

DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND RECREATION

Amendments to Title 13, Subtitle 11
Ocean Recreation and Coastal Areas, Chapter 13-256
Hawaii Administrative Rules

August 12, 2011

SUMMARY

1. Sections 13-256-39, 13-256-71, 13-256-72, 13-256-73, 13-256-77 are amended.
2. New sections 13-256-72.1, 13-256-73.1, 13-256-73.2, 13-256-73.3, 13-256-73.4, 13-256-73.5, 13-256-73.6, 13-256-73.7, 13-256-73.8, 13-256-73.9, 13-256-73.10, 13-256-73.11, 13-256-73.12 are added.
3. Exhibits: Hanalei Bay, Exhibit C; Kualoa Waters, Exhibit U; Kaneohe Bay, Exhibits V, W, and X.

§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 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
NOV 07 2011] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

§13-256-71 Definition.

"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" 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 NOV 07 2011] (Auth: HRS §§200-2, 200-3, 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 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
NOV 07 2011] (Auth: HRS §§200-2, 200-4, 200-22, 200-23, 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 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

NOV 07 2011] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 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 $21^{\circ} 27' 32''$ N / $157^{\circ} 48' 13.5''$ 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 $21^{\circ} 28' 32''$ N / $157^{\circ} 49' 39''$ W, then by a straight line in a due East (true) direction to approximately $21^{\circ} 28' 32''$ N / $157^{\circ} 49' 32''$ W, then in a straight line to approximately $21^{\circ} 28' 10.5''$ N / $157^{\circ} 49' 27''$ 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 $21^{\circ} 27' 41''$ N / $157^{\circ} 48' 18''$ W, then by a line parallel to the edge of the sand flat to approximately $21^{\circ} 27' 32''$ N / $157^{\circ} 48' 02''$ W, then by a straight line to approximately $21^{\circ} 27' 25''$ N / $157^{\circ} 48' 07''$ W, then by a straight line to approximately $21^{\circ} 27' 34''$ N / $157^{\circ} 48' 22.5''$ 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, ("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 NOV 07 2011]
(Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 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 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

NOV 07 2011] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 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 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 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 fifty. Should the certified
passenger capacity of the primary vessel be less than
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 NOV 07 2011] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 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.

(1) 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 NOV 07 2011]
(Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 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 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 NOV 07 2011] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 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 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 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 By waters designated as restricted 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
NOV 07 2011] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 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 non-motorized 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
NOV 07 2011] (Auth: HRS §§200-2, 200-3, 200-4,
200-22, 200-23, 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 NOV 07 2011] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 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 NOV 07 2011] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 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 NOV 07 2011] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 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. (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.
- (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 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 NOV 07 2011] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-23, 200-24, 200-37, 200-39)

