Exhibit 1

DEPARTMENT OF LAND AND NATURAL RESOURCES

Amendment and Compilation of Chapter 13-232,
Hawaii Administrative Rules

[Date of Adoption by Agency]

1. Chapter 13-232, Hawaii Administrative Rules, entitled "Sanitation and Fire Safety", 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 1

SMALL BOAT FACILITIES AND PROVISIONS GENERALLY APPLICABLE TO ALL STATE NAVIGABLE WATERS

CHAPTER 232

[~~SANITATION AND FIRE SAFETY~~] SAFETY AND SANITATION OF SMALL BOAT HARBORS AND BOATING FACILITIES

Historical note

Subchapter 1 Sanitation

§13-232-1 General statement; department of health
§13-232-2 Standard
§13-232-3 Garbage and other offensive matter
§13-232-4 Flies

§13-232-5 Rodents
§13-232-6 Littering land areas – prohibited
§13-232-7 Littering or polluting water - prohibited
§13-232-8 Marine toilets - restrictions
§13-232-9 Permits required – waste outlets
§13-232-10 Backflow prevention device required on connections to water line – use of water-operated de-watering device prohibited
§§13-232-11 to 13-232-19 (Reserved)

Subchapter 2 Fire Safety and Vessel Equipment Requirements

§13-232-20 General statement
§13-232-21 Standard
§13-232-22 Appliances and electrical wiring
§13-232-23 Fire extinguishing equipment
§13-232-24 Fueling
§13-232-25 Fire hazards near fueling operations prohibited
§13-232-26 Dumping of combustibles
§13-232-27 Emergency exits
§13-232-28 Open fires
§13-232-29 Lifesaving equipment required
§13-232-30 Fire signal for vessels in small boat harbors
§13-232-31 Welding, burning, and other hot work; permits
§§13-232-32 to 13-232-39 (Reserved)

Subchapter 3 Maintenance and Storage

§13-232-40 Standards
§13-232-41 Storage
§13-232-42 Special areas
§13-232-43 Construction or improvements of structures
§13-232-44 Gear lockers
§§13-232-45 to 13-232-49 (Reserved)

Subchapter 4 Conduct of the Public

§13-232-50 General statements

§13-232-51 Smoking; use of electronic smoking devices
§13-232-52 Small boat harbor and boating facility hours of operation; restricted areas; restrictions on access
§13-232-53 Lost, abandoned, or mislaid articles
§13-232-54 Swimming
§13-232-55 Fishing
§13-232-56 Tampering with or damaging a vessel or state property
§13-232-57 Dogs, cats, or other domestic pets
§13-232-57.1 Feeding of colonies, strays, wildlife, or feral animals prohibited
§13-232-57.2 Animal abandonment and creating or contributing to colonies prohibited
§13-232-58 Sleeping or camping prohibited
§13-232-59 Assumption of risk
§13-232-60 Serving, sale, and consumption of liquor; when prohibited

Historical note. This chapter is substantially based on chapter 19-63, Sanitation and Fire Safety, of the Department of Transportation, Harbors Division, effective November 5, 1981, and as amended thereafter. The administrative jurisdiction for recreational boating and related vessel activities was transferred from the jurisdiction of the Department of Transportation, Harbors Division to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation, July 1, 1992, in accordance with Act 272, SLH 1991. [Eff 2/24/94; am 4/22/04; am 12/31/18; am and comp]

SUBCHAPTER 1

SANITATION

§13-232-1 General statement; department of health. This chapter shall apply to any owner or operator of a vessel when a vessel is referenced, and otherwise may apply to any person. Unless specifically noted, reference to "department" is to the department of land and natural resources.

