

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96813

September 9, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

STATEWIDE

SUBJECT: Request Approval to Initiate Rule-Making Proceedings to Amend Title 13, Sections 230-8 Definitions; 231-88 Offer of regular mooring permit valid only fourteen days; written notice of intention; acceptance; 234-1 General statement; 234-3 Mooring rates; 234-4 Mooring rates for offshore mooring and anchoring; 234-10 Electricity fee; 234-11 Shower fee; 234-12 Dry storage and vessel repair; 234-13 Gear locker fee; 234-15 Waiver of fees; 234-16 Permit processing fees; 234-18 Excessive water usage fee; 234-26 Passenger fees; 234-28 Negotiable instruments; service charge; 234-29 Vessel inspection fee; 234-31 Fee for commercial use of boat launching ramps and other boating facilities; and add Section 244-15.5 Operation of power driven vessels

PURPOSE: To (1) increase various fees associated with the use of DLNR small boat harbor facilities, such as moorings and launch ramps, and (2) requires that certain operators possess a certificate of completion from a National Association of State Boating Law Administrators approved course on the safe use and operation of power driven vessels

STATUTE: Chapter 200, Hawaii Revised Statutes

REMARKS:

In January 2009, DOBOR began a public outreach campaign regarding the proposed Hawaii Administrative Rules (HAR) amendments as part of the Recreational Renaissance Plan. At that time, the Division of Boating and Ocean Recreation (DOBOR) informed the public that it would be amending fees in order to ensure that basic operation costs were met and assist in the repair of facilities. During the public hearing process, DOBOR enlisted the help of review panels to gather input and recommendations regarding HAR amendments. Panels were a cross-section of the community.

On August 14, 2009, DOBOR requested preliminary approval from the Board of Land and Natural Resources (Board) to amend portions of Chapter 13, Sections 230-259, HAR for clarity, to correct longstanding management issues, and to facilitate management of harbors and

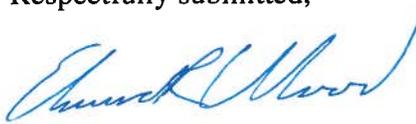
waterways under its purview. At that time, the Board requested that the amendments be broken up into more manageable sections. As such, this rule package consists of the following:

1. Increases fees associated with the use of DOBOR harbor facilities and services for mooring rates, electricity, showers, dry storage and vessel repair, gear lockers, waiver of fees, permit processing, excessive water usage, passenger fees on cruise ships, negotiable instruments and service charges, vessel inspection, and fees for the commercial use of boat launching ramps and other boating facilities. Most of the subject fees have not increased since these facilities were transferred over from the Department of Transportation in the early 1990's. The proposed increase in fees affect commercial and non-commercial users using DOBOR boating facilities.
2. Requires that certain operators possess a certificate of completion from a National Association of State Boating Law Administrators approved course on the safe use and operation of power driven vessels per Section 244-15.5 Operation of power driven vessels.

RECOMMENDATION:

1. Grant the Division of Boating and Ocean Recreation approval to initiate rule-making proceedings regarding amendments to Title 13, Sections 230-8, 231-88, 234-1, 234-3, 234-4, 234-10, 234-11, 234-12, 234-13, 234-15, 234-16, 234-18, 234-26, 234-28, 234-29, and 234-31 and add section 244-15.5 HAR as shown in Exhibit A.

Respectfully submitted,



Edward R. Underwood
Administrator

Attachment: Exhibit A

APPROVED FOR SUBMITTAL



William J. Aila, Jr.
Chairperson and Member

Amendments to Title 13, Subtitle 11
Ocean Recreation and Coastal Areas, Parts I and II
Hawaii Administrative Rules

SUMMARY

1. Sections 13-230-8, 13-231-88, 13-234-1, 13-234-3, 13-234-4, 13-234-10, 13-234-11, 13-234-12, 13-234-13, 13-234-15, 13-234-16, 13-234-18, 13-234-26, 13-234-28, 13-234-29, and 13-234-31 are amended
2. Section 13-244-15.5 is added

