Rules Amending Title 13
Hawaii Administrative Rules

DATE

1. Chapter 13-251, Hawaii Administrative Rules, entitled "Waikiki and Kaanapali Ocean Waters" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 11

OCEAN RECREATION AND COASTAL AREAS

PART III

OCEAN WATERS, NAVIGABLE STREAMS AND BEACHES

CHAPTER 251

[~~WAIKIKI AND KAANAPALI OCEAN WATERS~~] COMMERCIAL ACTIVITIES ON STATE OCEAN WATERS, NAVIGABLE STREAMS, AND BEACHES

Subchapter 1 [~~Catamaran Captain, Canoe Captain, Canoe Second Captain, Surfboard Instructor, Sailboard Instructor And Commercial Motorboat Operator Permits~~] Commercial Activities on Ocean Waters of the State

§13-251-1 Use Permits
[~~§13-251-2 What persons shall not receive permits~~
~~§13-251-3 Special restrictions~~
~~§13-251-4 Learner steersperson permits~~
~~§13-251-5 Application for operator permit~~

EXHIBIT 2

~~§13-251-6 Examination of applicants~~
~~§13-251-7 Operator permits issued to catamaran captains, canoe captains, canoe second captains, surfboard instructors, sail board instructors and commercial motorboat operators~~
~~§13-251-8 Operator permit to be carried onboard and exhibited upon demand~~
~~§13-251-9 Duplicate certificate~~
~~§13-251-10 Expiration of operator permit~~
~~§13-251-11 Records to be kept by the department~~]
§13-251-2 Insurance requirements
§13-251-3 Reissuance of a registration certificate and/or commercial use permit

[~~§§13-251-12 to §13-251-15~~] §§13-251-4 to §13-251-35 (Reserved)

Subchapter 2 [~~Suspension or revocation of permits~~] Repealed

Subchapter 3 [~~Violation of operator permit provisions~~] Repealed

Subchapter 4 [~~Owners of Passenger Carrying Vessels, For Rent Surfboards, For Rent Sailboards, For Charter or Rent Motorboats and For Rent Watersports Equipment Proof of Financial Responsibility~~] Repealed

[~~§§13-251-33 to § 13-251-35 (Reserved)~~]

Subchapter 5 [~~Registration~~] Waikīkī and Kā'anapali Catamarans

§13-251-36 Application for a catamaran registration certificate and/or commercial use permit
§13-251-37 Grounds for refusing [~~registration~~] an application for a registration certificate and/or commercial use permit
§13-251-38 Registration certificate and/or commercial use permit indices
§13-251-39 Department to issue registration certificate and/or commercial use permit
§13-251-40 Registration certificates and/or commercial use permits to be exhibited upon demand
§13-251-41 Identification of catamarans [~~vessels, surfboards, sailboards or water sports equipment~~] with a [~~registered~~] registration certificate and/or commercial use permit [~~by the department~~]
§13-251-42 Expiration of registration certificate and/or commercial use permit
§13-251-43 Application for renewal of registration certificate and/or commercial use permit
§13-251-44 Notice of change of address
§13-251-45 [~~Registration expires on transfer of ownership; exception~~] Transfer of registration certificate and/or commercial use permit
§13-251-46 New owner must secure new registration certificate and/or commercial use permit
§13-251-47 [~~Operation of vessels without proper identification~~] Repealed
§13-251-48 Operation of a catamaran [~~vessel or renting of surfboards, sailboards or water sports equipment~~] when registration certificate and/or commercial use permit suspended or revoked

§13-251-49 Authority of department to suspend or revoke registration certificate and/or commercial use permit
§13-251-50 Duplicate registration certificate and/or commercial use permit
§13-251-51 [~~Catamaran registration limitations~~] Repealed
§13-251-52 Allocation of catamaran [~~registrations~~] registration certificates and/or commercial use permits
§13-251-53 Catamarans; mooring of
§§[~~13-251-53~~]13-251-54 to 13-251-55 (Reserved)

Subchapter 6 [~~Rules of the Road~~] Waikīkī and Kā'anapali beach and ocean waters

§13-251-56 [~~Rules of the road~~] Repealed
§13-251-57 [~~Waikiki restricted areas~~] Waikīkī ocean waters
§13-251-58 [~~Kaanapali ocean waters, general restrictions~~] Kā'anapali beach and ocean waters
§13-251-59 [~~Intoxication~~] Repealed
§13-251-60 [~~Careless operation~~] Repealed
§§13-251-61 to [~~13-251-65~~] 13-251-75 (Reserved)

Subchapter 7 [~~Special operating restrictions~~] Repealed

Subchapter 8 Soliciting Prohibited in or on [~~Waikiki and Kaanapali~~] Waikīkī and Kā'anapali Ocean Waters

§13-251-76 Commercial Activities

Historical note. [~~This chapter is based on catamaran captain, canoe captain, canoe second captain and surfboard instructor permits, owners of for rent~~

~~surfboards and passengers carrying vessels - proof of financial responsibility, registrations rules of the road, special operating restrictions and soliciting prohibited in or on Waikiki shore waters of the Hawaii Shore Waters Rules, effective November 6, 1981, and as amended thereafter, under the jurisdiction of the Department of Transportation, Harbors Division.~~] The administrative jurisdiction for recreational boating and related vessel activities was transferred from the Department of Transportation, Harbors Division, to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, effective July 1, 1992, in accordance with Act 272, SLH 1991. [Eff 2/24/94; am and comp]

SUBCHAPTER 1

[~~CATAMARAN CAPTAIN, CANOE CAPTAIN, CANOE SECOND CAPTAIN, SURFBOARD INSTRUCTOR, SAILBOARD INSTRUCTOR AND COMMERCIAL MOTORBOAT OPERATOR PERMITS~~] COMMERCIAL ACTIVITIES ON THE NAVIGABLE WATERS OF THE STATE

§13-251-1 Use [~~Permits~~] permits. [~~Catamaran captains, canoe captains, canoe second captains, surfboard instructors, sailboard instructors and commercial motorboat operators shall have an operator permit.~~

~~(a) No person shall navigate a catamaran or canoe as catamaran captain, canoe captain, or canoe second captain on a vessel carrying passengers for hire, or operate as a surfboard or sailboard instructor for compensation in or upon Waikiki or Kaanapali ocean waters unless the person has a valid permit under this part.~~

~~(b) No person shall navigate a commercial motorboat in or upon Kaanapali ocean waters unless the person has a valid permit under this part.~~

~~(c) No permit is required for captains navigating catamarans carrying passengers for hire who, while cruising, enter Waikiki or Kaanapali ocean~~

~~waters other than restricted waters described in sections 13-251-57 and 13-251-58, and do not load or unload passengers in or on Waikiki or Kaanapali ocean waters or shores.~~] (a) No regular or extensive use of any state property or facilities or ocean waters or navigable streams for private gain or purposes shall be allowed without corresponding and reasonable benefits and returns to the public.

(b) No person shall engage in any business or commercial activity on the navigable waters of the state without:

(1) Prior written approval from the board or its authorized representatives; or

(2) The proper execution of an agreement with the department.

[Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

[~~§13-251-2 What persons shall not receive permits. The department shall not issue an operator permit to any person:~~

~~(1) Who is under the age of twenty one years for a catamaran captain or commercial motorboat operator, or under the age of twenty years for a canoe captain, or under the age of eighteen for a canoe second captain, or surfboard or sailboard instructor;~~

~~(2) Whose permit has been suspended or revoked, while the suspension or revocation is in effect;~~

~~(3) Who is a habitual drunkard, or a habitual user of narcotic or other drugs, to a degree which renders the person incapable of safely operating as a permittee;~~

~~(4) Who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency as provided by law, such as to~~

~~render the person incapable of safely operating as a permittee;~~

~~(5) Who is required by this chapter to pass an examination or re-examination and has failed to do so; or~~

~~(6) Who the chairperson has good cause to believe is incapable of operating as a permittee without substantially jeopardizing public safety and welfare.~~] [R]

[~~§13-251-3 Special restrictions. (a) The department, upon issuing an operator permit, shall indicate thereon the class of permit so issued and shall appropriately examine each applicant according to the class.~~

~~(b) The department shall not issue a catamaran captain permit unless the applicant has a valid Coast Guard license to operate sailing catamarans carrying passengers for hire, and has a minimum of ninety working days catamaran sailing experience in Waikiki ocean waters, Zone A, or Kaanapali ocean waters, as appropriate, attested to by two persons holding valid catamaran captain permits issued by the department.~~

~~(c) The department shall not issue a canoe captain permit unless the department is fully satisfied as to the applicant's competency and fitness to receive the permit, and the applicant has a minimum of three years experience in canoe handling, possesses a current Red Cross advanced life saving certificate, knows elementary first aid, and is physically qualified to perform the duties the position requires, as evidenced by a written report of a physician's physical examination made no earlier than thirty days prior to the effective date of the permit.~~

~~(d) The department shall not issue a canoe second captain's permit unless the department is fully satisfied as to the applicant's competency and fitness to receive the permit, and the applicant has a minimum of eighteen months experience in canoe handling, possesses a current Red Cross advanced life saving certificate, knows elementary first aid, and is~~

~~physically qualified to perform the duties the position requires, as evidenced by a written report of a physician's examination made no earlier than thirty days prior to the effective date of the permit.~~

~~(e) The department shall not issue a senior surfboard instructor's permit or a sailboard instructor's permit unless the department is fully satisfied as to the applicant's competency and fitness to receive the permit, and the applicant has a minimum of three years surfboard or sailboard riding experience, as appropriate, possesses a current Red Cross advanced life saving certificate, knows elementary first aid, and is physically qualified to perform the duties the position requires, as evidenced by a written report of a physician's examination made no earlier than thirty days prior to the effective date of the permit.~~

~~(f) The department shall not issue a primary surfboard instructor's permit unless the department is fully satisfied as to the applicant's competency and fitness to receive the permit, and the applicant has a minimum of three years surfboard riding experience, possesses a current Red Cross advanced life saving certificate (on application for original permit only), knows elementary first aid, and is physically qualified to perform the duties the position requires, as evidenced by a written report of a physician's examination made no earlier than thirty days prior to the effective date of the permit.~~

~~(g) A primary surfboard instructor's permit for Waikiki shall entitle the permittee to instruct only in waters five feet or less in depth at mean low water and not in the outer surfbreak area.~~] [R]

[~~§13-251-4 Learner steerosperson permits. Any person who is at least seventeen years of age may apply to the department for a learner steerosperson permit. After the applicant has passed all parts of the applicable examination other than a canoe surfing test, the department may issue to the applicant a learner steerosperson permit which shall entitle the~~