Nothing contained in this subchapter shall be construed to limit the power and authority of the department of health. In case of conflict between any provision of this subchapter and any rule adopted by the department of health, the stricter rule shall control. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-2 Standard. All vessels and any property or facility used at a small boat harbor shall be kept at all times in a condition of reasonable cleanliness and sanitation so as not to constitute a common nuisance or potential danger to public health. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-3 Garbage and other offensive matter. No person shall have or keep on that person's vessel any refuse, garbage, decaying matter, or any other matter which gives off an offensive odor except when the same is being disposed of as garbage and is kept in a receptacle which shall be kept closed by a tight fitting cover at all times except when being filled or emptied. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-4 Flies. No person shall have or keep on that person's vessel any article, substance, or thing in which flies may breed, unless the same be kept securely protected from flies. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-5 Rodents. [~~No rubbish or waste of any kind shall be placed, left, dumped, or permitted to accumulate or remain on any vessel~~] Within any facility or property under the jurisdiction of the division of boating and ocean recreation, no person shall intentionally or knowingly place, leave, dump, or allow rubbish or waste to accumulate or remain in the facility or on the property, on any vessel, or in the vicinity of [~~the same, in such a way as to constitute a breeding place for~~] any vessel that may attract or allow rodents to be present. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-6 Littering land areas - prohibited. No person shall throw, place, leave, deposit, or abandon, or cause or permit to be thrown, placed, left deposited, or abandoned any litter within a small boat harbor, except in receptacles designated by the department for the disposal of such materials.

No person shall use refuse containers or other refuse disposal facilities in a small boat harbor for disposing of litter brought as such into the small boat harbor except when the litter is generated during and results from a vessel's voyage. Without limiting the generality of the foregoing, "litter" as used in this section means any and all types of debris and substances, whether liquid or solid, and materials such as garbage, refuse, rubbish, glass, cans, bottles, paper, wrappings, fish or animal carcasses, or any other nauseating or offensive matter or any

machinery, appliance or automobile, or parts thereof, or any other substances which render small boat harbor lands or facilities unsightly, noxious, or otherwise unwholesome to the detriment of the public health and welfare or the enjoyment of the small boat harbor for recreational purposes. Unless otherwise prohibited, water used in washdown areas shall not constitute litter. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-7 Littering or polluting water - prohibited. No person shall place, throw, deposit, or discharge, or cause to be placed, thrown, deposited, or discharged into the waters of a small boat harbor any litter, sewage, or other gaseous, liquid, or solid materials which render the water unsightly, noxious, or otherwise unwholesome so as to be detrimental to the public health and welfare or to the enjoyment of the water for recreational purposes. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-8 Marine toilets - restrictions. (a) No owner or operator of a vessel shall operate a toilet on a vessel or contrivance [~~shall be operated~~] so as to discharge any untreated sewage directly or indirectly into the waters of a small boat harbor.

(b) No person on a vessel or contrivance equipped with a toilet shall use, or permit the use of that toilet on the waters of a small boat harbor unless the toilet is equipped with facilities in good operating condition that will adequately treat, hold, incinerate, or otherwise handle sewage in a manner that is capable of preventing water pollution. A water pollution control device that is acceptable for the purposes of this section is any device determined by the director of the department of health to be effective in arresting the possibility of pollution

from sewage passing into or through a toilet aboard a vessel or contrivance.

(c) No person shall live on board a vessel or contrivance in any small boat harbor unless it contains one or more toilets equipped with water pollution control devices in good operating condition and of a type acceptable to the director of health; provided that, the department may permit the operator or other persons to live on board a vessel not equipped with a toilet and acceptable water pollution control device for a period not to exceed the period described in sections 13-231-21 and 13-231-22 if:

(1) The vessel is from another state or a country other than the United States and is temporarily using the waters of this State or if the vessel has a home port in the State but is visiting another small boat harbor;

(2) Adequate on-shore toilet facilities are readily available, meaning within a walking distance of not more than two hundred feet, for use by the persons living on board; and

(3) A toilet aboard the vessel is not used while in the small boat harbor. [Eff 2/24/94; am 12/31/18; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-232-9 Permits required - waste outlets. Notwithstanding the issuance of a permit pursuant to section 13-232-43, no person shall do any of the following at a small boat harbor without first having obtained a permit from the [~~director~~] department of health:

(1) Discharge any wastes into the waters of a small boat harbor so as to reduce the quality of the water below the standards of water quality adopted for such waters in chapter [~~11-25,~~] 11-54, Hawaii Administrative Rules, by the department of

health, State of Hawaii, which by reference are hereby incorporated into these rules and made a part hereof as though fully recited herein.

