

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 11

OCEAN RECREATION AND COASTAL AREAS

PART II

BOATING

CHAPTER 240 GENERAL PROVISIONS

Historical note

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Historical note. This chapter is based on the state boating rules, general provision, effective November 5, 1981, and as amended thereafter, under the jurisdiction of the Department of Transportation, Harbors Division. The administrative jurisdiction for recreational boating and related vessel activity was transferred from the jurisdiction of the Department of Transportation, Harbors Division, to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, July 1, 1992, in accordance with Act 272, SLH 1991. [Eff 2/24/94]

§13-240-1 Purpose and scope. This part establishes rules governing vessels and their use in the waters of the State to promote and attain (1) the

full use and enjoyment of the waters of the State; (2) the safety of persons and the protection of property as related to the use of the waters; (3) a reasonable uniformity of laws and rules regarding the use of the waters; and (4) conformity with, and implementation of, federal laws and requirements. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-21, 200-22)

§13-240-2 Interpretation. If any section of these rules is inconsistent with any laws of the United States or any rule, or standard established pursuant thereto, then the latter shall govern. The provisions of these rules shall be interpreted and construed in the manner best able to effectuate the general purpose of attaining uniformity in the laws of the State and with the laws of other states and the United States. Nothing contained in these rules shall be construed to limit the powers of any department or agency of the State. These rules shall be construed liberally and consistent with the purpose stated in section 13-240-1. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §§200-21, 200-22, 200-24)

§13-240-3 Severability. These rules are declared to be severable and if any portion or the application thereof to any person or property is held invalid for any reason, the validity of the remainder of these rules or the application of the remainder to other persons or property shall not be affected. [Eff 2/24/94] (Auth: HRS §200-24) (Imp: HRS §200-24)

§13-240-4 Reserved.

§13-240-5 Definitions. As used in this part: "Approved" means that a fitting, appliance, apparatus, or item of equipment to be fitted or carried in a vessel, or by any particular arrangement, is

sanctioned by the commandant of the Coast Guard, unless otherwise stated.

"Barge" means a vessel with no motive power of its own.

"Boat dealer" means a person who is engaged in the business of selling, offering for sale, buying or taking in vessels for the purpose of reselling them.

"Boat livery" means a person who is engaged in the business of renting, leasing, or chartering vessels.

"Boat manufacturer" means a person engaged in the business of building or assembling vessels.

"Boating accident":

- (1) Means collision, accident, or other casualty involving:
  - (A) A person's death;
  - (B) The injury to a person requiring medical treatment beyond first aid;
  - (C) Damage to a vessel amounting to \$200 or more;
  - (D) Complete loss of a vessel; or
  - (E) The disappearance of a person from a vessel under circumstances indicating death or injury to that person.
- (2) Includes damage to a vessel or its equipment, loss of life, or injury to any person or object:
  - (A) On board a vessel;
  - (B) Caused by a moving vessel's wake, wash, or waves, or by a vessel's capsizing, or collision with another vessel or object;
  - (C) Caused by flooding, fire, or explosion; or
  - (D) Caused when a person falls overboard.

"Certificate" means certificate of numbers as explained in chapter 13-241.

"Chairperson" means the chairperson of the department of land and natural resources or the chairpersons's duly authorized representatives or subordinates.

"Coast guard" means the United States Coast Guard or any of its successor agencies.

"Commercial fishing motorboat" means a motorboat used for taking fish for profit or gain or as a means of livelihood.

"Commercial motorboat" means any power-driven vessel used for hire, profit, or gain.

"Department" means the department of land and natural resources of the State of Hawaii.

"Diver's flag" means a red flag with a white diagonal running from the upper left hand corner to the lower right hand corner (from masthead to lower outside corner).

"Documented vessel" means any vessel which has a valid marine document issued by the Coast Guard, in accordance with the Code of Federal Regulations, Subchapter G, Part 67, Documentation of Vessels.

"Federal laws and requirements" mean all statutes, regulations, and other laws of the United States, which may be applicable to this chapter.

"Free diver" means a person who is using a mask and snorkel, other than for SCUBA diving, who submerges under water or breaks the surface of the water.

"Foreign built vessel" means any vessel whose hull was constructed in a country other than the United States.

"Forward half of the vessel" means any portion of the vessel in front of a point equidistant from the stem and stern of the vessel.

"High seas" mean the following:

- (1) Those waters outside of Mamala Bay whose outer boundary is represented by a straight line drawn from Barber's Point Light to Diamond Head Light; and
- (2) At all buoyed entrances from seaward to bays, sounds, rivers, or other estuaries, for which specific lines are not described in this section, the waters outside of a line approximately parallel with the general trend of the shore, drawn through the

outermost buoy or other aid to navigation of any system of aids.