1. Section 13-230-8, Hawaii Administrative Rules, is amended by adding a new definition to read as follows:

“Tahiti Moor” means the mooring of a vessel where one end of the vessel is moored by a rope or chain attached to a buoy that is attached to a pile or device that includes, but is not limited to, an anchor, concrete block or similar device placed or dropped on submerged land. The other end of the vessel is moored to the facility that includes, but is not limited to, breakwaters, catwalk, piers, and docks where direct access can be made from the facility to the vessel either by gangway, plank, or stepping onto the vessel.” [Eff 2/24/94; am 4/27/02; am 6/16/03; am] (Auth: HRS §§200-2, 200-4, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-10, 200-22, 200-24)

2. Section 13-231-88, Hawaii Administrative Rules, is amended to read as follows:

“§13-231-88 Offer of regular mooring permit valid only fourteen days; written notice of intention; acceptance. (a) An applicant for a regular mooring permit may decline an offer to the applicant of a regular mooring permit and retain the applicant's seniority if the applicant declines the offer in writing addressed to and received by the department, not later than fourteen days after the date of receipt of the offer. An applicant who declines an offer in writing and retains the applicant's seniority pursuant to this section, shall not be considered for a second offer on the basis of the applicant's seniority until six months have elapsed since the date of the applicant's first refusal. If the applicant decides to accept the offer, the applicant shall either deliver a written notice of intention to accept the offer to the department within fourteen days after the date of receipt of the offer or accept the offer by securing a use permit, complying with the requirements of section 200-9 and moving the applicant's vessel

into the assigned berth within fourteen days after the receipt of the offer. The applicant's application for a use permit and the offer by the department of a use permit shall be void if the applicant fails to either move the applicant's vessel into the small boat harbor or to give notice of intent to accept or to decline the offer in writing within fourteen days after the date of receipt of the offer, and the use permit shall then be offered to the next senior applicant pursuant to this subchapter. An applicant's application for a regular mooring permit shall also be void if the applicant fails to accept the second offer of a regular mooring permit to use a berth, and the berth shall then be offered to the next senior applicant. Since time is of the essence, the offer delivered or mailed pursuant to section 13-231-87 shall contain a statement that the offer will lapse unless accepted in accordance with the procedures of this section. For the purposes of this subsection an applicant who declines a berth offered to the applicant as provided herein after presenting conclusive evidence to the department that for reasons of safety or navigation the berth offered to the applicant is unsuitable for the applicant's vessel shall not be classified as "an applicant who has declined the offer of a berth".

(b) An applicant who has delivered a written notice of intention to accept the offer to the department shall accept the offer by:

- (1) Securing a use permit for use of the berth offered to the applicant as prescribed in sections 13-231-2 and 13-231-3 within fourteen days after the applicant mails or personally delivers the notice of intention to accept to the department;
- (2) Otherwise complying with section 200-9, HRS, and sections 13-231-2 and 13-231-3; and
- (3) Moving the applicant's vessel into the assigned berth within fourteen days after the applicant mails or personally delivers the notice of intention to accept the offer to the department. Except as provided in subsection (c) the applicant's application

for a use permit, the offer by the State of a use permit and the applicant's notice of intention to accept the offer shall be void if the applicant fails to secure a use permit and to move the applicant's vessel into the applicant's assigned berth within fourteen days as prescribed herein, and the use permit shall then be offered to the next senior applicant in accordance with these rules.

(c) The department may extend the deadline for acceptance prescribed in subsection (b) if the applicant presents conclusive evidence to the department that the granting of additional time for compliance is reasonable and essential to prevent undue hardship, provided that any extension of time for compliance shall not exceed a period of one hundred twenty days from the date the department received from the applicant a written notice of intention to accept the offer of a use permit. This exception is only applicable to an applicant who has been offered a regular mooring permit.

