees 59.658 minutes north, 159 degrees, 20.050 minutes west;
- (3) Area III, which includes waters seaward and perpendicular to the shoreline beginning at Hanapepe Bay at 21 degrees 53.755 minutes north, 159 degrees 35.855 minutes west, then west and north along the shoreline ending at the shoreline at Keawanui Point at 22 degrees 09.000 minutes north, 159 degrees 43.385 minutes west. Persons engaged in tow-in surfing activities may extend their operation into designated ORMA waters for board and personnel recovery, rescue, and

emergency purposes.

(b) Training and instruction in tow-in surfing techniques may be conducted on a case by-case basis at selected areas in accordance with a permit issued pursuant to section 13-244-19, provided that the trainee is under the direct supervision of an instructor who possesses a certificate of completion as described in section 13-256-22(g). [Eff 10/2/03; am and comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-37) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37)

§13-256-25 Maui [~~Tow-in~~] tow-in surfing areas.

(a) The area of ocean waters, excluding the designated ocean recreation management area (ORMA), north of the island of Maui that is designated for tow-in surfing activities is shown on Exhibit "I-C," titled "Ocean Recreation Management Areas Designated Tow-in Surfing Area Island of Maui," dated January 4, 2002, located at the end of this subchapter, and described as follows (all positions of latitude and longitude are provided in global positioning system (GPS) coordinates):

Waters seaward and perpendicular to the shoreline beginning at the base of the Kahului Harbor west breakwater located at 20 degrees 53.890 minutes north, 156 degrees 28.790 minutes west, then east along the shoreline ending at the eastern point of Kuau Beach at 20 degrees 55.780 minutes north 156 degrees 22.000 minutes west; Persons engaged in tow-in surfing activities may extend their operation into ORMA waters located within three thousand feet of the shoreline for board and personnel recovery, rescue, and emergency purposes.

(b) Training and instruction in tow-in surfing techniques may be conducted on a case-by-case basis at selected areas in accordance with a permit issued pursuant to section 13-244-19, provided that the trainee is under the direct supervision of an

instructor who possesses a certificate of completion as described in section 13-256-22(g). [Eff 10/2/03; am and comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-37) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-37)

§§13-256-26 to 13-256-30 (Reserved)

SUBCHAPTER 2

NORTH SHORE KAUAI OCEAN RECREATION MANAGEMENT AREA

Historical note: This subchapter is based primarily on the North Shore Kauai Rules effective October 1, 1988, and as amended thereafter by the Department of Transportation, Harbors Division. The administrative jurisdiction for recreational boating and related vessel activity was transferred from the jurisdiction of 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]

§13-256-31 Definition. The "North Shore Kauai Ocean Recreation Management Area" means all ocean waters and navigable streams located between eastern boundary of Moloaa Bay and the southernmost boundary of Na Pali Coast State Park extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "A", dated June 30, 1988, located at the end of this subchapter. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

**§13-256-32 Commercial [~~Operator~~
~~Licensee]~~operator licensee experience requirements.**

(a) No commercial vessel operator shall be issued a commercial operator permit to operate or navigate within the Na Pali Coast ocean waters unless the applicant has a minimum of ninety days experience operating within the Na Pali Coast ocean waters attested to by two persons each of whom holds a valid commercial operator permit issued by the department.

(b) No commercial kayak tour guide license shall be issued a commercial operator licensee unless the operator meets the following conditions:

- (1) Possesses a current Red Cross Advanced Life Saving Certificate,
- (2) Has knowledge of elementary first aid;
- (3) Is physically qualified to perform as a kayak tour guide as evidenced by a written report of a physical examination made no earlier than thirty days prior to the application for the license; and
- (4) Demonstrates a satisfactory knowledge of the waters through presentation of a log of ocean kayak trips performed in the Na Pali Coast restricted area during the preceding six-month period.

(c) The department shall establish an advisory committee of not less than three commercial operator licensees to review applications and make recommendations for commercial operator licenses required by this section. The department may seek recommendations for membership on the advisory committee from the North Shore Charter Boat Association. Members of the advisory committee shall have not less than three years experience in their area of specialty operating in the North Shore Kauai Ocean Recreation Management Area. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-33 Priority and procedures in the issuance of commercial vessel permits. (a) All commercial use permits shall be valid for not more than one year and shall automatically terminate on the expiration date.

(b) An application for a commercial use permit shall be made in writing to the department on the form provided by the department. The applicant shall indicate in the application the type and characteristics of the vessel, including but not limited to the vessel's overall length, draft, beam, principal source of propulsion, and any secondary or auxiliary source of propulsion, the passenger carrying capacity, and any other pertinent information. No application shall be complete until the applicant pays the application fee prescribed in these rules. The department shall accept the completed application form for consideration by endorsing it and entering the time and date on the application form submitted. The time and date the application is endorsed by the department shall be the effective filing date and shall establish the applicant's priority date; provided, however, priority for applicants who held a commercial use permit for Hanalei Bay or river in November 2000 shall be based upon the date the department issued such permit. An applicant must file a new application form each year but the effective filing date shall remain the same.

(c) Only when the number of commercial use permits issued under subsection (a) falls below the number authorized in section 13-256-38 or section 13-256-39, will the department offer a permit to the applicant with the next highest priority date; provided that in no event shall the limit set in section 13-256-38 or section 13-256-39 be exceeded thereby. [Eff 2/24/94; am 8/8/11; comp] (Auth: HRS §§200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-256-34 Review, acceptance, or rejection of the application. (a) The department shall examine and determine the genuineness of each application for a commercial vessel permit and may require additional information or conduct an independent investigation as may be deemed necessary for its determination.

(b) The department shall reject any application that contains a material misstatement or if the applicant has failed to disclose any material fact in the application.

(c) An application shall not be accepted for consideration and shall be rejected if:

- (1) The application fee is not paid at the time the application is made;
- (2) The applicant is delinquent in payment of any moneys due and payable to the department; or
- (3) The applicant is in violation of the rules of the department.

(d) Upon rejection of an application, the department shall notify the applicant, in writing within a reasonable time, that the application has not been accepted for consideration and has been rejected and the reasons therefor. The applicant shall be afforded the opportunity to submit a new application upon the correction of deficiencies cited in the notification of rejection of the original application.

[Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-35 Repealed. (R 12/31/18)

§13-256-36 Repealed. (R 8/8/11)

§13-256-37 Fees. (a) Fees required to be paid to the department are described in Chapter 13-234 and more specifically as follows:

- (1) Registration fee. A registration fee payable at the time of issuance shall be prescribed in section 13-253-1.
- (2) Operator license fee. A commercial operator license fee payable at time of issuance of the license shall be \$2.00.
- (3) Commercial vessel permit fee. A monthly commercial vessel permit fee shall be the greater of \$75.00 or two per cent of the monthly gross receipts.

(b) Delinquency of any fees owed to the department will result in automatic revocation of the commercial vessel permit. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-38 Anini Beach ocean waters. (a) Anini Beach ocean waters means the area confined by the boundaries shown on Exhibit "B", dated September 19, 1988, located at the end of this subchapter and described as follows:

Beginning at a point at the low watermark from Honono Point, thence along a straight line on an azimuth of 142 degrees measured from true south to the inner edge of the reef of the channel, thence clockwise along the outer edge of the reef to the intersection of a line drawn on an azimuth of 197 degrees from a point on the shoreline, then 017 degrees to the low water mark of the shoreline, then in a northerly direction along the Anini Beach shoreline to the point of beginning.

- (b) Restrictions. Anini Beach ocean waters.
- (1) Anini Beach ocean waters shall be limited to providing commercial sailboard instruction only. No more than sixteen commercially owned sailboards may be employed in

- instructional use at any one time.
- (2) Motorized vessels operating within Anini Beach ocean waters shall not exceed a speed of "slow-no-wake" (five miles per hour) within two hundred feet of the shoreline.
 - (3) Motorized vessels and sailboards shall not proceed within one hundred feet of persons engaged in fishing. This restriction shall apply to vessels transiting the channel to or from the launching ramp.
- (c) ~~[Swimming Zone A, Anini Beach ocean waters.]~~
(1) Swimming Zone A, Anini Beach ocean waters means the ocean waters confined by the boundaries shown on Exhibit "B", dated September 19, 1988, located at the end of this subchapter and described as follows:
Beginning at a point on the low water mark seventy-five feet east of the launching ramp, then proceeding in a straight line perpendicular to the low water mark seaward for a distance of one hundred feet, then proceeding in a straight line to a point on the extended eastern property line of Anini Beach Park located one hundred feet from the low water mark, then along the extended property line to the low water mark, then along the low water mark to the point of beginning.
- (d) ~~[Swimming Zone B, Anini Beach ocean waters.]~~
(1) Swimming Zone B, Anini Beach ocean waters means the ocean waters confined by the boundaries shown on Exhibit "B", dated September 19, 1988, located at the end of this subchapter and described as follows:
Beginning at a point on the low water mark on an azimuth measured clockwise from True South of 167 degrees from Honu Point, proceeding in a straight line for a distance of one hundred feet, then proceeding in a straight line to the extended western property line of Anini Beach Park located at a point in the water one hundred feet from

the low water mark, then along the extended property line to the low water mark, then along the low water mark to the point of beginning.

(e) Restrictions. Swimming Zones A and B of Anini Beach ocean waters are designated for swimming and bathing. No person shall operate or moor a vessel or sailboard within these zones. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-39 Hanalei Bay ocean waters, general restrictions. (a) Hanalei Bay ocean waters means all ocean waters and navigable streams confined by the boundaries shown on Exhibit "C" dated December 1, 2010, located at the end of this subchapter and incorporated herein, and described as follows:

Beginning at a point on the shoreline at the northernmost tip of Makahoa Point on the western end of the bay, thence along a straight line drawn tangent to the shoreline of Puu Poa Point on the eastern end of the bay, thence clockwise along the shoreline, including the banks of all navigable streams to the upper limit of tidal influence, to the point of beginning.

(b) In addition to all federal, state, and county laws, rules, and ordinances, the following restrictions shall apply to all activities in Hanalei Bay ocean waters.

- (1) No person shall operate a vessel at a speed in excess of "slow-no-wake" within five hundred feet of the shoreline, an ingress/egress zone, designated mooring area, or on the Hanalei River.
- (2) No person shall navigate a motorboat within three hundred feet of a diver's flag or a designated swimming area. Vessels thirty feet or less overall engaged in fishing are exempt from the [~~three-hundred~~]three hundred foot shoreline restriction, except that they

- may not enter designated swimming areas.
- (3) No person shall anchor or moor a vessel, raft, barge, platform or other contrivance except within the designated mooring area.
 - (4) No fishing vessel longer than thirty feet overall may engage in fishing except by pole and line within Hanalei Bay ocean waters.
 - (5) No commercial vessel shall load or unload passengers in Hanalei Bay ocean waters or the lands adjacent thereto without a permit issued by the department and approval by the County of Kauai. All vessels authorized to load and unload passengers in Hanalei Bay ocean waters or the lands adjacent thereto shall travel to and from the beach only through a designated ingress/egress zone.
 - (6) The department may issue up to five (5) commercial use permits for the use of self-propelled vessels to load and unload passengers at Hanalei Bay. Priority for the initial issuance of permits under this 2011 amendment shall be given to the persons that held a commercial use permit and operated under said permit in November 2000 for Hanalei Bay ocean waters. Through attrition of these initial five permittees, the maximum number of permits issued shall be reduced to three (3) permits. Permits shall be limited to passenger vessels certified by the Coast Guard to carry twenty-five or fewer passengers, and each permit shall authorize the carrying of no more than thirty passengers daily.
 - (7) The department may issue up to two (2) commercial use permits for the Hanalei launch ramp for the purpose of conducting guided kayak tours in Hanalei Bay ocean waters. The maximum number of passenger kayaks per trip per permit shall not exceed (8), and no more than thirty passengers shall be allowed per day under each permit. A guide kayak shall be required for each

group of eight passenger kayaks. Priority for the initial issuance of permits under this 2011 amendment shall be given to the operators that held a commercial use permit in November 2000 for Hanalei Bay ocean waters to conduct kayak tours.

- (8) No commercial water sports instruction or tours may be conducted in the Hanalei Bay ocean waters from the adjacent beaches without a permit from the department and approval by the County of Kauai. The department may issue a total of up to eight (8) permits for commercial water sports instruction within the Hanalei Bay ocean waters, including surfing and stand-up paddle boarding. Each permit shall authorize one instructor per day to conduct water sports instruction. The instructor shall have no more than four students at any given time. The instructor shall have a minimum of three (3) years surfing experience and possess a current Red Cross advanced life saving certificate. The department may designate the site of instruction at Hanalei Bay and hours of operation for each permittee, and may change the site whenever such changes is found by the department to be necessary. For the purpose of this section, commercial water sports instruction or tours include, but are not limited to, commercial kayak tours, canoe rides, diving, snorkeling, parasailing, surfing, sailboarding and other water-related recreational activities.

(c) Swimming Zones B-1 and B-2, Hanalei Bay ocean waters.

- (1) Zones B-1 and B-2 mean the areas confined by the boundaries shown and described in Exhibit "C" dated December 1, 2010, located at the end of this subchapter and incorporated herein, as follows:
Zone B-1 swimming area extends three hundred

feet seaward of the low water mark for a distance of three hundred feet on each side of Hanalei Pier.

Zone B-2 swimming area extends three hundred feet seaward of the low water mark between the extended boundary lines of the county park containing the beach pavilion.

- (2) Restriction. Zones B-1 and B-2 are designated for bathing and swimming. No person shall operate or moor a vessel, sailboard, or any other recreation device within Zones B-1 and B-2, provided that this restriction shall not apply to:
 - (A) Vessels engaged in small-scale surround net fishing without the use of motors or fishing and crabbing from shore;
 - (B) Hawaiian design outrigger canoes.

(d) The designated mooring area for the mooring or anchoring of vessels, rafts, barges, platforms and other watercraft, is the area encompassed by the boundaries shown on Exhibit "C" dated December 1, 2010, located at the end of this subchapter and incorporated herein, and which are described as follows:

Beginning at a point on the northwest corner of Hanalei Pier by azimuths clockwise from True South, 123 degrees for a distance of six hundred seventy-five feet; 346 degrees for a distance of one thousand two hundred seventy-seven feet; 022 degrees for a distance of seven hundred fifty-six feet; 127 degrees for a distance of three thousand two hundred twenty-five feet; then on a straight line to the point of beginning.

- (1) All vessels, rafts, barges, platforms, and other watercraft within Hanalei Bay ocean waters shall be moored or anchored solely within the designated mooring area.
- (2) No person shall anchor, moor or stay aboard a vessel except those equipped with an approved marine sanitation device (MSD) in good working condition, or those vessels exempt from MSD requirement in accordance

- with U.S. Coast Guard regulations.
- (3) No permanent mooring shall be installed within the designated mooring area except by permit issued by the department.
 - (e) Ingress/Egress zones.
 - (1) Vessels shall access the beach and shall be accessed from the beach solely through the following Ingress/Egress zones. Zone number one begins at the southern boundary of the County Park pavilion parcel and extends southwest along the shoreline a distance of three hundred feet, then seaward to the designated mooring area. Zone number two begins at the north bank of Hanalei River and extends southward across the Hanalei River mouth to the northern boundary of Black Pot Park, and then extends seaward to the designated mooring area.
 - (2) Zone number one and Zone number two are designated for use by both commercial and recreational vessels. [Eff 2/24/94; am 11/7/11; comp] (Auth: HRS §§200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-256-40 Haena ocean waters, general

restrictions. (a) The Haena ocean waters are subject to the following restrictions. This section shall not apply in the event of an emergency, to law enforcement or to rescue craft, or to vessels participating under a valid ocean waters event permit issued by the department, Coast Guard or Hawaiian design outrigger canoes engaged in crew training.

- (1) No commercial motorized vessel shall land, or discharge or load passengers from shore within Haena ocean waters, unless the owner possesses a valid commercial use permit for the use of the beach for this purpose issued by the board of land and natural resources. The total number of vessels operating from

- this area shall not exceed ten passenger carrying vessels and one support craft.
- (2) No person shall solicit business or offer goods or services for rent, sale or use within Haena ocean waters.
 - (3) Non-motorized commercial vessels may be permitted to land at the beach area fronting the western half of the county beach park.
 - (4) Vessels may be moored or anchored only during daylight hours.
 - (5) Motorized vessels shall not exceed a speed of "slow-no-wake" (five miles per hour) within Haena ocean waters.
- (c) Recreational Zone A, Haena ocean waters.
- (1) Zone A means the area confined by the boundaries shown on Exhibit "D" dated June 30, 1988, located at the end of this subchapter, which boundaries are described as follows:

Beginning at the intersection of the edge of the inner reef and the mean low water mark on the south side of the boat channel, then clockwise along the outer edge of the inner reef to the intersection of the edge of the reef and a straight line drawn between a marker pole on the shoreline and the exposed rock on the southern tip of the outer reef, then along this line to the exposed rock, then along a line drawn at a ninety degree angle to the outer edge of the reef, then clockwise along the outer edge of the reef to the point where it becomes tangent to the Haena ocean waters boundary line, then clockwise along the boundary line to the mean low water mark to the point of beginning.
 - (2) Restrictions. Zone A is designated for recreational use. No commercial motorized vessel shall be permitted within Zone A, provided that customers patronizing commercial vessels anchored or moored within Zone C shall be allowed to enter Zone A for

- snorkeling or scuba diving activities.
- (3) Notwithstanding the provisions of subsection (b) (2), commercial vessels whose owners possess a valid use permit issued by the department of land and natural resources shall be permitted direct access to the beach area specified in the permit for the purpose of passenger pick-up or discharge.
 - (d) Swimming and Snorkeling Zone B, Haena ocean waters.
 - (1) Haena Zone B means the area confined by the boundaries shown on Exhibit "D" dated June 30, 1988 located at the end of this subchapter and described as follows:

Beginning at the intersection of the western boundary of Haena ocean waters and the mean low water mark, then along the western boundary of Haena ocean waters for a distance of two hundred feet, then clockwise along a line drawn parallel to the low water mark at a distance of two hundred feet to the outer edge of the inner reef, then along the outer edge of the inner reef to the mean low water mark, then along the mean low water mark to the point beginning.
 - (2) Restrictions. Haena Zone B is designated for swimming and snorkeling activities. No motorized vessel shall be permitted within Zone B.
 - (e) Snorkeling Zone C, Haena ocean waters.
 - (1) Haena Zone C is as shown on Exhibit "D" dated June 30, 1988, located at the end of this subchapter. Haena Zone C includes those ocean water areas outside Zone A and Zone B.
 - (2) Restrictions. Haena Zone C is an area designated for the use of motorized vessels with passengers engaged in snorkeling and scuba diving activities, Haena ocean waters include those ocean areas outside Zone A and Zone B. No vessel shall moor within Zone C except at three mooring buoys approved for installation by the board of land and

natural resources along the outer edge of the inner reef at the locations shown on Exhibit "D" dated June 30, 1988. No more than two vessels may be moored to each buoy at any one time, for a period not exceeding forty-five minutes per vessel.

- (3) Anchoring during daylight hours may be permitted within Zone C except in areas containing coral growth. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-41 Na Pali Coast ocean waters, general restrictions. (a) Na Pali Coast ocean waters means all ocean waters and navigable streams confined by the boundaries shown on Exhibit "E" dated June 30, 1988, located at the end of this subchapter and described as follows:

Beginning at the intersection of the southwestern boundary of the Na Pali Coast State Park and the shoreline, thence in a straight line drawn perpendicular to the shoreline to the intersection with the territorial sea base line, then along a straight line drawn perpendicular to the territorial sea base line seaward for a distance of three thousand feet, thence along a line drawn parallel to the territorial sea base line in a clockwise direction to the intersection of the western boundary of Haena ocean waters, thence along this line to the western boundary of Haena ocean waters to the point where it intersects the shoreline, thence along the shoreline to the point of beginning.