~~applicant to navigate a canoe, registered by the department and not carrying passengers for hire, in or upon Waikiki or Kaanapali ocean waters as appropriate.~~] [R]

[~~§13-251-5 Application for operator permit. (a) Every application for an operator permit shall be accompanied by the proper fee and payment of such fee shall entitle the applicant to not more than three attempts to pass any examination within a period of six months from the date of application.~~

~~(b) Every application shall include the full name, aliases, date of birth, sex, and resident address of the applicant and briefly describe the applicant, and the applicant's experience related to the vessel, surfboard, or sailboard the applicant wishes to use or operate. The application shall state whether the applicant has been issued a permit and, if so, when and whether the permit has ever been suspended or revoked, or whether an application has ever been refused and, if so, the date and reason for the suspension, revocation, or refusal. Two recent photographs shall be attached to the application.~~] [R]

[~~§13-251-6 Examination of applicants. (a) The department shall examine every applicant for an operator permit, except as otherwise provided in this section. The examination shall include a test of the applicant's knowledge of this chapter and shall include an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of catamarans, canoes, surfboards, sailboards, or commercial motorboats, as the case may be, and such further written, physical, and mental examination as the department feels is necessary to determine the applicant's fitness to operate a catamaran, canoe, surfboard, sailboard, or motorboat safely upon the Waikiki or Kaanapali ocean waters as appropriate, provided that applicants for learner~~

~~steersperson permits shall not be required to pass the canoe surfing test.~~

~~(b) The department may issue without examination an operator permit to any person applying therefore who furnished evidence satisfactory to the department that the person is not disqualified under this chapter and that the person has previously been issued an operator permit by the department.~~] [R]

[~~§13-251-7 Operator permits issued to catamaran captains, canoe captains, canoe second captains surfboard instructors, sailboard instructors and commercial motorboat operators. (a) An operator permit when issued by the department shall bear a distinguishing number assigned to the permit, the full name, date of birth, residence address, and brief description of the permittee, and a space upon which the permittee shall sign in ink the permittee's name immediately upon receipt of the permit. No permit shall be valid until it has been so signed by the permittee.~~

~~(b) Every operator permit shall bear the permittee's photograph showing the permittee's facial features, which shall be furnished by the permittee.~~] [R]

[~~§13-251-8 Operator permit to be carried on board and exhibited upon demand. Every permittee shall have the operator permit in the operator's immediate possession or at a place for safekeeping in the immediate vicinity at all times when operating as a permittee and shall display the same upon demand of a lifeguard, peace officer, or representative of the department.~~] [R]

[~~§13-251-9 Duplicate certificate. In the event that an operator permit issued under this subchapter is lost or destroyed, the permittee may obtain a duplicate or substitute thereof, upon payment of the~~

~~required fee, as provided by chapter 13-253, obtain a duplicate or substitute thereof.~~] [R]

[~~§13-251-10 Expiration of operator permit. Every operator permit shall expire three years after its issuance. Application for a new permit shall be made as provided in section 13-251-5. The department may in its discretion, as provided in section 13-251-6, waive examination for renewal of a permit.~~] [R]

[~~§13-251-11 Records to be kept by the department. (a) The department shall file every application for a permit received by it and shall maintain suitable records concerning permits issued.~~

~~(b) The department shall file upon receipt, all accident reports and abstracts of records of convictions for violating this chapter. The department shall also maintain convenient records or make suitable notations so that an individual record of each licensee, showing the licensee's convictions and accidents, shall be readily ascertainable and available for the consideration by the department upon any application for renewal of license or permit and at other suitable times.~~] [R]

§13-251-2 Insurance requirements. A registration certificate and/or commercial use permit are subject to the insurance requirements of section 13-231-65.

§13-251-3 Reissuance of a registration certificate and/or commercial use permit. (a) The department may reissue a registration certificate and/or commercial use permit provided that:

(1) The gross receipts during the 12-month period under the registration certificate and/or commercial use permit for which the

application for reissuance has been submitted, equals or exceeds the following minimums as applicable:

(A)	Catamarans used for bare boat (demise) charters and charter sail boats	$ 7,000
(B)	Catamarans with a registration certificate and/or commercial use permit by the State or documented by the U. S. Coast Guard to carry six passengers or less, including charter fishing boats	$15,000
(C)	Catamarans certified by the U. S. Coast Guard to carry seven to twenty-six passengers	$45,000
(D)	Catamarans certified by the U. S. Coast Guard to carry twenty-seven to forty-nine passengers	$85,000
(E)	Catamarans certified by the U. S. Coast Guard to carry fifty to ninety-nine passengers	$125,000
(F)	Catamaran certified by the U. S. Coast Guard to carry more than ninety-nine passengers	$250,000
(G)	Vessels engaged in another trade or business not delineated and governed by an appropriate paragraph above	$ 7,000;

or

(2) The registered certificate holder and/or commercial use permittee applies to the department in writing for reissuance of the registration certificate and/or commercial use permit and concurrently presents evidence that any failure to generate gross

receipts from the operation of the catamaran as prescribed in this subsection was due to:

(A) The sinking, loss, or destruction of the catamaran;

(B) The catamaran being inoperative in excess of 60 days due to disability of the registered certificate holder and/or commercial use permittee;

(C) The catamaran was rendered inoperative in excess of 60 days due to damage to the catamaran, or due to the necessity of replacing essential parts and gear, provided that reasonable and diligent efforts to secure such items necessary to repair the catamaran or replace parts, is demonstrated to the satisfaction of the department; or

(D) Where conditions and circumstances are demonstrated wherein a reissuance of the registration certificate and/or commercial use permit would be fair and warranted, and the application for reissuance is approved by the department; and

(3) All fees and charges due and payable to the department have been paid and no violations are outstanding.

(b) No registration certificate and/or commercial use permit whose registration certificate and/or commercial use permit has been terminated for cause shall be reissued; provided that the registered certificate holder and/or commercial use permittee may apply for, but not be automatically entitled to, a new registration certificate and/or commercial use permit after one year has expired from the date of termination of the registration certificate and/or commercial use permit, all fees and charges owing the State have been paid, and the registered certificate holder and/or commercial use permittee is in compliance with federal and state laws.

(c) A corporation or other business entity must have been in continuous commercial operation as

evidenced by the submission of monthly reports of gross receipts for a minimum of 12 months in order to retain their registration certificate and/or commercial use permit upon the transfer of any interest in that corporation and fee amounts in accordance with 13-253-1 are paid.

(d) No reissuance of a registration certificate or commercial use permit may be denied for a catamaran operating in Waikīkī ocean waters without a prior hearing [Eff] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

[~~§§13-251-12 to §13-251-15~~] §§13-251-4 to §13-251-35 (Reserved)

SUBCHAPTER 2

[~~SUSPENSION OR REVOCATION OF PERMITS~~] REPEALED

[~~§13-251-16 Authority of department to revoke operator permit. (a) The department may revoke any operator permit upon determining that the permittee failed to give the required or correct information in the application, committed any fraud in making such application, or repeatedly violated section 13-251-17.~~

~~(b) Upon revocation, the department shall immediately notify the permittee in writing and upon written request shall afford the permittee full and reasonable opportunity for a hearing.~~] [R]

[~~§13-251-17 Authority of department to suspend operator permit. (a) The department may suspend the operator permit of a catamaran captain upon sufficient evidence that the permittee does not have a valid Coast Guard license.~~

~~(b) The department may suspend the operator permit of a canoe captain, second captain, surfboard instructor, sailboard instructor, operator of a commercial motorboat or learner steersperson upon sufficient evidence that the permittee:~~

~~(1) Has been convicted of violations of this chapter in such frequency and seriousness as to indicate a disregard for the safety of other persons on the waters;~~

~~(2) Is incompetent to operate canoes, surfboards, sailboards or motorboats for charter or rent, as the case may be;~~

~~(3) Has permitted an unlawful or fraudulent use of the permittee's license or permit; or~~

~~(4) Has violated this chapter.~~

~~(c) Upon suspension, the department shall immediately notify the permittee in writing and upon a written request shall afford the permittee full and reasonable opportunity for a hearing.~~] [R]

[~~§13-251-18 Department may require re-examination. The department upon written notice of at least five days to the permittee, may require the permittee to submit to an examination if the department has good cause to believe that a permittee is incompetent or otherwise not qualified to retain an operator permit. Upon the conclusion of the examination, the department shall take action as may be appropriate and may suspend or revoke the permit of that person or may issue a permit subject to restriction. Refusal or neglect of the permittee to submit to this examination shall be grounds for suspension or revocation of the permit.~~ [R]

[~~§13-251-19 Period of suspension or revocation. (a) The department shall not suspend an operator permit for a period of more than one year, except as provided under section 13-251-27.~~

~~(b) Any person whose operator permit had been revoked shall not be entitled to have that permit or~~

~~privilege renewed or restored unless the revocation was for a cause which has been remedied, except that after one year from the date on which the revoked permit was surrendered to and received by the department, the person may apply for a new permit as provided by this chapter. However, the department shall not issue a new permit unless it is satisfied, after investigation, with the character and ability of the person.~~] [R]

[~~§13-251-20 Surrender and return of operator permit. The department, upon suspending or revoking an operator permit, shall require that the permit be surrendered to and be retained by the department, except that at the end of the suspension, the surrendered permit shall be returned to the permittee.~~] [R]

[~~§§13-251-21 to 13-251-25 (Reserved)~~] [R]

SUBCHAPTER 3

[~~VIOLATION OF OPERATOR PERMIT PROVISIONS~~] REPEALED

[~~§13-251-26 Unlawful use of operator permit. No person shall:~~

~~(1) Display, cause or permit to be displayed, or have in the person's possession, any cancelled, revoked, suspended, fictitious, or fraudulently altered permit;~~

~~(2) Lend the person's permit to any other person or knowingly permit the use thereof by another;~~

~~(3) Display or represent as one's own, any permit not issued to oneself;~~

~~(4) Fail or refuse to surrender any departmental permit to the department upon its lawful demand;~~

~~(5) Permit any unlawful use of a permit issued to that person;~~

~~(6) Do any act forbidden, or fail to perform any act required, by this chapter.~~] [R]

[~~§13-251-27 Operating while operator permit suspended or revoked. (a) No person shall operate as a permittee at a time when the privilege is suspended or revoked.~~

~~(b) The department shall extend the operator's suspension for a period equal to the original suspension upon receiving a record of that person's conviction for operating while the person's operator permit was suspended. If the conviction was for operating while a permit was revoked, the department shall not issue a new permit for an additional period of one year from the date the person would otherwise have been entitled to apply for a new permit.~~] [R]

[~~§13-251-28 Permitting unauthorized person to operate catamaran or canoe. No person shall authorize or permit a catamaran or canoe carrying passengers for hire to be navigated in or upon Waikiki or Kaanapali ocean waters by any person who is not authorized by this chapter to do so.~~] [R]