(2) Construct, install, modify, alter, or operate any treatment works or part thereof or any extension or addition thereto.

(3) Construct or use any new outlet for the discharge of any wastes into the waters of a small boat harbor. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-10 Backflow prevention device required on connections to water line - use of [~~water operated~~] water-operated de-watering device prohibited. (a) No person shall connect a vessel's water supply system to a small boat harbor portable water supply system, unless an approved backflow prevention device has been installed at the hose bib or other point of connection.

(b) No person shall use any water-operated siphon or other [~~water operated~~] water-operated de-watering device, equipment, or mechanism connected to a small boat harbor water supply system for the purpose of removing water or any liquid from the bilges of a vessel, provided such a device may be temporarily used when necessary during an emergency to prevent a distressed vessel from sinking if an approved backflow prevention device has been installed in accordance with subsection (a). [Eff 2/24/94; am 12/31/18; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§§13-232-11 to 13-232-19 (Reserved)

SUBCHAPTER 2

FIRE SAFETY AND VESSEL EQUIPMENT REQUIREMENTS

§13-232-20 General statement. The provisions of this subchapter are not intended to limit the powers of any federal agency or the county fire department. All vessels and all property or equipment used at a small boat harbor shall be used in such a manner and maintained in such a condition as to not constitute a fire hazard. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-21 Standard. [~~All vessels and all state property or facilities use at a small boat harbor shall be used in such a manner and maintained in such a condition as not to constitute a potential fire hazard.~~] The failure to conform to any statute, rule, standard, or ordinance affecting fire safety may be considered by the department in determining any violation of this section. [~~(Particular attention is directed to the Hawaii state boating law, chapter 200, Hawaii Revised Statutes and the state boating rules, department of land and natural resources, State of Hawaii.~~] [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-22 Appliances and electrical wiring. Any person who operates any **[**~~All~~] cooking or heating [~~appliances~~]appliance or any other machinery, equipment, utensil, device, or apparatus [~~which is~~] used at a small boat harbor and which could [~~be the~~] cause [~~of~~]a fire shall be so constructed, installed, wired, situated, maintained, and used so as to meet the standard set out in section 13-232-21; provided that, the approval of any such appliance, machinery, equipment, utensil, device, or apparatus by the

[~~National Board of Fire Underwriters~~] American Insurance Association, or other nationally recognized equivalent, may be considered by the department in determining compliance with this section. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-23 Fire extinguishing equipment. All vessel owners and operators shall ensure that their respective [~~All vessels~~]vessel on the waters of a small boat harbor or offshore mooring area shall be equipped with fire extinguishers approved by Underwriters [~~Laboratories, Inc.~~]Laboratories or the United States Coast [~~Guard, and as prescribed in chapter 13-243, Hawaii Administrative Rules~~] Guard in title 46, code of federal regulations, part 25, as amended. In addition, a vessel shall also be equipped with at least one hand portable B-1 or larger fire extinguisher per each twenty-five feet or fraction thereof of vessel length before any person shall be issued a permit authorizing the use of the vessel as a place of principal habitation or vacation site. The fire extinguishers shall be readily accessible and maintained in good and serviceable condition for immediate and effective use at all times. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-24 Fueling. (a) [~~The~~]Any operator fueling [~~of vessels~~]a vessel at a small boat harbor where a marine fueling station has been established, shall be accomplished only at that station.

(b) Prior to fueling a vessel at a small boat harbor, the operator shall:

(1) Securely moor the vessel;

(2) [~~Step~~]Stop all engines, motors, fans, and devices liable to produce sparks;

(3) Extinguish all fires; and

(4) Close all ports, windows, doors, and hatches.

(c) Persons fueling a vessel at a small boat harbor shall:

(1) Refrain from smoking, striking matches, or throwing switches; and

(2) Keep the nozzle of a hose, or can, in continuous contact with the fuel tank opening to guard against static sparks.