(b) The Na Pali Coast ocean waters are subject to the following restrictions:

- (1) No person shall navigate a commercial motorboat or conduct a commercial kayak tour within Na Pali Coast ocean waters except for persons who have been issued a permit by the department to operate within Na Pali Coast

ocean waters in accordance with this subchapter.

- (2) In no case shall a commercial vessel having a passenger carrying capacity of fifty or more passengers be permitted to operate within the Na Pali Coast ocean waters.
 - (3) No commercial operator shall embark or disembark passengers along the shoreline within Na Pali Coast ocean waters unless that operator has been issued a permit by the board of land and natural resources for use of the area at the location where passengers are embarked or disembarked.
- (c) Vessel operations within sea caves.
- (1) Commercial vessel operators shall maintain a listening watch on a radio frequency to be designated by the North Shore Charter Boat Association when operating within three hundred feet of the entrance to a sea cave.
 - (2) Vessel operators intending to enter a sea cave shall ensure that no other vessel traffic is operating within the cave.
 - (3) A vessel exiting a sea cave shall have the right-of-way over vessels preparing to enter a sea cave.

(d) The Nualolo Kai restricted zone is the area encompassed by the boundaries shown on Exhibit "F", dated March 1, 1989, located at the end of this subchapter, and which is described as follows:

Beginning at a point on the shoreline at the low water mark of the westernmost tip of Makuai Point, then by ~~[azimuth]~~ azimuths measured clockwise from True South; 241 degrees for a distance of two thousand one hundred feet to a point tangent to the outer edge of the reef, then along the outer edge of the reef to the westernmost edge of the shoreline of Alapii Point, then along the shoreline to the point of beginning.

- (1) Restrictions on commercial use. No more than six commercial vessels may anchor or moor within the Nualolo Kai restricted zone at

any one time, none of which may have a passenger carrying capacity exceeding eighteen passengers. The maximum time limit which a commercial vessel may moor within the Nualolo Kai restricted zone shall not exceed forty-five minutes. The limitation on commercial vessel provisions by this subsection shall not apply to commercial vessels whose owner possesses a valid permit issued by the board of land and natural resources to embark or disembark passengers at this location.

- (2) Restrictions on operation over reef areas. No motorized vessel shall operate over coral reefs subzone as shown on Exhibit "F". No vessel shall anchor or moor on live coral. Mooring shall be permitted only at day use moorings. A "day use moorings" means a mooring established by the department for daylight hour uses only. [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§§13-256-42 to 13-256-49 (Reserved)

SUBCHAPTER 3

SOUTH SHORE KAUAI OCEAN RECREATION MANAGEMENT [AREAS] AREA

§13-256-50 Definition. The "South Shore Kauai Ocean Recreation Management Area" means all waters of

the State from Lae Niau located at the north boundary of Kealia Beach, Kauai, Hawaii, to the west boundary of Salt Pond Beach Park, Hanapepe, Kauai, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "G", "South Shore Kauai, Hawaii," dated February 27, 1998, located at the end of this subchapter. [Eff 2/24/94; am 10/19/02; comp] (Auth: HRS §§200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200- 24)

§13-256-51 Hanamaulu Bay restricted zones. (a)

Zone A, Hanamaulu Bay.

- (1) Zone A, Hanamaulu Bay means the ocean waters confined by the boundaries for said zones as shown on Exhibit "H", dated August 20, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point on the low water mark at the tip of land which is six hundred feet from the mouth of the Hanamaulu Stream, then by [~~azimuth~~]azimuths measured clockwise from True South; 180 degrees to a point on the low water mark of the northern boundary of Hanamaulu Bay; thence along the low water mark of the bay to the point beginning.

- (2) Restrictions. Zone A, Hanamaulu Bay is designated for swimming and bathing. No person shall operate or moor a vessel or sailboard within Zone A.

(b) Zone B, Hanamaulu Bay.

- (1) Zone B, Hanamaulu Bay means the ocean waters confined by the boundaries for said zones as shown on Exhibit "H", dated August 20, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point on the low water mark on the northern tip of Ahukini State Park; thence by [~~azimuth~~]azimuths measured clockwise from True South; 170 degrees to a

point on the low water mark on the shoreline; then westward along the low water mark to the northern boundary of Zone A; then southward along the boundary of Zone A to the low water mark on the shoreline; then eastward along the low water mark to the point of beginning.

(2) Restrictions. Zone B, Hanamaulu Bay is designated as a "slow-no-wake" zone. All watercraft within this zone shall not exceed a speed of slow-no-wake.

(c) Hanamaulu Bay Ingress-Egress Corridor.

(1) Zone C, Hanamaulu Bay Ingress-Egress Corridor means the ocean waters confined by the boundaries for said corridor as shown on Exhibit "H", dated August 20, 1988, located at the end of this subchapter. The boundaries of Zone C are as follows:

Beginning at a point on the low water mark at the south opening of Hanamaulu Stream; thence by [~~azimuth~~] azimuths measured clockwise from True South; 240 degrees to a point on at the west boundary of Zone B and the low water mark on the shoreline; then along western boundary of Zone B for a distance of one hundred feet; then 063 degrees to a point at the low water mark of the Hanamaulu Beach; the along the low water mark of the shoreline to the point of beginning.

(2) Restrictions. Zone C, Hanamaulu Bay Ingress-Egress Corridor is designated for use by recreational motorized vessels. All watercraft within this zone shall not exceed a speed of slow-no-wake. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-52 Nawiliwili Bay restricted zones. (a) Zone A, Nawiliwili Bay is the ocean waters encompassed

by the boundaries of the zones as shown on Exhibit "I", dated November 23, 1988 located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point at the low water mark on the southern tip of Kukii Point then by azimuths measured clockwise from True South; 090 degrees across the bay to a point on the jetty; then proceeding north along the low water mark along the shoreline of Kalapaki Bay to the point of beginning.

Zone A, Nawiliwili Bay is designated for general ocean recreation activities. No person shall moor a vessel or operate at a speed in excess of slow no wake within Zone A. [Eff 2/24/94; comp]
(Auth: HRS §§200-22, 200-24) (Imp: HRS §§200-21, 200-22, 200-24)

§13-256-53 Nukumoi [~~Restricted Zones~~] restricted zones.

- (a) Nukumoi Swimming Zone
- (1) Nukumoi swimming zone means the ocean waters confined by the boundaries for said zones as shown on Exhibit "J", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:
- Beginning at a point at the low water mark on the southern tip of the Nukumoi Point, then proceeding on a straight line to the low water mark of the southern point of Kihouna Heiau, then along the low water mark of Nukumoi Beach in an easterly heading to the point of beginning.
- (2) Restrictions. Nukumoi swimming zone is designated for swimming and bathing. No person shall operate or moor a vessel or other watercraft within this zone.
- (b) Nukumoi Ingress/egress Corridor.
- (1) Nukumoi ingress/egress corridor means the ocean waters confined by the boundaries for said zones as shown on Exhibit "J", dated

September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark adjacent to the west side of the basalt rock on Nukumoi Beach then by ~~[azimuth]~~azimuths measured clockwise from True South, 018 degrees for a distance of three hundred feet and the swim zone boundary; 112 degrees for a distance of fifty feet; 198 degrees to the shoreline; then along the low water mark of Nukumoi Beach in an easterly direction to the point of beginning.

- (2) Restrictions. Nukumoi ingress/egress corridor is designated for the use of nonmotorized vessels. No person shall operate or moor a motorized vessel within this zone. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-54 Koloa Landing [~~Restricted Area.~~]restricted area. (a) The Koloa Landing restricted area means the ocean waters confined by the boundaries for said zones as shown on Exhibit "K", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark at the southern tip of Lae O Kohala, thence by ~~[azimuth]~~azimuths measured clockwise from True South; 130 degrees to a point on the low water mark at the western edge of Keawaloa Bay; then long the low water mark of the shoreline in a northerly direction and then on an easterly heading to the point of beginning.

(b) Restrictions. Koloa Landing restricted area is designated for swimming and diving. No person shall operate or moor a vessel in this area, except that a vessel may enter or depart the area by a

straight line from the boat launching area to the closest seaward boundary line. All vessels transiting the area shall not exceed a speed of slow-no-wake. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-55 Salt Pond Park [~~Restricted Area.~~]restricted area. (a) The Salt Pond Park restricted area means the ocean waters confined by the boundaries for said zones as shown on Exhibit "M", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark which is five hundred feet east of the centerline extension of Salt Pond Road; then on the low water mark along the beach in a southerly direction for a distance of approximately one thousand two hundred fifty feet; then on a straight line to the point of beginning.

(b) Restrictions. The Salt Pond Park restricted area is designated for swimming and bathing. No person shall operate or moor a vessel within this area. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-56 Wailua River restricted area. (a) Restrictions described in this section shall not apply to department vessels, department personnel or emergency, patrol, or rescue craft while performing official duties.

(b) The Wailua River restricted area means the navigable waters of the Wailua River, Kauai, as defined by the boundaries as shown on Exhibit "L", titled, "Island of Kauai, Wailua River Restricted [~~Area,~~]Area" dated February 27, 1998, and located at the end of this subchapter. The boundaries begin at a point at the high water mark at the mouth of the Wailua River and include all the navigable waters

along the Wailua River in a westerly direction to the base of Kaholalele Falls on the north fork of the river and all of the navigable waters to the base of the Wailua Falls on the south fork of the river.

(c) The Wailua River restricted area shall be divided into four zones:

- (1) Zone 'A' includes all the navigable waters beginning fifty feet into the river from the western side of the Wailua River bridge and from seventy-five feet into the Wailua River from the north shoreline to a point approximately eighteen hundred feet along the shoreline, then extends from the banks of the north shoreline to approximately seven hundred and eighty-three yards upstream as indicated by navigational aids on both sides of the river designating the boundary between Zones 'A' and 'B', as shown on Exhibit "L-1", titled, "Island of Kauai, Wailua River Restricted Area, Zone ~~['A']~~'A'" dated February 27, 1998, and located at the end of this subchapter.
- (2) Zone 'B' includes all waters extending approximately two miles upstream from the navigational aids on both sides of the river designating the boundary between Zones 'A' and 'B' to the base of Kaholalele Falls on the north fork of the river and approximately three and a half miles from the navigational aids designating the boundary between Zones 'A' and 'B' to the base of the Wailua Falls on the south fork of the river as shown on Exhibit "L", titled, "Island of Kauai, Wailua River Restricted ~~[Area]~~"Area" dated February 27, 1998, and located at the end of this subchapter.
- (3) Zone 'C' includes the waters beginning at the west side of the Wailua River bridge between the north and south banks and extends fifty feet into the river, then

proceeds along the north shoreline extending seventy-five feet into the Wailua River from the north shoreline to a point approximately eighteen hundred feet along the shoreline as shown on Exhibit "L-1", titled, "Island of Kauai, Wailua River Restricted Area, Zone [~~'A'~~, 'A']" dated February 27, 1998, and

located

at the end of this subchapter.

- (4) Zone 'D' begins at the eastern boundary of Zone 'C' and extends under the Wailua River bridge between the north and south banks, extending to the shoreline.
- (d) General rules for Wailua River.
- (1) Only commercial and recreational vessels not exceeding twenty-one feet in length shall be allowed to utilize the Wailua River and shall be limited to:
 - (A) Vessels used for waterskiing;
 - (B) Motorized vessels, excluding thrill craft; and
 - (C) Manually-propelled vessels.
- (2) Commercial barges, or vessels otherwise allowed by the department, shall be exempt from vessel length restrictions described in paragraph (1).
- (3) Recreational motorized vessels, and recreational and rented manually-propelled vessels may utilize Zones 'A', 'B' and 'C' as provided for in this section.
- (4) Zone 'C' shall be designated a swimming zone indicated by marker buoys. Motorized vessels launching from launch ramp 'A' shall proceed with caution while within Zone 'C'.
- (5) All manually-propelled vessels shall be required to operate along side the northern river bank.
- (6) All vessel operators shall possess a state park permit to embark or disembark along the shores only within the state park in Zone 'B'.

(e) Commercial vessel activity requirements for Wailua River.

- (1) Unless otherwise provided by law, anyone conducting commercial activities on the Wailua River shall possess a valid commercial activity permit from the department.
- (2) All individuals possessing a commercial activity permit to utilize the Wailua river as of June 11, 1999, may retain the commercial activity permit on the effective date of these rules.
- (3) All available commercial activity permits may be issued in accordance with section 13-231-60.
- (4) Reissuance of commercial activity permits shall be in accordance with section 13-231-61.
- (5) Commercial barges, or vessels otherwise allowed by the department, may only utilize Zones 'A' and 'B'.
- (6) All commercial vessel activity is prohibited from Zones 'C' and 'D'.
- (7) Commercial waterskiing commercial activity permittees shall abide by the requirements described in subsection (g).
- (8) Commercial manually-propelled vessel commercial activity permittees shall abide by the requirements described in subsection (f).

(f) Commercial manually-propelled vessel requirements for the Wailua River.

- (1) Not more than fifteen manually-propelled vessel commercial activity permits, with a maximum of twelve vessels per commercial activity permit per day, and with a maximum of four guides per permit, may be issued for guided tours for the Wailua River.
- (2) Not more than four manually-propelled vessel commercial activity permits, with a maximum of six vessels per commercial activity permit, may be issued for rented manually-

propelled vessels for the Wailua River.

- (3) In addition to the provisions in subsection (e)(1), manually-propelled vessel commercial activity permittees utilizing the Wailua River shall abide by the following:

- (A) For guided tours, a minimum of one tour guide shall be required for each group of twelve people;
- (B) Tour guides shall be required to wear a bright orange shirt with the company name printed on the shirt when guiding tours; and
- (C) All commercial manually-propelled vessels permittees shall be provided a Wailua River restricted area decal for each commercial manually-propelled vessel and shall be required to display it on the bow of the vessel.

(g) Waterskiing activity requirements for the Wailua River.

- (1) Waterskiing may be conducted in Zone 'A' in an area designated by the department, as shown in Exhibit "L-1", titled "Island of Kauai, Wailua River Restricted Area, Zone [~~'A'~~, "'A']" dated February 27, 1998, and

located

at the end of this subchapter, and shall be prohibited in Zone 'C'.

- (2) Waterskiing may be conducted in Zone 'B' only between sunrise to 9:00 a.m. and from 5:00 p.m. to sunset.
- (3) A maximum of one commercial activity permit may be issued for waterskiing activities.
- (4) The vessel towing water skiers may tow not more than one person at any one time.
- (5) Waterskiing shall be conducted in accordance with section 13-244-18.
- (6) Waterskiing activities shall be exempt from the speed restrictions of section 13-244-9.
- (7) Waterskiing vessel traffic patterns shall be in a counter-clockwise direction.
- (8) Waterskiing tow ropes shall not exceed

- seventy-five feet in length.
- (9) Vessels engaged in waterskiing activities shall not exceed a speed of thirty-six miles per hour.
 - (10) The only water towing apparatus allowed shall be those equipped with boots, straps, or a leash on the board or ski.
 - (h) ~~[Launch ramp restrictions.~~
 - ~~(1)]~~ All commercial vessels are prohibited from utilizing Launch ramp 'A', as shown in Exhibit "L-1", titled "Island of Kauai, Wailua River Restricted Area, Zone

~~['A',"]'A'"~~

dated February 27, 1998, and located at the end of this subchapter, and shall be required to utilize Launch ramp 'B', as shown in Exhibit ~~["L-1,"]~~"L-1" titled "Island

of

Kauai, Wailua River Restricted Area, Zone ~~['A',"]~~'A'" dated February 27, 1998, and

located

at the end of this subchapter.

(i) The eastern half of the lower Kaumualii area, as shown in Exhibit "L-1", titled "Island of Kauai, Wailua River Restricted Area, Zone 'A' ~~[,]"~~ dated February 27, 1998, and located at the end of this subchapter, shall be used exclusively for the launching and recovery of Hawaiian outrigger canoes.

(j) The western half of the lower Kaumualii area, as shown in Exhibit "L-1", titled "Island of Kauai, Wailua River Restricted Area, Zone ~~['A',"]~~'A'" dated February 27, 1998, and located at the end of this subchapter, may be utilized by recreational vessels, other than Hawaiian outrigger canoes, allowed on Wailua River. [Eff 10/19/02; am 12/31/18; am and comp] (Auth: HRS §§200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§§13-256-57 to 13-256-59 (Reserved)

SUBCHAPTER 4

NORTH SHORE OAHU OCEAN RECREATION MANAGEMENT AREA

§13-256-60 Definition. The "North Shore Oahu Ocean Recreation Management Area" means all ocean waters and navigable streams from Kaena Point to Kahuku Point, Oahu, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "N", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; comp] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200- 4)

§13-256-61 Haleiwa [~~Restricted Zones.~~]restricted zones. (a) Zone A, Haleiwa restricted zone is the area encompassed by the boundaries of the area shown on Exhibit "O", dated November 23, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point on the low water mark at the western edge of Alii Beach Park, then by [~~azimuth~~]azimuths measured clockwise from True South, 128 degrees for a distance of four hundred feet; 200 degrees for a distance of one thousand feet; then on a straight line to the low water mark of the corner of the breakwater at Haleiwa Small Boat Harbor; then along the low water mark in a westerly heading to the point of beginning. Zone A Haleiwa restricted area is designated a swimming and bathing area. No person shall operate or moor a vessel within this zone.

(b) Zone B, Haleiwa restricted zone is the area encompassed by the boundaries of the area shown on Exhibit "O", dated November 23, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point in the water by [~~azimuth~~]azimuths measured clockwise from True South, 090 degrees for a distance of one hundred feet from the low water mark at the end of the breakwater at Haleiwa Small Boat Harbor; 060 degrees for a distance of one thousand six hundred feet; 175 degrees for distance of one thousand three hundred feet; then on a straight line to [~~a~~]the point of beginning.

Zone B is designated a surfing and bodysurfing zone. No person shall operate or moor a vessel, within this zone.

(c) Zone C Haleiwa [~~Restricted Zone~~]restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "O", dated November 23, 1988, located at the end of this subchapter. The boundaries of Zone C are as follows:

Beginning at a point from the low water mark of the western tip of Kawaihoa Beach, thence by [~~azimuth~~]azimuths measured clockwise from True South, 075 degrees for a distance of one hundred feet; 300 degrees for a distance of eight hundred feet; then on a straight line to the low water mark at the end of the groin located at the southern boundary of Haleiwa Beach Park; then along the low water mark along the groin and beach in a northerly direction to the point of beginning.

Zone C is designated as a swimming and bathing zone. No person shall operate or moor a vessel, surfboard, or sailboard within this zone.

(d) Zone D, Haleiwa restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "O", dated November 23, 1988, located at the end of this subchapter. The boundaries of Zone D are as follows:

Beginning at a point in the water by [~~azimuth~~]azimuths measured clockwise from True South, 038 degrees for a distance of four hundred ninety feet from Pua'ena Point, then by a on a radius of two hundred feet around that point Zone D is designated as a commercial thrill craft zone. No more than six rental thrill craft shall be operated at any time.

(e) Zone E Haleiwa restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "O", dated November 23, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point from the low water mark on the tip of the breakwater of Haleiwa Small Boat Harbor, then by [~~azimuth~~]azimuths measured clockwise from True South, 110 degrees for a distance of two thousand eight hundred feet; 020 degrees for a distance of two thousand feet; 110 degrees for a distance of one thousand feet; 200 degrees for a distance of two thousand feet; then by a straight line to the point of beginning.

Zone E is designated as a recreational thrill craft zone. No person shall operate a commercial thrill craft in this zone. This zone shall be closed to all thrill craft operations from December 15 to May 15 of the following year.

(f) Zone F Haleiwa restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "O", dated November 23, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning from the low water mark at Pua'ena Point, then by [~~azimuth~~]azimuths measured clockwise from True South, 125 degrees for a distance of four hundred thirty feet to a point in the water; then 140 degrees for a distance of one thousand feet; 230 degrees for a distance of two thousand feet; 320 degrees for a distance of one thousand feet; then 050 degrees for two thousand feet and the point of beginning.