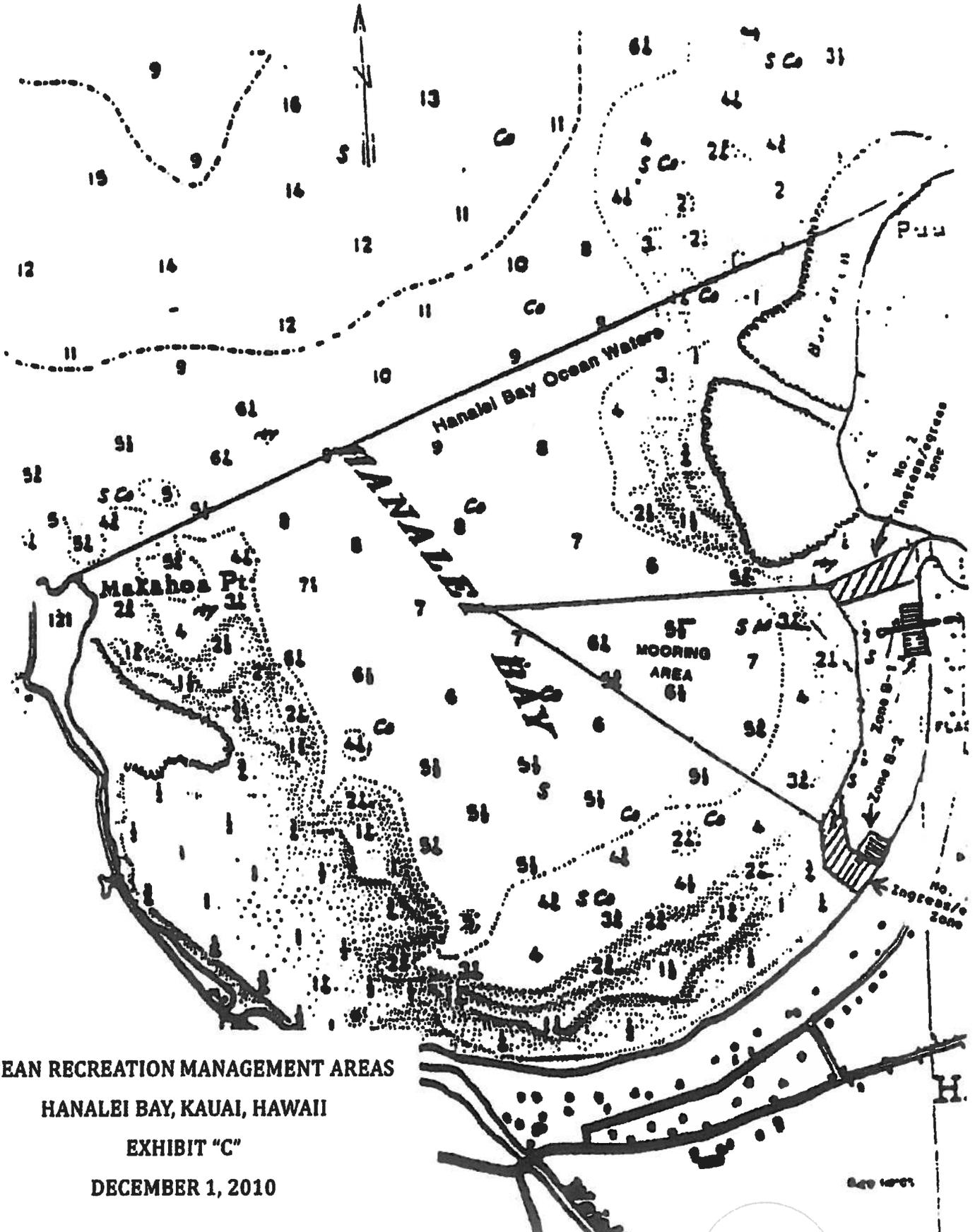
§13-256-73.11 Temporary mooring of vessels
authorized for commercial use in Kaneohe Bay at Heeia
Kea small boat harbor. Temporary mooring within Heeia
Kea small boat harbor for any vessel that is
authorized for commercial use in Kaneohe Bay ocean
waters shall not exceed a cumulative period of 180
days in the same calendar year. [Eff NOV 07 2011]
(Auth: HRS §§200-2, 200-3, 200-4, 200-6, 200-22, 200-
23, 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
NOV 07 2011] (Auth: HRS §§200-2, 200-3, 200-4,
200-6, 200-22, 200-23, 200-24, 200-39) (Imp: HRS
§§200-2, 200-3, 200-4, 200-6, 200-22, 200-23, 200-24,
200-39)

§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:

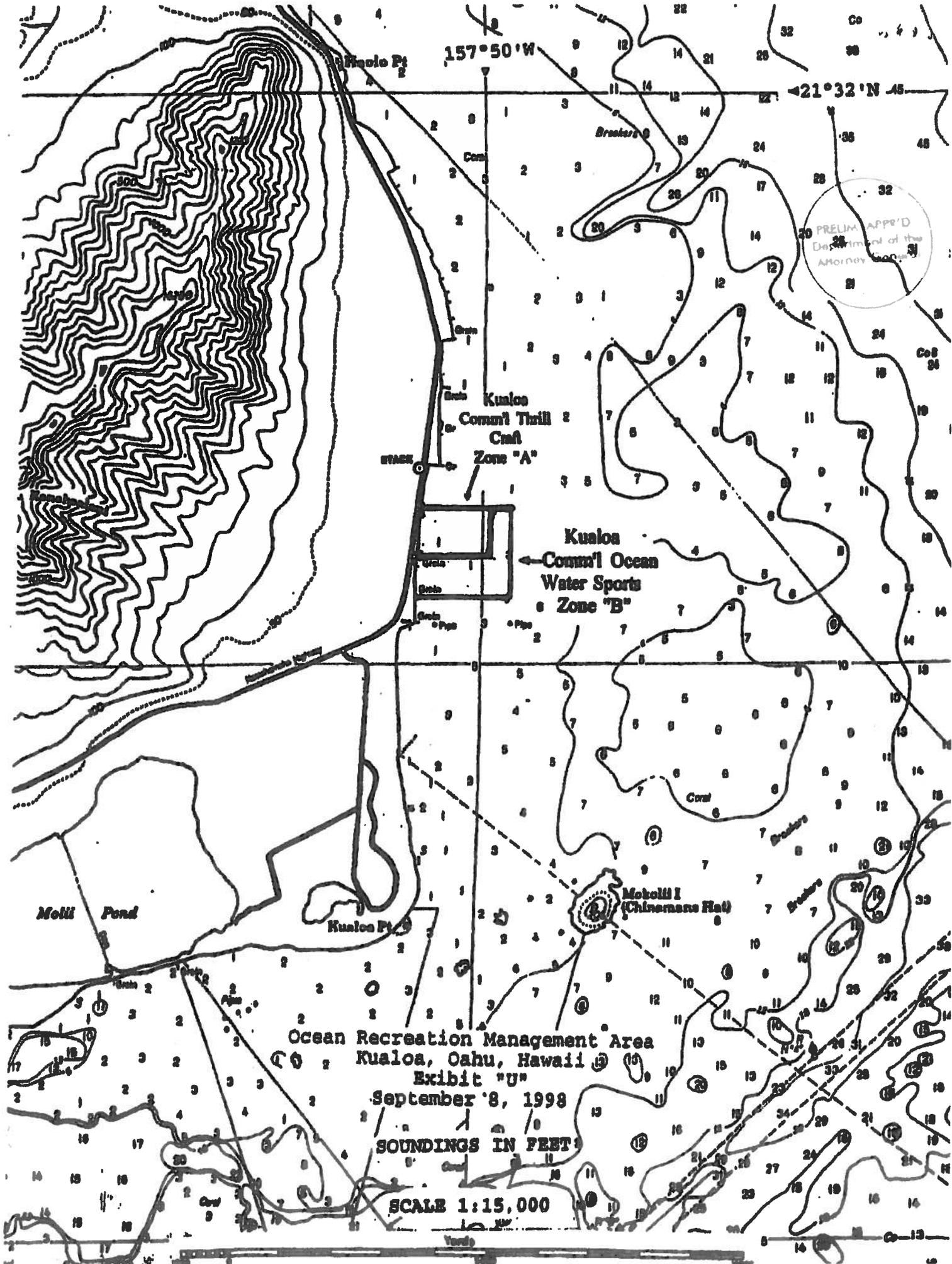
Beginning at a point in the water at approximately $21^{\circ} 28' 23.5''$ N / $157^{\circ} 48' 27''$ W, that intersects the Kaneohe Sampan channel range extending seaward with an azimuth measured clockwise from True South of 217 degrees, and a straight line drawn to a point in the water at approximately $21^{\circ} 30' 42''$ N / $157^{\circ} 48' 52''$ 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 $21^{\circ} 27' 42''$ N / $157^{\circ} 45' 48''$ W, and Kaoio Point which is located at approximately $21^{\circ} 32' 03''$ N / $157^{\circ} 50' 16''$ 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 NOV 07 2011]
(Auth: HRS §§200-22, 200-23, 200-24, 200-37, 200-39)
(Imp: HRS §§200-22, 200-23, 200-24, 200-37, 200-39)



OCEAN RECREATION MANAGEMENT AREAS
 HANAIEI BAY, KAUAI, HAWAII
 EXHIBIT "C"
 DECEMBER 1, 2010

PRELIM APPR D
 Department of the
 Attorney General



Ocean Recreation Management Area
 Kuloa, Oahu, Hawaii
 Exhibit "U"
 September 8, 1998