(d) After fueling is completed, the following actions shall be taken:

(1) Close fill openings;

(2) Wipe up all spilled fuel;

(3) Open all ports, windows, doors, and hatches;

(4) Permit vessel to ventilate for at least five minutes; and

(5) Check that there are no fuel fumes in the bilges or below deck spaces before starting machinery or lighting fires. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-25 [~~Smoking~~] Fire hazards near fueling operations prohibited. [~~Smoking shall be prohibited at a small boat harbor when so prescribed by signs[, and regardless~~] Regardless of the [~~department's failure to post~~]lack of posted signs, no [~~smoking or~~] person may smoke, [~~lighting of~~]light a [~~match~~]match, or light any other fire-creating device or item [~~shall be permitted~~] within fifty feet of any fueling operation. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-26 Dumping of combustibles. (a) No person shall dump, discharge, or pump oil, spirits, gasoline, distillate, any petroleum product, or any other flammable material into the waters of a small boat harbor or designated offshore mooring area.

(b) Any vessel equipped with an inboard motor which is moored in a small boat harbor or designated offshore mooring area shall maintain an oil absorbent pad in the bilge to separate petroleum products from bilge water. This requirement shall be included as an inspection item for the initial or annual vessel inspection that is a prerequisite for obtaining a regular mooring permit as prescribed by section 13-231-45, Hawaii Administrative Rules. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-232-27 Emergency exits. [~~Each~~]All vessel owners and operators shall ensure that their respective vessel shall be provided with adequate exits to afford sufficient paths of escape in case of emergencies. The number and location of such exits shall be commensurate with the size, type, and make of each vessel. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-28 Open fires. Any person who ignites [~~Charcoal grills and~~] a charcoal grill or similar open fire cooking [~~devices~~] device [~~shall, while lighted,~~] shall ensure that it be attended at all [~~times.~~] times while lighted. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-29 Lifesaving equipment required. [~~Any vessel~~] All vessel owners and operators utilizing the waters of a small boat harbor shall ensure that their vessel [~~be~~] is equipped with approved lifesaving devices as prescribed in chapter 13-243, Hawaii Administrative Rules. The lifesaving equipment shall at all times be kept in good and serviceable condition for immediate and effective use and shall be so placed

as to be readily accessible provided, that if any person is living aboard any vessel or contrivance, it shall be equipped with at least an approved type personal flotation device or life preserver, ring life buoy, buoyant vest, special purpose water safety buoyant device, or buoyant cushion for each adult person on board. If there are any children living aboard, approved life preservers suitable for children shall be provided for each child living aboard. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-30 Fire signal for vessels in small boat harbors. Five prolonged blasts, each from four to six seconds in duration, on a vessel's whistle, horn, or other sound producing device indicates:

(1) A fire on board a vessel not underway; or

(2) A fire at any facility to which the vessel may be moored.

[~~This fire signal shall not be used for other purposes in any small boat harbor.~~] [Eff 2/24/94; am 12/31/18; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-232-31 Welding, [~~burning~~]burning, and other hot work; permits. Before any welding, burning, or other hot work can be done in a state small boat harbor or on a vessel moored [~~thereto,~~] therein, the [~~party~~] vessel owner or owner's authorized representative intending to do the work shall secure a miscellaneous permit from the harbor [~~agent~~] office of the small boat harbor where the work is to be done. Applicants for permits to do hot work shall [~~fill out fully~~] complete a form prescribed [~~form, after which the application shall be presented~~] by the department and submit the completed form to the harbor [~~agent, who shall issue the necessary permit.~~] office for review, and approval or denial. The party intending

to do the work shall also secure all other necessary permits and approvals from any other governmental agencies as required by law and notify the county fire department of the intended work. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§§13-232-32 to 13-232-39 (Reserved)

SUBCHAPTER 3

MAINTENANCE AND STORAGE

§13-232-40 Standards. (a) Each vessel shall be examined by the department to determine that it is in acceptable condition and operational before assignment to a berth.

(b) Every vessel and all other personal property and facilities at a small boat harbor shall be kept in such a condition of repair, maintenance, neatness, and orderliness so as not to constitute a common nuisance, substantial danger to person or property, or obstruction to proper public use and to be in conformity with these rules, the Hawaii state boating law, the rules of the department of health, and all other applicable state and federal laws. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-41 Storage. No person shall store, place, leave, deposit, or abandon any vessel, structure, supplies, material, equipment, gear, object, or substance on catwalks, piers, sidewalks, roads, parking areas, or any other public area at a small boat harbor, except vessels or objects may be stored:

(1) In areas set aside by the department for storage purposes; or

(2) Upon prior written consent by the department. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-42 Special areas. The department may designate areas to be used only for specific purposes or operations, which shall be designated by signs.