Zone F is designated as a recreational thrill craft zone. No person shall operate a commercial thrill craft in this zone. [Eff 2/24/94; am and comp] (Auth: HRS §§200-21, 200-22, 200-24, 200-37) (Imp: HRS §§200-21, 200-22, 200-24, 200-37)

§13-256-62 Repealed. [R 4/27/02]

§13-256-63 Sharks Cove, Three Tables, and Waimea Bay ocean waters. (a) Sharks Cove, Three Tables, and Waimea Bay ocean waters means the area confined by the boundaries shown on Exhibit "Q", titled "Ocean Recreation Management Areas, Sharks Cove, Three Tables and Waimea Bay ocean waters", dated October 20, 2000, and located at the end of this subchapter.

- (1) Zone 'A' begins at a point in the water at approximately 21°38.296 N, 158°04.092 W, then in a northerly direction along the shoreline to Waimea Point at approximately 21°38.599 N, 158°03.916 W, then in a straight line in a southwesterly direction for approximately one thousand eight hundred thirty-seven feet back to the point of origin.
- (2) Zone 'B' begins at a point in the water Three Tables Point at approximately 21°38.751 N, 158°03.925 W; then along the shoreline in a northeasterly direction to a point in the water at approximately 21°39.010 N, 158°03.842 W, then due west to approximately 21°39.010 N, 158°03.874 W, then in a straight line in a southwesterly direction back to the point of origin.
- (3) Zone 'C' begins at a point in the water at approximately 21°39.010 N, 158°03.842 W, then in a northerly direction along the

shoreline to Kulalua Point at approximately 21°39.296 N, 158°03.823 W, then in a straight line in a southwesterly direction to approximately 21°39.010 N, 158°03.874 W, then in a straight line due east back to the point of origin.

- (4) Zone 'D' begins at Kulalua Point at approximately 21°39.296 N, 158°03.823 W, then due west for one hundred yards, then in a straight line in a southwesterly direction to the Wananapaoa Islet at approximately 21°38.340 N, 158°04.198 W, then in a straight line in a southeasterly direction to 21°38.296 N, 158°04.092 W, then in a straight line in the northeasterly direction to Waimea Point at approximately 21°38.599 N, 158°03.916 W, then in a northeasterly direction along the shoreline to approximately 21°38.751 N, 158°03.925 W and then in a straight line in a northeasterly direction to the point of origin.
- (b) Following are restrictions for Zone 'A':
 - (1) Except where permitted by law, motorized vessels, except sailing vessels with auxiliary engines, are prohibited in Zone 'A'.
 - (2) Sailing vessels with auxiliary engines shall be required to enter and leave Zone 'A' on sail power or by oar only.
 - (3) Manually-propelled vessels, i.e., kayaks, may embark and disembark from the shoreline of Zone 'A'.
 - (4) Any vessel anchoring within Zone 'A' shall be prohibited from anchoring within two hundred feet of the shoreline and shall anchor only in sandy areas.
 - (5) All vessels shall proceed at a speed of slow-no-wake, as defined in section 13-230-8, when in Zone 'A'.
- (c) Following are restrictions for Zone 'B':
 - (1) Manually-propelled vessels, i.e., kayaks, may embark and disembark from the shoreline

in Zone 'B'.

- (2) Except where permitted by law, motorized vessels, including sailing vessels with auxiliary engines, are prohibited in Zone 'B'.

(d) Except where permitted by law, all vessels are prohibited from embarking or disembarking from the shoreline into Zone 'C'.

(e) In addition to any federal, state or county law, rule, permit or ordinance requirements, a commercial activity permit shall be required to conduct commercial SCUBA or commercial snorkeling activities in Zone [~~'C,'~~]'C', issued by the department. This applies to all for-profit and not-for-profit companies or organizations. Allocation of the commercial activity permits shall be in accordance with section 13-231-60 and the applicant shall submit the following with the application:

- (1) A list of all instructors or guides to be named on the commercial activity permit. The onus shall be on the commercial activity permittee to update any additions or deletions of the names of the persons utilized for instruction or guided tours;
- (2) Proof of insurance, as described in section 13-231-65, for each individual listed on the commercial activity permit;
- (3) A copy of the tax clearance certificate or a letter from the state department of taxation that confirms the applicant is paying taxes;
- (4) Vehicle license numbers for vehicles utilized for shuttling customers; and
- (5) Proof of a leadership level professional credential, i.e., dive master or above, from an internationally recognized SCUBA diving training agency, e.g., PADI, for each instructor or guide listed on the commercial activity permit for commercial SCUBA and snorkeling activities.

(f) Commercial activity permits for commercial SCUBA or snorkeling activities shall be valid for a period not to exceed one year.

(g) Renewal of a commercial activity permit shall be in accordance with section 13-231-61, except that paragraphs of section 13-231-61(b)(1), (4) and (8) shall not apply. The minimum revenue standard shall be the fees provided in subsection (j).

(h) A yearly non-refundable commercial activity permit application fee of \$50 shall be paid at the time the application is submitted.

(i) In addition to the commercial activity permit described in subsection (e), a use permit, as described in subsection (j) shall be required when using Zone 'C'.

(j) A maximum of six use permits, with a combination of commercial activity permittees and customers not to exceed ten individuals, including instructors and assistants per use permit, shall be issued for any one of three time periods and the permittee shall only be allowed to use Zone 'C' during the periods reserved by the permittee via a reservation system established by the department.

(k) Use permit fees, that shall be paid in full at the time of the reservation for use periods, shall be as follows:

- (1) A seasonal user fee of \$420;
- (2) A monthly user fee of \$75;
- (3) A weekly user fee of \$56; or
- (4) A daily user fee of \$10.

(l) Individuals who possess a commercial activity permit and pay fees in accordance with section 13-234-25, shall be exempt from the fee requirements provided in subsection (k) but shall be required to make reservations as described in subsection (j).

(m) Commercial activities may be allowed from April 1st through October 31st of each year but shall be prohibited between the hours of 9:00 p.m. to 8:00 a.m. and from November 1st through March 31st of each year.

(n) Individuals conducting instruction or guided tours shall be required to make available to representatives of the department a copy of the use permit upon demand.

(o) Any person who violates any of these rules or who violates any lawful command issued pursuant to these rules shall be subject to fines as prescribed in sections 200-14, 200-14.5, and 200-25, Hawaii Revised Statutes. Prosecution of offenders shall be as provided by law.

(p) Commercial activity permittees shall make available to customers: maps or charts that show the boundaries of the area(s), outlined restricted zones, and dangerous areas and conditions and shall establish an education program acceptable to the department addressing the historical, cultural, ecological significance of the area, and any rules or laws pertaining to protected species and marine resource conservation etiquette.

(q) Unless otherwise allowed by the County, commercial activity permittees shall be required to shuttle their customers to and from the parking area fronting Zone 'C', when utilizing [~~Shark's~~Sharks Cove for commercial activities.

(r) Following are restrictions for Zone 'D'.

(1) All vessels shall proceed at a speed of slow-no-wake, as defined in section 13-230-8, when in Zone 'D'.

(2) When installed, all vessels mooring in Zone 'D' shall utilize [~~day-use moorings~~]day use moorings or shall anchor in sandy areas.

(s) Individuals conducting special events in Zones 'A', 'B', 'C' or 'D', shall be required to obtain a special events permit in accordance with section 13-244-19. Eff 2/24/94; am 4/27/02; am 12/31/18; am and comp] (Auth: HRS §§200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-10, 200-22, 200-24)

§13-256-64 Sunset Beach [~~Restricted Area~~]restricted area.

(a) The Sunset Beach restricted area means the area confined by the boundaries for said area shown on Exhibit "R", dated,

August 21, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark on the shoreline located two hundred fifty feet along the low water mark of the shoreline in a northerly direction from the mouth of Kalunawaikaola Stream, then by ~~[azimuth]~~azimuths measured clockwise from True South, 125 degrees; then 130 degrees for a distance of one thousand feet; 220 degrees for a distance of nine thousand four hundred fifty feet; 310 degrees to a point on the low water mark of the shoreline; then in a southerly direction along the low water mark to Ehukai Beach Park Swimming Zone; then in a southerly direction along the makai boundary of that zone; then along the low water mark of the beach to the point of beginning.

(b) Restrictions. The Sunset Beach restricted area is designated for surfing, kayaking and windsurfing. No person shall operate a motorized vessel or sailing vessel in this area during the months of October 1st through April 30th. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-65 Kawela Bay [~~Restricted Area.~~]restricted area. (a) Kawela Bay restricted area means the area confined by the boundaries for said area shown on Exhibit "S", dated, June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark on the tip of the shoreline of the bay, then by straight line to the low water mark on the shoreline of the northern tip of the bay; then in a southerly direction along the low water mark to the point of beginning.

(b) Restrictions. No person shall operate a vessel in Kawela Bay in excess of slow-no-wake speed. Water ski activity is prohibited. [Eff 2/24/94; am

and comp] (Auth: HRS §200-4)
(Imp: HRS §§200-2, 200-3, 200-4)

§§13-256-66 to 13-256-70 (Reserved)

SUBCHAPTER 5

WINDWARD OAHU OCEAN RECREATION MANAGEMENT AREA

§13-256-71 [~~Definition.~~] Definitions.

"Commercial ocean use activities" means commercial operation of thrill craft, high speed boating, parasailing, water sledding, sailing and snorkeling tours, glassbottom boat tours, or any other similar commercial ocean recreation activity.

"Family [~~Member~~]member" means any person and his or her spouse as well as their legal children.

"Windward Oahu Ocean Recreation Management Area" means all ocean waters and navigable streams from northwest boundary of Kahana Bay to Makapuu Point, Oahu, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "T", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; am 11/7/11; am and comp] (Auth: HRS §§200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24, 200-39)

§13-256-72 Kualoa [~~water~~]waters restricted zones. (a) Zone A Kualoa waters restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "U", "Kualoa, Oahu, Hawaii," dated September 8, 1998, incorporated herein, and located at

the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point at approximately 21° 31' 16.6" N / 157° 50' 06.9" W, then going in an easterly direction to approximately 21° 31' 16.6" N / 157° 49' 58.2" W, then going in an southerly direction to approximately 21° 31' 11.5" N / 157° 49' 58.2" W, then going in a westerly direction to approximately 21° 31' 11.5" N / 157° 50' 07.3" W, then to the point of beginning.

Zone A is designated as a commercial thrill craft zone for the Kualoa full service permit. Not more than six rental thrill craft and one thrill craft used for safety and rescue purposes shall operate at any one time. No person shall operate or moor a vessel or sailboard in Zone A when being used by commercial thrill craft. Commercial thrill craft shall be operated within Zone A only between the hours of 9:00 a.m. and 5:00 p.m., Mondays through Saturdays. No commercial thrill craft shall be operated within Zone A on Sundays or federal holidays.

(b) Zone B Kualoa waters restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "U", "Kualoa, Oahu, Hawaii," dated September 8, 1998, incorporated herein, and located at the end of the subchapter. The boundaries of Zone B are as follows:

Beginning at a point at approximately 21° 31' 16.6" N / 157° 49' 58.2" W, then in an easterly direction to approximately 21° 31' 16.6" N / 157° 49' 56.0" W, then in an southerly direction to approximately 21° 31' 06.4" N / 157° 49' 56.5" W, then in a westerly direction to approximately 21° 31' 06.4" N / 157° 50' 07.5" W, then in a northerly direction to approximately 21° 31' 11.5" N / 157° 50' 07.7" W, then in an easterly direction to approximately 21° 31' 11.5" N / 157° 49' 58.2" W, then in a northerly direction by straight line to the point of beginning. Zone B is designated as a non-exclusive commercial ocean water sports zone. High speed towing, water skiing, and water sledding shall be prohibited.

All vessels transiting Zone B shall proceed with extreme caution.

(c) All commercial ocean use activities are prohibited within Kualoa waters restricted zones and on Sundays and federal holidays. [Eff 2/24/94; am 11/7/11; am and comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-4, 200- 22, 200-23, 200-24, 200-37, 200-39)

§13-256-72.1 Kualoa waters restricted zones permit. (a) Not more than one Kualoa full service permit shall be issued for Kualoa waters restricted zones subject to the following conditions:

- (1) The number of thrill craft shall be in accordance with the limits authorized in section 13-256-72(a). The number and type of other vessels and equipment shall not exceed the number and type of vessel and equipment permitted by the department on the effective date of these rules;
- (2) All thrill craft and other operational vessels and equipment shall be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal;
- (3) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit a vessel substitution with a similar length vessel; provided that the increase is not greater than ten per cent of the length of the vessel being substituted as it existed on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited;
- (4) The maximum number of customers per day may

be established through the conservation district use permit application process, but shall not exceed [~~one-hundred~~]one hundred and fifty customers;

- (5) Water sledding, water skiing, and high speed towing shall be prohibited;
- (6) The permittee shall maintain a daily log of the number of customers serviced by thrill craft and shall present the logs to division of boating and ocean recreation for review and inspection upon request; and
- (7) Educational and not-for-profit tours shall not be counted against daily customer limits, but shall not exceed the maximum number of one hundred fifty customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time. Not-for-profit passengers shall not engage in thrill craft or high speed towing activities.

(b) All associated commercial operational and supporting activities shall be conducted from land in accordance with all applicable land use laws and zoning ordinances.

(c) Any vessel with an authorized carrying capacity of more than six passengers with installed toilet facilities shall be equipped with a United States Coast Guard approved marine sanitation device.

(d) Any transfer by the permittee or any transfer or combination of transfers of a majority interest or greater by the owners or shareholders of record of a business entity holding a permit shall automatically void the use of thrill craft and the permit shall revert to a large snorkel tour permit as found in section 13-256-73.5, unless the transfer is to a family member.

(e) Any transfer shall result in the assessment of a business transfer fee in accordance with section 200-37, HRS, for a transfer that includes the use of thrill craft and in accordance with section 13-256-7 for the transfer of a large snorkel tour.

(f) The permittee shall identify and mark the boundaries of the designated thrill craft operating zone with temporary floating buoys only installed during periods of commercial operation. [Eff 11/7/11; am and comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

§13-256-73 Kaneohe Bay ocean waters. (a)

Kaneohe Bay ocean waters means the area encompassed by the boundaries shown on Exhibit "V", "Kaneohe Bay, Oahu, Hawaii," dated April 16, 2001, incorporated herein, and located at the end of this subchapter. The boundaries are described as follows:

Beginning at the northern point on the shoreline of Mokapu Point, located at approximately 21° 27' 33.6" N / 157° 43' 21.6" W, then in a straight line to Makahonu Point, located at approximately 21° 32' 33.6" N / 157° 50' 34.2" W, then along the shoreline of Kaneohe Bay to the point of beginning.

(b) All commercial ocean use activities in Kaneohe Bay ocean waters are prohibited on Sundays and federal holidays.

(c) There shall be no walking, sitting, standing, or anchoring on live coral or otherwise damaging the reef within Kaneohe Bay ocean waters.

(d) Zone A Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, incorporated herein, and located at the end of this subchapter. The boundaries of Zone A are as follows:

Zone A is a circle with a radius of two hundred feet with its center at approximately 21° 26' 27.5" N / 157° 47' 45.5" W.

(e) Zone B Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, incorporated herein, and located

at the end of this subchapter. The boundaries of Zone B are as follows:

Zone B is circle with a radius of two hundred feet with its center at approximately 21° 27' 28.5" N / 157° 48' 08.5" W.

(f) Zone C restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, incorporated herein, and located at the end of this subchapter. The boundaries of Zone C are as follows:

Zone C is a circle with a radius of two hundred feet with its center at approximately 21° 27' 32" N/ 157° 48' 13.5" W.

(g) Zones A, B, and C are subject to the following:

- (1) Zones A, B, and C are designated as commercial thrill craft zones where full service permittees shall be required to operate. Not more than six rental thrill craft shall operate within each of the zones A and B at any one time. No more than three rental thrill craft shall operate within zone C at any one time. Zone A may be referred to as the Checker Reef commercial thrill craft zone. Zones B and C may be referred to as the commercial thrill craft sand flat zones.
- (2) Commercial thrill craft shall be operated in a clockwise direction only within zones A, B, and C only between the hours of 9:00 a.m. and 5:00 p.m., Mondays through Saturdays. No commercial thrill craft shall be operated within Zones A, B, or C on Sundays or federal holidays.

(h) Zone D Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "W", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone D are as follows:

Zone D is rectangular in shape which borders the

Kaneohe Bay entrance channel day beacon 11 beginning at a point in the water which is located at approximately 21° 28' 32" N / 157° 49' 39" W, then by a straight line in a due East (true) direction to approximately 21° 28' 32" N / 157° 49' 32" W, then in a straight line to approximately 21° 28' 10.5" N / 157° 49' 27" W, then in a straight line due West (true) to approximately 21° 28' 10.5" N / 157° 49' 34" W, then in a straight line back to beginning.

Zone D is restricted to commercial SCUBA, snorkeling and sightseeing cruises only. Anchoring on live coral is prohibited. No person shall walk, stand or sit on live coral formations. Commercial snorkeling operators shall have a snorkel vest available for each snorkeler in the water and encourage snorkelers to use the vest to decrease the likelihood of standing on coral. Activity shall take place only near the reef, not on the reef. Vessels entering this zone shall use extreme caution while this zone is occupied during diving activities.

(i) Zone E Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone E are as follows:

Zone E is a circle with a radius of three hundred ten yards with its center located at approximately 21° 27' 25" N / 157° 47' 46.5" W. Zone E is restricted to SCUBA, snorkeling, underwater activities, and sightseeing cruises only. Anchoring on live coral is prohibited. No person shall walk, stand or sit on live coral formations. Commercial snorkeling operators shall have a snorkel vest available for each snorkeler in the water and encourage snorkelers to use the vest to decrease the likelihood of standing on coral. Vessels entering this zone shall use extreme caution while this zone is occupied during diving activities.

(j) Zone F Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone F are as follows:

Beginning at a point in the water which is located at approximately 21° 26' 50" N / 157° 47' 45" W, then by a straight line to approximately 21° 26' 23.5" N / 157° 47' 25" W, then by a straight line to approximately 21° 26' 16" N / 157° 47' 34" W, then by a straight line to approximately 21° 26' 20.5" N / 157° 47' 59.3" W, then by a straight line to approximately 21° 26' 28.5" N / 157° 48' 09" W, then in a straight line to the point of beginning.

Zone F is designated as non-exclusive commercial ocean water sports zone. All vessels entering this zone shall exercise extreme caution while it is being utilized for commercial ocean water sports activities. Anchoring on live coral is prohibited. No person shall walk, stand or sit on live coral formations. Commercial operators operating in this zone shall have a snorkel vest available for each snorkeler in the water and encourage snorkelers to use the vest to decrease the likelihood of standing on coral. All activity on top of Checker Reef in Zone F is prohibited.

(k) Zone G Kaneohe Bay restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone G are as follows:

Beginning at a point in the water which is located at approximately 21° 26' 25" N / 157° 47' 49" W, then by a straight line to approximately 21° 26' 22" N / 157° 47' 34" W, then by a straight line to approximately 21° 26' 16.5" N / 157° 47' 36" W, then by a straight line to approximately 21° 26' 19" N / 157° 47' 51" W, then by a straight line to the point of

beginning. Zone G is designated as non-exclusive commercial water ski and water sledding zone. Commercial water skiing and water sledding and the operation of towed devices used to carry passengers for commercial purposes shall be restricted to this zone. No more than one commercial vessel for water sledding shall be permitted to tow at any speed within this zone at any one time for safety purposes. Commercial large full service permittees and non-commercial recreational users shall share the zone equally. All towing shall be conducted in a clockwise direction. No person shall moor or anchor a vessel within this zone. High speed operations shall take place in deep water 200 feet or more from any reef edge, reef crest, or sand flat.