[~~§§13-251-29 to 13-251-30 (Reserved)~~] [R]

SUBCHAPTER 4

[~~OWNERS OF PASSENGER-CARRYING VESSELS, FOR RENT SURFBOARDS, FOR RENT SAILBOARDS, FOR CHARTER OR RENT MOTORBOATS AND FOR RENT WATERSPORTS EQUIPMENT PROOF OF FINANCIAL RESPONSIBILITY~~] REPEALED

[~~§13-251-31 Owner of passenger carrying vessels, for rent surfboards, for rent sailboards, for charter or rent motorboats, or for rent water sports equipment to give proof of financial responsibility. (a) It shall be unlawful for the owner of any:~~

~~(1) Vessel carrying passengers for hire to authorize or knowingly permit that vessel to be navigated in or upon Waikiki or Kaanapali ocean waters, unless the owner has registered the catamaran as prescribed in this subchapter; except that this paragraph shall not apply to cruising vessels as described in section 13-251-1;~~

~~(2) Surfboard or sailboard engaged in the business of renting surfboards or sailboards for use in Waikiki or Kaanapali ocean waters, to rent a surfboard or sailboard, unless the owner has registered the surfboard or sailboard as prescribed in this subchapter. The department shall not register any vessel, surfboard, or sailboard unless the owner gives proof of financial responsibility as provided by this chapter. The department shall cancel the registration of any vessel, surfboard, or sailboard whenever the department ascertains that the owner has failed to or is unable to give and maintain proof of financial responsibility;~~

~~(3) Water sports equipment engaged in the business of renting water sports equipment for use in Waikiki or Kaanapali ocean waters to rent water sports equipment, unless the owner has registered the water sports equipment as prescribed in this subchapter. The department shall not register any water sports equipment unless the owner gives proof of financial responsibility as provided by this subchapter. The department shall cancel the registration of any water sports equipment whenever the department ascertains that the owner has failed to or~~

~~is unable to give and maintain proof of financial responsibility;~~

~~(4) Water sports equipment engaged in the business of renting water sports equipment for use in Waikiki or Kaanapali ocean waters to rent water sports equipment, unless the owner has registered the water sports equipment as prescribed in this subchapter. The department shall not register any water sports equipment unless the owner gives proof of financial responsibility as provided by this subchapter. The department shall cancel the registration of any water sports equipment whenever the department determines that the owner has failed to or is unable to give and maintain proof of financial responsibility.~~

~~(b) The owner shall submit to the department evidence that there has been issued to the owner by an insurance carrier authorized to do business in the State, and naming the State as an additional insured, a public liability insurance policy or policies covering the operations under the permits issued in accordance with this chapter and with the following minimum coverages:~~

~~(1) In the case of vessels carrying passengers for hire, the following amounts for bodily injury and damage to property per occurrence:~~

~~(A) $100,000 for vessels authorized to carry not more than six passengers;~~

~~(B) Not less than $300,000 for vessels authorized to carry more than six passengers, but less than twenty-six;~~

~~(C) Not less than $500,000 for vessels authorized to carry more than twenty-five passengers;~~

~~(2) In the case of surfboard or sailboard operations, the amount of $50,000 for bodily injury or death per person, subject to the total coverage in any one accident of $100,000 for bodily injury or death;~~

~~(3) In the case of motorboat operations, the amount of $100,000 for bodily injury or death per person, subject to the total coverage in any one accident of $500,000 for bodily injury or death;~~

~~(4) In the case of water sports equipment operations, the amount of $100,000 for bodily injury or death per person, subject to the total coverage in any one accident of $300,000 for bodily injury or death.~~

~~(c) The owner shall maintain the policy or policies in full force and effect during all times that the owner is engaged in the businesses described in subsection (a), unless the owner has given proof of financial responsibility as provided in section 13-251-32.~~] [R]

[~~§13-251-32 Owner of passenger carrying vessels, for rent surfboards, for rent sailboards, for rent motorboats, and for rent water sports equipment when no policy obtained. (a) The department shall not register any vessel, surfboard, sailboard, motorboat, or water sports equipment rented, chartered or used for carrying passengers, as the case may be, in Waikiki or Kaanapali ocean waters if the owner thereof has not given proof of financial responsibility as provided in section 13-251-31, provided no such proof is necessary if the owner demonstrates, to the satisfaction of the department, the financial ability to respond to claims for damages as follows:~~

~~(1) If the owner applies for registration of surfboards or sailboards, in the sum of at least $50,000 per person injured or killed in a surfboard or sailboard operation, subject to the total coverage in any one accident of $100,000 for bodily injury or death; or~~

~~(2) If the owner applies for the registration of any vessel carrying passengers for hire, in the following sums for bodily injury or death per occurrence:~~

~~(A) $100,000 for vessels authorized to carry not more than six passengers;~~

~~(B) Not less than $300,000 for vessels authorized to carry more than six passengers but less than twenty-six;~~

~~(C) Not less than $500,000 for vessels authorized to carry more than twenty-five passengers;~~

~~(3) In the case of motorboat operations, the amount of $100,000 for bodily injury or death per person, subject to the total coverage in any one accident of $500,000; or~~

~~(4) In the case of water sports equipment operations, the amount of $100,000 for bodily injury or death per person, subject to the total coverage in any one accident of $300,000.~~

~~(b) The department shall cancel the registration of any vessel, surfboard, sailboard, motorboat or water sports equipment whenever the department determines that the owner has failed or is unable to comply with the requirements of this section.~~] [R]

[~~§§13-251-33 to 13-251-35 (Reserved)~~]

SUBCHAPTER 5

[~~REGISTRATION~~] WAIKÎKÎ AND KĀ'ANAPALI CATAMARANS

§13-251-36 Application for a catamaran registration certificate and/or commercial use permit.

(a) No person shall[~~:~~]

[~~(1)~~] [~~Offer~~]offer for hire, navigate, operate, or sail a catamaran [~~or canoe carrying passengers boarded or to be disembarked in or~~] on [~~Waikiki~~] Waikīkī or [~~Kaanapali~~] Kā'anapali ocean waters and beach [~~shores~~]

without either a registration certificate or a commercial use permit;

[~~(2) Permit the use of a surfboard, sailboard or motorboat for compensation in and on the Waikiki or Kaanapali ocean waters and shores,~~

~~(3) Permit the use of water sports equipment for compensation in and on the Waikiki or Kaanapali ocean waters and shores; or~~

~~(4) As the owner of a vessel, surfboard, sailboard, motorboat or water sports equipment, permit or authorize those operations described in paragraphs (1), (2), or (3); unless the vessel, surfboard, sailboard or water sports equipment has been properly registered with the department.~~]

(b) The registration certificate and/or commercial use permit shall be initiated by the owner upon appropriate forms furnished by the department in accordance with those procedures that the department may reasonably prescribe. [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-37 Grounds for refusing [~~registration.~~] an application for a registration certificate and/or commercial use permit. (a) The department shall refuse a registration certificate and/or commercial use permit, or any transfer of registration certificate and/or commercial use permit, upon a finding that:

(1) The application contains any false or fraudulent statement, the applicant has failed to furnish required information or reasonable additional information requested by the department, or the applicant is not entitled to a registration certificate and/or commercial use permit under this subchapter;

(2) The catamaran [~~vessel, surfboard, sailboard or water sports equipment~~] is unsafe to be operated upon the [~~Waikiki or Kaanapali~~] Waikīkī or Kā'anapali ocean waters;

(3) The registration certificate and/or commercial use permit of the catamaran [~~vessel, surfboard, sailboard or water sports equipment~~] stands suspended or revoked for any reason as provided in this subchapter;

(4) The required fee has not been paid;

(5) Any catamaran:

(A) Engaged in carrying more than six passengers does not have a valid Coast Guard certificate of inspection; or

(B) Engaged in carrying six or less passengers does not have a record of a condition survey, by a marine surveyor as defined in section 13-231-45, undertaken within ninety days prior to application for registration or renewal of registration, attesting that the vessel:

(i) Is in good material and operating condition;

(ii) The minimum required Coast Guard safety equipment is on board;

(iii) The catamaran is suitable to carry passengers in [~~Waikiki or Kaanapali~~] Waikīkī or Kā'anapali ocean waters while being propelled solely by sail;

(6) The catamaran cannot be safely navigated in [~~Waikiki or Kaanapali~~] Waikīkī or Kā'anapali ocean waters, as appropriate, while being propelled by sail only;

(7) The catamaran is equipped with auxiliary mechanical propulsion machinery using a propeller but does not have a propeller guard installed on the vessel [~~,~~] or a captain or crew member designated to be a look-out to ensure public safety approved by

the department [~~, permanently installed on the vessel~~];

(8) The catamaran~~:~~

(A) Is more than [~~forty-five~~] fifty feet in length for [~~Waikiki~~] Waikīkī ocean waters operation;

[(B) Is more than sixty-five feet in length for Kaanapali ocean waters operation;

(C) Has a passenger capacity of more than forty-nine passengers;

~~(9) The catamaran will be used to transport passengers in a shuttle type service wherein passengers will be disembarked at a point other than at or near the embarkation point,~~]

(9) [~~(10)~~] The applicant for a catamaran registration certificate and/or commercial use permit holds a valid registration certificate and/or commercial use permit issued by the department in accordance with this subchapter for another catamaran authorized to be used on [~~Waikiki or Kaanapali~~] Waikīkī or Kā'anapali ocean waters as applicable;

(10) [(~~11~~)] The owner has not furnished proof of financial responsibility as prescribed in this subchapter;

(11) [~~(12)~~] The owner of a catamaran holds a valid registration certificate and/or commercial use permit issued by the department in accordance with this subchapter for another catamaran authorized to be used on [~~Waikiki or Kaanapali~~] Waikīkī or Kā'anapali ocean waters, as applicable; or

[~~(13) The operator of any vessel, surfboard, sailboard, or water sports equipment does not hold a valid operator permit; or~~]

(12) [~~(14)~~] Any other grounds provided by this subchapter warrants refusal of the registration certificate and/or commercial

use permit or transfer of registration and/or commercial use permit.

(b) The department shall notify the owner in writing of the refusal. [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-38 Registration certificate and/or commercial use permit indices. (a) The department shall receive [~~applications~~] an application for a registration certificate and/or commercial use permit [~~of~~] for catamarans [~~vessels, surfboards, sailboards, and water sports equipment~~] and when satisfied [~~of~~] with the [~~genuineness~~] accuracy, validity and regularity thereof, shall [~~register~~] provide a registration certificate and/or commercial use permit for the catamaran [~~vessel, surfboard, sailboard, or water sports equipment,~~] and keep a record of that registration certificate and/or commercial use permit.