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

§13-232-43 Construction or improvements of structures. (a) No building structure, object, site improvement, landscape treatment, or other facility of any nature whatsoever shall be erected, constructed, reconstructed, altered, moved, installed, or demolished at a state boating facility or other property under the jurisdiction of the division of boating and ocean recreation except in accordance with a department permit or as provided by a lease or right of entry issued by the department. All improvements made pursuant to this section, including those improvements made prior to the effective date of these rules, shall be constructed, maintained, operated, or modified to comply with the Environmental Protection Agency's final approved guidelines for best management practices for marinas and recreational boating, i.e., the "National Management Measures Guidance to Control Nonpoint Source Pollution from Marinas and Recreational Boating. [~~EPA,~~]November 2001, EPA 841-B-01-005" or as subsequently amended. The department may require plans, specifications, and other pertinent data to accompany or supplement any application.

(b) Upon completion, inspection, and acceptance of any mooring facilities constructed by others under the provision of this section, such facilities shall become the property of the state, provided, however that the State may grant preferential but not exclusive use of the facility to the permittee for a period that shall not exceed ten years. The permittee shall maintain the mooring facility while the permit remains in effect.

(c) The permittee shall, concurrently with the execution of the permit, deliver to the state a comprehensive general liability insurance policy or policies, or a certificate of insurance in lieu thereof, evidencing that such a policy has been issued and is in force, with minimum limits of not less than

$300,000 for bodily injury to one person and $500,000 for bodily injury to more than one person per occurrence and $100,000 for damage to property per occurrence. The specification of limits contained herein shall not be construed in any way to be a limitation of the liability of the permittee for any injury or damage. Such insurance shall:

(1) Be issued by an insurance company or surety company authorized to do business in the State of Hawaii or approved in writing by the department;

(2) Name the [~~state~~]State of Hawaii as an additional insured;

(3) Provide that the department [~~of land and natural resources~~] shall be notified at least thirty days prior to any termination, cancellation, or material change in its insurance coverage;

(4) Cover all injuries, losses, or damages arising from, growing out of, or caused by any acts or omissions of the permittee, its [~~Officers~~]officers, agents, employees, invitees, or licensees in connection with the permittee's use or occupancy of the premises; and

(5) Be maintained and kept in effect at the permittee's own expense throughout the life of the [~~permit.~~] permit or lease.

(d) The permittee shall at all times with respect to the premises use due care for public safety and shall defend, hold harmless, and indemnify the State, its officers, agents, and employees from and against all claims, demands, or demands for damages, including claims for property damage, personal injury, or death:

(1) Arising on the premises, or by reason of any fire or explosion thereon; or

(2) Arising from, growing out of, or caused by any act or omission on the part of the permittee, its officers, members, agents, employees, invitees, or licensees, in connection with the permittee's use or

occupancy of the premises. [Eff 2/24/94; am 4/22/04; am and comp] (Auth: HRS §§200-2.5, 200-4) (Imp: HRS §§200-2, 200-3, 200-12, 200-22, 200-24)

§13-232-44 Gear lockers. No person shall construct a gear locker at a small boat harbor without prior written approval of the department as provided in section 13-232-43. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§§13-232-45 to 13-232-49 (Reserved)