(l) Recreational thrill craft shall not be operated in any area of Kaneohe Bay except in the designated recreational thrill craft zone as described in section 13-256-77. Recreational thrill craft shall access the recreational thrill craft zone by transiting from Heeia Kea small boat harbor directly to the Sampan channel to the Kaneohe recreational thrill craft zone as described in section 13-256-77.

(m) Zone H restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone H are as follows:

Beginning at a point in the water which is located at approximately 21° 27' 32.5" N / 157° 48' 19.5" W, then by a straight line to approximately 21° 27' 26.5" N / 157° 48' 10" W, then by a straight line to approximately 21° 27' 14.5" N / 157° 48' 17" W, then by a straight line to approximately 21° 27' 20" N / 157° 48' 27" W, then in a straight line to the point of beginning.

Zone H is designated as non-exclusive commercial water ski and water sledding zone. Commercial water skiing and water sledding and the operation of

towed devices used to carry passengers for commercial purposes are restricted to this zone. No more than two commercial vessels for water sledding shall be permitted to tow at high speed within this zone at any one time for safety purposes. Commercial full service permittees and non-commercial recreational users shall share the zone equally. All towing shall be conducted in a clockwise direction. No person shall moor a vessel within this zone. High speed operations must take place in deep water 200 feet or more from any reef edge, reef crest, or sand flat.

(n) Zone I restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "X", "Kaneohe, Oahu, Hawaii," dated September 25, 2000, located at the end of this subchapter and incorporated herein. The boundaries of Zone I are as follows:

Beginning at a point in the water located at approximately 21° 27' 41" N / 157° 48' 18" W, then by a line parallel to the edge of the sand flat to approximately 21° 27' 32" N / 157° 48' 02" W, then by a straight line to approximately 21° 27' 25" N / 157° 48' 07" W, then by a straight line to approximately 21° 27' 34" N / 157° 48' 22.5" W, then by a straight line to the point of beginning.

Zone I is designated as non-exclusive commercial ocean water sports zone. Other vessels entering this zone shall exercise extreme caution while it is being used for commercial ocean water sports activities. Commercial operators operating in this zone shall have a snorkel vest available for each snorkeler in the water and encourage snorkelers to use the vest. Commercial operators whose passengers do not operate thrill craft must keep their passengers out of Thrill Craft Zones B and C. Vessels operating in Zone I shall maintain a watch for sea turtles, which may migrate to the north central part of the zone, and exercise care to stay clear of any turtle observed.

(o) Kaneohe Bay speed restrictions. In addition to speed restrictions found in section 13-244-9, slow-no-wake restrictions shall apply in Kaneohe Bay

offshore mooring areas, Kaneohe Bay ocean waters zones D, E, F, and I, Kualoa waters zone B, and anywhere within the Kaneohe Bay when a vessel is within two hundred feet of Kapapa Island and the Central Reef shallows defined as areas having a depth of less than or equal to five feet mean lower low water, including the area of Ahu [~~O Laka Island,~~] o Laka safety zone ("The Sand Bar").

(p) No increase in the level of commercial ocean use activities existing on July 1, 1993 will be permitted within Kaneohe Bay waters.

(q) Activities conducted by a bona-fide educational institution or an organization which is registered with the State and classified by the Internal Revenue Service as a not-for-profit (section 501(c)(3)) organization shall not be subject to the restrictions of subsection (p), but shall operate only in accordance with a permit issued by the department pursuant to chapter 13-231 or chapter 13-256 or both.

(r) Anchoring or mooring on living coral is prohibited.

(s) All sea walker activity shall be done on a flat sandy bottom, not on sea grass beds.

(t) All underwater activity, including but not limited to SCUBA, snorkeling, and sea-walker, shall prohibit participants from touching coral and/or living parts of a reef. [Eff 2/24/94; am 11/7/11; am and comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

§13-256-73.1 Kaneohe Bay ocean waters commercial use permits.

(a) No commercial ocean use activity may be conducted within Kaneohe Bay waters except in accordance with a Kaneohe Bay waters commercial use permit issued by the department. For the purpose of this section, "full service permit" means a permit which includes thrill craft, water sledding, and other high speed boating activities in addition to sailing, snorkeling, scuba diving, sail boarding, and other

related water recreational activities approved by the department.

(b) The number and types of Kaneohe Bay ocean waters commercial use permits authorized for Kaneohe Bay ocean waters shall be as follows:

- (1) One full service permit as authorized in section 13-256-72.1;
- (2) Two large full service permits as authorized in section 13-256-73.2;
- (3) One small full service permit as authorized in section 13-256-73.3;
- (4) One small full service permit without thrill craft, water sledding, and high speed towing activities as authorized in section 13-256-73.4;
- (5) Three large snorkel tour operations, including associated underwater activities approved by the department, as authorized in section 13-256-73.5;
- (6) Three small sail or snorkel tour operations, including associated underwater activities approved by the department, as authorized in section 13-256-73.6; and
- (7) One glass bottom boat tour operation as authorized in section 13-256-73.7.

(c) Any transfer of a large full service permit, except for a transfer to a family member as defined in section 13-256-71, shall revert the large full service permit to a large snorkel tour permit with an aggregate maximum carrying capacity of no more than ~~[one hundred]~~ one hundred fifty passengers for the vessel or vessels in use, but not exceeding the certified passenger carrying capacity of the individual vessel. Any change from a large full service permit to a large snorkel tour permit shall be on a one for one basis reducing the number of large full service permits by one and authorizing an increase to the number of large snorkel tour permits by one.

(d) Any transfer of a small full service permit, except for a transfer to a family member as defined in section 13-256-71, shall revert the small full service

permit to a small sail or snorkel tour permit with an aggregate maximum carry capacity of no more than sixty passengers for the vessel or vessels in use, but not exceeding the certified passenger carrying capacity of the individual vessel. Any change from a small full service permit to a small sail or snorkel tour permit shall be on a one for one basis reducing the number of small full service permits by one and authorizing an increase to the number of small sail or snorkel tour permits by one.

(e) The Kaneohe Bay ocean waters commercial use permit required under this section shall satisfy the requirement for all other harbor use permits required of commercial operators under chapter 13-231, with the exception of a mooring permit for each vessel moored in Heeia Kea small boat harbor or offshore.

(f) The Kaneohe Bay waters commercial use permit fee per permit shall be as provided in HRS chapter 200 and rules adopted thereunder.

(g) The report of gross receipts shall be received by the department for each month covered by the commercial use permit no later than the end of the month following the reported month and shall be submitted on a form acceptable to the department. Failure to submit the report of gross receipts as required for a period in excess of sixty days following the due date, may be treated by the department as causing an automatic termination of the Kaneohe Bay waters commercial use permit.

(h) The department may conduct a financial audit of the records of a Kaneohe Bay ocean waters commercial use permit to determine the accuracy of reported gross receipts or to inspect any other financial information directly related to the enforcement of these rules after providing notice, as described in section 13-230-6, no less than thirty days prior to the audit.

(i) Any vessel with an authorized carrying capacity of more than six passengers with installed toilet facilities shall be equipped with a United States Coast Guard approved marine sanitation device.

(j) All permittees shall maintain a daily log of

the operations, to include vessel and operator identifying information, number of customers serviced, fuel or sewage spills, sewage pumping out, refueling, incidents on the water and time of departure and arrival at the Heeia Kea small boat harbor pier, or authorized passenger loading and unloading area, or appropriate operating zone. All permittees shall submit the logs to the department each week.

(k) There shall be no passenger loading and unloading at a launch ramp at Heeia Kea small boat harbor.

(l) Large full service permits authorized by section 13-256-73.2, shall be allowed to use no more than three trailers per permit per day at the Heeia Kea small boat harbor launch ramps for the launching and recovery of vessels. Small service permits authorized by sections 13-256-73.3 and 13-256-73.4, shall be allowed not more than two trailers per permit per day to use the Heeia Kea small boat harbor launch ramps for the launching and recovery of vessels. Each trailer allowed to use a launch ramp shall be properly licensed and shall be issued a ramp use decal by the department which shall be affixed to the forward end of the trailer tongue.

(m) No activity that is new to a permittee may be conducted without prior written authorization from the department.

(n) Permittees shall establish a safety instruction program for customers that includes, but is not limited to, the use of a personal flotation device, and notification of hazardous conditions or areas and restricted areas.

(o) Permittees shall maintain a visual watch over persons in the water.

(p) Permittees shall have no less than one staff member on site within the permittee's Kaneohe Bay operating area who carries a current adult cardiopulmonary resuscitation (CPR), and standard first aid and lifeguard training certificates. A list of water safety training certificates acceptable to the department shall be provided to the permittee.

[Eff 11/7/11; am and comp] (Auth:

HRS §§200-4, 200-22, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

§13-256-73.2 Large full service permit

restrictions. (a) Not more than [~~one-hundred~~]one hundred fifty customers per day per permit shall be allowed for a large full service permit.

(b) The number and type of vessels and equipment which may be authorized by the department under this permit category are:

- (1) Two host vessels with an aggregate maximum carrying capacity of [~~one-hundred~~]one hundred fifty passengers for the vessel or vessels in use, but not exceeding the certified passenger carrying capacity of the individual vessel.
- (2) Six rental thrill craft and one thrill craft used for operational safety purposes;
- (3) Two equipment barges, for each of which the passenger carrying capacity shall be six or as established by a United States Coast Guard Certificate of Inspection so long as the capacity is not greater than 20;
- (4) Three motorboats, for each of which the passenger carrying capacity shall be six or less, as established by a United States Coast Guard Certificate of Inspection; and
- (5) Other non-motorized craft including kayaks, canoes, wind surfers, sailboards, and small sailing vessels no larger than 20 feet, and individual water sports equipment as needed.

(c) The passenger carrying capacity of each host vessel and service barge having a carrying capacity of over six passengers shall be established by a United States Coast Guard Certificate of Inspection.

(d) The permittee shall indicate which host vessel is declared to be the primary vessel used to embark and disembark passengers from the pier. This vessel shall be allowed to load to full permit

capacity of [~~one hundred~~] one hundred fifty. Should the certified passenger capacity of the primary vessel be less than [~~one hundred~~] one hundred fifty, the vessel may conduct more than one passenger loading trip to the pier to achieve the maximum number of customers permitted per day.

(e) The three small motorboats authorized under this permit may be either operated directly by the permittee or under contract with another party. Not more than one small motorboat shall be authorized to load or unload passengers at the pier.

(f) Host vessels shall be equipped with a United States Coast Guard approved marine sanitation device.

(g) All thrill craft and other vessels and equipment must be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and must display a current Ocean Recreation Management Area decal.

(h) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited.

(i) In the event there is a sale or transfer of a majority of ownership interest in the business to a person not an owner or a shareholder of record after the effective date of this section, the number of host vessels allowed per permit shall be reduced to one host vessel, unless the sale or transfer is to a family member.

(j) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not exceed the maximum number of one hundred fifty customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time. Not-for-

profit passengers shall not engage in thrill craft or high speed towing activities.

(k) Any transfer or combination of transfers by the owners or shareholders of record of a business entity holding a permit that results in a transfer of a majority interest or greater in the business entity shall automatically void the use of thrill craft, high speed towing/water sledding, and water skiing activities and the permit shall revert to a large snorkel tour permit as found in section 13-256-73.5 unless the transfer is to a family member. A transfer shall result in the assessment of a business transfer fee in accordance with section 200-37, HRS, for a transfer that includes the use of thrill craft and in accordance with section 13-256-7 for the transfer of a large snorkel tour.

(l) High speed operations must take place in deep water 200 feet or more from any reef edge, reef crest, or sand flat.

(m) For the Checker Reef area, host vessel(s) must be moored with bow and stern anchoring as approved by the department, thirty feet or more off of the reef on the south and west edge of Checker Reef, with no obstruction of the use of the channel passing to the southwest of the reef.

(n) The permittee shall identify and mark the boundaries of the designated thrill craft operating zone with temporary floating buoys only installed during periods of operation. [Eff 11/7/11; am and comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

§13-256-73.3 Small full service permit

restrictions. (a) Not more than seventy customers per day per permit shall be permitted for a small full service permit.

(b) The number and type of vessels and equipment which may be authorized by the department under this permit category are:

- (1) One host vessel with a maximum passenger carrying capacity of seventy passengers;
- (2) Three rental thrill craft and one thrill craft used for operational safety purposes;
- (3) Two equipment barges, the passenger carrying capacity of each shall be six or as established by a United States Coast Guard Certificate of Inspection so long as the capacity is not greater than 20;
- (4) Two small motor boats, the passenger carrying capacity of each shall be six or less, as established by a United States Coast Guard Certificate of Inspection; and
- (5) Other non-motorized craft including kayaks, canoes, wind surfers, sailboards, small sailing vessels no larger than 20 feet, and individual water sports equipment as needed.

(c) The passenger carrying capacity of the host vessel and service barges having a capacity of over six passengers shall be established by a United States Coast Guard Certificate of Inspection.

(d) The host vessel shall be allowed to load passengers to the full permit capacity of seventy. Should the certified passenger capacity of the vessel be less than seventy, the vessel may conduct more than one passenger loading trip to the pier to achieve the maximum number of customers permitted per day.

(e) The two small motorboats authorized under this permit may be either operated directly by the permittee or under contract with another party. Not more than one small motorboat shall be authorized to load or unload passengers at the pier.

(f) A United States Coast Guard approved marine sanitation device or portable toilet shall be located on either the host vessels or one of the equipment barges.

(g) All thrill craft and other vessels and equipment must be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal.

(h) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have the discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited.

(i) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not exceed the maximum number of seventy customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time. Not-for-profit passengers shall not engage in thrill craft or high speed towing activities.

(j) Any transfer or combination of transfers by the owner or shareholders of record of a business entity holding a permit that results in a transfer of a majority interest or greater in the business entity shall automatically void the use of thrill craft, high speed towing/water sledding, and water skiing activities and the permit shall revert to a small sail/snorkel tour permit as found in section 13-256-73.6, unless the transfer is to a family member. A transfer shall result in the assessment of a business transfer fee in accordance with section 200-37, HRS, for a transfer that includes the use of thrill craft and in accordance with section 13-256-7 for the transfer of a small sail/snorkel tour.

(k) High speed operations must take place in deep water two hundred feet or more from any reef edge, reef crest, or sand flat.

(l) The permittee shall identify and mark the boundaries of the designated thrill craft operating zone with temporary floating buoys only installed during periods of operation. [Eff 11/7/11;

comp] (Auth: HRS §§200-4, 200-22,
200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3,
200-4, 200-22, 200- 23, 200-24, 200-37, 200-39)

**§13-256-73.4 Small full service permit
restrictions without thrill craft, water sledding, and
high speed towing activities.**

(a) No more than seventy customers per day per permit shall be permitted for a small full service permit without thrill craft, water sledding, and high speed towing activities.

(b) The number and type of vessels and equipment which may be authorized by the department under this permit category are:

- (1) One host vessel with a maximum passenger carrying capacity of seventy passengers.
- (2) Two equipment barges, the passenger carrying capacity of each shall be six or as established by a United States Coast Guard Certificate of Inspection so long as the capacity is not greater than 20.
- (3) Two small motorboats, the passenger carrying capacity of each shall be six or less, as established by a United ~~[Stated]~~ States Coast Guard Certificate of Inspection; and
- (4) Other non-motorized craft including kayaks, canoes, wind surfers, sailboards, small sailing vessels no larger than 20 feet, and individual water sports equipment as needed.

(c) The passenger carrying capacity of the host vessel and service barges having a capacity of over six passengers shall be established by a United States Coast Guard Certificate of Inspection.

(d) The host vessel shall be allowed to load passengers to the full permit capacity of seventy. Should the certified passenger capacity of vessel be less than seventy, the vessel may conduct more than one passenger loading trip to the pier to achieve the maximum number of customers permitted per day.

(e) The two small motorboats authorized under this permit may be either operated directly by the permittee or under contract with another party. Not more than one small motorboat shall be authorized to load or unload passengers at the pier.

(f) A United States Coast Guard approved marine sanitation device or portable toilet shall be located on either the host vessel or one of the equipment barges.

(g) All vessels and equipment must be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal.

(h) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the vessel being substituted as it existed on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited.

(i) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not exceed the maximum number of seventy customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time.

(j) Any transfer or combination of transfers by the owners or shareholders of record of a business entity holding a permit that results in a transfer of a majority interest or greater in the business entity shall automatically cause the permit to revert to a small sail/snorkel tour permit as found in section 13-256-73.6, unless the transfer is to a family member. A transfer shall result in the assessment of a business transfer fee in accordance with section 13-256-7.

(k) Thrill craft, water sledding, waterskiing and high speed towing are not authorized activities under this permit. [Eff 11/7/11; am and comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200- 24, 200-37, 200-39)

§13-256-73.5 Large snorkel tour permit restrictions. (a) No more than [~~one-hundred~~]one hundred fifty customers per day or the historical daily average of the months July, August, and September of the calendar years 1996 thru 2000, whichever is lower, not to be less than seventy customers per day per permit shall be permitted.

(b) The passenger carrying capacity of the vessel(s) having a capacity of over six passengers shall be established by a United States Coast Guard Certificate of Inspection.

(c) All associated operational and supporting activities on land must meet all applicable land use laws and zoning ordinances, including, but not limited to the number of passengers allowed and approved for loading from private lands or as approved by the department through a conservation district use permit.

(d) Snorkel tours shall be conducted in Zones "D" and "E" within Kaneohe [~~Bay~~]Bay waters, pursuant to section 13-256-73.

(e) All stops for other than snorkeling shall be within the commercial area of the sand flat area within Kaneohe Bay waters designated as restricted [~~zone~~]Zone I and shall not exceed two hours. Only non-motorized equipment may be used for water sports recreation.

(f) Any vessel authorized on the effective date of these rules to load passengers from the Heeia Kea small boat harbor pier under a permit issued pursuant to chapter 13-231 is permitted to load to full certified passenger capacity.

(g) Replacement or substitution of any existing vessels or equipment shall require prior written

approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited. Additional motorized and non-motorized vessels and equipment not authorized on July 1, 1993 by the department shall not be allowed.

(h) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not exceed the maximum number of customers allowed per day. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time.

(i) All vessels shall be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal.

(j) Permittees or owners or shareholders of record of business entities holding permits may transfer any interest in the business. Any transfer of interest in the business shall result in assessment of a business transfer fee in accordance with section 13-256-7.

(k) When the Kualoa full service permit or a large full service permit turns into a large snorkel tour permit because of a transfer of ownership to a non-family member, no additional motorized or non-motorized vessels or equipment shall be allowed to be added to the existing authorized inventory.

(l) When a large snorkel tour permit transfers ownership to a non-family member no more than seventy customers per day shall be permitted. [Eff 11/7/11; am 12/31/18; am and comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39)

§13-256-73.6 Small sail/snorkel tour permit restrictions. (a) Not more than sixty customers per day or the historical daily average of the months July, August, and September of the calendar years 1996 thru 2000, whichever is lower, not to be less than thirty five customers per day per permit shall be permitted.

(b) The passenger carrying capacity of the vessel(s) having a capacity of over six passengers shall be established by a United States Coast Guard Certificate of Inspection.

(c) Snorkel tours shall be conducted in Zones "D" and "E" within Kaneohe Bay waters, pursuant to section 13-256-73.

(d) All stops for other than snorkeling shall be within the commercial area of the sand flat area within Kaneohe Bay waters designated as restricted zone I and shall not exceed one hour. Only nonmotorized equipment may be used for water sports recreation.

(e) Any vessel authorized on the effective date of these rules to load passengers from the Heeia Kea small boat harbor pier under a permit issued pursuant to chapter 13-231 is permitted to load to full certified passenger capacity.

(f) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase of greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited. Additional motorized and non-motorized vessels and equipment not authorized on July 1, 1993, by the department shall not be allowed.