(b) The total number of valid catamaran registration certificates and/or commercial use permits issued under this subchapter shall be issued according to 13-251-51.

(c) An owner may apply for a future vacancy, as prescribed in section 13-251-52, if registration certificates and commercial use permits continue to be issued. [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-39 Department to issue registration certificate and/or commercial use permit. [~~(a) The department shall issue a registration certificate upon registering a vessel., surfboard, sailboard or water sports equipment.~~]

[~~(b)~~] The registration certificate and/or commercial use permit shall be issued to the owner, and shall contain the date issued, the name and

address of the owner, the [~~registration~~] number or other [~~vessel, surfboard, sailboard or water sports equipment~~] identification, and the description of the [~~vessel, surfboard, sailboard or water sports equipment~~] catamaran as determined by the department. [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-40 Registration certificates and/or commercial use permits to be exhibited upon demand. Registration certificates and/or commercial use permit shall be shown upon demand of a [~~police~~] law enforcement officer, lifeguard, or [~~a~~]an authorized representative of the department. [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-41 Identification of catamarans [~~vessels, surfboards, sailboards or water sports equipment~~] with a [~~registered~~] registration certificate and/or commercial use permit. [~~by the department.~~] [~~(a)~~] A name, or number, or both, prescribed by law or adopted by the owner with prior approval of the department shall be painted on, or attached to each side of the bow of each catamaran[~~, canoe, or motorboat~~] registered and/or commercial use permitted by the department, in a manner prescribed by the department and in a color which contrasts with the background in order that the name, or number, or both, may be completely visible and legible. Any lettering shall be no less than three inches in height. [~~The department may issue a decal at the time of initial registration and upon renewal. The decal shall be placed three inches aft of and in line with the name or number on the right (starboard) side.~~

~~(b) Surfboards, sailboards and water sports equipment registered by the department shall be marked by the owner with a distinctive mark or a mark~~

~~together with a color or combination of colors adopted by the owner with the prior approval of the department to make the owner's surfboards, sailboards, or water sports equipment distinguishable. The department may issue a decal at the time of initial registration and upon renewal. The decal shall be affixed to a registered surfboard, sailboard or water sports equipment in a manner prescribed by the department.~~] [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-42 Expiration of registration certificate and/or commercial use permit. Every catamaran [~~vessel, surfboard, sailboard, or water sports equipment~~] registration ~~certificates~~ and/or commercial use permit under this part shall expire:

(1) One year after the effective date of the registration certificate and/or commercial use permit; or

(2) When ownership has been transferred except as provided in section 13-251-45. [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-43 Application for renewal of registration certificate and/or commercial use permit. Application for renewal of a [~~vessel, surfboard, sailboard, or water sports equipment~~] registration certificates and/or commercial use permit shall be made by the owner upon proper application and by payment of the registration certificates and/or commercial use permit fee. [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-44 Notice of change of address. Whenever any person moves from the address stated on a registration certificate and/or commercial use permit or pending application for a [~~vessel, surfboard, sailboard, or watersports equipment~~] registration certificate and/or commercial use permit, the person shall notify the department in writing of the person's old and new addresses within seven days of the change in address. [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-45 [~~Registration expires on transfer of ownership; exception.~~] Transfer of registration certificate and/or commercial use permit. (a) Whenever the individual owner of a catamaran [~~registered vessel, surfboard, sailboard, or water sports equipment~~] transfers or assigns the individual owner's title or interest, or the title or interest [~~of an owner~~] passes to another owner other than by voluntary transfer, the registration certificate and/or commercial use permit of the catamaran [~~vessel, surfboard, sailboard or water sports equipment~~] shall expire; provided, that upon the incapacitation or death of the individual owner, the registration certificate and/or commercial use permit may be transferred to a spouse or other member of the immediate family if the individual inherits the catamaran as provided by law and no transfer fee shall apply.

(b) Registration issued to individuals.

(1) A registration certificate and/or commercial use permit issued to a sole proprietor may transfer the ownership of the vessel from personal ownership to corporate or other business ownership without terminating the right to operate under the commercial use permit or existing registration certificate;

(2) The existing commercial use permit or existing registration certificate shall be

reissued in a timely manner in the name of the transferee corporation or other business entity;

(3) No valid commercial use permit or existing registration certificate issued to an owner of a commercial catamaran operating in the Waikīkī ocean waters shall be denied or revoked without a prior hearing in accordance with chapter 91, Hawaii revised statutes;

[~~(2)~~] (4) An original registration certificate holder or commercial permittee holding a regular mooring permit, upon written application and approval by the department, may retain the mooring permit, provided that within 30 days the permittee moves into the small boat harbor another vessel owned by the permittee pursuant to the provisions of section 13-231-13; and

[~~(3)~~] (5) An original registration certificate holder and/or commercial use permittee may, upon written application to and approval by the department, retain the registration certificate and/or commercial use permit, provided that within 30 days the permittee resumes operation with another vessel owned by the certificate holder or permittee pursuant to the provisions of sections 13-231-13 and 13-231-61.

(c) The following rights, conditions, and restrictions apply to a registration certificate and/or commercial use permit issued to a corporation or other business entity.

(1) Notwithstanding section 13-231-13, a corporation or other business entity holding a valid registration certificate and/or commercial use permit may transfer any or all stock or interest and retain the registration certificate and/or commercial use permit and all other valid small boat harbor use permits in effect on the date of transfer, provided that the corporation or

other business entity has been in continuous operation as evidenced by the submission of monthly reports of gross receipts for a minimum period of one full year and meets all requirements necessary for issuance of a registration certificate and/or commercial use permit. The department shall be notified within ten working days of:

(A) All transactions that amount to a transfer of 10 per cent or more of the stock or interest in the firm by owners of record on the effective date of the current registration certificate and/or commercial use permit;

(B) The transfer of any stock or interest which results in a change of the principal stockholder or owner; and

(C) The business transfer fee is paid on or before the date of transfer in accordance with the provisions of section 13-234-33; and

(2) A registration certificate and/or commercial use permit issued to a corporation or other business entity shall automatically expire:

(A) Upon the voluntary or involuntary dissolution of the corporation or business entity;

(B) If the catamaran operated under the registration certificate and/or commercial use permit is sold or otherwise transferred and not replaced in accordance with the provisions of section 13-231-13(b); or

(C) If the registration certificate holder and/or commercial use permittee fails to operate the catamaran for which the registration certificate and/or commercial use permit is issued for a period in excess of sixty days, except as provided in section 13-231-61(a)(2), and except when the registration holder and/or commercial use permittee

provides advance notification to the department in writing that operations will be temporarily suspended for a specific period not to exceed four months. (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-46 New owner must secure new registration certificate and/or commercial use permit. A transferee shall obtain an original registration certificate and/or commercial use permit for a catamaran [~~vessel, surfboard, sailboard or water sports equipment~~] before operating or renting the same upon [~~Waikiki or Kaanapali~~] Waikīkī or Kā'anapali ocean waters. [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

[~~§13-251-47 Operation of vessels without proper identification. No person shall operate, nor shall an owner permit to be operated upon the Waikiki or Kaanapali ocean waters, any vessel or rented surfboard, sailboard or water sports equipment required to be registered under this subchapter, unless there shall be attached, painted on, or otherwise displayed a valid distinguishing name, number, or mark as required by this subchapter.~~] [R]

§13-251-48 Operation of a catamaran [~~vessel or renting of surfboard, sailboards, or water sports equipment~~] when registration certificate and/or commercial use permit suspended or revoked. No person shall operate [~~nor shall an or owner knowingly permit to be operated~~] upon the [~~Waikiki or Kaanapali~~] Waikīkī or Kā'anapali ocean waters any catamaran

[~~vessel or rented surfboard, sailboard, or water sports equipment,~~] in which the registration and/or commercial use permit [~~of which~~] has been suspended or revoked. [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-49 Authority of department to suspend or revoke registration certificate and/or commercial use permit. (a) The department may suspend or revoke the registration certificate and/or commercial use permit of a catamaran [~~vessel, surfboard, sailboard, or water sports equipment~~] whenever:

(1) The department is satisfied that the registration certificate and/or commercial use permit was fraudulently or erroneously issued;

(2) The department determines that a registered and/or commercial use permitted catamaran [~~vessel~~] is unsafe to be operated upon the [~~Waikiki or Kaanapali~~] Waikīkī or Kā'anapali ocean waters;

(3) A registered and/or commercial use permitted catamaran [~~vessel~~] has been sold, dismantled, or wrecked, provided that the owner of the catamaran [~~vessel~~] at the time it was sold, dismantled, or wrecked may, upon written application to and approval by the department, transfer the registration certificate and/or commercial use permit to another catamaran [~~vessel~~] of like characteristics and ownership if the replacement catamaran [~~vessel~~] is in operation within [~~ninety~~] one-hundred twenty days of the transfer;

(4) The owner of any [~~for rent surfboard, for-rent sailboard or water sports equipment, or vessel~~] catamaran carrying passengers for hire has failed or is unable to give proof

of financial responsibility as provided in this subchapter;

(5) Any catamaran's Coast Guard Certificate of Inspection has expired; or

[~~(6) Any registered vessel boards passengers on Waikiki or Kaanapali ocean waters for a shuttle type service and disembarks the passengers at a point other than at or near the point of boarding; or~~]

[~~(7)~~] (6) A [~~registered vessel~~] catamaran has not been engaged in carrying passengers for hire in [~~Waikiki or Kaanapali~~] Waikīkī or Kā'anapali ocean waters for a period of thirty consecutive days[~~.~~]unless actively making repairs in accordance with United States Coast Guard requirements and approved by the department.

(b) Upon suspending or revoking the registration certificate and/or commercial use permit of a catamaran [~~vessel, surfboard, sailboard or water sports equipment~~] the department shall immediately notify the owner in writing of the reason for the suspension or revocation.

(c) For catamarans operating in Waikīkī ocean waters, no registration certificate or commercial use permit may be revoked without a prior hearing in accordance with chapter 91, Hawaii revised statutes.

[Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-50 Duplicate registration certificate and/or commercial use permit. In the event that a registration certificate and/or commercial use permit issued under the provisions of this part is lost or destroyed, the registration certificate [~~holder~~] and/or commercial use permit holder may, upon the payment of the required fee, obtain a duplicate or substitute. [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-

24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-51 Catamaran registration limitations. (a) The total number of valid catamaran registrations issued under this subchapter shall not exceed four at any one time for Waikiki ocean waters or ten at any one time for Kaanapali ocean waters. An owner may apply for a future vacancy, as prescribed in section 13-251-52, if future catamarans are registered.