"Humpback whale cow/calf area" are shown on Exhibit "A" dated November 23, 1988, located at the end of this chapter and described as follows:

- (1) Adjoining the island of Lanai. All waters within two miles of the shoreline along the north and east coast between lines extending perpendicular to the shoreline from Kaena Point to Kamaiki Point.
- (2) Adjoining the island of Maui. All waters inshore of a straight line drawn between Hekili Point and Puu Olai.

"Inland waters" mean the waters inshore of lines described in the definition of "high seas" in this section.

"Kaanapali ocean waters" mean the area confined by the boundaries shown and defined in Exhibit G, July 9, 1984, located at the end of this chapter.

"Length", when applied to vessels covered by this chapter, means the measurement of a vessel from end to end over the deck. It is a straight line measurement of the overall length from the foremost part of the vessel measured parallel to the centerline.

Bowsprits, bumpkins, rudders, motor brackets, and similar fittings or attachments or sheer are not to be included in the measurement. "Sheer" is the longitudinal upward curve of the deck, gunwales, and lines of a vessel, when viewed from the side.

In case of a vessel of an open type or with a cockpit, the measurement is taken between the foremost and aftermost extremities of the hull exclusive of sheer.

In vessels having more than one deck, it is the length measured from the foremost part of the bow to the aftermost part at the stern exclusive of sheer.

"Lienholder" means a person holding a security interest in a vessel.

"Lifeboat" means a boat carried aboard a vessel and used solely for lifesaving purposes, but not including dinghies, tenders, speedboats, or other

types of craft carried aboard a vessel and used for other than lifesaving purposes.

"Livery boat" means a vessel which is rented, leased, or chartered by a person who is engaged in the business of renting, leasing, or chartering vessels.

"Machinery" means all internal combustion engines located within the vessel and all motor or mechanical devices capable of propelling vessels.

"Motorboat" means any vessel sixty-five feet in length or less which is equipped with propulsion machinery including steam and includes wet bikes, motorized surfboards and any other vessel propelled by a motor engaged in towing discs, boards, parasails or any other device which may be towed. This term includes a vessel temporarily or permanently equipped with a motor.

"Motor vessel" means any vessel more than sixty-five feet in length, which is propelled by machinery other than steam.

"Number", "numbering", and "certificate of number" are the equivalents of the terms "register", "registration", and "certificate of registration" respectively.

"Operate" means to navigate or otherwise use a vessel on or in the waters of the State.

"Owner" means a person, other than a lienholder, having the property in or title to a vessel. This term includes a person entitled to the use and possession of a vessel subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

"Passenger" means every person other than the master and members of the crew or other persons employed or engaged in any capacity on board a vessel in the business of that vessel. In the case of a vessel on an international voyage, a child under one year of age is not counted as a passenger.

"Person" means an individual, partnership, firm, corporation, association, or other legal entity including the servant, employee, agent, or representative of any of the foregoing.

## Unofficial Compilation

"Personal flotation device" is a technical term for a life preserver that has been approved and certified by the United States Coast Guard and capable of providing at least ninety per cent of factory-rated flotation capacity.

"Power-driven vessel" means any vessel propelled by machinery.

"Principally used" means a measurement of the time when a vessel is on the waters of the United States, a state, territory, province, or country and includes the time when the vessel is not in motion, as for instance when the vessel is moored or at anchor, as well as the time when the vessel is being navigated.

"Registration stickers" mean a pair of stickers, plates, tabs, or other devices issued by the department with certificates of number and renewals thereof to be affixed to the vessel to indicate that the vessel's certificate of number is current and valid.

"Rules of the road" mean the federal statutory and regulatory rules governing navigation of vessels. These rules are published by the Coast Guard in pamphlet form and known as Navigation Rules - International - Inland COMDTINST M16672.2B.

"Sailing vessel" means any vessel propelled by sail only. Every power-driven vessel which is under sail and not under power is to be considered a sailing vessel, and every vessel under power, whether under sail or not, is to be considered a power-driven vessel.

"SCUBA" means self-contained underwater breathing apparatus and includes all forms of self-contained underwater breathing apparatuses, e.g., re-breathers, open-circuit, semi-closed or closed circuit or surface-supplied breathing apparatuses.

"Security interest" means an interest in a vessel reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended for security. A security interest is "perfected" when it is valid against third parties

generally, subject only to specific statutory exceptions contained in article 9, of chapter 490 and section 490:1-201, Hawaii Revised Statutes.

"Slow-no-wake" means as slow as possible without losing steerage way and so as to make the least possible wake. This would almost always mean speeds of less than five miles an hour.

"State" means the State of Hawaii.

"Underway" means the vessel is not at anchor, aground, or made fast to shore.