(g) Educational and not-for-profit tours shall not be counted against daily customer limits, but the permittee's total number of passengers shall not exceed the maximum number of customers allowed per day. Not-for-profit tours and passengers shall not be

mixed with commercial customers on the vessel at the same time.

(h) All vessels shall be registered in accordance with section 13-256-4(a), notwithstanding section 13-256-4(b), and display a current Ocean Recreation Management Area decal.

(i) Permittees or owners or shareholders of record of business entities holding permits may transfer any interest in the business. Any transfer of interest in the business shall result in assessment of business transfer fee in accordance with section 13-256-7.

(j) When a small full service permit turns into a small snorkel tour permit because of a transfer of ownership to a non-family member, no additional motorized or non-motorized vessels or equipment shall be allowed to be added to the existing authorized inventory.

(k) When a small snorkel tour permit transfers ownership to a non-family member no more than thirty-five customers per day shall be permitted. [Eff 11/7/11; comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39)

§13-256-73.7 Glass bottom boat tour permit restrictions. (a) The passenger carrying capacity of the vessel shall be established by a United States Coast Guard Certificate of Inspection. If a vessel has no United States Coast Guard Certificate of Inspection, the vessel's capacity shall not exceed six passengers.

(b) The maximum number of passengers per outing shall be seventy passengers. Passengers may be loaded and unloaded only at the Heeia Kea small boat harbor pier.

(c) The vessel shall be equipped with a United States Coast Guard approved marine sanitation device.

(d) The vessel shall be registered in accordance with section 13-256-4(a), notwithstanding section 13-

256-4(b), and display a current Ocean Recreation Management Area decal.

(e) Educational and not-for-profit tours shall not be counted against daily customer limits, but shall not exceed the maximum number of seventy customers allowed per outing. Not-for-profit tours and passengers shall not be mixed with commercial customers on the vessel at the same time.

(f) Replacement or substitution of any existing vessels or equipment shall require prior written approval by the department and the department shall have discretion to permit vessel substitution with a similar length vessel; provided that the increase shall not be greater than ten per cent of the length of the authorized vessel of record on May 22, 2000. An increase greater than ten per cent of the length of the authorized vessel of record on May 22, 2000 is prohibited. Additional motorized and non-motorized vessels and equipment not authorized on the effective date of these rules by the department shall not be allowed.

(g) Permittees or owners or shareholders of record of business entities holding permits may transfer any interest in the business. Any transfer of interest in the business shall result in assessment of business transfer fee in accordance with section 13-256-7.

(h) An exchange of passengers between the glass bottom boat tour permittee and any other permittee shall not be allowed. [Eff 11/7/11; comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39)

§13-256-73.8 Replacement vessels size restrictions. (a) Replacement vessels shall not be greater in vessel length overall than 10% of the vessel overall length authorized on May 22, 2000.

(b) Replacement of any existing vessels or equipment shall require prior written approval by the

department. [Eff 11/7/11; comp]
(Auth: HRS §§200-4, 200-22, 200-24, 200-39) (Imp: HRS
§§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-39)

§13-256-73.9 Shuttling restrictions. No
shuttling or transferring of customers among the
permittees for the purpose of exceeding the maximum
daily customer limit specified by type of permit or
exceeding the certified passenger capacity of the
vessel shuttling or receiving the passengers shall be
allowed. [Eff 11/7/11; comp]
(Auth: HRS §§200-4, 200-22, 200-24, 200-37, 200-39)
(Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-
24, 200-37, 200-39)

§13-256-73.10 Permit [~~Issuance~~]issuance. (a)
Permittees holding valid commercial use permits on the
effective date of this rule shall be offered the
opportunity to apply for the permit category in which
they are operating upon the expiration of their
respective permits. If any permit offer is refused by
the permittee, that permit shall not be issued and
shall be eliminated from the total number of Kaneohe
Bay ocean waters commercial use permits.

(b) Permit applications shall be reviewed for
compliance with chapter 200, HRS, applicable rules,
and permit conditions. Failure to comply with any
permit condition, or having any record of inaccurate
submission of gross receipts, inconsistent or untimely
payments of fees and charges, or unsafe operations
during the last term of a valid permit held by the
applicant, may be cause for rejection of the permit
application.

(c) The following documents shall be submitted
for review at the time an application is made for the
issuance of a permit:

- (1) Vessel documentation or registration.
- (2) Vessel certificate of inspection (if

- applicable).
- (3) Certificate of business liability insurance which insures all activities of permittee, including coverage for the operation of thrill craft or other activities including, but not limited to, canoeing, sailing, windsurfing, water sledding, snorkeling, scuba diving or other underwater activities, if applicable, and naming the State of Hawaii as an additional insured.
 - (4) Certificate of good standing from the ~~[Department of Commerce and Consumer Affairs.]~~ department of commerce and consumer affairs.
 - (5) Tax clearance certificate from the department of taxation.
 - (6) Conservation district use permits (if applicable).
 - (7) Affidavit describing any and all accidents, or safety related issues or events, including those affecting employees or customers that have occurred within the past year.
 - (8) Affidavit describing any and all warnings, discrepancies, citations, fines, penalties and convictions levied by the United ~~[State]~~ States Coast Guard, department of land and natural resources, Honolulu police department, City and County of Honolulu, department of planning and permitting, or any other regulatory agency.
 - (9) Affidavit describing any and all sales or transfers of any ownership interest in the business.
- (d) The department shall publish a list of Kaneohe Bay waters commercial use permits scheduled for issuance to incumbent permit holders thirty days prior to the expiration dates of the preceding permits issued in a newspaper of general circulation in the Kaneohe area, with a copy to the Kaneohe Bay Regional Council, inviting public comment on this list and the incumbent permit holders. Any request that a permit not be issued must be accompanied by factual

supporting documentation showing the incumbent permittee's failure to meet permit issuance requirements of this chapter.

(e) Insurance requirements for all commercial vessels and all activities conducted on or in the water of Kaneohe bay shall be not less than \$50, 000 for property damage and not less than \$1,000,000 for liability. The liability insurance shall name the State of Hawaii as an additional insured. Any subcontractor employed by a permittee, such as, but not limited to, a scuba diving instructor, shall have insurance coverage which provides the same coverage as required of the permittee and names the State of Hawaii as an additional insured. The permittee and its subcontractors shall provide to the Department certificate(s) of insurance that cover any and all activities conducted under the permit.

(f) In the event an application for the issuance of a new permit is denied, the applicant will be afforded the opportunity for a hearing in accordance with section 13-231-31 and section 13-231-32 for the sole purpose of allowing the applicant to contest the basis of the denial. The opportunity of a hearing shall not apply to automatic expiration provisions of these rules. [Eff 11/7/11; am and comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

§13-256-73.11 Temporary mooring of vessels authorized for commercial use in Kaneohe Bay at Heeia Kea small boat harbor. Temporary mooring within Heeia Kea small boat harbor for any vessel that is authorized for commercial use in Kaneohe Bay ocean waters shall not exceed a cumulative period of 180 days in the same calendar year. [Eff 11/7/11; comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-23, 200-24, 200-39)

§13-256-73.12 Kaneohe Bay ocean waters commercial use permit revocation. Revocation of a Kaneohe Bay waters commercial use permit shall be accomplished in accordance with section 13-231-6. [Eff 11/7/11; comp] (Auth: HRS §§200-4, 200-22, 200-24, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-23, 200-24, 200-39)

§13-256-73.13 Ahu o Laka safety zone. (a) The Ahu o Laka safety zone is the area encompassed within the boundaries designated as Zone J, shown on Exhibit "O-9", "Kaneohe Bay Ocean Waters" dated April 21, 2015, and located at the end of this subchapter. The boundaries of Zone J are as follows:

Beginning at a point in the water at 21°28.462'N 157°49.203'W, then by straight lines drawn to a point at 21°27.9647'N 157°49.140'W, then to 21°27.514'N 157°48.115'W, then to 21°28.030'N 157°47.940'W, then back to the starting point.

(b) For Memorial Day, Independence Day, and Labor Day holidays as designated in section 8-1, Hawaii Revised Statutes, if any of these three designated holidays involves a three-day weekend, Zone J is subject to the following restrictions during the time period of 12:00 a.m. to 11:59 p.m. on each day of the three-day weekend:

- (1) No person shall possess, use, or consume alcohol within Zone J;
- (2) No person shall enter or remain in Zone J while under the influence of alcohol, narcotics, or drugs; provided that a person may use or possess drugs legally prescribed by that person's physician; and
- (3) No person within Zone J shall:
 - (A) engage in fighting or threatening, or violent or tumultuous behavior;
 - (B) make unreasonable noise;
 - (C) subject another person to offensively

coarse behavior or abusive language which is likely to provoke a violent response; or

- (D) create a hazardous or physically offensive condition by any act which is not performed under any authorized license or permit.

Noise is unreasonable, within the meaning of subparagraph (3)(B), if considering the nature and purpose of the person's conduct and the circumstances known to the person, including the time of day or night, the person's conduct involves a gross deviation from the standard of conduct that a law-abiding citizen would follow in the same situation; or the failure to heed the admonition of a law enforcement officer that the noise is unreasonable and should be stopped or reduced.

(c) In addition to any other penalty authorized by law, a violation of any of the restrictions described in subsection (b) shall be subject to penalties as provided in sections 200-14 and 200-14.5, Hawaii Revised Statutes.

(d) If any term or provision of this section, or the application thereof to any person or circumstance is found unenforceable or invalid to any extent, the remainder of this section or the application of such term or provision to persons or circumstances other than those to which it is held unenforceable or invalid, shall not be affected thereby, and each remaining term and provision of this section shall be valid and enforceable to the fullest extent permitted by law. [Eff 8/18/12; am 7/26/15; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4, 200-14, 200-14.5)

§13-256-74 Kailua [~~Ocean Waters Restricted Zones.~~]ocean waters restricted zones. (a) Zone A Kailua ocean waters restricted zone is the area

encompassed by the boundaries of the zone shown on Exhibit "Y", dated June 7, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline at the extension of the western boundary of Kailua Beach Park; then along the low water mark of the shoreline in a eastern direction for a distance of three hundred feet; then by ~~[azimuth]~~azimuths measured clockwise from True South, 180 degrees for a distance of one thousand one hundred fifty feet; 090 degrees for a distance of three hundred feet; then by a straight line to the point of beginning.

Zone A Kailua ocean waters restricted zone is designated for windsurfing. No person shall operate a motorboat and no person shall swim in the zone when used by windsurfers.

(b) Zone B Kailua ocean waters restricted zone is the area encompassed by the boundaries of the zone shown on Exhibit "Y", dated June 7, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the center of the bridge of Kawaihoa Road at the entrance to Kaelepulei Pond; then for fifty feet either side of a line by ~~[azimuth]~~azimuths measured clockwise from True South, 240 degrees for a distance of one thousand feet.

Zone B Kailua ocean waters restricted zone is designated an ingress/egress zone for manually propelled vessels. Swimming in the zone is prohibited when in use by vessels. [Eff 2/24/94; am 12/31/18; am and comp] (Auth: HRS §200-4)
(Imp: HRS §§200-2, 200-3, 200-4)

§13-256-75 Waimanalo [~~Ocean Waters Restricted Zones.~~]ocean waters restricted zones. (a) Zone A Waimanalo restricted zone.

(1) Zone A Waimanalo [Ocean Waters]ocean waters restricted zone means the area confined by

the boundaries shown for said zone on Exhibit "AA", dated June 30, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point on the low water mark of the shoreline which is six hundred feet south of the south bank of the mouth of Waimanalo Stream; then by [~~azimuth~~] azimuths measured clockwise from True South, 265 degrees for a distance of one hundred feet; 355 degrees for a distance of five hundred feet; 085 degrees to a point on the low water mark of the shoreline; then along the low water mark in a northerly direction to the point of beginning.

(b) Zone B Waimanalo [~~Restricted Zone.~~] restricted zone.

(1) Zone B Waimanalo restricted zone means the area confined by the boundaries shown for said zone on Exhibit "AA", dated June 30, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point on the low water mark of the shoreline which measures one thousand four hundred fifty feet in a southerly direction, along the low water mark from the south boundary of Zone A; then by [~~azimuth~~] azimuths measured clockwise from True South, 256 degrees for a distance of one hundred feet; 340 degrees for a distance of five hundred feet; 075 degrees to a point on the low water mark of the shoreline; then along the low water mark in a northerly direction to the point of beginning.

(c) Zone C Waimanalo [~~Restricted Zone.~~] restricted zone.

(1) Zone C Waimanalo restricted zone means the area confined by the boundaries shown for said zone on Exhibit "AA", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone C are as follows:

Beginning at a point on the low water

mark of the shoreline which measures nine hundred fifty feet, along the low water mark of the shoreline in a northerly direction from the extension of Aloiloi Street at the shoreline; then northward along the low water mark for a distance of five hundred feet; then by [~~azimuth~~azimuths measured clockwise from True South, 240 degrees for a distance of one hundred feet; 320 degrees for a distance of five hundred feet; 055 degrees to a point on the low water mark of the shoreline; then by a straight line to the point of beginning.

(d) Zones A, B and C Waimanalo restricted zones are designated for swimming and bathing. No person shall operate or moor a vessel, surfboard, or sailboard within these zones. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-76 Makapuu [~~Ocean Waters Restricted Zones.~~]ocean waters restricted zones. (a) Zone A Makapuu restricted zone.

- (1) Zone A Makapuu restricted zone means the area confined by the boundaries shown for said zone on Exhibit "BB", dated June 30, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:
Beginning at a point on the low water mark of the shoreline south of the Makai Range Pier in line with the channel range lights; then by [~~azimuth~~azimuths measured clockwise from True South, 213 degrees for a distance of one hundred feet; 120 degrees for a distance of five hundred seventy feet; 033 degrees to a point on the low water mark of the shoreline; then along the low water mark in a northerly direction to the point of beginning.
- (2) Restriction. Zone A Makapuu restricted zone

is designated for swimming and bathing. No person shall operate or moor a vessel, surfboard, or sailboard within this zone.

- (b) Zone B Makapuu Restricted Zone.
- (1) Zone B Makapuu restricted zone means the area confined by the boundaries shown for said zone on Exhibit "BB", dated, June 30, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:
 - Beginning at a point on the low water mark of the eastern tip of Manana Island; then by a straight line to the northeastern tip of Kaohikaipu Island; then along the low water mark in a westerly direction to the western tip of the island; then by a straight line to the low water mark at the western tip of Manana Island; then along the low water mark in a easterly direction to the point of beginning.
- (2) Restriction. No person shall operate a vessel at a speed in excess of slow-no-wake in this zone. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-77 Kaneohe recreational thrill craft zone. (a) The recreational thrill craft zone is the area encompassed by the boundaries of the zone shown on Exhibit "V", dated April 16, 2001, located at the end of this subchapter and incorporated herein. The boundaries of Zone K are as follows:

Beginning at a point in the water at approximately 21° 28' 23.5" N / 157° 48' 27" W, that intersects the Kaneohe Sampan channel range extending seaward with an azimuth measured clockwise from True South of 217 degrees, and a straight line drawn to a point in the water at approximately 21° 30' 42" N / 157° 48' 52" W, that intersects Kaneohe ship channel range extending seaward with an azimuth measured

clockwise from True South of 227 degrees, establishing the southwestern boundary of the zone. The northwestern boundary of the zone is the straight line that is an extension seaward of the Kaneohe ship channel range with an azimuth measured clockwise from True South of 227 degrees to the limit of the territorial sea. The southeastern boundary of this zone is the straight line that is an extension seaward of the Kaneohe Sampan channel range with an azimuth measured clockwise from True South of 217 degree to the limit of the territorial sea. As an aid in locating the southwestern boundary, it exists between the Kaneohe Sampan channel and Kaneohe Ship channel ranges along a straight line which can be seen by sighting a straight line between Pyramid Rock which is located at approximately 21° 27' 42" N / 157° 45' 48" W, and Kaoio Point which is located at approximately 21° 32' 03" N / 157° 50' 16" W. This zone is designated as a recreational thrill craft zone. Other vessels shall exercise caution when transiting this area. [Eff 2/24/94; am 11/7/11; comp]
(Auth: HRS §§200-22, 200-24, 200-37, 200-39)
(Imp: HRS §§200-22, 200-23, 200-24, 200-37, 200-39)

§§13-256-78 to 13-256-85 (Reserved)

SUBCHAPTER 6

SOUTH OAHU OCEAN RECREATION MANAGEMENT [~~AREAS~~] AREA

§13-256-86 Definition. The "South Shore Oahu Ocean Recreation Management Area" means all ocean waters and navigable streams from Makapuu Point to the west boundary of the Honolulu International Airport Reef Runway, Oahu, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "CC", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-87 Hanauma Bay [~~Restricted Zone~~] restricted zone. (a) The Hanauma Bay [~~Restricted Zone~~] restricted zone means the area confined by the boundaries shown for said zone on Exhibit "DD", dated August 15, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark at Palea Point then by [~~azimuth~~] azimuths measured clockwise from True South, 23 degrees 15 minutes and 50 seconds for a distance of one thousand nine hundred forty-six feet to Paioluolu Point; then along the shoreline of Hanauma Bay to the point of beginning.

(b) Restriction: Hanauma Bay is designated a swimming and snorkeling zone. No watercraft of any description shall operate or moor in this zone, except a person (1) engaged in law enforcement, rescue or other operations essential to preserve life or property; (2) engaged in research or other activities pursuant to a permit issued by the department of land and natural resources. [Eff 2/24/94; am and

comp] (Auth: HRS §200-4) (Imp: HRS
§§200-2, 200-3, 200-4)

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

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

(b) Commercial ocean recreation activities shall be restricted within Maunalua Bay waters as follows:

- (1) No commercial operator shall operate a thrill craft, engage in parasailing, water sledding or commercial high speed boating, operate a motorized vessel towing a person engaged in parasailing, or operate a motorboat towing a person engaged in water sledding during all weekends, and state or federal holidays.
- (2) All commercial ocean recreation activities in Maunalua Bay waters are prohibited on [~~Sunday~~]Sundays, effective January 1, 1991.

(c) Zone A [~~Restricted Zone~~]restricted zone is the area encompassed by the boundaries shown of the zone on Exhibit "EE", dated February 7, 1990, and located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point in the water, by [~~azimuth~~]azimuths measured clockwise from True South, which is 325 degrees for a distance of two thousand three hundred twenty-five feet from a point on the low water mark on the east side of Maunalua Bay boat ramp; then on a radius of two

hundred feet around that point.

(d) Zone B [~~Restricted Zone~~] restricted zone is the area encompassed by the boundaries shown of the zone on Exhibit "EE", dated February 7, 1990, and located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point in the water, by [~~azimuth~~] azimuths measured clockwise from True South, which is 330 degrees for a distance of one thousand six hundred eighty feet from a point on the low water mark on the east side of Maunaloa Bay boat ramp; then on a radius of two hundred feet around that point.

(e) Zone C [~~Restricted Zone~~] restricted zone is the area encompassed by the boundaries shown of the zone on Exhibit "EE", dated February 7, 1990, and located at the end of this subchapter. The boundaries of Zone C are as follows:

Beginning at a point in the water, by [~~azimuth~~] azimuths measured clockwise from True South, which is 340 degrees for a distance of two thousand five hundred fifty feet from a point on the low water mark on the east side of Maunaloa Bay boat ramp; then on a radius of two hundred feet around that point.

Zones A, B and C are designated commercial thrill craft operating zones. No commercial operator permittee shall operate more than six rental thrill craft within each designated area at any one time. No commercial thrill craft shall be operated within Zones A, B and C except between the hours of 0900 (9:00 a.m.) and 1700 (5:00 p.m.), Mondays through Fridays. No commercial thrill craft shall be operated within Zones A, B and C on Saturdays, Sundays and state or federal holidays.