(d) Should an applicant receive additional time for compliance and fail to bring in a vessel to occupy the accepted berth or mooring, the applicant shall pay \$250.00 per month, from the time of original acceptance until the one hundred and twentieth day lapses. [Eff 2/24/94] (Auth: HRS §§200-2, 200-4, 200-9, 200-10) (Imp: HRS §§200-2, 200-9, 200-10)

3. Section 13-234-1, Hawaii Administrative Rules, is amended by amending subsection (b) to read as follows:

"(b) Nothing contained in this subchapter shall be construed to limit the authority and power of the department to waive ~~[any fees]~~ or reduce any late charges and interest that may be incurred by a permittee, or to assess any reasonable fees and charges in addition to those specifically provided in this subchapter for trivial or infrequent uses of state property, facilities, or services[+] if fees for

the uses are not contained herein; [~~or~~] as the circumstances may warrant." [Eff 2/24/94; am 1/22/10; am] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §§200-2, 200-3, 200-4, 200-10)

4. Section 13-234-3, Hawaii Administrative Rules, is amended to read as follows:

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

- (1) Schedule A shall include existing mooring holders with an annual increase toward schedule B rates of twenty per cent per fiscal year; and
- (2) Schedule B shall apply to all new mooring applicants and transient slips on or after the effective date of [~~these~~] the 2010 rule amendments.

The mooring rate schedule in this subsection is per foot of vessel length overall per month effective upon the applicant's acceptance of the offer of an available berth. Mooring rates shall apply to the harbor facilities in the following categories:

Category "A," Ala Wai; Category "B," Kaunakakai, Keehi Lagoon, Honokohau, Maalaea, & Lahaina, [~~Category "C,"~~] Haleiwa, Heeia Kea, Waianae, Nawiliwili, Port Allen, Kailua-Kona, Keauhou, North and South Kawaihae, Wailoa, and Manele. [~~Category "D," Wailoa, Kikiaola, Kaunakakai, North Kawaihae, and Kukuiula; Category "E," South Kawaihae, Hana, & Hale O Lono.~~

~~TYPE OF MOORING AND STATE BOATING FACILITIES~~

~~A - Ala Wai~~

~~B - Keehi Lagoon, Honokohau, Maalaea, & Lahaina~~

~~C - Haleiwa, Heeia Kea, Waianae, Nawiliwili, Port Allen, Kailua-Kona, Keauhou, South Kawaihae & Manele~~

~~D - Wailoa, Kikiaola, Kaunakakai, North Kawaihae, & Kukuiula~~

~~E - South Kawaihae, Hana, Hale O Lono~~

Schedule A Mooring Rates:					
Category	A	B	[C]	[D]	[E]
Along catwalk:	\$5.67	\$4.32	[\$4.05]	[\$3.78]	[\$1.62]
[Bow-stern mooring] Tahiti Mooring: On state buoy, anchor or cable Minimum fee per month:	\$4.67 \$56.00	\$3.82 \$47.00	[\$3.55] [\$41.00]	[\$3.28] [\$39.00]	[\$1.62] [\$21.00]
On owner's buoy or anchor: Minimum fee per month:	\$2.97 \$39.00	\$2.48 \$36.20	[\$2.16] [\$33.50]	[\$2.00] [\$31.30]	[\$1.62] [\$21.00]
[In harbor basin: On state cable, buoy or anchor] Minimum fee per month:]	[\$4.32] [\$52.00]	[\$3.68] [\$43.00]	[\$3.24] [\$38.00]	[\$3.00] [\$35.00]	[\$1.62] [\$21.00]
[On owner's buoy or anchor: Minimum fee per month:]	[\$2.92] [\$35.60]	[\$2.27] [\$27.00]	[\$2.10] [\$25.40]	[\$2.05] [\$23.70]	[\$1.62] [\$21.00]
Skiff and dinghy moorings fore and aft, all types: Minimum fee per month:	\$1.95 \$26.00	\$1.84 23.20	[\$1.68] [21.35]	[\$1.57] [18.80]	[\$0.55] [\$5.25]
Work docks (per foot/vessel length/day) : Minimum fee per month:	\$0.60 \$7.50	\$0.55 \$6.50	[\$0.43] [\$5.40]	[\$0.38] [\$4.30]	[\$0.32] [\$3.25]