"Undocumented vessel" means any vessel which does not have a valid marine document issued by the Coast Guard, in accordance with the Code of Federal Regulations, Subchapter G, Part 67, Documentation of Vessels.

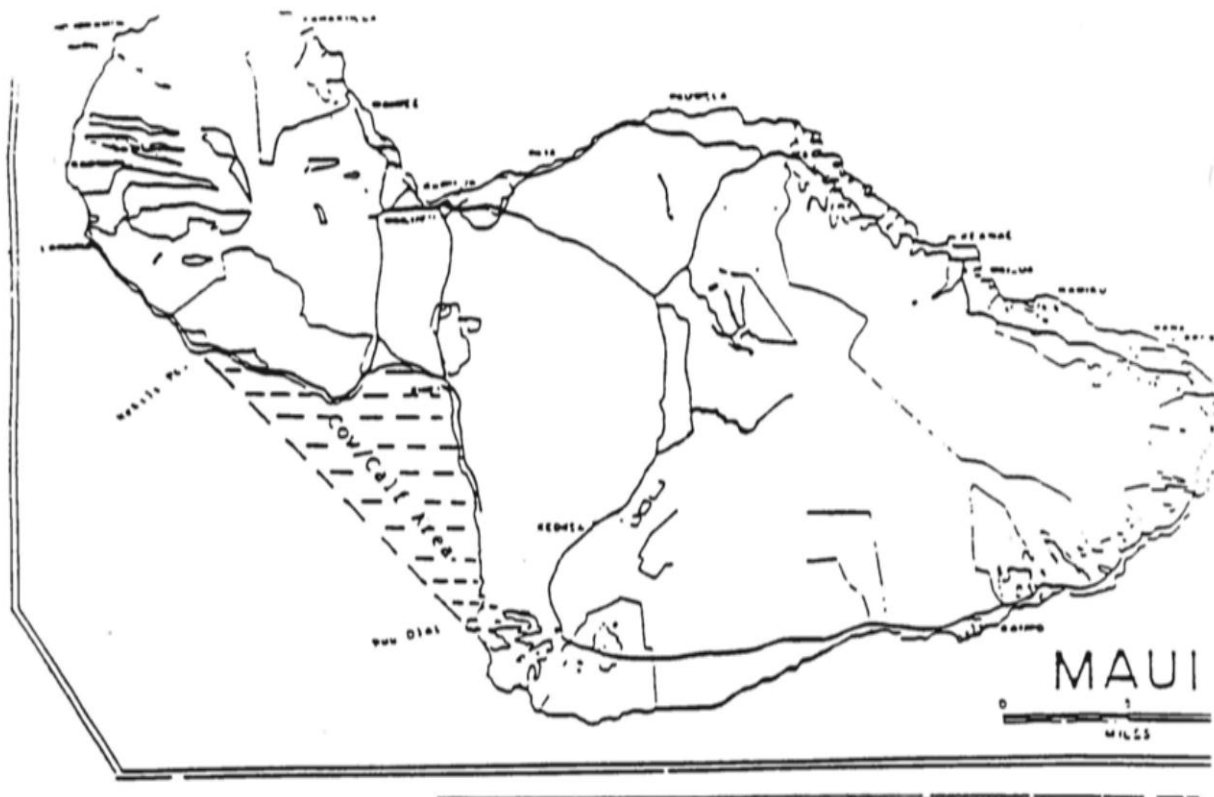
"Vessel" means all description of watercraft used or capable of being used as a means of transportation on or in the water.

"Vessel carrying passengers for hire" means any vessel which carries any person or persons for a valuable consideration, whether that consideration goes directly or indirectly to the owner, charterer, operator, agent, or any person who has a lien on the vessel.

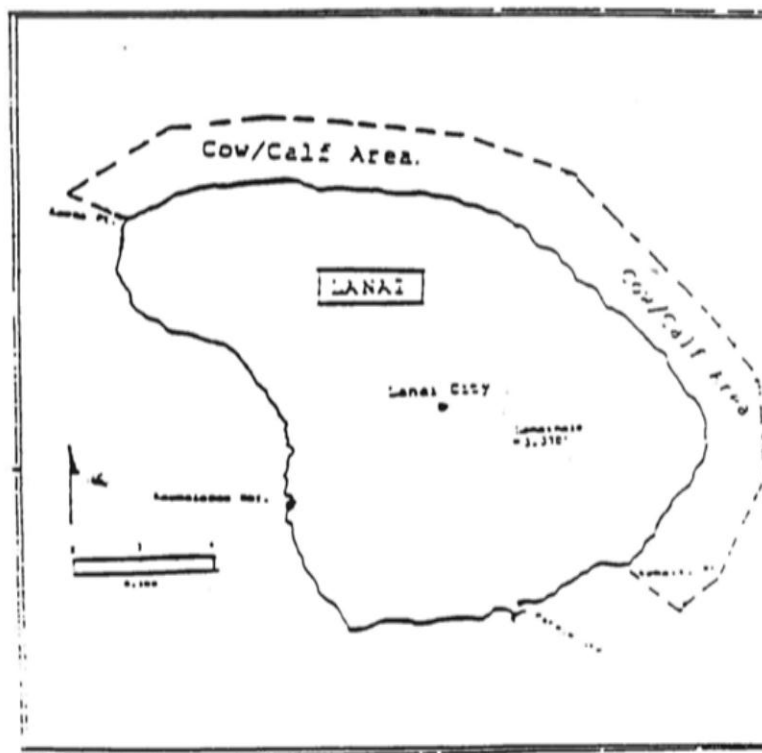
"Vessel engaged in fishing" means any vessel fishing with nets, lines, trawls, or other fishing apparatus which restrict maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict maneuverability.