(f) Zone D [~~Restricted Zone~~] restricted zone is the area encompassed by the boundaries shown of the zone on Exhibit "EE", dated February 7, 1990, and located at the end of this subchapter. The boundaries of Zone D are as follows:

Beginning at a point in the water, by

~~[azimuth]~~azimuths measured clockwise from True South, which is 012 degrees for a distance of seven hundred fifty feet from a point on the low water mark on the east side of Maunalua Bay boat ramp; then on a radius of two hundred feet around that point.

Zone D is designated a recreational thrill craft operating zone for use by inexperienced operators only. Commercial thrill craft operations are prohibited.

(g) Zone E [~~Restricted Zone~~]restricted zone is the area encompassed by the boundaries shown of the zone on Exhibit "EE", dated February 7, 1990, and located at the end of this subchapter. The boundaries of Zone E are as follows:

Beginning at a point in the water, by ~~[azimuth]~~azimuths measured clockwise from True South 076 degrees for a distance of four thousand one hundred feet from Buoy "1", then 076 degrees for a distance of eight thousand four hundred feet; 168 degrees for a distance of one thousand four hundred fifty-five feet; 259 degrees for a distance of eight thousand five hundred eighty feet; then in a straight line to the point of beginning.

Zone E is designated a recreational thrill craft zone. No person shall operate a commercial thrill craft within this area. Other vessels shall exercise caution when transiting this area. This zone shall be closed to all thrill craft operations during the whale season, from December 15 to May 15 of the following year.

(h) Zone F [~~Restricted Zone~~]restricted zone is the area encompassed by the boundaries shown of the zone on Exhibit "EE", dated February 7, 1990, and located at the end of this subchapter. The boundaries of Zone F are as follows:

Beginning at a point in the water at Buoy "1", by ~~[azimuth]~~azimuths measured clockwise from True South, then 157 degrees for a distance of one thousand nine hundred thirty-five feet; 092 degrees for a distance of one thousand nine

hundred five feet; 085 degrees for a distance of three thousand three hundred feet; 075 degrees for a distance of four thousand two hundred eighteen feet; 347 degrees for a distance of two thousand four hundred feet; 259 degrees for a distance of eight thousand eight hundred eighty feet; 000 degrees for a distance of eight hundred eighty-five feet; then by a straight line to a point of beginning.

No person shall operate a vessel within this area at a speed in excess of slow-no-wake. This is a green sea turtle resting and foraging area.

(i) Zone G Maunalua Bay [~~Parasail Zone~~]parasail zone is the area encompassed by the boundaries shown of the zone on Exhibit "FF", dated May 15, 1990, and located at the end of this subchapter. The boundaries of Zone G are as follows:

Beginning at entrance buoy "1" to the Hawaii-Kai Marina and Maunalua Bay boat launching ramp, establishing the eastern boundary along the extended centerline of the Ku'i channel entrance; then by straight line to buoy R-2 off Diamond Head, establishing the western boundary.

Zone G Maunalua Bay [~~Parasail Zone~~]parasail zone is designated for parasail operations. All operating parasail vessels shall remain seaward of the boundary line. No more than two commercial operating area use permits for parasailing operations shall be authorized for this zone. No permittee shall operate more than one vessel with a parasail aloft at any one time. No person shall operate within one thousand feet of any buoy when the parasail is aloft. All other vessels using this area shall exercise extreme caution. This zone, except for that portion which is encompassed by alternate parasail zone G1, shall be closed to parasail operations from January 6 to May 15 of each year.

(j) Zone G1 Maunalua Bay [~~Alternate Parasail Zone~~]alternate parasail zone is the area encompassed by the boundaries shown on Exhibit "FF", dated May 15, 1990, and located at the end of this subchapter. The boundaries of Zone G1 are as follows:

Beginning at a point on the eastern boundary of Zone G at the intersection of the straight line following a line from Kawaihoa Point at Koko Head to buoy R-2 off Diamond Head, establishing the shoreward boundary; then at a point on the shoreward boundary intersected by a line on a bearing of 000 degrees to the Kahala Hilton Hotel establishing the western boundary.

Zone G1 Maunalua Bay [~~Alternate Parasail Zone~~] alternate parasail zone is that portion of parasail Zone G which is designated for parasail operations from January 6 to May 15 of each year. No permittee shall operate more than one parasail vessel within this zone during this period. No parasail vessel shall exceed the speed of 18 knots within this zone. All other vessels using this area shall exercise caution.

(k) Zone H [~~Ingress-egress~~] ingress-egress corridor means the area encompassed by the boundaries shown on Exhibit "HH", dated August 19, 1988, and located at the end of this subchapter. The boundaries of Zone H are as follows:

Beginning at a point at the shoreward western boundary of Maunalua Beach Park boat ramp; then by [~~azimuth~~] azimuths measured clockwise from True South, 120 degrees for a distance of seventy-five feet, 030 degrees for a distance of one hundred feet to a point in the water; 120 degrees for a distance of one hundred feet to a point in the water; 218 degrees for distance of one hundred feet to a point on land; then in a straight line to the point of beginning.

Zone H is designated for recreational thrill craft ingress-egress to the ocean waters of Maunalua Bay. No person shall operate or moor a vessel, surfboard, or sailboard within this area.

(l) Zone I means the area encompassed by the boundaries shown on Exhibit "HH", dated August 19, 1988, and located at the end of this subchapter. The boundaries of Zone I are as follows:

Beginning at a point in the water 270

degrees by ~~[azimuth]~~ azimuths measured clockwise from True South, at a distance of twenty-five feet from daybeacon R"2" of Ku'i channel; then 270 degrees for a distance of three hundred feet, 025 degrees for a distance of one thousand one hundred twenty-five feet; 090 degrees for a distance of three hundred feet; then in a straight line to the point of beginning.

Zone I is designated for recreational water skiing and commercial water sledding. Only one commercial operating area use permit shall be issued for this zone for safety purposes.

(m) Maunalua Bay, Ku'i Channel speed restrictions.

- (1) The speed of any watercraft shall not exceed 10 knots when within the confines of the Ku'i channel as shown on Exhibit "GG", dated May 15, 1990, located at the end of this Subchapter, and described as follows:

Beginning at a line drawn between buoys R"2" and G"1A", then through each and every daybeacon in ascending order to daybeacons R"8" and G"9".

- (2) The speed of any watercraft shall not exceed 5 knots when within the confines of the Ku'i channel as shown on Exhibit "GG", dated May 15, 1990, and located at the end of this subchapter. The boundaries are described as follows:

Beginning at a line drawn between buoys R"8" and G"9", then through each and every daybeacon and buoy in ascending order to the boundaries of Hawaii Kai Marina Bridge, May Way Bridge and Kuli'ou'ou Stream. [Eff 2/24/94; am 12/31/18; am and comp] (Auth: HRS §§200-22, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)

**§13-256-89 Waialae-Kahala [~~Restricted~~
~~Areas.] restricted areas.~~** (a) The Waialae-Kahala
~~[Swimming Area]~~ swimming area A.

- (1) The Waialae-Kahala swimming area A means the area confined by the boundaries shown for said zone on Exhibit "II", dated August 19, 1988 located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark at the southern tip of the Waialae Nui Stream groin, then by ~~[azimuth]~~ azimuths measured clockwise from True South; 205 degrees for a distance of five hundred fifty feet to a point in the water; then in a straight line to the southern tip of the rocky peninsula; then along the low water mark in a westerly direction to the point of beginning.

(b) The Waialae-Kahala ~~[Swimming Area]~~ swimming area B.

- (1) The Waialae-Kahala swimming area B means the area confined by the boundaries shown for said area on Exhibit "II", dated August 19, 1988 located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark at the southern tip of the rocky peninsula then by ~~[azimuth]~~ azimuths measured clockwise from True South; 340 degrees to the north tip of the islet; then along the low water mark on the eastern portion of the islet to the southeast tip; then in a straight line to the southern tip of the groin at the eastern boundary of the Kahala Hilton Hotel; then following the low water mark in a westerly direction to the point of beginning.

- (2) Restrictions. The Waialae-Kahala swimming areas A and B are designated for swimming and bathing and the use of water sports equipment. No person shall operate or moor a vessel, except as provided for in subsection (d), or surfboard, or sailboard within this area.

(c) Waialae-Kahala [~~Ingress-Egress Corridor.~~] ingress-egress corridor.

- (1) The Waialae-Kahala ingress-egress corridor means the area confined by the boundaries shown for said area on Exhibit "II", dated, August 19, 1988 located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline which is adjacent to the east side of the groin at Waialae Beach Park; then by [~~azimuth~~] azimuths measured clockwise from True South, 006 degrees to the seaward end of the groin and the boat channel; then 253 degrees for a distance of one hundred forty feet along the boat channel; then 186 degrees to the low water mark of the shore; then along the shoreline to the point of beginning.

- (2) Restrictions. The Waialae-Kahala ingress-egress corridor is designated for use by windsurfing and manually propelled water sports equipment.

(d) Waialae-Kahala [~~Beach Boat Channel.~~] beach boat channel.

- (1) The Waialae-Kahala beach boat channel means the area confined by the boundaries shown on Exhibit "II", dated, August 19, 1988 located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark at the southern tip of the Waialae Nui Stream groin, then by [~~azimuth~~] azimuths measured clockwise from True South, 205 degrees for a distance five hundred fifty feet, coincident with [~~Swimming Area~~] swimming area A boundary; then in a straight line to the low water mark at the [~~south eastern~~] southeastern tip of the rocky peninsula; then along the low water mark of the rocky peninsula and shoreline to a point one hundred twenty-five feet east of the rocky peninsula; then 343 degrees in a

straight line to intersect [~~Swimming Area~~]
swimming area B boundary; then along
[~~Swimming Area~~]swimming area B boundary to
the northern tip of the islet; then 160
degrees for a distance of four hundred
twenty-five feet; then 025 degrees for a
distance of four hundred seventy-five feet;
then in a northwesterly direction to the
point of beginning.

- (2) Restrictions. The Waialae-Kahala beach boat
channel is designated for use by commercial
vessels, operating under contract with the
Kahala Hilton Hotel and holding a valid
commercial use permit from the department.
The operation of any other vessel is
prohibited within this area. [Eff 2/24/94;
am and comp] (Auth:
HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-90 Diamond Head [~~Restricted~~

~~Area.] restricted area.~~ (a) The Diamond Head
[~~Restricted~~]restricted area means the area confined by
the boundaries shown for said area on Exhibit "JJ",
dated September 19, 1988, located at the end of this
subchapter, the boundaries are as follows:

Beginning at a point at the low water mark of
the shoreline on the western boundary of the
Diamond Head Lighthouse; then by [~~azimuth~~]
azimuths measured clockwise from True South, 345
degrees for a distance of two thousand eight
hundred eighty feet; 253 degrees for a distance
of two thousand two hundred fifty feet; then by a
straight line to a point at the low water mark at
the most eastern boundary of Diamond Head Beach
Park; then along the low water mark in a westerly
direction to the point of beginning.

(b) Restrictions. The Diamond Head [~~Restricted~~
~~Area~~]restricted area is designated for surfboards,
sailboards and manually propelled vessels. No person
shall operate a motorized vessel within this area.

[Eff 2/24/94; am and comp] (Auth:
HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-91 Waikiki [~~Ocean Waters Restricted Zones.~~]ocean waters restricted zones. (a) Waikiki [~~Speed Zone.~~]speed zone. Waikiki speed zone means the area confined by the boundaries shown for said zone on Exhibit "KK", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water of the shoreline at the southern tip of Magic Island on a straight line to the Ala Wai [~~Entrance Buoy G "1",~~]entrance buoy G-1, then on a straight line to Diamond Head [~~Buoy R "2",~~]buoy R-2, then on a straight line toward Diamond Head Lighthouse to intersect the Diamond Head windsurfing zone boundary, then along the boundary to the low water mark at Diamond Head Beach Park, then along the low water mark following the shoreline to the point of beginning.

Restriction. No person shall operate a vessel or watercraft within the Waikiki speed zone at a speed in excess of slow-no-wake. Vessel operators shall exercise caution while transiting the area due to heavy use by swimmers.

(b) Waikiki [~~Commercial Thrill Craft Zone~~]commercial thrill craft zone A.

Waikiki [~~Thrill Craft Zone~~]commercial thrill craft zone A means the area confined by the boundaries shown on Exhibit "KK", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water by [~~azimuth~~]azimuths measured clockwise from True South, 045 degrees for a distance of three thousand six hundred feet from the low water mark of the tip of the groin at the southern boundary of Fort DeRussy Beach Park; then on a radius of two hundred feet around that point.

(c) Waikiki [~~Commercial Thrill Craft Zone~~] commercial thrill craft zone B.

Waikiki [~~Commercial Thrill Craft Zone~~] commercial thrill craft zone B means the area confined by the boundaries shown for said zone on Exhibit "KK", dated June 30, 1988, located at the end of this subchapter, which boundaries are described as follows:

Beginning at a point in the water by [~~azimuth~~] azimuths measured clockwise from True South, 025 degrees for a distance of three thousand eight hundred feet from the low water mark of the tip of the groin at the southern boundary of Fort DeRussy Beach Park; then on a radius of two hundred feet around that point.

(d) Restrictions. Waikiki [~~Commercial Thrill Craft Zone~~] commercial thrill craft zones A and [Zone] B are designated commercial thrill craft areas. No commercial operator permittee shall operate more than six rented thrill craft within it assigned area at any one time. [Eff 2/24/94; am 12/31/18; am and comp] (Auth: HRS §§200-24, 200-37) (Imp: HRS §§200-23, 200- 24, 200-37)

§13-256-92 South Shore [~~Parasail Area~~] parasail area. (a) South Shore [~~Parasail Area~~] parasail area is the area defined on Exhibit "LL", dated February 7, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at buoy R-2 of Kalihi Channel entrance; then by straight line to buoy G-1 of the Ala Wai channel; then by straight line to buoy R-2 off Diamond Head.

(b) South Shore [~~Parasail Area~~] parasail area is designated for the operation of parasail vessels. No more than four commercial operating area use permits shall be authorized in this area. No permittee shall operate more than one vessel with a parasail aloft at any one time. All operating parasail vessels shall remain seaward of the boundary line. No person shall operate a parasail aloft within one thousand feet of

any channel entrance buoys. All other vessels using this area shall exercise extreme caution. This area shall be closed to parasail operations from January 6 to May 15 of each year.

(c) South Shore [~~Alternate Parasail Area~~] alternate parasail area is the area defined on Exhibit "LL", dated February 7, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at buoy R-2 of Kalihi Channel entrance; then by straight line to buoy R-2 off Diamond Head.

(d) South Shore [~~Alternate Parasail Area~~] alternate parasail area is designated for parasail operations from January 6 to May 15 of each year. No more than four parasail vessels shall be operated within this area during this period. All parasail vessels with parasail aloft, shall remain seaward of the boundary line. No person shall operate a parasail aloft within one thousand feet of any channel entrance buoys. All other vessels using this area shall exercise extreme caution. [Eff 2/24/94; am and comp] (Auth: HRS §§200-22, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)

§13-256-93 Kahakaaulana Islet (Harris [~~Is-~~ Commercial Zone-]) Island) commercial zone. (a) Zone A

[~~Restricted Area~~] restricted area is the area encompassed by the boundaries shown of the zone on Exhibit "NN", dated June 6, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, by [~~azimuth~~] azimuths measured clockwise from True South, which is 123 degrees for a distance of five hundred twenty-five feet from a point on the low water mark on the eastern tip of Mokuoeo Island; then on a radius of two hundred feet around that point.

(b) Zone B [~~Restricted Area~~] restricted area is the area encompassed by the boundaries shown of the

zone on Exhibit "NN", dated June 6, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, by ~~[azimuth]~~ azimuths measured clockwise from True South, which is 208 degrees for a distance of four hundred fifty feet from a point on the low water mark on the eastern tip of Mokuoeo Island; then on a radius of two hundred feet around that point.

(c) Zone C ~~[Restricted Area]~~ restricted area is the area encompassed by the boundaries shown of the zone on Exhibit "NN", dated June 6, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, by ~~[azimuth]~~ azimuths measured clockwise from True South, which is 242 degrees for a distance of nine hundred feet from a point on the low water mark on the eastern tip of Mokuoeo Island; then on a radius of two hundred feet around that point.

(d) Zone D ~~[Restricted Area]~~ restricted area is the area encompassed by the boundaries shown of the zone on Exhibit "NN", dated June 6, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, by ~~[azimuth]~~ azimuths measured clockwise from True South, which is 115 degrees for a distance of six hundred forty-five feet from a point on the low water mark on the western tip of Mokuoeo Island; then on a radius of two hundred feet around that point.

(e) Zones A, B, C, and D are designated as commercial thrill craft zones. No commercial operator permittee shall operate more than six rented thrill craft within the assigned zones at any one time.

(f) Zone E restricted zone is the area encompassed by the boundaries shown on Exhibit "NN",

dated June 6, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the northern tip of Kahakaaulana [~~Islet (Harris Is.)~~] Islet, then by [~~azimuth~~] azimuths measured clockwise from True South, which is 180 degrees for a distance of three hundred sixty feet; 090 degrees for a distance of one thousand fifty feet; 000 degrees for a distance of one thousand two hundred seventy-five feet; then by a straight line to the shoreline at the south tip of Kahakaaulana [~~Islet (Harris Is.)~~] Islet.

(g) Zone E restricted zone is designated a commercial ocean activities zone for commercial sailing, windsurfing and diving. Vessels transiting this area shall exercise extreme caution when occupied by commercial activities. [Eff 2/24/94; am and comp] (Auth: HRS §§200-24, 200-37) (Imp: HRS §§200-23, 200-24, 200-37)

§13-256-94 Reef Runway Zone F. (a) The Reef Runway Zone F is the area encompassed by the boundaries shown of the zone on Exhibit "NN", dated June 6, 1989, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water by [~~azimuth~~] azimuths measured clockwise from True South, 323 degrees for a distance of four hundred fifty feet from the low water mark of the western boundary of the Reef Runway 8R; then 323 degrees for a distance of two thousand seven hundred sixty feet; 270 degrees for a distance of thirteen thousand seven hundred ten feet; 180 degrees for a distance of two thousand two hundred fifty feet; then by a straight line to the point of beginning.

(b) The Reef Runway Zone F is designated for recreational thrill craft operations. No person shall operate a commercial thrill craft within this area. Any vessel transiting this area shall exercise extreme

caution when occupied by recreational thrill craft.
[Eff 2/24/94; am and comp] (Auth:
HRS §§200-24, 200-37) (Imp: HRS §§200-23, 200-24, 200-
37)

§13-256-95 Koko Head and Makapuu commercial high speed boating zone. (a) The zone is the area defined on Exhibit "CC-1", dated May 15, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at point in the water, by
[~~azimuth~~]azimuths measured clockwise from True South, 312 degrees from Kawaihoa Point, establishing the southwest boundary extending seaward; then on a line not less than one thousand five hundred feet from the shoreline to Makapuu Point; then 311 degrees extending seaward from Makapuu Point, establishing the northeast boundary.

(b) This zone is designated for the operation of commercial high speed boats. No more than four commercial operating area use permits for high speed boats shall be issued in this zone. All operating commercial high speed boats shall remain seaward of the shoreward boundary as shown on Exhibit "CC-1". All other vessels transiting this zone shall exercise extreme caution. This zone shall be closed to commercial high speed boat operations during the whale season, from December 15 to May 15 of the following year. [Eff 2/24/94; am and comp]
(Auth: HRS §§200-22, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)

§13-256-96 Ke'ehi Lagoon canoe racing zone. (a) The Ke'ehi Lagoon canoe racing zone is the area encompassed by the boundaries of the zone shown on Exhibit "NN-1", dated August 15, 1990, and located at

the end of this subchapter. The boundaries of the zone are as follows:

Beginning at a point in the water, located by [~~azimuth~~]azimuths measured clockwise from True South, 043 degrees for a distance of one thousand ninety feet from the low water mark of the shoreline at the [~~Southwest~~]southwestern boundary of Ke'ehi Lagoon Beach [~~Park, ;~~]Park; then 235 degrees for a distance of two thousand eight hundred twenty-five feet; 325 degrees for a distance of nine hundred feet; 055 degrees for a distance of two thousand eight hundred twenty-five feet; then to the point of beginning.