Schedule B Mooring Rates:					
Category	A	B	[C]	[D]	[E]
Along catwalk:	\$9.14	\$7.79	[\$7.52]	[\$7.25]	[\$5.09]
[Bow-stern mooring]	[\$5.12]	[\$4.17]	[\$3.87]	[\$3.58]	[\$1.75]
Tahiti Mooring:	<u>\$8.59</u>	<u>\$7.64</u>			
On state buoy, anchor or cable					
Minimum fee per month:	\$60.00	\$50.00	[\$45.00]	[\$42.00]	[\$22.00]
On owner's buoy or anchor:	[\$3.20] <u>\$6.67</u>	[\$2.68] <u>\$6.15</u>	[\$2.33]	[\$2.16]	[\$1.75]
Minimum fee per month:	\$42.00	\$39.00	[\$36.00]	[\$33.00]	[\$22.00]
[In harbor basin:	[\$4.67]	[\$4.00]	[\$3.50]	[\$3.25]	[\$1.75]
On state cable, buoy or anchor					
Minimum fee per month:]	[\$56.00]	[\$46.00]	[\$42.00]	[\$38.00]	[\$22.00]
[On owner's buoy or anchor:	[\$3.15]	[\$2.45]	[\$2.27]	[\$2.21]	[\$1.75]
Minimum fee per month:]	[\$38.50]	[\$29.00]	[\$27.00]	[\$25.00]	[\$22.00]

Skiff and dinghy moorings fore and aft, all types:	\$2.10	\$2.00	[\$1.81]	[\$1.70]	[\$0.60]
Minimum fee per month:	\$28.00	\$25.00	[\$23.00]	[\$20.00]	[\$5.50]
Work docks (per foot/vessel length/day):	\$0.65	\$0.60	[\$0.46]	[\$0.41]	[\$0.35]
Minimum fee per month:	\$8.00	\$7.00	[\$6.00]	[\$5.00]	[\$3.50]

(b) The mooring rate schedule in subsection (a) shall apply to single-hulled vessels, except as otherwise provided in this section, or in sections 13-234-5, 13-234-7 and 13-234-25.

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

(d) When more than one vessel occupies a single berth end to end, the charge shall be computed at the rate provided in subsection (a).

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

5. Section 13-234-4, Hawaii Administrative Rules, is amended to read as follows:

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

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

[(2) Offshore mooring and anchoring rates that will become effective on the first day of the first financial year, after the rates in paragraph (1) become effective, in which a CIP bond issue is funded for the small boat facilities:]		
[Vessel Length Overall]	[On State Buoy, Anchor or Cable]	[On Owner's Own Buoy, or at Anchor]
[0 — 30']	[\$1.41]	[\$0.95]
[31 — 40']	[\$1.56]	[\$1.08]
[41 — 50']	[\$1.68]	[\$1.22]
[51 — 60']	[\$1.83]	[\$1.35]
[61 — 70']	[\$1.95]	[\$1.49]

[71 — 80']	[\$2.10]	[\$1.62]
[81 — 90']	[\$2.22]	[\$1.76]
[over 90']	[\$2.37]	[\$1.89]
[Minimum monthly fee:]	[\$33.75]	[\$22.28]

~~[(3) Offshore mooring and anchoring rates that will become effective on the first day of the second financial year, after the rates in paragraph (1) become effective, in which a CIP bond issue is funded for the small boat facilities:]~~

[Vessel Length Overall]	[On State Buoy, Anchor or Cable]	[On Owner's Own Buoy, or at Anchor]
[0 — 30']	[\$1.52]	[\$1.03]
[31 — 40']	[\$1.68]	[\$1.17]
[41 — 50']	[\$1.82]	[\$1.32]
[51 — 60']	[\$1.97]	[\$1.46]
[61 — 70']	[\$2.11]	[\$1.61]
[71 — 80']	[\$2.26]	[\$1.75]
[81 — 90']	[\$2.40]	[\$1.90]
[over 90']	[\$2.56]	[\$2.04]
[Minimum monthly fee:]	[\$36.45]	[\$24.06]

(a) On State Buoy, Anchor or Cable \$4.00.

(b) On Owner's Own Buoy, or at Anchor \$3.00.