(b) Notwithstanding this section, all owners of catamarans holding valid registrations or commercial use permits to operate upon Waikiki ocean waters [~~on November 6, 1981, and all owners of catamarans operating upon or under construction for operation upon~~] or Kaanapali ocean waters on the effective date of these rules[~~, except catamarans engaged in a shuttle type service~~,] may continue operations and be permitted to apply for and renew their registration certificate or commercial use permit subject to compliance with all other conditions set forth in this chapter until their total number is reduced by attrition or other means to the numbers in subsection (a). [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-3, 200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-251-52 Allocation of catamaran [~~registrations~~] registration certificates and/or commercial use permits. (a) Application for a catamaran registration certificate and/or commercial use permit; period of validity; renewal of application.

(1) The first owner to file an application may be offered a catamaran registration certificate and/or commercial use permit as prescribed under subsection (e) if the maximum number of catamaran [~~registrations~~] registration certificates and/or commercial use permits authorized by section 13-251-51

has not been issued and provided that no prior requests therefor are pending as provided in this section.

(2) If the maximum number of catamaran [~~registrations~~] registration certificates and/or commercial use permits permitted by section 13-251-51 has been issued and is valid, an owner's application for a catamaran registration certificate and/or commercial use permit shall be retained and honored when the total number of valid catamaran [~~registrations~~] registration certificates and/or commercial use permit is less than the maximum limit and the issuance of an additional catamaran registration certificate and/or commercial use permit is authorized pursuant to these rules.

(A) An application for the issuance of a catamaran registration certificate and/or commercial use permit shall be made in writing to the department by the owner on a form provided by the department. The department shall accept the application for consideration by endorsing it and entering the filing time and date on the application form submitted. One copy shall be given to the applicant. The time and date the application is endorsed by the department shall be the filing date and the effective date of the application for consideration and shall establish the applicant's seniority or priority over later applicants, if the application remains valid. No application shall be accepted unless and until the application fee prescribed in these rules is paid by the applicant and review thereof has been conducted pursuant to subsection (b).

(B) An application shall continue in full force and effect for a period ending one year from the effective date of the application, except as provided in subparagraph (C) of this subsection, or unless sooner terminated in accordance with these rules. An application is void after the date of expiration.

(C) An application may be renewed within a ninety day period preceding its expiration date. An application properly renewed prior to its expiration date shall be valid for a period ending one year from the expiration date of the previous application. No application for renewal shall be accepted until the fee prescribed in these rules is paid by the applicant.

[~~(D) It is the policy of the department to mail an application renewal notice to an applicant prior to the expiration of the applicant's application, at the address furnished to the department under section 13-251-52(d). However, the applicant is responsible for the timely renewal of an application without receipt of a renewal notice from the department.~~]

(b) Review and acceptance or rejection of applications.

(1) The department shall examine and determine the [~~genuineness and regularity~~] <u>accuracy, validity, and regularity</u> of each application and may conduct any investigation it deems necessary for its examination and determination, and it may require additional information from the applicant necessary to determine the genuineness and regularity of the application.

(2) The department shall reject any application that contains a material misstatement or

where the applicant has failed to disclose any material fact on the application.

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

(A) The application fee is not paid at the time application is made;

(B) The applicant is delinquent in the payment of any moneys due and payable to the department; or

(C) The applicant has pending a citation for violation of any of the department's rules.

(c) Upon rejection of an application, the department shall inform the applicant, in writing within a reasonable time:

(1) That the application has not been accepted for consideration;

(2) That the application has been rejected; and

(3) Of the department's reasons for rejection. An applicant may cure the defect and re-apply.

(d) Applicant required to furnish address and report changes; effect of failure to report changes.

(1) An applicant shall include the applicant's address in the application to the department for a catamaran registration <u>certificate and/or commercial use permit</u>.

(2) An applicant shall immediately notify the department in writing of any changes in the applicant's address in order to maintain the validity of an application.

(3) An application shall be void if the department is unable to reach the applicant to offer the applicant a catamaran registration <u>certificate and/or commercial use permit</u> at the address:

(A) Appearing on the application; or

(B) Furnished in writing to the department by the applicant as a change of address subsequent to submitting the application.

(e) Withdrawal of application; effect if application has become void, expires, or been withdrawn.

(1) An application may be withdrawn by an applicant upon written notice to the department.

(2) An applicant who withdraws an application or whose application has expired or becomes void may submit a new application for acceptance by the department. Seniority begins on the date the new application is accepted for consideration as provided in subsection (a)(2)(A).

(f) Priority in allocation of catamaran [~~registrations~~] registration certificates and/or commercial use permits. When the total number of valid catamaran [~~registrations~~] registration certificates and/or commercial use permits [~~is~~] are less than the maximum limit authorized by section [~~13-251-51~~] 13-251-38, the department [~~shall~~] may offer a catamaran registration certificate and/or commercial use permit to the senior applicant eligible to receive such a registration certificate and/or commercial use permit.

(g) Notice to owner of available catamaran registration certificate and/or commercial use permit. When an offer of a catamaran registration certificate and/or commercial use permit is provided for in this section, the department shall deliver the offer or send it by certified mail - return receipt requested, addressed to the applicant eligible to receive the offer at the address furnished to the department in writing by the applicant.

(h) Offer of catamaran registration certificate and/or commercial use permit valid only fourteen days; written notice of intention; acceptance.

(1) An applicant may decline an offer of a catamaran registration certificate and/or commercial use permit and retain the applicant's seniority if the offer is declined in writing, addressed to and received by the department not later than

fourteen days after the date of receipt of the offer. An applicant who declines an offer in writing and retains seniority pursuant to this subsection, shall not be considered for another offer on the basis of the applicant's seniority until six months have elapsed since the date of the last refusal.

(2) If an applicant decides to accept the offer of a catamaran registration certificate and/or commercial use permit, the applicant shall either:

(A) Deliver a written notice of intention to accept the offer to the department within fourteen days after the receipt of the offer; or

(B) Accept the offer by securing a catamaran registration certificate and/or commercial use permit within fourteen days after the receipt of the offer.

(3) The applicant's application for a catamaran registration certificate and/or commercial use permit and the offer by the State of a catamaran registration certificate and/or commercial use permit shall be void if the applicant fails to either secure a catamaran registration certificate and/or commercial use permit or give written notice of intent to accept the offer within fourteen days after the receipt of the offer. The registration certificate and/or commercial use permit shall then be offered to the next senior applicant pursuant to this section.

(4) An applicant who cannot immediately accept the offer but has delivered a written notice of intention to accept to the department pursuant to subsection (a)(2) shall accept the offer by securing a catamaran registration certificate and/or commercial use permit as prescribed in section 13-251-36 within fourteen days after the applicant

mails or personally delivers the notice of intention to accept to the department.

(5) Except as provided in subsection (h)(6) if the applicant fails to secure a catamaran registration certificate and/or commercial use permit within fourteen days, the application for a catamaran registration certificate and/or commercial use permit, the offer of a catamaran registration certificate and/or commercial use permit, and the notice of intention to accept the offer shall be void, and the catamaran registration certificate and/or commercial use permit shall then be offered to the next senior applicant in accordance with these rules.

(6) The department may extend the deadline for acceptance prescribed in subsection (h)(2), if the applicant presents evidence to the department that the granting of additional time for compliance is reasonable and essential to prevent undue hardship; provided that any extension of time for compliance shall not exceed a period of 120 days from the date the department received from the applicant a written notice of intention to accept the offer of a catamaran registration certificate and/or commercial use permit.

(7) Because time is of the essence, the offer delivered or mailed to an applicant pursuant to subsection (g) shall contain a statement that the offer will lapse unless accepted in accordance with the procedures of this section. [Eff 2/24/94; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-53 Catamarans; mooring of. Catamarans for which a commercial use permit or registration

certificate has been issued by the department may moor on Waikîkî beach or Waikîkî ocean waters provided that:

(a) Approval is obtained from the board of land and natural resources regarding the type and location of the mooring to be installed on Waikîkî beach or ocean waters for the purpose of securing the catamaran while embarking and disembarking passengers. The fee for this mooring and use of the beach shall be included in the commercial use or registration certificate fee of section 13-253-1.1. Operators shall assume all responsibility and liability for their moorings and operations, indemnify and defend the State, and carry general liability insurance in accordance with section 13-231-65.

(b) Operators shall obtain all applicable permits required to install moorings on Waikîkî beach or ocean waters.

(c) Operators shall lower the catamarans' sails to prevent obstructing the view from lifeguard stations upon the request of a Honolulu city and county lifeguard. [Eff] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§§13-251-[~~53~~]54 to 13-251-55 (Reserved)

SUBCHAPTER 6

[~~RULES OF THE ROAD~~] WAIKĪKĪ AND KĀ'ANAPALI BEACH AND OCEAN WATERS

[~~§13-251-56 Rules of the road. All vessels shall be operated in accordance with the "Navigation Rules, International - Inland" as set forth in U.S. Department of Transportation, United States Coast Guard, COMDTINST M16672.2A of 23 December 1983, and subsequent revisions thereto, which is incorporated herein by reference.~~] [R]

§13-251-57 [~~Waikiki restricted areas~~] Waikīkī ocean waters. [~~(a)~~] Waikīkī ocean waters means the area shown on Exhibit 1, dated May 1, 2012, located at the end of this subchapter. The boundaries are as follows:

Beginning at the point where the mean high water mark intersects a line perpendicular to the shoreline below the Diamond Head Lighthouse; then in the 'Ewa direction along the mean high water mark to the makai boundary of the Ala Wai Small Boat Harbor and buoy R"8"; then west across the channel to the seawall on the Diamond Head side of Magic Island; then following along the mean high water mark to the seaward prolongation of the parking lot on the 'Ewa side of Magic Island; then along the edge of the reef to the revetment on the Waikīkī side of the Kewalo Basin entrance channel; then along a straight line to the Kewalo Basin entrance channel buoy R"2"; then southeasterly along a straight line to the Ala Wai boat harbor entrance lighted buoy R"4"; then along a straight line to the Diamond Head buoy R"2"; then along a straight line the point of beginning.

The [~~areas in Waikiki~~] Waikīkī ocean waters are reserved primarily for use by bathers, [~~and~~] swimmers, surfers, snorkelers, and other recreational uses and subject to restrictions set forth in this section. No person shall operate a vessel or watercraft within the Waikīkī ocean waters within 500 feet of the shoreline at a speed in excess of slow-no-wake. Vessel operators shall exercise caution while transiting the area due to heavy use by swimmers. This section shall not apply in the event of an emergency, or to law enforcement or rescue craft, or vessels participating under a valid regatta permit issued by the department or the Coast Guard. No person shall navigate a catamaran or canoe as a catamaran captain or canoe captain on a vessel carrying passengers for hire or for compensation in or upon Waikiki ocean waters

unless the person meets the following minimum Requirements:

1. Be at least eighteen years of age or older;
2. Possess a current first aid and CPR certificate;
3. Waikiki catamaran captains shall have a minimum of ninety days experience navigating within Waikiki ocean waters; and
4. Waikiki canoe captains shall have a minimum of one year experience as a steersperson and a minimum of ninety days navigating within Waikiki ocean waters.