(b) The Ke'ehi Lagoon canoe racing zone is designated for training and competitive Hawaiian canoe activities. No person shall anchor or moor a vessel in this zone at any time. [Eff 2/24/94; am and comp] (Auth: HRS §§200-24, 200-37) (Imp: HRS §§200-23, 200-24, 200-37)

§13-256-97 Ke'ehi Lagoon competitive water ski zone. (a) The Ke'ehi Lagoon competitive water ski zone is the area encompassed by the boundaries of the zone shown on Exhibit "NN-1", dated August 15, 1990, and located at the end of this subchapter. The boundaries of the zone are as follows:

Beginning at a point in the water, located by [~~azimuth~~]azimuths measured clockwise from True South, 000 degrees for a distance of ninety-five feet from the Kalihi Channel rear range light; then 048 degrees for a distance of one hundred eighty-five feet; 064 degrees for a distance of four hundred ten feet; 154 degrees for a distance of two thousand seven hundred forty feet; 244 degrees for a distance of four hundred fifty feet; then to the point of beginning.

(b) The Ke'ehi Lagoon competitive water ski zone is designated as a competitive waterski area. Individual recreational water ski activities shall be permitted except during scheduled competitive water

ski activities. No person shall anchor or moor a vessel in this zone at any time. [Eff 2/24/94; am and comp] (Auth: HRS §§200-24, 200-37) (Imp: HRS §§200-23, 200- 24, 200-37)

§§13-256-98 to 13-256-105 (Reserved)

SUBCHAPTER 7

WEST MAUI OCEAN RECREATION MANAGEMENT [~~AREAS~~]AREA

§13-256-106 Definition. The "West Maui Ocean Recreation Management Area" means all ocean waters and navigable streams from the northeast boundary of Honolua Bay to McGregor Point, Maui, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "00", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-107 Napili Bay [~~Restricted Area~~]restricted area. (a) The Napili Bay [~~Restricted Area~~]restricted area means the area confined by the boundaries shown for said area on Exhibit "PP", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline at the western tip of Kaelekii Point, then on a straight line across Napili Bay to a point at the low water mark at the north western point of Napili Bay, then along the low water mark of the shoreline in a southerly direction to the point of beginning.

(b) Restriction. The Napili Bay restricted area is designated for swimming and surfing. No person shall operate or moor a vessel within this area, except a vessel holding a valid mooring permit issued by the department. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-108 Lahaina-Kaanapali [~~Offshore Restricted Area.~~] offshore restricted area. (a) The Lahaina-Kaanapali [~~Offshore Restricted Area~~] offshore restricted area is the area encompassed by the boundaries shown of the area on Exhibit "QQ", dated October 24, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline between and in line with the Lahaina Harbor entrance range markers, by [~~azimuth~~] azimuths measured clockwise from True South, 045 degrees for a distance of three thousand one hundred twenty feet to a point in the water defining the southeastern boundary of the area; then 140 degrees for a distance of six thousand sixty feet; 180 degrees for a distance of six thousand three hundred feet; 167 degrees for a distance of twelve thousand three hundred feet, to a point in the water defining the northern boundary of the area.

(b) Restrictions. The Lahaina-Kaanapali [~~Offshore~~] offshore restricted area is designated as a parasailing area. Parasailing activity shall remain seaward of the described boundary when within three miles of the coastline, except when transiting to or from Lahaina Harbor, Mala ramp or a designated mooring area. No more than five commercial operating area use permits shall be issued for this zone. Persons operating vessels shall exercise due care when transiting this area. This area shall be closed to parasail operations from December 15 to May 15 of the following year. [Eff 2/24/94; am and

comp] (Auth: HRS §§200-22, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)

§13-256-109 Kaanapali [~~Commercial Thrill Craft Areas~~]commercial thrill craft areas. (a) The

Kaanapali [~~Commercial Thrill Craft Areas~~]commercial thrill craft areas are the areas encompassed by the boundaries shown of the areas on Exhibit "RR", dated March 1, 2002, and located at the end of this subchapter. The boundaries are as follows:

(1) Kaanapali [~~Commercial Thrill Craft Area~~]commercial thrill craft area 1.

The area within 200 yards of a line drawn between GPS position 20 degrees 54.170 minutes north latitude, 156 degrees 41.530 minutes west longitude and GPS position 20 degrees 54.340 minutes north latitude, 156 degrees 41.630 minutes west longitude.

(2) Kaanapali [~~Commercial Thrill Craft Area~~]commercial thrill craft area 2.

The area within 150 yards radius of GPS position 20 degrees 54.250 north latitude, 156 degrees 41.850 minutes west longitude.

(b) A maximum of three commercial thrill craft operating area permits may be issued for Kaanapali ocean waters. Notwithstanding the contrary provisions of sections 13-256-18, a person owning one or more business entities holding valid commercial thrill craft permits may consolidate all commercial thrill craft operations within Kaanapali [~~Commercial Thrill Craft Area~~]commercial thrill craft area 1; provided that no more than eighteen rental units and three safety units shall be operated at any one time. Kaanapali [~~Commercial Thrill Craft Area~~]commercial thrill craft area 2 is reserved for use by a single permittee. All support rafts or platforms shall be located within the operating area and shall display an anchor light at night.

(c) These areas shall be closed to all thrill craft operations during the whale season, from

December 15 to May 15 of the following year. [Eff
2/24/94; am 6/16/03; am and comp]
(Auth: HRS §§200-22, 200-24, 200-37) (Imp: HRS §§200-
6, 200-22, 200-23, 200-24, 200-37)

§13-256-110 Olowalu Beach [~~Restricted Area.~~]restricted area. (a) The Olowalu Beach [~~Restricted Area~~]restricted area means the area confined by the boundaries shown for said area on Exhibit "SS", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of Olowalu Beach which is by [~~azimuth~~]azimuths measured clockwise from True South, 256 degrees for a distance of three thousand feet from the southern tip of Hekili Point; then 360 degrees for a distance of five hundred feet; 295 degrees for a distance of three thousand feet; then 256 degrees to a point on the shoreline at the low water mark; then along the shoreline in a westerly direction to the point of beginning.

(b) Restrictions. This area is designated for swimming, snorkeling, scuba diving and shoreline fishing. No person shall operate or moor a vessel within this area. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-111 Kaanapali commercial water sledding zone. The Kaanapali commercial water sledding zone is encompassed by the boundaries shown on Exhibit "RR", dated October 24, 1990, and located at the end of this subchapter. The boundaries are described as follows:

Beginning at a point in the water located by [~~azimuth~~]azimuths measured clockwise from True South, 090 degrees for a distance of one thousand fifty feet from the western tip of Kekaa Point, coincident with the Kaanapali Shore Waters

boundary; then 090 degrees for a distance of one thousand seven hundred twenty-five feet to the parasail boundary; then 346 degrees for a distance of eight thousand three hundred twenty-five feet along the parasail boundary; then 241 degrees for a distance of one thousand six hundred eighty feet to the Kaanapali Shore Waters boundary; then along the Kaanapali Shore Waters boundary in a northerly direction to the point of beginning.

- (1) This area is designated for commercial water sledding. No more than two commercial operating area use permits for water sledding shall be issued for this zone.
- (2) This area shall be closed to all commercial water sledding operations during the whale season, from December 15 to May 15 of the following year. [Eff 2/24/94; am and comp] (Auth: HRS §§200-22, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)

§13-256-112 Maui [~~Humpback~~]humpback whale protected waters. The Maui [~~Humpback~~]humpback whale protected waters means the area encompassed by the boundaries shown on Exhibit "00-1", dated May 15, 1990, and located at the end of this subchapter. The boundaries are described as follows:

Beginning at the shoreline of the southwestern tip of Puu Olai Point, then by azimuths measured clockwise from True South, 082 degrees for a distance of two nautical miles; 141 degrees for a distance of nineteen nautical miles; 164 degrees for a distance of three nautical miles; 184 degrees for a distance of two and five-tenths nautical miles; 200 degrees for a distance of four and three-tenths nautical miles; 295 degrees to Hawea Point; then along the shoreline of west and south Maui to the point of beginning.

Between December 15 and May 15 of the following year during the whale season, no person shall operate a thrill craft, or engage in parasailing, water sledding or commercial high speed boating, or operate a motorboat towing a person engaged in water sledding or parasailing within this area. [Eff 2/24/94; am 12/31/18; am and comp] (Auth: HRS §§200-22, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)

§§13-256-113 to 13-256-115 (Reserved)

SUBCHAPTER 8

SOUTH MAUI OCEAN RECREATION MANAGEMENT AREA

§13-256-116 Definition. The "South Maui Ocean Recreation Management Area" means all ocean waters and navigable streams from the eastern boundary of La Perouse Bay to McGregor Point, Maui, Hawaii, extending three thousand feet seaward of the territorial sea base line as shown on Exhibit "TT", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§§13-256-117 to 13-256-125 (Reserved)

SUBCHAPTER 9

NORTH MAUI OCEAN RECREATION MANAGEMENT AREA

§13-256-126 Definition. The "North Shore Maui Ocean Recreation Management Area" means all ocean waters and navigable streams from the eastern boundary of Maliko Bay to Waihee Point, Maui, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "VV", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-127 Hookipa [~~Restricted Zones~~]restricted zones. (a) Zones A, B, C and D, Hookipa restricted zones means the areas confined by the boundaries shown for said zones on Exhibit "WW", dated August 20, 1988, located at the end of this subchapter. The boundaries are as follows:

- (b) Zone A, Hookipa restricted Zone.
 - (1) Beginning at a point at the low water mark at the northern tip of Hookipa Point; thence measured clockwise from True South, 075 degrees for a distance of seven hundred fifty feet; 360 degrees to the boundary of Zone D; then along the boundary of Zone D and the low water mark of the shoreline to the point of beginning.
 - (2) Restriction. Zone A is designated for swimming and surfing only. No person shall operate a sailboard or other water craft within this area.
- (c) Zone B, Hookipa restricted Zone.
 - (1) Beginning at a point at the low water mark at the northern tip of Hookipa Point; thence measured clockwise from True South, to a beginning point in the water 075 degrees for

a distance of seven hundred fifty feet; then continuing at 075 degrees for a distance of five hundred fifty feet; 360 degrees to the shoreline; then along the shoreline to Zone D and along the boundary of Zone D to the boundary of Zone A; then by straight line north to the point of beginning.

(2) Restriction. Zone B is designated for surfing when at least five or more persons (5-man rule) are engaged in surfing within this zone. No person shall operate a sailboard within this zone within the surf break area.

(d) Zone C, Hookipa restricted Zone.

(1) Beginning at a point at the low water mark at the northern tip of Hookipa Point; thence measured clockwise from True South, to a beginning point in the water 075 degrees for a distance of thirteen hundred feet; then continuing at 075 degrees for a distance of four hundred seventy-five feet; 360 degrees to the shoreline; then along the shoreline to the boundary of Zone B; then by straight line north to the point of beginning.

(2) Restriction. Zone C is designated for surfing when at least ten or more persons (10-man rule) are engaged in surfing within this zone. No person shall operate a sailboard within this zone within the surf break area. Access for sailboards between the surf break and the shoreline shall be provided at all times.

(e) Zone D, Hookipa restricted Zone

(1) Beginning at a point at the low water mark three hundred ninety feet from the western boundary of Hookipa Beach Park, thence measured clockwise from True South; 180 degrees for a distance of one hundred feet; 270 degrees for a distance of four hundred ten feet; 238 degrees for a distance of five hundred forty feet; then in a straight line to the shoreline; then along the shoreline to the point of beginning.

- (2) Restriction. Zone D is designated for pole and net fishing. No person shall operate a sailboard within this zone. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-128 Baldwin Park-Paia Bay [~~Restricted Area~~]restricted area. (a) The Baldwin Park-Paia Bay restricted area means the area confined by the boundaries shown for said zone on Exhibit "XX/YY", dated August 23, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark at the northern tip of Fly Water Point, then by [~~azimuth~~]azimuths measured clockwise from True South, 157 degrees for a distance of five hundred feet; 070 degrees for a distance of six thousand two hundred feet; 344 degrees to the low water mark of the shoreline; then along the low water mark of the shoreline in an easterly direction to the point of beginning.

(b) Restrictions. The Baldwin Park-Paia Bay restricted area is designated for swimming, diving and fishing. No person shall operate a motor vessel at a speed in excess of slow-no-wake, or operate a sailboard within this area. [Eff 2/24/94; am 12/31/18; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-129 Papa'ula Point [~~Restricted Zone~~]restricted zone. (a) Papa'ula Point [~~Restricted Zone mean~~]restricted zone means the area confined by the boundaries shown for said zone on Exhibit "ZZ", dated August 22, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark being an extension of the east boundary of

Kahului Airport thence by [~~azimuth~~]azimuths measured clockwise from True South; 155 degrees for a distance of one thousand six hundred seventy-five feet, 120 degrees for a distance of four hundred fifty feet; 080 degrees for a distance of nine hundred twenty-five feet; 350 degrees to the low water mark of the shoreline, then along the shoreline in an easterly direction to the point of beginning.

(b) Restriction. Papa'ula Point restricted zone is designated for fishing and diving. No person shall operate a vessel or sailboard within this area. Windsurfing access west of the restricted zone shall be permitted after 11:00 a.m.[-] [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-130 Kanaha Beach Park [~~Restricted Zones~~] restricted zones.

(a) Kanaha Beach Park [~~Swimming Zones~~]swimming zones A, B, and C mean the areas confined by the boundaries shown for said zones on Exhibit "AAA", dated August 20, 1988, located at the end of this subchapter. The boundaries are as follows:

(b) Swimming Zone A.

(1) Beginning at a point at the low water mark in line and being an extension of the east boundary of Kanaha Beach Park; thence by [~~azimuth~~]azimuths measured clockwise from True South, 180 degrees for a distance of three hundred feet; 228 degrees for a distance of seven hundred ten feet; 315 degrees to a point at the low water mark at the shoreline; then along the low water mark of the shoreline of Kanaha Beach Park in a westerly direction to the point of beginning.

(c) Swimming Zone B.

(1) Beginning at a point at the low water mark at the tip of the groin located by

~~[azimuth]~~azimuths measured clockwise from True South, 093 degrees for a distance of four hundred seventy feet from the east boundary of Kanaha Beach Park; 135 degrees for a distance of three hundred ten feet; 047 degrees for a distance of six hundred feet; 350 degrees to a point at the low water mark at the shoreline; then along the low water mark of the shoreline of Kanaha Beach Park in a easterly direction to the point of beginning.

- (d) Swimming Zone C.
- (1) Beginning at a point at the low water mark at the northeast tip of the groin located by ~~[azimuth]~~azimuths measured from True South, 090 degrees for a distance of one hundred fifty feet from the west boundary of Kanaha Beach Park; 180 degrees for a distance of three hundred feet; 248 degrees for a distance of eight hundred thirty feet; 315 degrees to a point at the low water mark at the shoreline; then along the low water mark of the shoreline of Kanaha Beach Park in a westerly direction to the point of beginning.

(e) Restrictions. The Kanaha Beach Park swim zones A, B, and C are designated for swimming only. No person shall operate a vessel or sailboard within these zones. No person shall launch a sailboard from Kanaha Beach Park prior to 11:00 a.m., except that windsurfing instruction and beginning windsurfing may be conducted within three hundred feet of the shoreline between swimming zones A and B after 9:00 a.m.[-] [Eff 2/24/94; am and comp]
(Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§§13-256-131 to 13-156-139 (Reserved)

SUBCHAPTER 10

EAST HAWAII ISLAND OCEAN RECREATION MANAGEMENT AREA

§13-256-140 Definition. The "East Hawaii Ocean Recreation Management Area" means all ocean waters and navigable streams from Lelewi Point, South Hilo, to Pepeekeo Point, North Hilo, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "BBB", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-256-141 Hilo Bay [~~Recreational Thrill Craft Zone.~~] recreational thrill craft zone. (a) Hilo Bay recreational thrill craft zone means the area confined by the boundaries shown on Exhibit "CCC", dated June 30, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point at the low water mark which is three thousand six hundred feet east of the tip of Hilo Breakwater; then by [~~azimuth~~] azimuths measured clockwise from True South, 005 degrees for a distance of one thousand one hundred feet; 095 degrees for a distance of three thousand nine hundred feet; 185 degrees for a distance of two thousand feet; 275 degrees for a distance of one thousand one hundred feet; 005 degrees to the low water mark on the seaward side of the breakwater; then along the low water mark to the point of beginning.

(b) Restrictions: This area is designated a recreational thrill craft zone. No person shall operate a commercial thrill craft in this area. [Eff 2/24/94; am and comp] (Auth: HRS

§§200-22, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)

§13-256-142 Waiakea [~~Access Corridor~~] access corridor. (a) The Waiakea [~~Access Corridor~~] access corridor means the area confined by the boundaries shown on Exhibit "DDD", dated August 19, 1988, located at the end of this subchapter. The boundaries of the corridor are as follows:

Beginning at a point at the low water mark at the north tip of the Wailoa River Channel; then by [~~azimuth~~] azimuths measured clockwise from True South, 187 degrees for a distance of four hundred fifty feet; 097 degrees for a distance of one hundred fifty feet; 007 degrees for a point at the low water mark of the shoreline; then along the shoreline to the point of beginning.

(b) Restrictions: The corridor is for access to the beach from Hilo Bay for recreational thrill craft and waterski activities. No person shall operate a commercial thrill craft or waterski activity in this corridor. [Eff 2/24/94; am and comp]
(Auth: HRS §§200-22, 200-24, 200-37) (Imp: HRS §§200-22, 200-23, 200-24, 200-37)

§13-256-143 Puhi Bay - Leleiwi Point [~~Restricted Zones~~] restricted zones. (a) Zone A.

(1) Zone A means the area confined by the boundaries shown on Exhibit "EEE", dated August 19, 1988, located at the end of this subchapter. The boundaries of Zone A are as follows:

Beginning at a point at the low water mark which is an extension of the center line of Pua Avenue; then by [~~azimuth~~] azimuths measured clockwise from True South, 220 degrees for a distance of one thousand six hundred feet; 310 degrees

to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

- (2) Restrictions. Zone A is designated as a swimming area. No person shall operate or moor a vessel within this area.
- (b) Zone B.
 - (1) Zone B means the area confined by the boundaries shown on Exhibit "EEE" dated August 19, 1988, located at the end of this subchapter. The boundaries of Zone B are as follows:

Beginning at a point at the low water mark on the shoreline which is the northeast boundary of Zone A; then by ~~[azimuth]~~azimuths measured clockwise from True South, 130 degrees for a distance of two hundred feet; 245 degrees for a distance of five hundred feet; 214 degrees for a distance of one thousand feet; 283 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.
- (c) Zone C.
 - (1) Zone C means the area confined by the boundaries shown on Exhibit "EEE" dated August 19, 1988, located at the end of this subchapter. The boundaries of Zone C are as follows:

Beginning at a point at the low water mark on the shoreline of Keokea Point; then by ~~[azimuth]~~azimuths measured clockwise from True South, 245 degrees for a distance of five hundred feet; 270 degrees for a distance of one thousand eight hundred feet; 359 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.
- (d) Zone D.
 - (1) Zone D means the area confined by the boundaries shown on Exhibit "EEE" dated August 19, 1988, located at the end of this

subchapter. The boundaries of Zone D are as follows:

Beginning at a point at the low water mark of Mahikea Island; then by [~~azimuth~~]azimuths measured clockwise from True South, 318 degrees for a distance of four hundred fifty feet; 290 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

- (2) Restrictions. Zones B, C and D are designated as [~~a~~] diving, swimming and surfing zones. No person shall operate or moor a vessel, except at a speed of slow-no-wake or when diving with dive flag displayed.

(e) Zone E.

