

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

January 9, 2015

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

Request Approval to Initiate Rule-Making Proceeding, Including Public Hearing, to Amend Hawaii Administrative Rules (HAR) § 13-256-152 Kahaluu Bay in Order to Update Location Designations, and Revise Swim and Surf Zone Restrictions Within Kahaluu Bay. Attached to this Agenda and Incorporated Herein as Exhibit A are the Proposed Changes to HAR § 13-256-152.

PURPOSE: The purpose of this amendment is to reorganize Kahaluu bay to clearly designate swim and surf zones and additionally to regulate surf schools within Kahaluu bay in order to limit the number of commercial surf schools allowed to operate in the bay and to enforce a teacher/student ratio for surfing instruction. Additionally, the amendment to HAR § 13-256-152 updates the rule to use GPS coordinates to describe zone designations and updates the corresponding exhibit to the rule to a current map in order to create a more user-friendly rule.

REMARKS:

Kahaluu Bay is a popular destination for swimmers, surfers, snorkelers and other ocean recreation activities in West Hawaii. For surf instruction specifically, Kahaluu Bay is the prime site on the west side of Hawaii island due to the sheltered and shallow nature of the bay. Due to the amount of people using the bay for varied purposes, the Division of Boating and Ocean Recreation (DOBOR) feels that clearer designation of the recreation areas in the bay is necessary for public safety and recreation.

Amendment of HAR § 13-256-152(a) clarifies that the bay is designated for swimming, surf boarding and diving, and commercial activity within the bay is not allowed without a permit from the department.

Amendment of HAR § 13-256-152(b) limits surf instruction to zone A of Kahaluu bay; clarifies that a total of 4 permits may be issued by the department for commercial surf schools; gives the department discretion to determine the site of instruction within zone A; and requires an instructor/student ratio of 4 students to each surf instructor. HAR § 13-256-152(b) additionally sets out the minimum standards of certification for surf instructors as: 1) a Red Cross advanced life saving certificate and 2) authorization by the County of Hawaii to conduct surf instruction.

January 9, 2015
Submittal J-1

Amendment of HAR § 13-256-152(c) designates zone B of Kahaluu Bay as a swim zone wherein mooring or operation of vessels such as boats, motorboats, surfboards, paddleboards, sailboards and kayaks are prohibited.

The foregoing amendments to HAR § 13-256-152 address the pressing issues of crowding and lack of guidelines for both commercial and recreational users and will assist DOBOR and the County of Hawaii in facilitating a safer and more welcoming environment within Kahaluu Bay.

RECOMMENDATION:

1. That the Board of Land and Natural Resources grant to DOBOR approval for the initiation of rule-making proceedings, including public hearing, to amend HAR § 13-256-152 which is attached to the agenda for the Board's January 9, 2015 meeting.

Respectfully submitted,



Edward R. Underwood
Administrator

Attachments

APPROVED FOR SUBMITTAL



William J. Aila, Jr.
Chairperson and Member

HAR § 13-256-152 (Exhibit A)

DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION

Amendment to Section 13-256-152
Hawaii Administrative Rules

[Date of adoption by agency]

1. Section 13-256-152, Hawaii Administrative Rules, is amended to read as follows:

~~"§13-256-152 Kahaluu Bay [Swimming Zone] ocean waters. [(a) Kahaluu Bay Swimming Zone means the area confined by the boundaries shown on Exhibit "HHH-1", dated February 7, 1990 and located at the end of this subchapter. The boundaries are as follows:~~

~~—Beginning at a point at the low water mark of Kalaau o Kalakani Point; then by azimuth measured clockwise from True South, 166 degrees to a point on the low water mark on the northern side of the Kahaluu Bay; then along the shoreline in a southerly direction to the point of beginning.~~

~~(b) Restrictions. Kahaluu Bay Swimming Zone is designated as a swimming and diving zone. No person shall operate or moor a vessel within this zone.]~~

(a) Kahaluu Bay ocean waters means the area shown on Exhibit "H-5", dated November 20, 2014, located at the end of this subchapter and incorporated herein. The boundaries are as follows:

Beginning at the low water mark of Kalaau o Kalakani Point at 19°34'37.81"N, 155°58'10.50"W; then to a point on the low water mark on the northern side of the Kahaluu Bay at Kamo Point at 19°35'09.24"N, 155°58'15.91"W; then along the shoreline in a southerly direction to the point of beginning.