[~~(b) Zone A, Waikiki ocean waters.~~

~~(1) Zone A, Waikiki ocean waters means the area confined by the boundaries shown on Exhibit "B-1", June 1, 1981, located at the end of this chapter, which boundaries are described as follows:~~

~~Beginning at the makai-Ewa corner of the natatorium, then seaward on a prolongation of the Ewa wall of the natatorium to the outer edge of the reef; then along the reef in the mauka direction to the seaward end of the Kapahulu drainage groin; then seaward along a straight line connecting the seaward end of the Kapahulu drainage groin and the Ala Wai boat harbor entrance lighted buoy (Red "2"); then mauka on a prolongation of the Diamond Head boundary line of Fort DeRussy to the mean high water mark of the beach adjacent to the boundary line; then along the mean high water mark in the Diamond Head direction to the mauka Ewa side of the natatorium; then along the Ewa side of the natatorium in a seaward direction to, and ending at, the point of beginning;~~

~~(2) Restrictions:~~

~~(A) No person shall navigate or moor a vessel in or on the Waikiki ocean~~

~~waters, except that outrigger canoes operated by a duly organized canoe club, or a sailing catamaran, or a manually-propelled outrigger canoe may be navigated, moored, or anchored in those waters if the vessel has been registered in accordance with this subchapter and is under the immediate control of an operator who has been issued a permit by the department to navigate in the waters. Notwithstanding this subsection, a sailing catamaran may temporarily operate in Zone A, Waikiki ocean waters, as a power-driven catamaran when necessary to protect life or property and is that vessel is registered by the department to operate in Waikiki ocean waters and under the immediate control of an operator who has been issued a valid permit by the department;~~

~~(B) No person shall navigate or moor a catamaran in or on the waters of Zone A or on the shore below the mean high water mark if four catamarans are navigating or moored in such zone;~~

~~(C) The minimum distance separating any two catamarans moored in Zone A shall be eighty feet; and~~

~~(D) There shall be no surfing in the zone between the water's edge and a point fifty yards seaward therefrom, except for learners while receiving initial instructions under the direct supervision of a primary or senior surfboard instructor who has a~~

~~permit issued by the department as provided by subchapter 1.~~

~~(c) Zone B, Waikiki ocean waters.~~

~~(1) Zone B, Waikiki ocean waters, means the area confined by the boundaries shown on Exhibit "C", June 1, 1981, located at the end of this chapter, which boundaries are described as follows:~~

~~Beginning at a point where the Diamond Head side of the boundary of Fort DeRussy intersects the mean high water mark, then seaward on a prolongation of that boundary line to a straight line connecting the Ala Wai boat harbor entrance lighted buoy (Red "2") and the Ewa end of the Kapahulu drainage groin; then to the Ewa direction to the makai-Ewa corner of the breakwater makai of the Hawaiian Village rainbow tower, then Ewa along the breakwater to the mean high water mark, then along the mean high water mark, in a mauka Diamond Head direction to, and ending at, the point of beginning;~~

~~(2) Restrictions. No person shall navigate, moor, or anchor a vessel in or on the waters of Zone B, except that a manually propelled outrigger canoe or a catamaran propelled by sail may be operated in those waters if the vessel has been registered in accordance with this subchapter, or that a catamaran propelled by sail capable of carrying six persons or less, with a valid permit to operate within Waikiki ocean waters under the provisions of section 13-251-51, may anchor overnight in the area adjacent to the groin in the vicinity of the Ala Wai Heliport. Notwithstanding this subsection, vessels operating from the Hilton~~

~~Hawaiian Village pier are exempt from the restrictions in this paragraph~~

~~(d) Zone C, Waikiki ocean waters.~~

~~(1) Zone C, Waikiki ocean waters, means the area confined by the boundaries shown on Exhibit "D", June 1, 1981, located at the end of this chapter, which boundaries are described as follows:~~

~~Beginning at the makai Ewa corner of the concrete drainage groin located seaward of the junction of Kapahulu and Kalakaua Avenues, then to a point one hundred sixty yards in the Diamond Head direction on a straight line at right angles to the long axis of the groin, then to a point one hundred yards seaward on a straight line parallel to the long axis of the groin; then to a point three hundred ten yards in the Ewa direction on a straight line at right angles to the long axis of the groin; then in the shoreward direction on a straight line parallel to the long axis of the groin to the point where this line meets the concrete seawall, then in the Diamond Head direction to, and ending at, the point of beginning.~~

~~(2) Restrictions: No person shall navigate or moor a vessel or navigate or otherwise use a surfboard in or on the waters of Zone C, except that paipo boards not in excess of four feet in length and without skegs or any other fin like projections protruding from the bottom of the boards are permitted to be used on the waters.~~

~~(e) Zone D, Waikiki ocean waters.~~

~~(1) Zone D, Waikiki ocean waters, means the area confined by the boundaries shown on Exhibit "E", June 1, 1981, located at the end of this chapter, which boundaries are described as follows:~~

~~Beginning at a point where the Diamond Head wall of the Natatorium intersects the mean high water mark, then along the wall in a seaward direction to the makai Diamond Head corner; then in a Diamond Head direction on a straight line to the seaward end of the first groin Diamond Head of the Cane Gouei pier; then in a mauka direction along the groin to the mean high water mark; then in an Ewa direction along the mean high water mark to, and ending at, the point of beginning.~~

~~(2) Restrictions. No person shall navigate or moor a vessel in or on the waters of Zone D, except that a manually propelled outrigger canoe operated by a duly organized canoe club, or a commercially operated manually propelled outrigger canoe may be navigated in these waters if the vessel has been registered in accordance with this chapter and is under immediate control of an operator who has a valid permit issued by the department in accordance with subchapter 1.~~

~~(f) Zone E, Waikiki ocean waters. Zone E is the area encompassed by the boundaries of the zone shown on Exhibit "C-1", dated May 15, 1990, and located at the end of this subchapter. The boundaries of Zone E are described as follows:~~

~~Beginning at the shoreline on the western edge of the Kapahulu Groin, then to the intersection of the Kapahulu Groin and the Kuhio Beach seawall, then in a westerly direction along the seaward edge of the Kuhio Beach seawall to the groin fronting the Honolulu Police substation, then along the Kuhio Beach shoreline to the point of beginning.~~

~~Zone E is designated as a swimming, bathing and wading zone. No person shall engage in fishing by any~~

~~means or device from the Kuhio seawall to the shoreline between the Kapahulu Groin and the Ewa groin.~~]

(a) Zone A is described as follows:

Beginning at the breakwater makai of the Hilton Hawaiian Village rainbow tower; then following the mean high water mark northwesterly to the Duke Kahanamoku Lagoon; then southerly to 21°16'25.36"N, 157°50'12.15"W; then in a straight line ending at the starting point;

(1) Restrictions: No person shall navigate, moor, or anchor a vessel in or on the waters of Zone A, except that a manually propelled outrigger canoe or a catamaran propelled by sail may be operated in those waters if the vessel has been issued a permit by the department, or that a catamaran propelled by sail capable of carrying six persons or less, with a valid permit to operate within Waikīkī ocean waters under the provisions of section 13-251-52, may anchor overnight in the area adjacent to the groin in the vicinity of the Ala Wai Heliport. Notwithstanding this subsection, vessels operating from the Hilton Hawaiian Village pier are exempt from the restrictions in this paragraph.

(b) Zone B is described as follows:

Beginning at the breakwater makai of the Hawaiian Village rainbow tower; then along the mean high water mark in the Diamond Head direction to the mauka 'Ewa side of the natatorium; then seaward along the 'Ewa wall of the natatorium to the outer edge of the reef at 21°15'52.26"N, 157°49'31.67"W; then along the reef in the north direction to the seaward end of the wall at Kapahulu; then in a straight line eastward ending at the starting point;

(1) Restrictions:

(A) No person shall navigate or moor a vessel in or on the Waikīkī ocean waters, except that outrigger canoes

operated by a duly organized canoe club, or a sailing catamaran, or a manually propelled outrigger canoe may be navigated, moored, or anchored in those waters if the vessel has been issued a permit by the department to navigate in the waters. Notwithstanding this subsection, a sailing catamaran may temporarily operate in Zone D as a power-driven catamaran when necessary to protect life or property and is that vessel is registered by the department to operate in Waikīkī ocean waters and under the immediate control of an operator who has been issued a valid permit by the department;

(B) No person shall navigate or moor a catamaran in or on the waters of Zone B or on the shore below the mean high water mark if four catamarans are navigating or moored in such zone;

(C) The minimum distance separating any two catamarans moored in Zone B shall be eighty feet; and

(D) For this subchapter, surfboards are not considered to be a vessel.

(c) Zone C is described as follows:

Beginning at the end of the 'Ewa groin at the Duke Kahanamoku statue; then following the groin shoreward and along the Kūhiō Beach shoreline to the mauka end of the wall at Kapahulu; then to the end of the wall; then following the seawall in a northward direction to the point of beginning.

(1) Restrictions: Zone C is designated as a swimming, bathing and wading zone. No person shall engage in fishing by any means or device from the Kūhiō seawall to the shoreline between the wall at Kapahulu and the 'Ewa groin.

(d) Zone D is described as follows:

Beginning at the makai-'Ewa corner of the wall at Kapahulu; then 160 yards in the Diamond Head direction on a straight line perpendicular to the beach to 21°16'11.35"N, 157°49'24.49"W; then 100 yards seaward on a straight line ending at 21°16'10.43"N, 157°49'27.89"W; then 310 yards in the 'Ewa direction on a straight line ending at 21°16'19.32"N, 157°49'30.27"W; then 100 yards shoreward to 21°16'20.27"N, 157°49'26.90"W; then in a straight line back to the point of beginning.

(1) Restrictions: No person shall navigate or moor a vessel or navigate or otherwise use a surfboard in or on the waters of Zone D, except that paipo boards not in excess of four feet in length and without skegs or any other fin-like projections protruding from the bottom of the boards are permitted to be used on the waters.

(e) Zone E is described as follows:

Beginning at a point where the Diamond Head wall of the Natatorium intersects the mean high water mark at 21°15'50.66"N, 157°49'18.30"W; then following the mean high water mark in a Diamond Head direction to the Colony Surf hotel at 21°15'44.76"N, 157°49'17.45"W; then in a seaward direction to 21°15.44.16"N, 157°49'19.32"W; then north to the makai-Diamond Head corner of the Natatorium; then in a straight line to the point of beginning.