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

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

~~[(d)]~~ (e) Persons issued a mooring permit under this section shall be entitled to the use of any designated dinghy mooring area at no charge." [Eff 2/24/94; am 12/16/06; am _____] (Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-24)

6. Section 13-234-10, Hawaii Administrative Rules, is amended to read as follows:

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

- (1) When no person lives aboard....\$~~[5.75]~~15.00
- (2) When no person lives aboard but electricity is used for refrigeration..... \$~~[11.00]~~25.00
- (3) When persons live aboard but electricity is not used for cooking or refrigeration. \$~~[11.00]~~25.00
- (4) When persons live aboard and use electricity for cooking or refrigeration..... \$~~[25.00]~~45.00"

[Eff 2/24/94; am] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §§200-2, 200-3, 200-4, 200-10)

7. Section 13-234-11, Hawaii Administrative Rules, is amended to read as follows:

"§13-234-11 Shower fee. Showers with hot water, when provided, are intended primarily for the use of persons having vessels moored in the small boat harbor. If sufficient shower facilities are available, the department may permit, if reasonable under the circumstances, persons who are authorized to conduct business on small boat harbor premises pursuant to section 13-231-51 to utilize such facilities. A monthly fee of \$~~[6.00]~~20.00 shall be assessed for each such persons using the showers, except those under the age of four and those paying residence service fees. No persons shall utilize the aforementioned shower facilities unless that person has secured a use permit from the department authorizing use of the facilities. Each person authorized by the department to utilize the shower facilities, except those under the age of four, may secure one shower facility key, not to exceed one male and one female shower key. The person shall deposit ~~[the following amount]~~ \$30.00 with the State prior to receiving the key, as security for prompt return of the key upon termination of the use permit~~[÷]~~.

~~[(1) \$20 if the use permit is valid for a period of more than ninety days.~~

~~(2) if the use permit is valid for a period of ninety days or less.]~~

This deposit shall be forfeited in the event the permittee does not return the key to the department on or before the termination of the use permit." [Eff 2/24/94; am] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §§200-2, 200-3, 200-4, 200-10)

8. Section 13-234-12, Hawaii Administrative Rules, is amended to read as follows:

"§13-234-12 Dry storage and vessel repair. (a) A person, holding a valid use permit allowing the person to moor a vessel in a small boat harbor, may be authorized by the department to use a designated location on land within such harbor for a period not to exceed ten days in any calendar year to refurbish or repair such vessel without payment of a dry storage fee; provided that suitable space is available and any such storage will not unduly interfere with maximum and efficient public utilization of a small boat harbor facilities. The permittee shall however, not be entitled to a reduction in the mooring fees applicable to the temporarily vacated berth. Saturdays, Sundays, and state holidays shall be excluded in the computation of the ten days free time.

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

	<u>Ala-Wai and Keehi Boat Harbors</u>	<u>All others</u>
(1) Vessels stored on land, per foot of vessel length, cradle length, or trailer length, whichever is greater per month		
paved area	\$ [1.25] <u>3.00</u>	\$ [1.15] <u>2.50</u>
unpaved area	\$ [1.15] <u>2.50</u>	\$ [1.00] <u>2.00</u>
(2) Empty boat trailer per Month	\$ [20.00] <u>40.00</u>	\$ [15.00] <u>30.00</u>
(3) Minimum monthly charge for vessel storage	\$ [20.00] <u>40.00</u>	\$ [15.00] <u>30.00</u>
(4) The charges for one-half month or less shall be one-half of the monthly rate.		