SOUNDINGS IN FEET

SCALE 1:15,000

PRELIM APP'D
 Department of the
 Attorney General

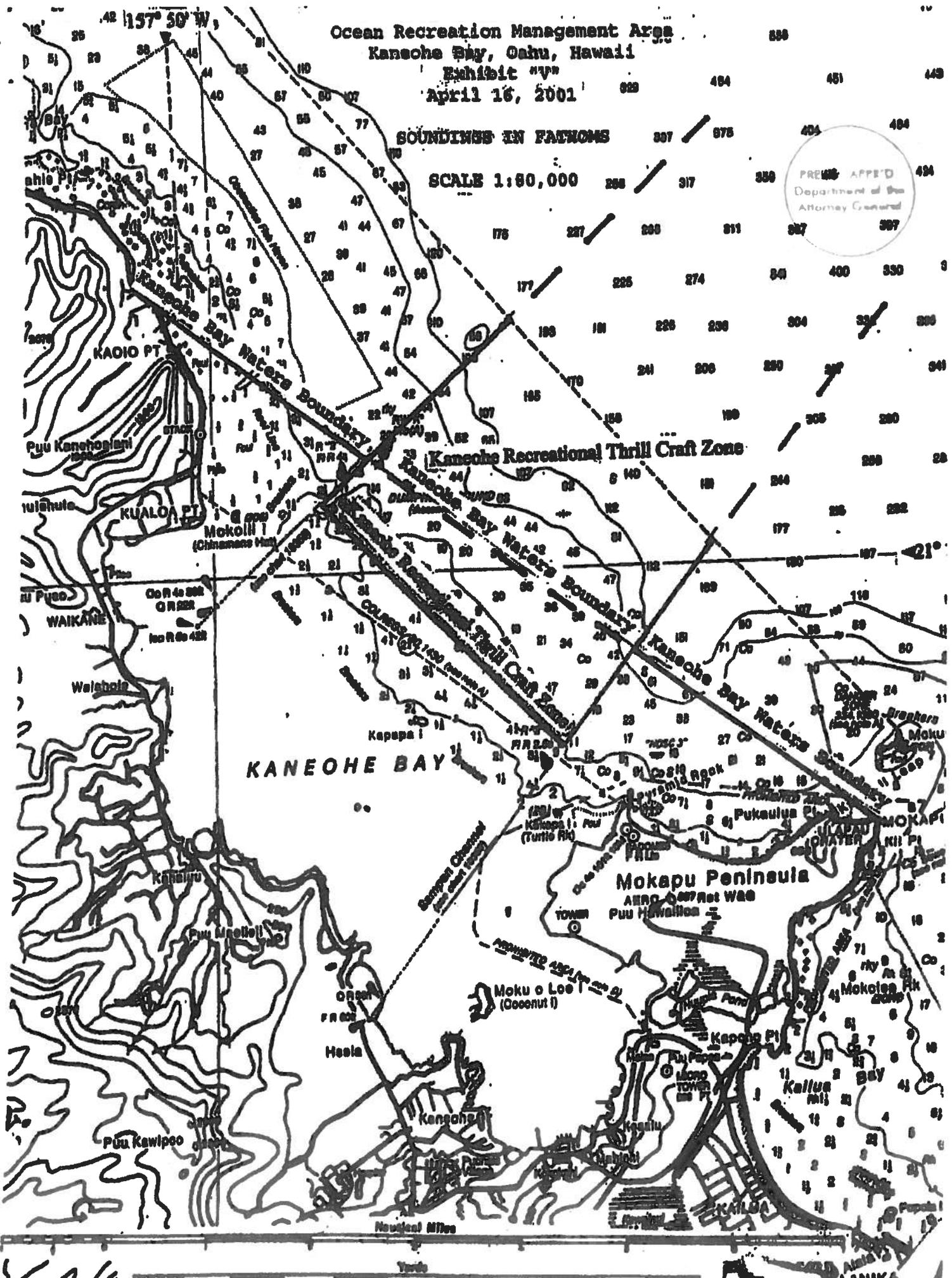
Ocean Recreation Management Area
Kaneohe Bay, Oahu, Hawaii