(1) Restrictions. Kahaluu Bay ocean waters is designated as a swimming, surf boarding, and diving zone. No commercial water sports instruction or commercial tours may be conducted in Kahaluu Bay ocean waters without a permit from the department.

(b) Kahaluu Bay Zone A is described as follows: Beginning at a point on the low water mark on the northern side of the shoreline at 19°34'59.48"N, 155°58'06.11"W (hand rail); then south easterly along the shoreline to the north lifeguard tower at 19°34'48.67"N, 155°57'58.88"W; then seawards northwesterly to Pyramid Rock at 19°34'50.21"N, 155°58'07.98"W; then seawards north easterly ending at the point of beginning.

- (1) Restrictions. Zone A is designated as a surfing zone.
- (2) The department may issue a total of up to four permits for commercial surf school instruction within Zone A. Each permit shall authorize surf school instructors to conduct surfing instruction only within Zone A.
- (3) Each instructor shall have no more than four students in the water at a given time, with a maximum of eight students per surf school permit in the water at any given time. The maximum of one-to-four instructor-to-student ratio must be maintained at all times while in the water.
- (4) The instructor shall, at a minimum, possess a current Red Cross advanced life saving certificate, and be authorized by the County of Hawaii to conduct surf instruction on County property at Kahaluu Bay.
- (5) The department may designate the site of instruction within Kahaluu Bay Zone A and hours of operation for each permittee, and may change the site whenever such changes are found by the department to be necessary.

(c) Kahaluu Bay Zone B is described as follows: Beginning at Kalaau O Kalakani Point at 19°34'37.81"N, 155°58'10.50"W; then northeasterly along the shoreline to the north lifeguard tower at 19°34'48.67"N, 155°57'58.88"W; then seawards northwesterly to Pyramid Rock at 19°34'50.21"N, 155°58'07.98"W; then seawards in a southerly

direction ending at Kalaau O Kalakani Point at the point of beginning.

(1) Restrictions. Zone B is designated as a swim zone. No person shall operate or moor any vessel within this zone, including but not limited to boats, motorboats, surfboards, paddleboards, sailboards, kayaks, and canoes.

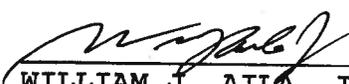
[Eff 2/24/94; am] (Auth: HRS §§200-2, 200-3, 200-4, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200-4, 200-22, 200-24)

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

3. Additions to update source notes to reflect this amendment is not underscored.

4. The amendment to section 13-256-152, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

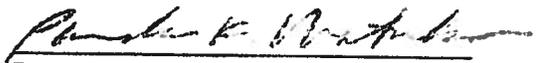
I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ by the Board of Land and Natural Resources, and filed with the Office of the Lieutenant Governor.


WILLIAM J. AILA, JR.

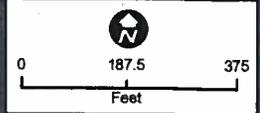
Chairperson

Board of Land and Natural Resources

APPROVED FOR PUBLIC HEARING:


Deputy Attorney General

KAMO A POINT



Zone location is approximate
Map Date: Nov 20, 2014
§13-256-152 HAR

Kahaluu Bay
Ocean Waters

Hand
Rail

ZONE A

Pyramid
Rock

Life Guard
Station

ZONE B

KALAAU O KALAKANI POINT

**EXHIBIT H-5: KAHALUU BAY OCEAN WATERS
Ocean Recreation Management Area**

-  ZONE A - SURFING
-  ZONE B - SWIMMING

Exhibit A