Department of Land and Natural Resources
Division of Boating and Recreation

Amendments

Amendments to Chapters 13-234 and 13-241
Hawaii Administrative Rules

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

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

(1) Calculated to produce an amount at least sufficient to pay the expenses of operating, maintaining, and managing the facilities and services and the cost including interest, of amortizing capital improvements for boating facilities appropriated after July 1, 1975, including, but not limited to, berths, slips, and related accommodations, exclusive of the costs of constructing, operating, and maintaining general navigation channels, protective structures, and aids to navigation; and

(2) Fixed with due regard to the primary purposes of providing public recreational facilities and promoting the fishing industry. See sections 200-2 and 200-08, Hawaii Revised Statutes.

(3) The mooring fees shall be set by categories, schedule A and schedule B, to be determined by the department, and shall increase annually by an amount equal to the consumer price index increase, if any; provided that:

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

(B) Schedule B shall apply to all new mooring applicants and transient slips on or after the effective date of these 2009 rule amendments;

(b) Nothing contained in this subchapter shall be construed to limit the authority and power of the department to waive any fees, 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.

(c) The acceptance of payment, or billings therefor, shall not waive the nature of trespass or ratify or permit illegal mooring, docking, storage or parking.

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

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

"§13-234-3 Mooring rates. (a) [The 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 as shown in paragraphs 2 and 3 but only upon the approval by the State Legislature of new bonding issues for harbor facilities, and the increased schedule will be effective at the beginning of the fiscal year in which the new bonds are to be funded. Until the first day of the first full month occurring after the effective date of the 2006 amendments to this section, the fees existing immediately prior to the effective date shall remain in full force and effect.] The mooring fees shall be set by categories, schedule A and

schedule B, and shall increase annually by an amount equal to the consumer price index increase, if any; provided that:

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

(B) Schedule B shall apply to all new mooring applicants and transient slips on or after the effective date of these 2009 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," Keehi Lagoon, Honokohau, Maalaea, & Lahaina; Category "C," Haleiwa, Heeia Kea, Waianae, Nawiliwili, Port Allen, Kailua-Kona, Keauhou, and Manele; Category "D," Wailoa, Kikiaola, Kaunakakai, North Kawaihae, and Kukuiula; Category "E," South Kawaihae, Hana, & Halo 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, & Manele
D = Wailoa, Kikiaola, Kaunakakai, North Kawaihae, & Kukuiula
E = South Kawaihae, Hana, Hale O Lono

[(1) Mooring rates as of the first day of the first full month occurring after the effective date of the 2006 amendments to this section:

Category	A	B	C	D	E
Along catwalk:	$5.25	$4.00	$3.75	$3.50	$1.50
Bow-stern mooring: On state buoy, anchor or cable Minimum fee per month:	$4.25 $52.00	$3.50 $43.00	$3.25 $37.50	$3.00 $32.50	$1.50 $20.00]
[On owner's buoy or anchor: Minimum fee per month:	$2.75 $36.00	$2.30 $33.50	$2.00 $31.00	$1.75 $29.00	$1.50 $20.00
In harbor basin: On state cable, buoy or anchor Minimum fee per month:	$4.00 $48.00	$3.40 $40.00	$3.00 $36.00	$2.80 $33.00	$1.50 $20.00
On owner's buoy or anchor: Minimum fee per month:	$2.70 $33.00	$2.10 $25.00	$1.95 $23.50	$1.85 $22.00	$1.50 $20.00

Skiff and dinghy moorings fore and aft, all types: Minimum fee per month:	$1.80 $24.00	$1.70 $21.50	$1.55 $19.75	$1.45 $17.40	$0.50 $5.00
Work docks (per foot/vessel length/day): Minimum fee per month:	$0.55 $7.00	$0.50 $6.00	$0.40 $5.00	$0.35 $4.00	$0.30 $3.00]

[(2) Mooring rates that become effective on the first day of the first financial year in which a $10 million CIP reimbursable bond issue is funded for the small boat facilities:]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: 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

[(3) Mooring rates that become effective on the first day of the financial year in which a subsequent $10 million CIP reimbursable bond issue is funded for the small boat facilities:]Schedule B Mooring Rates:

Category	A	B	C	D	E
Along catwalk:	[$6.12] $9.14	[$4.67] $7.79	[$4.37] $7.52	[$4.08] $7.25	[$1.75] $5.09
Bow-stern mooring: On state buoy, anchor or cable Minimum fee per month:	$5.12 $60.00	$4.17 $50.00	$3.87 $45.00	$3.58 $42.00	$1.75 $22.00
On owner's buoy or anchor: Minimum fee per month:	$3.20 $42.00	$2.68 $39.00	$2.33 $36.00	$2.16 $33.00	$1.75 $22.00
In harbor basin: On state cable, buoy or anchor Minimum fee per month:	$4.67 $56.00	$4.00 $46.00	$3.50 $42.00	$3.25 $38.00	$1.75 $22.00
On owner's buoy or anchor: Minimum fee per month:	$3.15 $38.50	$2.45 $29.00	$2.27 $27.00	$2.21 $25.00	$1.75 $22.00
Skiff and dinghy moorings fore and aft, all types: Minimum fee per month:	$2.10 $28.00	$2.00 $25.00	$1.81 $23.00	$1.70 $20.00	$0.60 $5.50
Work docks (per foot/vessel length/day): Minimum fee per month:	$0.65 $8.00	$0.60 $7.00	$0.46 $6.00	$0.41 $5.00	$0.35 $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).