"Waters of the State" mean any waters within the jurisdiction of the State, the marginal seas adjacent to the State, and the high seas when navigated as part of a journey or ride to or from the shores of the State. [Eff 2/24/94; am 7/5/03] (Auth: HRS §§200-21, 200-22, 200-23, 200-24) (Imp: HRS §§200-21, 200-22, 200-23, 200-24)





HUMPBACK WHALE  
COW/CALF AREAS  
EXHIBIT "A"  
NOVEMBER 23, 1988



# Kaanapali Ocean Waters

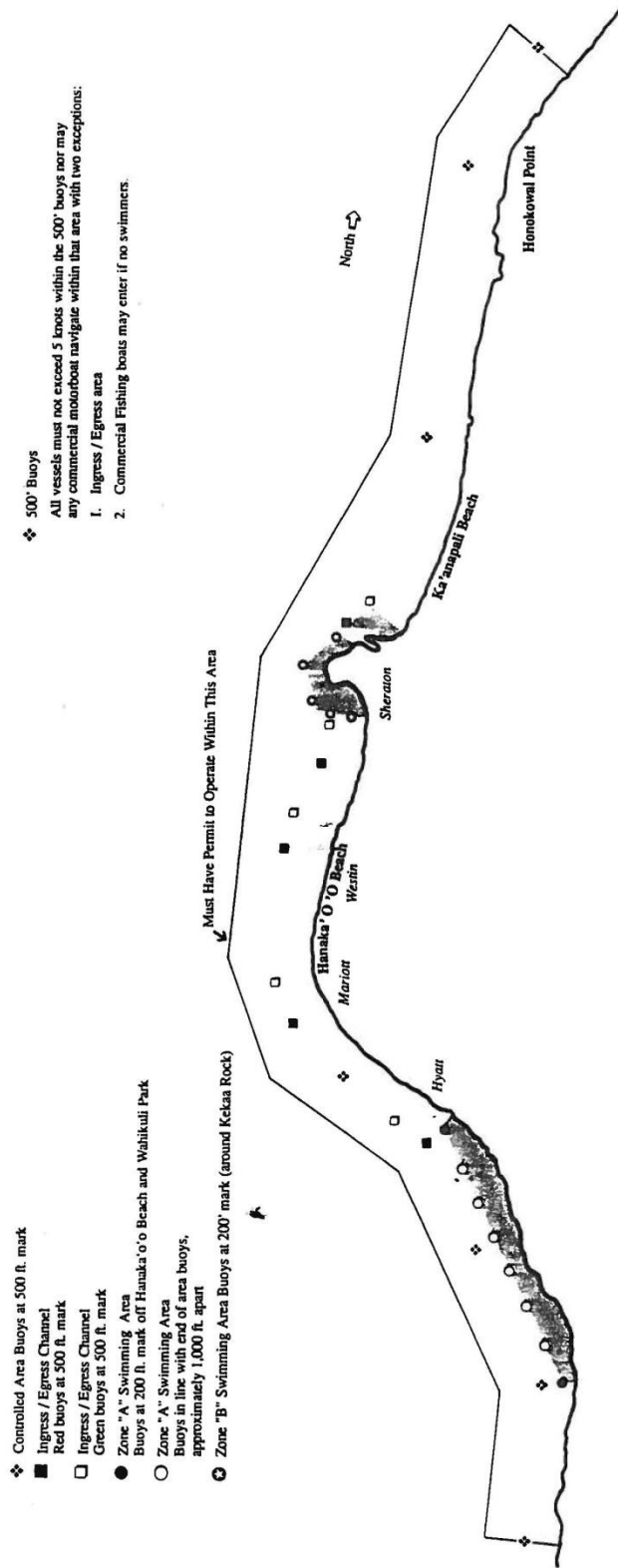


EXHIBIT G  
KAANAPALI OCEAN WATERS  
JULY 9, 1984

MAUI