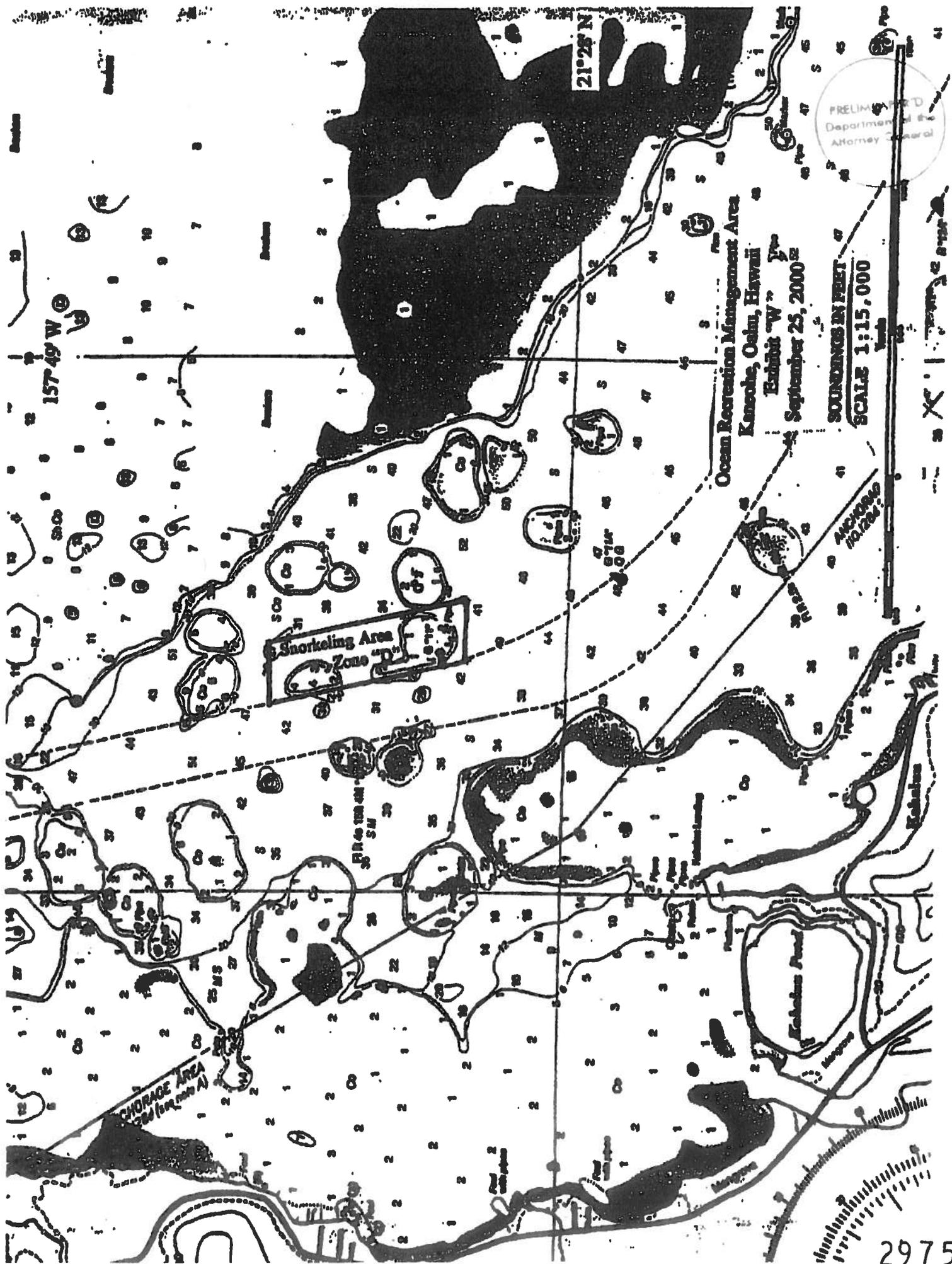
Exhibit "A"
April 16, 2001

SOUNDINGS IN FATHOMS

SCALE 1:80,000

PREPARED
Department of the
Attorney General



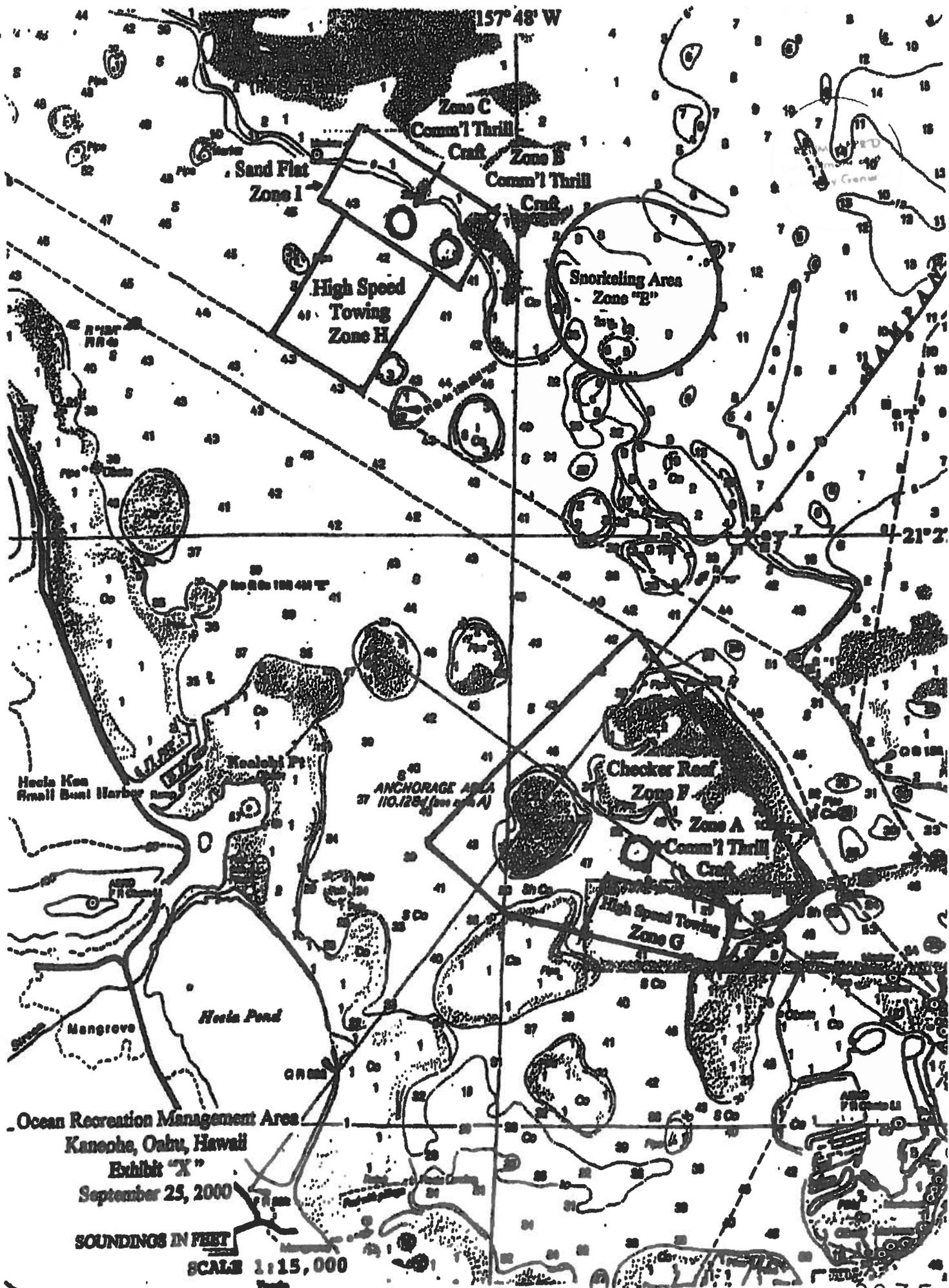


PRELIMINARY
Department of the
Attorney General

Ocean Recreation Management Area
Kaneohe, Oahu, Hawaii
Exhibit "W" to
September 25, 2000

SOUNDINGS IN FEET
SCALE 1:15,000

ANCHORAGE



Amendments to Chapter 13-256, Hawaii Administrative Rules, on the Summary Page dated August 12, 2011 were adopted on August 12, 2011, following public hearings held on Kauai on July 6, 2011 and Oahu on July 7, 2011, after public notices were given in the Honolulu Star-Advertiser on June 3, 2011 and the Garden Isle on June 5, 2011.

These amendments shall take effect ten days after filing with the Office of the Lieutenant Governor.



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

APPROVED AS TO FORM:



Deputy Attorney General

NEIL ABERCROMBIE
Governor
State of Hawai'i

Date:

10.26.11

Filed

'11 OCT 28 PM 2:25

LIEUTENANT GOVERNOR'S
OFFICE