SUBCHAPTER 4

CONDUCT OF THE PUBLIC

§13-232-50 General statements. All penal laws of the State prescribed in the Hawaii Revised Statutes, and in the rules properly promulgated pursuant to provisions thereof, govern the conduct of any person coming upon or remaining at a small boat harbor. The following provisions of this part are intended to facilitate effective management of state property and facilities at a small boat harbor. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-51 Smoking; use of electronic smoking devices. [~~Smoking~~] Notwithstanding the restrictions contained in chapter 328J, Hawaii Revised Statutes, smoking, and the use of electronic smoking devices, as defined in chapter 328J, Hawaii Revised Statutes, shall be prohibited at a small boat harbor when so prescribed by [~~signs, and regardless of the department's failure to post signs, no smoking or lighting of a match or any other fire-creating device shall be permitted within fifty feet of any fueling operation~~]signs. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-52 [~~Restricted areas. Only authorized persons may enter or remain upon restricted areas of a small boat harbor set aside by the department and designated by signs, buoys, or other markings.~~] Small boat harbor and boating facility hours of operation; restricted areas; restrictions on access. (a) The administrator of the division of boating and ocean recreation, with the approval of the chairperson, may establish a reasonable schedule of hours of operation

for all or a portion of any and all state small boat harbors, state boating facilities, and adjacent areas thereto including, but not limited to parking areas, boat washdown stations, and boat storage areas, and may close or restrict public use to all or any portion thereof, when necessary for the protection of the small boat harbor or boating facility or for the health, safety, or welfare of persons or property, by the posting of appropriate signs at the small boat harbor or boating facility and on the department's website, and when applicable, indicating the duration, extent, and scope of closure. Submerged lands within a state small boat harbor or boating facility shall be included in the restricted area subject to the hours of operation.

(b) No person may enter or remain within a small boat harbor or boating facility outside of posted hours of operation or during a closure, except for:

(1) Persons who hold a valid mooring permit issued by the department applicable to the small boat harbor or boating facility they are attempting to access, and any guests when in the company of the permit holder; provided that the permittee and guests, if any, may only enter the small boat harbor or boating facility to access their vessel or to embark on a voyage with their vessel;

(2) Persons who hold a valid principal habitation or stay aboard permit issued by the department applicable to the small boat harbor or boating facility they are attempting to access, and any guests when in the company of the permit holder; provided that the permittee and guests, if any, may only enter the small boat harbor or boating facility to access their vessel or use restroom and shower facilities, when provided;

(3) Persons who are entering the small boat harbor or boating facility for the purpose of launching or recovering a trailered vessel, who possess a valid launch ramp

decal for state launch ramps and a valid vessel registration or documentation certificate;

(4) Persons engaging in traditional and customary native Hawaiian practices pursuant to article 12, section 7 of the Hawaii Constitution or section 7-1, Hawaii Revised Statutes;

(5) Persons who have written approval for access from the administrator of the division of boating and ocean recreation, or authorized designee;

(6) Persons accessing a small boat harbor or boat launching ramp when unsafe wind and sea conditions otherwise prevent safe access to the shoreline through a designated ingress or egress zone, pursuant to the terms and requirements of section 200-4.6, Hawaii Revised Statutes;

(7) Authorized employees of the department performing official duties; and

(8) Law enforcement officers and emergency personnel performing official duties.

(c) Any vehicles, trailers, or vessels left unattended in a small boat harbor or boating facility outside of hours of operation or during a closure may be removed pursuant to chapters 13-231 or 13-233, Hawaii Administrative Rules, except for:

(1) Vehicles with a valid parking permit issued by the department;

(2) Trailers with a valid launch ramp decal or dry storage permit issued by the department;

(3) Vessels with a valid dry storage permit issued by the department;

(4) Vehicles, trailers, or vessels with written approval from the administrator of the division of boating and ocean recreation, or authorized designee, to remain within the small boat harbor or boating facility outside of hours of operation or during a closure;

(5) Vehicles, trailers, or vessels owned by the department; and

(6) Law enforcement and emergency vehicles, trailers, and vessels.

(d) At all times, no person shall enter or remain within restricted areas of a small boat harbor or boating facility set aside by the department and designated by signs, buoys, or other markings.