(e) 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 Dec 16, 2006; am] (Auth: HRS §§ 200-6, 200-10, 200-22, 200-24) (Imp: HRS §§ 200-6, 200-10, 200-12, 200-22, 200-24)

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

"§13-234-5 Mooring fees for vessels assigned temporary moorings or occupying moorings without permission. (a) Persons assigned a mooring for a temporary period [of more than thirty days] shall make the security deposit and pay mooring fees as prescribed this chapter. The temporary fee structure is as follows: $2.00/per vessel foot per day for a slip and $1.00/per vessel foot per day on offshore mooring.

(b) Those assigned a mooring for a period of thirty days or less shall not be required to make the security deposit as provided in section 13-234-2, but shall be required to pay fees in advance.

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

[(d) The mooring fees for a vessel assigned a mooring for thirty days or less shall be as provided in section 13-234-3 or 13-234-4, plus ten percent for each twenty-four hours or any fraction of that time.]

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

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

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

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

[(g)](f) In addition to any civil remedy or criminal action available to the department, vessels moored without permission shall be liable for the payment of fees chargeable to the moorage. The acceptance of the payment shall not waive the nature of trespass or ratify or permit the unlawful or illegal mooring." [Eff 2/24/94; am Dec. 16, 2006; am] (Auth: HRS §200-4, §200-6, 200-10, 200-12, 200-22, 200-24) (Imp: HRS §200-4, §200-6, 200-10, 200-12, 200-22, 200-24)

4. Section 13-241-25 Hawaii Administrative Rules, is amended to read as follows:

§13-241-25 Fees and charges. (a) The fees to be charged by the department for registration, annual renewal, transfers, and duplicate certificates and registration stickers[and penalty charges] shall be as follows: [in accordance with section 200-32, Hawaii Revised Statutes].

(1) Initial annual registration fee. For the issuance of an original certificate:

(A) For each vessel less than twenty feet in length, $18;

(B) For each vessel twenty feet or more in length, $30; and

(C) For each amphibious vehicle licensed as a motor vehicle, $20;

(2) Annual certificate renewal fee. For the annual renewal of a certificate:

(A) For each vessel less than twenty feet in length, $15;

(B) For each vessel twenty feet or more in length, $20; and

(C) For each amphibious vehicle licensed as a motor vehicle, $15;

(3) Reregistration fee. For the reregistration of a vessel, after a certificate has been canceled or voided, the appropriate amount provided in paragraph (1);

(4) Transfer fee. For the transfer of a certificate, $10;

(5) Certificate and registration sticker replacement fee. For the issuance of a replacement certificate or a replacement set of vessel registration stickers, $10; and

(6) Certificate modification fee. For modifying a certificate, $10.

(b) For vessels owned by or operated under the custody or control of a boat manufacturer or boat dealer, the manufacturer or dealer shall pay, in lieu of the fees and charges provided for in subsection (a):

(1) Boat manufacturer and boat dealer annual certificate fee. For each certificate, a fee of $25;

(2) Annual certificate renewal fee. For the annual renewal of a certificate, a fee of $20;

(3) Certificate reissuance. For the reissuance of a certificate after a certificate has been canceled or voided, a fee of $25; and

(4) Certificate and registration sticker replacement fee. For the replacement of a certificate or registration sticker, a fee of $10.

[(b)](c) No fee shall be charged by the department for registration, transfer or annual renewal relating to a vessel whose owner is the United States, the State or a subdivision thereof.

[(c)](d)A nonprofit corporation whose purposes relate to promoting the ability of children to do things for themselves, to train them in boating, water safety, scout-craft and camping, and to teach them patriotism, courage, self-reliance and kindred virtues shall not be required to pay the fees provided in this section relating to vessels owned and used exclusively for the purposes of the organization.

[(d) The fee for each duplicate certificate of number or for a duplicate registration sticker is as set forth in section 200-32(5), HRS.]

(e) Penalty fees.

(1) If the owner of a vessel fails to obtain a certificate of number as required by this chapter, the applicable fee plus a penalty equal to one tenth of such fee shall be collected from the owner for each month or fraction of a month the owner is late in registering.

(2) If a certificate of number is not renewed on or before the date on which it expires, the applicable annual renewal fee plus a penalty equal to one-tenth of such fee shall be collected from the owner for each month or fraction of a month the owner is late in renewing except where the vessel has not been on the waters of the State subsequent to the expiration date.

(3) If the purchaser of any vessel fails to apply for transfer of the certificate of number relating to the vessel as required by section 13-241-12, the applicable fee plus a penalty of ten per cent for each month or fraction thereof the owner is late in applying for the transfer shall be collected from the owner except where the vessel has not been on the waters of the State subsequent to the purchase.

(4) The penalty fees prescribed in this section are in addition to any penalties imposed by a court for violations of these rules.

(f) Payment of fee required prior to processing. No application for a certificate of number, transfer or renewal of certificate, or for a duplicate certificate of number or duplicate registration stickers shall be processed until the prescribed fees are paid.

(g) Fees for furnishing information. Individuals or firms requesting an alphabetical or numerical listing of boat owners and information concerning their boats shall be charged a fee as prescribed by the chairperson, board of land and natural resources. [Eff 2/24/94; am] (Auth: HRS §§200-24, 200-32, 200-33) (Imp: HRS §§200-32, 200-33)

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

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

7. These amendments to chapters 13-234 and 13-241, 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 Statues, which were adopted on _____ by the Board of Land and Natural Resources, and filed with the Office of the Lieutenant Governor.

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Laura H. Thielen, Chairperson
Department of Land and Natural Resources

APPROVED FOR PUBLIC HEARING:

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