(c) Boating equipment or other items used in connection with boats moored in small boat harbors, upon approval of the department, may be stored at such harbors if it can be done without unduly interfering with small boat harbor operations. The charges for use of such storage space shall be:

	<u>Ala-Wai and Keehi Boat Harbors</u>	<u>All others</u>
(1) Open storage on paved areas, per square foot per month	\$ [.35] <u>.70</u>	\$ [.25] <u>.50</u>
(2) Open storage on unpaved areas, per square foot per month	\$ [.25] <u>.50</u>	\$ [.15] <u>.30</u>

[Eff 2/24/94; am] (Auth: HRS §§200-4, 200-10) (Imp: HRS §§200-2, 200-4, 200-10)

10. Section 13-234-15, Hawaii Administrative Rules, is amended to read as follows:

"§13-234-15 Waiver of fees. The department reserves the right to waive or reduce ~~[any fees or charges contained in this chapter.]~~ late charges and interest that may be incurred by a permittee." [Eff 2/24/94; am] (Auth: HRS §§200-4, 200-10, 200-12) (Imp: HRS §§200-2, 200-4, 200-10, 200-12)

11. Section 13-234-16, Hawaii Administrative Rules, is amended to read as follows:

"§13-234-16 Permit processing fees. The charge for the processing of a use permit shall be as follows:

- (1) Initial issuance of permanent permit for docking, mooring, or anchoring a vessel (see section 13-231-3) .. ~~[\$5]~~ \$10.00; initial issuance of commercial use permit .. ~~[\$25]~~ \$50.00;
- (2) Renewal of permanent permit for docking, mooring, or anchoring a vessel (see section 13-231-5).. ~~[\$5]~~ \$10.00; renewal of commercial use permit .. ~~[\$15]~~ \$30.00;
- (3) Revision of permit:
 - (A) At owner's request ~~[\$5]~~ \$10.00; or
 - (B) By department's action (see section 13-231-7) .. no charge; and
- (4) All other use permits listed in section 13-231-3:
 - (A) Initial issuance ~~[\$5]~~ \$10.00; and
 - (B) Renewal of permit ~~[\$3]~~ \$10.00.

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

~~a permit and any other penalty fees provided by these rules.]~~" [Eff 2/24/94; am] (Auth: HRS §§200-4, 200-10, 200-12) (Imp: HRS §§200-2, 200-4, 200-10, 200-12)

12. Section 13-234-18, Hawaii Administrative Rules, is amended to read as follows:

"§13-234-18 Excessive water usage fee. A fee of [~~\$10~~] \$20.00 per day for each day or fraction thereof will be charged for excessive use or waste of fresh water; such as the use of water for the prolonged operation of ejectors to pump water out of vessels and permitting hoses to run unattended." [Eff 2/24/94, am] (Auth: HRS §200-10) (Imp: HRS §§200-2, 200-12)

13. Section 13-234-26, Hawaii Administrative Rules, is amended by amending subsection (b) to read as follows:

"(b) Any passenger vessel using a dock, pier or wharf in a state small boat harbor for disembarking and embarking passengers by means of any boat or lighter while moored offshore, shall pay a fee per passenger for disembarking and embarking at each small boat harbor as follows:

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

The rate schedule (b)(1) shall be implemented one year from the effective date of the last amendment to subsection (b)(1). Vessels operated by a federal or state agency are exempt from the provisions of this subsection." [Eff 2/24/94; am] (Auth: HRS §§200-2, 200-3, 200-4, 200-10) (Imp: HRS §§200-2, 200-3, 200-4, 200-10)

14. Section 13-234-28, Hawaii Administrative Rules, is amended by amended subsection (a) to read as follows:

"§13-234-28 Negotiable instruments; service charge. (a) The service charge for any dishonored check, draft, certificate of deposit or other negotiable instrument is [~~\$12~~] \$25.00." [Eff 2/24/94; am] (Auth: HRS §§200-2, 200-4) (Imp: HRS §§200-2, 200-4)

15. Section 13-234-29, Hawaii Administrative Rules, is amended to read as follows:

"§13-234-29 Vessel inspection fee. The fee for a vessel inspection performed by the department prior to the issuance or reissuance of a regular mooring permit shall be [~~\$15~~] \$50.00 and be valid for two years. The fee is not refundable. A vessel owner shall make an appointment with the harbor agent not less than five working days prior to having the vessel inspected. A fee of [~~\$10~~] \$20.00 shall be charged if notice of cancellation by the vessel owner is not given to the harbor agent not less than two working days prior to the scheduled inspection. The fee for vessels exempted from numbering in section 13-231-2, Hawaii Administrative Rules, and open skiffs and dinghies less than thirteen feet in length shall be [~~\$5~~] \$5.00." [Eff 2/24/94; am] Auth: HRS §§200-4, 200-10, 200-12) (Imp: HRS §§200-4, 200-10, 200-12)