- (1) Zone E means the area confined by the boundaries shown on Exhibit "EEE", dated August 19, 1988, located at the end of this subchapter. The boundaries of Zone E are as follows:

Beginning at a point at the low water mark of the shoreline by [~~azimuth~~]azimuths measured clockwise from True South, 054 degrees for a distance of five hundred feet from Richardson's Ocean Center; 045 degrees for a distance of two hundred feet; 074 degrees for a distance of four hundred feet; 177 degrees for a distance of eight hundred feet; 260 degrees to the low water mark on the shoreline; then along the low water mark to the point of beginning.

- (2) Restrictions. Zone E is designated as a surfing, canoeing, kayaking, diving and swimming zone. No person shall operate or moor a vessel within this zone, except at a speed of slow-no-wake or when diving with dive flag displayed.

(f) Zone F.

- (1) Zone F means the area confined by the boundaries shown on Exhibit "EEE", dated

August 19, 1988, located at the end of this subchapter. The boundaries of Zone F are as follows:

Beginning at a point at the low water mark of the shoreline which is the southeast boundary of Zone E; then along the low water mark to the southwest boundary of Zone E; then along the southern boundary of Zone E to the point of beginning.

- (2) Restrictions. Zone F is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone. [Eff 2/24/94; am and comp]
(Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§§13-256-144 to 13-256-149 (Reserved)

SUBCHAPTER 11

WEST HAWAII ISLAND OCEAN RECREATION MANAGEMENT AREA

§13-256-150 Definition. The "West Hawaii Ocean Recreation Management Area" means all ocean waters and navigable streams from the southernmost boundary of Honaunau Bay, South Kona, to the north west boundary of Honokoa Gulch, North Kohala, Hawaii, extending three thousand feet seaward of the territorial sea baseline as shown on Exhibit "FFF", dated August 15, 1988, located at the end of this subchapter. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: §§200-2, 200-3, 200-4)

§13-256-151 Honaunau Bay ~~[Swimming Zone]~~ swimming zone. (a) Honaunau Bay ~~[Swimming Zone]~~ swimming zone means the area confined by the boundaries shown on Exhibit "GGG", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows:
Beginning at a point at the low water mark on the shoreline which is four hundred feet east of Mana Point; then by ~~[azimuth]~~ azimuths measured clockwise from True South, 360 degrees for a distance of four hundred feet; 270 degrees for a distance of nine hundred feet; then along the low water mark to the point of beginning.
(b) Restrictions. Honaunau Bay ~~[Swimming Zone]~~ swimming zone is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: §§200-2, 200-3, 200-4)

§13-256-152 Kahaluu Bay ocean waters. (a)

Kahaluu Bay ocean waters means the area confined by the boundaries shown on Exhibit "H-5", dated November 20, 2014, located at the end of this [~~subchapter and incorporated herein.~~]subchapter. The boundaries are as follows: [~~Beginning at the low water mark of Kalaau o Kalakani Point at 19°34'37.81"N, 155°58'10.50"W; then to a point on the low water mark on the northern side of the Kahaluu Bay at Kamo Point at 19°35'09.24"N, 155°58'15.91"W; then along the shoreline in a southerly direction to the point of beginning.~~]

Beginning at the low water mark of Kalaau o Kalakani Point at 19°34'37.81"N, 155°58'10.50"W; then to a point on the low water mark on the northern side of Kahaluu Bay at Kamo Point at 19°35'09.24"N, 155°58'15.91"W; then along the shoreline in a southerly direction to the point of beginning.

[~~(1) Restrictions. Kahaluu Bay ocean waters is designated as a swimming, surf boarding, and diving zone.~~

~~(2)]~~

Kahaluu Bay ocean waters is designated as a swimming, surfing, and diving zone. No commercial water sports instruction or commercial tours [may] shall be conducted in Kahaluu Bay ocean waters without a permit from the department.

(b) Kahaluu Bay [~~Zone~~]ocean waters zone A is described as follows:

[~~Beginning at a point on the low water mark on the northern side of the shoreline at 19°34'59.48"N, 155°58'06.11"W (hand rail); then south-easterly along the shoreline to the north lifeguard tower at 19°34'48.67"N, 155°57'58.88"W; then seawards northwesterly to Pyramid Rock at 19°34'50.21"N, 155°58'07.98"W; then seawards north-easterly ending at the point of beginning.~~]

Beginning at a point on the low water mark on the northern side of the shoreline at 19°34'59.48"N, 155°58'06.11"W (hand rail); then southeasterly along the shoreline to the north

lifeguard tower at 19°34'48.67"N, 155°57'58.88"W; then seawards northwesterly to Pyramid Rock at 19°34'50.21"N, 155°58'07.98"W; then seawards northeasterly ending at the point of beginning.

- ~~[(1) Restrictions. Zone A is designated as a surfing zone.~~
- ~~(2) The department may issue a total of up to four permits for commercial surf school instruction within Zone A. Each permit shall authorize surf school instructors to conduct surfing instruction only within Zone A.~~
- ~~(3) Each instructor shall have no more than four students in the water at a given time, with a maximum of eight students per surf school permit in the water at any given time. The maximum of one to four instructor to student ratio must be maintained at all times while in the water.~~
- ~~(4) The instructor shall, at a minimum, possess a current advanced life saving certificate, and be authorized by the County of Hawaii to conduct surf instruction on County property at Kahaluu Bay.~~
- ~~(5) The department may designate the site of instruction with Kahaluu Bay Zone A and hours of operation for each permittee, and may change the site whenever such changes are found by the department to be necessary.]~~

Kahaluu Bay ocean waters zone A is designated as a surfing zone. At all times, no person shall operate or moor any motorized vessel in this zone.

All commercial activities of any type shall be prohibited in this zone, except that the department may issue commercial use permits to authorize commercial surfing instruction within this zone; provided that:

- (1) The total number of permits authorizing commercial surfing instruction issued under this subsection shall not exceed eight at any one time for Kahaluu Bay ocean waters

- zone A;
- (2) Each permit issued by the department pursuant to this subsection shall only authorize surfing instruction within Kahaluu Bay ocean waters zone A;
 - (3) No more than four permits shall authorize commercial surfing instruction from 0800 hours (8:00 a.m.) to 1200 hours (noon 12:00 p.m.), and no more than four permits shall authorize commercial surfing instruction from 1300 hours (1:00 p.m.) to 1700 hours (5:00 p.m.);
 - (4) No permittee may allow more than four students in the water at any one time per surfing instruction permit, regardless of the number of surf instructors of that permittee in the water;
 - (5) Each surf instructor shall, at a minimum, possess a current advanced life saving certificate; and
 - (6) The department may designate the site of surf instruction within Kahaluu Bay ocean waters zone A and hours of operation for each permittee. The department may change a designated site of operation within Kahaluu Bay ocean waters zone A whenever such changes are found by the department to be necessary for reasons of public health, safety, or welfare.

(c) Kahaluu Bay [~~Zone~~] ocean waters zone B is described as follows:

Beginning at Kalaau O Kalakani Point at 19°34'37.81"N, 155°58'10.50"W; then northeasterly along the shoreline to the north lifeguard tower at 19°34'48.67"N, 155°57'58.88"W; then seawards [~~north-westerly~~] northwesterly to Pyramid Rock at 19°34'50.21"N, 155°58'07.98"W; then seawards in a southerly direction ending at Kalaau O Kalakani Point at the point of beginning.

- ~~[(1) Restrictions. Zone B is designated as a swim zone.~~
- ~~(2) No person shall operate or moor any vessel~~

~~within this zone, including but not limited to boats, motorboats, surfboards, paddleboards, sailboards, kayaks, and canoes.]~~

Kahaluu Bay ocean waters zone B is designated as a swimming and diving zone. No person shall operate or moor any vessel within this zone, including, but not limited to, boats, motorboats, surfboards, paddleboards, sailboards, kayaks, and canoes. [Eff 2/24/94; am 4/22/16; am and comp]
(Auth: HRS §§200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-256-153 Kalaepaakai Point [~~Commercial Thrill Craft Zone~~] commercial thrill craft zone. (a) Zone A is the area encompassed by the boundaries shown on Exhibit "HHH", dated February 7, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark of Kalaepaaki Point; then by [~~azimuth~~] azimuths measured clockwise from True South, 078 degrees for a distance of seven hundred feet; then on a radius of two hundred feet around that point.

(b) Zone A is designated a commercial thrill craft area. No more than six rental thrill craft shall operate within the area at one time. [Eff 2/24/94; am and comp] (Auth: HRS §§200-22, 200-24, 200-37) (Imp: §§200-22, 200-24, 200-37)

§13-256-154 Oneo Bay [~~Swimming Zone~~] swimming zone. (a) Oneo Bay Swimming Zone means the area confined by the boundaries shown on Exhibit "HHH", dated February 7, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark of

Kalaepaakai Point; then by [~~azimuth~~]azimuths measured clockwise from True South, 157 degrees to the low water mark of the shoreline; then along the low water mark to the point of beginning.

(b) Restrictions. Oneo Bay Swimming Zone is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: §§200-2, 200-3, 200-4)

§13-256-155 Kailua Bay [~~Restricted Zones.~~]restricted zones. (a) Kailua Bay [~~Restricted Zone~~]restricted zone B is the area encompassed by the boundaries shown on Exhibit "HHH", dated February 7, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, by [~~azimuth~~]azimuths measured clockwise from True South, 341 degrees for a distance of two thousand one hundred ninety feet from the south tip of Kukailimoku Point; then 330 degrees for a distance of three thousand seven hundred fifty feet; 090 degrees for a distance of three thousand eight hundred forty feet; 210 degrees to the point of beginning.

(b) Kailua Bay [~~Restricted Zone~~]restricted zone B is designated for parasailing and recreational thrill craft. No person shall operate a commercial thrill craft in this zone. No more than two commercial operating area use permits for parasailing shall be issued for this zone. No permittee shall operate more than one vessel with a parasail aloft at any one time. This zone shall be closed to parasail and all thrill craft operations during the whale season, from December 15 to May 15 of the following year.

(c) Kailua Bay [~~Restricted Zone~~]restricted zone C, is designated for parasailing and recreational thrill craft. No permittee shall operate more than

one parasail vessel at any one time in this zone. This inshore operating zone shall be open to parasail and all thrill craft operations during the whale season from December 15 to May 15 of the following year. The inshore operating zone is the area defined on Exhibit "HHH", dated, February 7, 1990, and located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, measured clockwise from True South, 060 degrees at a distance of six hundred sixty feet from Kalaepaakai Point, then 330 degrees for a distance of three thousand five hundred forty feet; 090 degrees for a distance of one thousand seven hundred forty feet; then in a straight line to the point of beginning.

(d) Zone C shall be closed to parasail and all thrill craft operations from May 15 to December 15 of each year. [Eff 2/24/94; am and comp]
(Auth: HRS §§200-22, 200-24, 200-37) (Imp: §§200-22, 200-24, 200-37)

§13-256-156 Kailua Pier [Restricted Zones.] restricted zones. (a) Kailua Pier [~~Restricted Zones~~]restricted zones means the areas defined by the boundary lines as shown on Exhibit "III", dated June 30, 1988, located at the end of this subchapter. The boundaries are as follows:

(b) Zone A.

(1) Beginning at a point at the low water mark on the east side of Kailua Pier; then by [~~azimuth~~]azimuths measured clockwise from True South, 317 degrees for a distance of two hundred twenty feet; 336 degrees for a distance of three hundred twelve feet; 026 degrees 30 minutes for a distance of four hundred sixty-five feet; 158 degrees for a distance of three hundred four feet; 214 degrees for a distance of one hundred eighteen feet to the western seaward edge of

- Kailua Pier.
- (2) Restrictions. This area is designated for boating use only. Swimming is prohibited.
 - (c) Zone B.
 - (1) Beginning at a point at the low water mark on the east side of Kailua Pier; then by [~~azimuth~~]azimuths measured clockwise from True South; 317 degrees for a distance of two hundred twenty feet; 292 degrees for a distance of six hundred eighty-three feet to intersect with the low water mark fronting the western property line of Hulihee Palace; thence along the low water mark to the beginning.
 - (2) Restrictions. This area is designated a swimming zone. No person shall operate or moor a vessel within this zone, except for commercial fishing vessels engaged in baitfishing operations. Vessels operating near the shoreline of Kailua Bay between Hulihee Palace and the Kona Hilton Hotel shall exercise caution due to swimming activity. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: §§200-2, 200-3, 200-4)

§13-256-157 Honokohau [~~Swimming Zone~~] swimming zone. (a) Honokohau [~~Swimming Zone~~] swimming zone means the area confined by the boundaries shown on Exhibit "JJJ", dated August 15, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark located by [~~azimuth~~]azimuths measured from True South from the N. E. Range Marker at Noio Point 160 degrees for a distance of four hundred seventeen feet; then 243 degrees to a point at the low water mark of the shoreline south of Honokohau Harbor entrance; then along the shoreline in a southwesterly direction to the

point of beginning.

(b) Restrictions. Honokohau [~~Swimming Zone~~] swimming zone is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: §§200-2, 200-3, 200-4)

§13-256-158 Kua Bay [~~Swimming Zone~~] swimming zone. (a) Kua Bay [~~Swimming Zone~~] swimming zone means the area confined by the boundaries shown on Exhibit "KKK", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows: Beginning at the low water mark on the shoreline of Papiha Point; then by straight line to the low water mark at Punalua Point; then along the low water mark to the point of beginning.

(b) Restrictions. Kua Bay [~~Swimming Zone~~] swimming zone is designated as a swimming zone. No person shall operate or moor a vessel, surfboard, sailboard or other watercraft within this zone. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: §§200-2, 200-3, 200-4)

§13-256-159 Kahuwai Bay [~~Restricted Zone~~] restricted zone. (a) Kahuwai Bay restricted zone means the area confined by the boundaries shown on Exhibit "KKK", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark on the shoreline of southern boundary of the bay; then by [~~azimuth~~] azimuths measured clockwise from True South, 225 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

(b) Restrictions. Kahuwai Bay is designated a slow-no-wake zone. No person shall operate a vessel at a speed in excess of slow-no-wake. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: §§200-2, 200-3, 200-4)

§13-256-160 Kiholo Bay [~~Speed Zone.~~]speed zone.

(a) Kiholo Bay [~~Speed Zone~~]speed zone means the area confined by the boundaries shown on Exhibit "KKK", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the point on the low water mark of Nawaikulua Point; then by [~~azimuth~~]azimuths measured clockwise from True South, 065 degrees to a point on the low water mark of the shoreline; then along the low water mark to the point of beginning.

(b) Restrictions. No person shall operate a vessel in excess of a speed of slow-no-wake. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: §§200-2, 200-3, 200-4)

§13-256-161 Anaehoomalu Bay [~~Restricted Zones.~~]restricted zones. (a) Zone A.

(1) Zone A means the area confined by the boundaries shown on Exhibit "LLL", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline by [~~azimuth~~]azimuths measured clockwise from True South, 256 degrees for a distance of two hundred ninety feet from the westernmost tip of Lae O Hiiaka Point; then 177 degrees for a distance of six hundred feet; 260 degrees for a distance of three hundred feet; 324 degrees to a point on the low water mark on

the shoreline; then along the shoreline in a westerly direction to the point of beginning.

(b) Zone B.

(1) Zone B means the area confined by the boundaries shown on Exhibit "LLL", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the shoreline one hundred feet from the westernmost tip of the Kahapapa weir, then by ~~[azimuth]~~ azimuths measured clockwise from True South, 077 degrees for a distance of five hundred seventy-five feet; 155 degrees to a point on the low water mark on the shoreline; then along the shoreline in a southeasterly direction to the point of beginning.

(c) Restrictions. Anaehoomalu Bay [~~Restricted Zones~~] restricted zones A and B are designated for swimming and diving. No person shall operate or moor a vessel within these zones.

(d) Zone C, Ingress/egress corridor

(1) Zone C means the area confined by the boundaries shown on Exhibit "LLL", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point at the low water mark of the shoreline one hundred fifty feet from the westernmost tip of the Kahapapa weir, then by ~~[azimuth]~~ azimuths measured clockwise from True South, 065 degrees for a distance of six hundred fifty feet; 000 degrees for a distance of one hundred fifty feet; 245 degrees to a point on the low water mark on the shoreline; then along the shoreline in a northerly direction to the point of beginning.

(e) Restriction. Zone C is designated an ingress/egress corridor for vessels and sailboards.

[Eff 2/24/94; am and comp] (Auth:
HRS §200-4) (Imp: §§200-2, 200-3, 200-4)

**§13-256-162 Makaiwa Bay [~~Swimming~~
~~Zones.~~] swimming zones.**

Zone A means the area confined by the boundaries shown on Exhibit "MMM", dated July 10, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark of the shoreline on the northwestern tip to the entrance of the boat ramp; then by [~~azimuth~~] azimuths measured clockwise from True South, 110 degrees for a distance of seven hundred ten feet to a point of low water of the shoreline; then along the shoreline in a south and easterly direction to the point of beginning.

(b) Zone B.

Zone B means the area confined by the boundaries shown on Exhibit "MMM", dated July 10, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at the low water mark of the shoreline on the northeastern tip to the entrance of the boat ramp; then by [~~azimuth~~] azimuths measured clockwise from True South, 226 degrees for a distance of five hundred forty feet to a point of low water of the shoreline; then along the shoreline in a south and westerly direction to the point of beginning.

(c) Restrictions. The Makaiwa Bay swimming zones A and B are designated for swimming and diving. No person shall operate or moor a motor vessel within this zone. [Eff 2/24/94; am 12/31/18; am and comp] (Auth: HRS §200-4) (Imp: §§200-2, 200-3, 200-4)

§13-256-163 Hapuna Bay [~~Swimming Zone~~] swimming zone. (a) The Hapuna Bay [~~Swimming Zone~~] swimming zone means the area confined by the boundaries shown on Exhibit "NNN", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point in the water, by [~~azimuth~~] azimuths measured clockwise from True South, 311 degrees for a distance of four hundred feet; 268 degrees to a point on the low water mark of the shoreline; then along the low water mark in a southerly direction for a distance of one thousand three hundred feet; 088 degrees for a distance of one hundred feet; then by a straight line to the point of beginning.

(b) Restrictions. The Hapuna Bay [~~Swimming Zone~~] swimming zone is designated for swimming and diving. No person shall operate or moor a motorized vessel, within this zone. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: §§200-2, 200-3, 200-4)

§13-256-164 Kaunaoa Bay [~~Restricted Zones~~] restricted zones. (a) Zone A, Kaunaoa Bay Swimming Zone.

(1) Zone A means the area confined by the boundaries shown on Exhibit "NNN", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the low water mark of the northern boundary of Kaunaoa Beach five hundred forty feet from Kaaha Point, then in a straight line to the southern boundary of Kaunaoa Beach; then along the low water mark of the shoreline to the point of beginning.

(2) Restrictions. The Kaunaoa Bay [~~Swimming Zone~~] swimming zone is designated as a swimming and diving zone.

No person shall operate or moor a motorized vessel within this zone.

(b) Zone B, Kaunaoa Bay [~~Ingress/Egress Corridor~~]ingress/egress corridor. (1) Zone B means the area confined by the

boundaries shown on Exhibit "NNN", dated September 19, 1988, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the water which is measured clockwise by [~~azimuth~~]azimuths from True South, 360 degrees for a distance of five hundred fifty feet from the northern boundary of Kaunaoa Beach; 270 degrees to the low water mark of the shoreline; then along the shoreline in a southerly direction for one hundred fifty feet to the point of the northern boundary of the swimming zone; 090 degrees coincident to the northern swimming zone boundary to its seaward point; then in a straight line to the point of beginning.

(2) Restriction. Zone B is designated an ingress/egress corridor to the beach for commercial motorized vessels. No person shall operate a vessel in excess of slow-no-wake within this zone. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: §§200-2, 200-3, 200-4)

§§13-256-165 to 13-256-175 (Reserved) "

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

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. The amendments and compilation of chapter 13-256, 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