(1) Restrictions: No person shall navigate or moor a vessel in or on the waters of Zone E, except that a manually propelled outrigger canoe operated by a duly organized canoe club, or a commercially operated manually propelled outrigger canoe may be navigated in these waters if the vessel has been registered in accordance with this chapter and is under immediate control of an operator who has a valid permit issued by the department in accordance with subchapter 1. [Eff 2/24/94; am and comp]

EXHIBIT 1. WAIKÎKÎ OCEAN WATERS
Ocean Recreation Management Area

Zones A - E. Swimming, Wading, and other recreational and commercial uses. For a complete list, see §13-251-57 HAR

Zone locations are approximate

Map Date: May 1, 2012

(Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

§13-251-58 [~~Kaanapali ocean waters, general restrictions~~] Kā'anapali beach and ocean waters. (a) [~~The Kaanapali ocean waters are subject to the following restrictions.~~] This section shall not apply in the event of an emergency, to law enforcement or rescue craft, to vessels participating under a valid ocean waters permit issued by the department, or to Hawaiian design canoes engaged in crew training. The Kā'anapali beach and ocean waters are shown on Exhibit "2", dated May 1, 2012, located at the end of this subchapter. The boundaries are as follows:

Beginning at a point on the northern end of Kā'anapali Beach and ocean waters located at 20°57'8.86"N, 156°41'33.68"W; then shoreward to the mean high water mark at 20°57'2.72"N, 156°41'25.33"W; then southward to the mean high water mark of the extended centerline of Wahikuli Road at 20°53'42.57"N, 156°41'6.44"W; then seaward to 20°53'42.75"N, 156°41'16.44"W; then north generally running parallel to the beach at 20°54'2.64"N, 156°41'16.43"W; then to 20°54'31.48"N, 156°41'32.99"W; then to 20°54'42.94"N, 156°41'51.26"W; then to 20°54'58.87"N, 156°41'58.32"W; then seaward of Black Rock at 20°55'40.15"N, 156°41'58.14"W; then to 20°56'11.79"N, 156°41'44.21"W; then to 20°56'52.51"N, 156°41'41.88"W; then to the point of beginning.

(b) Restrictions.

(1) No person shall navigate any vessel at a speed in excess of "slow no wake" (five (5) miles per hour) within [~~five hundred~~] 500 feet of the shoreline;

(2) No person shall navigate a motorboat within [~~two hundred~~] 200 feet of the shoreline, or designated swimming area, or within one hundred feet of a diver's flag, nor shall

any person navigate a commercial motorized vessel within [~~five hundred~~] 500 feet of the shoreline except within a designated ingress/egress corridor. Notwithstanding this paragraph, vessels engaged in fishing outside the designated ingress/egress corridors are exempt from the [~~two hundred~~] 200-foot shoreline restriction, provided that designated swimming areas are approached with caution and due care;

(3) No person shall navigate a motorized vessel within [~~three hundred~~] 300 feet of a vessel engaged in fishing;

(4) A vessel engaged in fishing shall not impede the passage of any vessel passing through a designated ingress/egress corridor;

~~(5) No person shall embark or disembark passengers on the beach to or from a catamaran registered to carry passengers for hire when the vessel exceeds sixty five feet in length or a passenger carrying capacity of forty nine persons unless prior permission to navigate is obtained from the department for each trip through these waters. Notwithstanding this paragraph, any company currently operating a catamaran which exceeds sixty five feet in length or a passenger carrying capacity of forty nine persons, which is in business on Kaanapali ocean waters and properly registered with the department of commerce and consumer affairs as of the effective date of these rules may apply for and renew its permit so long as the company remains in business, remains properly registered with the department of commerce and consumer affairs, and complies with the rules of that department;~~

[~~(6)~~] (5) No person shall anchor or moor a vessel, barge, platform, or raft within [~~two hundred~~] 200 feet of the shoreline or a designated ingress/egress corridor; and

[~~(7)~~] (6) No person shall navigate or moor a vessel engaged in commercial use unless the vessel has been registered and the owner has a valid permit issued in accordance with this chapter; however, commercial vessels solely transiting through the [~~Kaanapali~~] Kā'anapali ocean waters shall not be required to be registered or have a commercial permit.

(7) Vessels holding a valid ocean recreation management area commercial use permit may use a state small boat harbor or boat launching ramp when winds are in excess of 25 miles per hour and/or during periods of high surf warnings as indicated by the National Weather Service would prevent safe access to the shoreline through a designated ingress or egress zone;

(8) The vessel operator or master shall afford the department prior notice of the presence or threat of such conditions and shall be subject to local direction and control as necessary to avoid conflict with other users of the facility; and

(9) Use of a state boating facility in accordance with this section shall not affect the permittee's right to use such boating facilities in the absence of such conditions as permitted by law.

~~(b) Zone A, Kaanapali ocean waters.~~

~~(1) This zone is designated primarily for swimming, bathing, snorkeling and diving, and means the area confined by the boundaries shown and described in Exhibit "E(1)", July 9, 1984, located at the end of this chapter, which boundaries are described as follows:~~

~~Beginning at a point on the vegetation line six hundred fifty feet north along the mean high water mark from the intersection of the extended centerline of Kaniau Road and the vegetation line; thence running by~~

~~azimuths measured clockwise from True South: 080 degrees for a distance of two hundred feet; 146 degrees 30 minutes for a distance of three thousand seven hundred fifty feet; 206 degrees to a point on the vegetation line; thence southward along the vegetation line to the point of beginning.~~

~~(2) No person shall navigate or moor a vessel, surfboard, sailboard or any other water recreational device in or on the waters of Zone A, provided that this restriction shall not apply to:~~

~~(A) Paipo boards not in excess of four feet in length and without skegs or any other fin like projections protruding from the bottom of the boards;~~

~~(B) Hawaiian design club canoes engaged in crew training; and~~

~~(C) Vessels engaged in fishing during periods of low use of the beach.~~

~~(c) Zone B, Kaanapali ocean waters~~

~~(1) This zone is an area designed primarily for swimming, bathing, snorkeling and diving, and means the area confined by the boundaries shown on Exhibit "E(1)", July 9, 1984, located at the end of this chapter and defined as:~~

~~Beginning at a point on the vegetation line seven hundred fifty feet south along the vegetation line from the southernmost tip of Keka'a Point shoreline, thence running by azimuths measured clockwise from True South: 068 degrees for a distance of two hundred feet; 156 degrees for a distance of two hundred fifty feet; 078 degrees 30 minutes for a distance of three hundred fifty feet; 156 degrees for a distance of six hundred feet; 221 degrees for a distance of five hundred feet; 287 degrees to a point on the vegetation line; thence southward along the vegetation line to the point of beginning.~~

~~(2) The same restrictions and exceptions thereof applicable to Zone A are applicable to Zone B.~~

~~(d) Ingress/Egress zones.~~

~~(1) These zones shall be established at intervals along the shoreline to provide beach access, through corridors, for all vessels governed by this chapter. Each zone shall be five hundred feet wide at the shoreline and shall extend seaward for a distance of five hundred feet.~~

~~Zone number one begins at the point where the north bank of Wahikuli Stream intersects the vegetation line; then northward along the vegetation line for a distance of five hundred feet.~~

~~Zone number two begins at a point on the vegetation line which is two thousand three hundred feet north along the vegetation line from a point where the north bank of Wahikuli Stream intersects the vegetation line; then northward along the vegetation line for a distance of five hundred feet.~~

~~Zone number three begins at a point on the vegetation line which is two thousand four hundred feet south along the vegetation line from the vegetation line of the southernmost tip of Keka'a Point shoreline; then southward along the vegetation line for a distance of five hundred feet.~~

~~Zone number four begins at a point on the vegetation line which is seven hundred fifty feet south along the vegetation line from the vegetation line from the southernmost tip of Keka'a Point shoreline; then southward along the vegetation line for a distance of five hundred feet.~~

~~Zone number five begins at a point on the vegetation line which is eight hundred twenty five feet north along the vegetation line from the vegetation line from the southernmost tip of Keka'a Point shoreline,~~

~~then northward along the vegetation line for a distance of five hundred feet.~~

~~(2) No person shall navigate a vessel within an ingress/egress zone unless operating within an ingress/egress corridor, provided that this restriction shall not apply to Hawaiian design club canoes engaged in crew training.~~

~~(c) Ingress/Egress corridors.~~

~~(1) These corridors shall be contained within each ingress/egress zone. Each corridor shall be one hundred feet wide and shall be established daily by the users of the corridor to determine the best direction for approach to or departure from the shoreline under existing wind and sea conditions.~~

~~(2) No person shall:~~

~~(A) Navigate a commercial vessel or noncommercial motor powered vessel to or from the beach area unless using a designated ingress/egress corridor;~~

~~(B) Navigate a catamaran, registered for carrying passengers for hire, in an ingress/egress corridor, or approach the shoreline within a distance of five hundred feet, if another catamaran is beached within the boundaries of the intended corridor of use;~~

~~(C) Beach a catamaran, registered for carrying passengers for hire, in an ingress/egress corridor in excess of thirty minutes; and~~

~~(D) Navigate a vessel within an ingress/egress corridor at a speed exceeding slow no wake. Slow no wake means as slow as possible without losing steerageway and so as to make the least possible wake. This would almost always mean speeds of less than five miles per hour.~~

~~(3) Exceptions to the restrictions for Ingress/Egress Zones are applicable to Ingress/Egress Corridors.~~]

(c) Zone A, designated primarily for swimming, bathing, snorkeling and diving, is described as follows:

Beginning at a point 300 feet south of Leialii Parkway; then 200 feet seaward; then northward to seaward prolongation of Kā'anapali Beachwalk at the north end of Hanaka'ō'ō Beach Park; then shoreward to the high water mark; then southward along the high water mark to the point of beginning.

(1) No person shall navigate or moor a vessel, surfboard, sailboard or any other water recreational device in or on the waters of Zone A, provided that this restriction shall not apply to:

(A) Paipo boards not in excess of four feet in length and without skegs or any other fin-like projections protruding from the bottom of the boards;

(B) Vessels engaged in fishing during periods of low use of the beach.

(d) Zone B, designated primarily for swimming, bathing, snorkeling and diving, is described as follows:

Beginning at a point on the high water mark on the seaward prolongation of the Kā'anapali Beach Public Access Trail south of Keka'a Point at 20°55'29.70"N, 156°41'42.70"W; then seaward to 20°55'29.79"N, 156°41'49.40"W; then northward to 20°55'39.12"N, 156°41'52.40"W; then to 20°55'43.58"N, 156°41'48.89"W; then shoreward to the high water mark; then following Black Rock southward along the high water mark to the point of beginning.