16. Section 13-234-31, Hawaii Administrative Rules, is amended to read as follows:

"§13-234-31 Fee for commercial use of boat launching ramps and other boating facilities. The fee for the commercial use of state launching ramps, wharves, or other state boating facilities except state small boat harbors shall be [~~\$75~~] \$200.00 per month or [~~two~~] three per cent of gross receipts, whichever is greater. The single fee assessed for the use of a state launching ramp shall entitle the permittee to use any other state launching ramp on the same island without additional charge, except for those launching ramps listed in section 13-231-67."

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

17. Chapter 13-244, Hawaii Administrative Rules, is amended by adding a new section 13-244-15.5 to read as follows:

"§13-244-15.5 Operation of power driven vessels.

(a) Any person operating a power driven vessel on the waters of the state shall be required to possess a certificate of completion from a National Association of State Boating Law Administrators (NASBLA) approved course on the safe use and operation of a power driven vessel that contains a component on Hawaii waters approved by the department. Exempt from this requirement are persons who:

- (1) Possess a valid license to operate a vessel issued for maritime personnel by the United States Coast Guard pursuant to 46 CFR Part 10, or
- (2) Operate a thrill craft in a commercial thrill craft zone as authorized by the State.

(b) A person under fifteen (15) years of age shall not operate a power driven vessel on the waters of this state unless accompanied on-board and directly supervised by a person fifteen (15) years of age or older who holds the required certificate of completion.

(c) A person or the person's responsible managing employee or agent engaged in the business of renting or leasing power driven vessels shall not rent or lease a power driven vessel to any person for operation on the waters of the State unless the person:

- (1) Meets all the requirements of this rule; and
- (2) Is identified on the rental or lease agreement for a power driven vessel by name and age. A person or the person's agent or employee renting or leasing power driven vessels who fails to request and inspect

certificates or evidence of exemption is in violation of this rule.

(d) A person who is operating a power driven vessel on any waters of the State and who is stopped by a law enforcement officer shall present to the officer, upon request, a certificate of completion required by this rule or acceptable evidence of exemption from the required certificate. Failure to present a certificate of completion or acceptable evidence of exemption shall constitute a violation of this rule, unless the person presents the required certificate or evidence of exemption to a court of law and satisfies the court that this person held a proper certificate or was exempt at the time the person was asked to produce the certificate.

(e) A person who alters, forges, counterfeits or falsifies a certificate or other document used as evidence, or who possesses a certificate or other document that has been altered, forged, counterfeited or falsified, or who loans or permits that person's certificate or other document to be used by another person, shall be in violation of this rule.

(f) The department shall maintain a list of NASBLA approved courses that provide a department approved component on Hawaii waters, which shall include but not be limited to:

- (1) Local ocean safety principles and practices; and
- (2) Any rules or laws pertaining to protected species and power driven vessel operation in the State.

(g) This rule shall be enforced beginning on the second anniversary date of the rule's effective date.

(h) Pursuant to section 200-25, Hawaii Revised Statutes, any person violating this rule shall be fined not less than \$50 and not more than \$1000 or sentenced to a term of imprisonment of not more than thirty days, or both, for each violation; provided that in addition to, or as a condition to the suspension of, the fines and penalties, the court may deprive the offender of the privilege of operating any vessel in the waters of the State for a period of not

more than thirty days." [Eff] (Auth: HRS
§§200-2, 200-3, 200-4, 200-21, 200-22, 200-24) (Imp:
HRS §§200-2, 200-3, 200-4, 200-21, 200-22, 200-24)

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

Additions to update source notes to reflect these amendments are not underscored.

These amendments to Title 13, Subtitle 11 Ocean Recreation and Coastal Areas, Parts I and II, 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.

WILLIAM J. AILA, JR.,
Chairperson
Board of Land and Natural Resources

APPROVED FOR PUBLIC HEARING:

Deputy Attorney General