(1) The same restrictions and exceptions applicable to Zone A are applicable to Zone B.

(e) Ingress/egress zones.

(1) Zone 1 begins at the seaward prolongation of Kā'anapali Beachwalk at the north end of Hanaka'ō'ō Beach Park; then northward along

the vegetation line for a distance of 500 feet.

(2) Zone 2 begins at a point on the vegetation line on the ocean-side of the Marriott's Maui Ocean Club Hotel; then northward along the vegetation line for a distance of 500 feet.

(3) Zone 3 begins at a point on the vegetation line located north of the Westin Maui Hotel; then northward along the vegetation line for a distance of 500 feet.

(4) Zone 4 begins at a point on the vegetation line located 575 feet south from the southernmost tip of Black Rock shoreline and south of the Ka'anapali Beach Public Access Trail; then southward along the vegetation line for a distance of 500 feet.

(5) Zone 5 begins at a point on the vegetation line located north of the Black Rock shoreline, then northward along the vegetation line for a distance of 500 feet.

(f) These zones shall be established at intervals along the shoreline to provide beach access for all vessels governed by this chapter. Each zone shall be 500 feet wide at the shoreline and shall extend seaward for a distance of 500 feet.

(g) Users of the ingress/egress zones determine the best direction for approach to or departure from the shoreline under existing wind and sea conditions.

(h) No person shall:

(1) Navigate a commercial vessel or noncommercial motorized vessel to or from the beach area unless using a designated ingress/egress zone;

(2) Beach a catamaran, registered for carrying passengers for hire in an ingress/egress zone in excess of 30 minutes; and

(3) Navigate a vessel within an ingress/egress zone at a speed exceeding slow-no-wake. [Eff 2/24/94; am 6/16/03; am and comp]

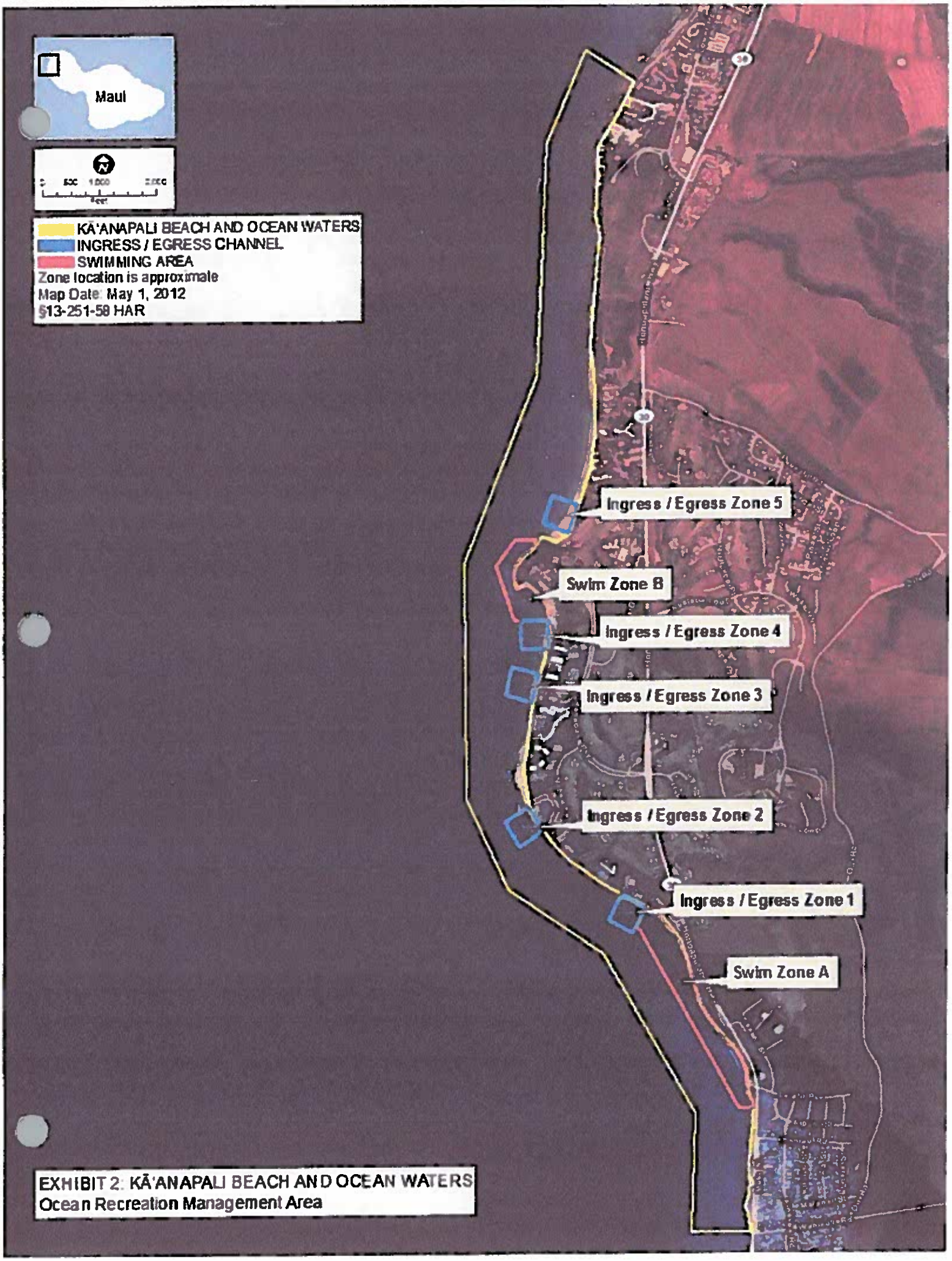

EXHIBIT 2: KĀ'ANAPALI BEACH AND OCEAN WATERS
Ocean Recreation Management Area

(Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24, 200-37) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24, 200-37)

[~~§13-251-59 Intoxication. (a) No person who is under the influence of intoxicating liquor, narcotics, or other habit forming drug shall operate or be in actual physical control of any catamaran.~~

~~(b) No owner of any catamaran or any person in charge or in control of any catamaran shall authorize or knowingly permit the same to be operated by any person who is under the influence of intoxicating liquor, or narcotic, or other habit forming drug.~~] [R]

[~~§13-251-60 Careless operation. No person shall operate a catamaran in a careless or heedless manner so as to endanger other persons or the property of other persons.~~] [R]

§§13-251-61 to 13-251-65 (Reserved)

SUBCHAPTER 7

[~~SPECIAL OPERATING RESTRICTIONS~~] REPEALED

[~~§13-251-66 Canoe operation; required crew. (a) No person shall operate nor shall any owner authorize or permit a canoe carrying passengers for hire to engage in canoe surfing unless the canoe meets all requirements of these rules and a canoe captain and canoe second captain, each having a valid permit issued by the department, are aboard, provided, that a two man canoe shall have either a canoe captain or second captain on board.~~

~~(b) No person shall operate nor shall any owner authorize or permit a canoe to transport passengers for hire unless the canoe meets all requirements of these rules and a canoe captain or second captain, each having a valid permit issued by the department, is on board. In these instances the senior crew member aboard shall not permit the vessel to be utilized for canoe surfing unless a minimum crew as provided in subsection (a) is on board.~~] [R]

[~~§13-251-67 Catamaran crews. No person shall operate nor shall any owner authorize or permit a catamaran to transport passengers for hire, except cruising catamarans as described in section 13-251-1, unless the catamaran meets all requirements of these rules and a catamaran captain, having a permit issued by the department, and at least one other crew member are aboard.~~] [R]

[~~§13-251-68 Catamarans; mooring of. (a) Catamarans moored in a restricted area (13-251-57) shall be moored below the mean high water mark at catamaran moorings so designated by the department and in a manner approved by the department.~~

~~(b) Operators of catamarans moored in a restricted area (13-251-57((1)))) shall lower the catamarans' sails to prevent obstructing the view from lifeguard stations upon request of a Honolulu city and county lifeguard.~~] [R]

[~~§13-251-69 Learner steersperson. (a) A learner steersperson shall steer an outrigger canoe engaged in canoe surfing only on a wave which is not carrying another canoe.~~

~~(b) A learner steersperson shall not steer an outrigger canoe carrying passengers for hire.~~] [R]

[~~§§13-251-70 to 13-251-75 (Reserved)~~] [R]

SUBCHAPTER 8

SOLICITING PROHIBITED IN OR ON [~~WAIKIKI AND KAANAPALI~~] WAIKĪKĪ AND KĀ'ANAPALI OCEAN WATERS

§13-251-76 Commercial Activities. (a) No person shall engage in commercial activities of any kind in or on [~~Waikiki~~] Waikīkī or [~~Kaanapali~~] Kā'anapali ocean waters and beach without a written permit or registration certificate from the board or its authorized representatives.

(b) "[~~Kaanapali~~] Kā'anapali beach" means the area within [~~Kaanapali~~] Kā'anapali ocean waters that is situated between the shoreline and the mean high tide mark along the shores. [~~Exhibits E(2A) through E(2D), dated February 22, 2002, located at the end of this chapter, are provided for reference, and depict the shoreline location of Kaanapali Beach as of September 12, 2001.~~]

(c) [~~Kaanapali~~] Kā'anapali beach is designated for public use for sunbathing, foot traffic, swimming, and other activities which, when engaged in, shall not unduly disrupt others from enjoying the beach.

(d) Constructing or placing any building or structure or storing any property, whether temporary, portable, or permanent, at [~~Kaanapali~~] Kā'anapali beach shall be prohibited, except where authorized by the department, and, in addition to any other remedies, unauthorized buildings, structures, or property may be removed by the department at the sole risk and cost of the owner.

(e) Vessel owners shall be prohibited from storing any vessel or associated equipment on [~~Kaanapali~~] Kā'anapali beach, unless authorized by the department.

(f) The following activities shall be prohibited on [~~Kaanapali~~] Kā'anapali beach:

(1) Kite flying; and

(2) Kite surfing equipment.

(g) The maximum number of [~~Kaanapali~~] Kā'anapali commercial permits that may be issued for monohull vessels to embark and disembark passengers at [~~Kaanapali~~] Kā'anapali beach shall not be greater than five, but small craft used to shuttle passengers to and from a monohull vessel in the [~~Kaanapali~~] Kā'anapali ocean waters may be included under that vessel's commercial activity permit.

(h) Law enforcement and rescue vessels are exempt from the provisions of this section." [Eff 2/24/94; am 6/16/03; am and comp] (Auth: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-4, 200-9, 200-10, 200-22, 200-24)

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

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

4. The amendments and compilation of chapter 13-251, 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.

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

APPROVED FOR PUBLIC HEARING:

_____
Deputy Attorney General