(e) Any person who enters or remains at a small boat harbor or boating facility outside of posted hours of operation or during a closure, or who enters or remains in a restricted area at a small boat harbor or boating facility, without proper authorization pursuant to this section, and who remains after a request to leave is made by a law enforcement officer shall be guilty of criminal trespass onto state lands and subject to penalties in accordance with section 708-814.7, Hawaii Revised Statutes. Criminal trespass onto state lands is a separate offense from the misdemeanor offense of trespass to vessel under section 200-62, Hawaii Revised Statutes. [Eff 2/24/94; am and comp] (Auth: HRS §§200-4, 200-4.6, 200-9) (Imp: HRS §§200-2, 200-3, 200-4, 200-4.6, 200-9, 200-12, 708-814.7)

§13-232-53 Lost, abandoned, or mislaid articles. Any person finding lost, abandoned, or mislaid articles at a small boat harbor shall report or turn those articles over to the chief of police of the county in which the articles are found. [Eff 2/24/94; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-54 Swimming. No person shall swim at a small boat [~~harbor or~~] harbor, boat launching [~~facility~~]facility, or its channels where such activity is prohibited by signs, buoys, or other markers posted by the department. No person shall

dive from docks, [~~piers~~]piers, or other constructed facilities into a small boat harbor, boat launching facility, or its channels. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-55 Fishing. (a) No person shall fish at a small boat harbor, boat launching facility, or channels thereto by pole where that activity is prohibited by signs, buoys, or other markers posted by the department. Spearfishing and trolling from moving vessels is prohibited in small boat harbors, boat launching facilities, designated offshore mooring areas or channels. No person shall use any throw net, or [~~draw, drag, seine, or~~] any other type of net or trap as described and regulated in chapter 13-75, Hawaii Administrative Rules, [~~except~~]aside from a crab net or hand-held dip net, except at locations designated by rules of the department of land and natural resources.

(b) A person with a [~~bait~~]valid fishing license issued by the department [~~of land and natural resources~~] may use nets to:

(1) Take young mullet or pua [~~(Mugil cephalus)~~](*Mugil cephalus*) by any owner or operator of a fishpond for the purpose of stocking their pond; or

(2) Take nehu, iao, or other bait fishes for which an open season has been declared for bait purposes only. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4)

§13-232-56 Tampering with or damaging a vessel or state property. No person shall [~~wilfully and maliciously~~] intentionally or knowingly destroy, injure,[~~deface, disturb,~~] or tamper with any state property, facility, or property belonging to another,

including but not limited to, any vessel, signs, buoys, floats, notices, buildings, lawn, or any other property, real or personal, without consent of the department. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-57 Dogs, [~~cats~~]cats, or other domestic pets. (a) As used in this section, unless the context otherwise indicates:

"Pet owner" means any person owning, harboring or keeping a dog, cat, or other domestic pet, or having custody thereof.

"Stray" means any dog, cat, or other animal without a microchip or other registered owner-identifier or is living or roaming off its owner's property without permission to be on other public or private property. Strays may also be feral or abandoned.

(b) This section shall not apply to:

(1) Service animals as defined in the Title II of the Americans with Disabilities Act (ADA) as adopted by the United States Department of Justice;

(2) Dogs trained and used by a law enforcement agency in law enforcement activities while the dogs are engaged in the performance of such work; or

(3) An obedience trial, where tracking and show dogs are accompanied by their owners and are being trained or in competition, provided permission is first obtained from the department for such use.

(c) No person shall introduce or keep a dog aged three months or older in a small boat harbor unless the dog is licensed as prescribed in chapter 143, Hawaii Revised Statutes. Officers and employees of the department, and every other person authorized by law may seize any unlicensed dog found at large within a small boat harbor, and confine and dispose of the dog as provided in chapter 143, Hawaii Revised

Statutes. A dog, cat, or other domestic pet is considered at large when:

(1) On a vessel not the property of the pet owner, without consent of the vessel owner; or

(2) In any public place within a small boat harbor, except when under control of the pet owner by leash, cord, chain, or other similar means of physical restraint, provided that such leash, cord, chain, or other means is not more than eight feet in length.

(d) No pet owner shall permit the owner's dog, cat, or other domestic pet to become a stray. [~~Effective January 1, 2019, any~~]Any predatory dog, cat, or other domestic pet, while being a stray within a small boat harbor, may be seized by officers and employees of the department, or by any other person authorized by law, and [~~shall be disposed of~~] destroyed as provided in section 183D-65, Hawaii Revised Statutes.

(e) No pet owner shall permit the owner's pet to excrete any solid waste in any public place or on any premises in a small boat harbor not the property of the pet's owner, provided no violation of this subsection shall occur if the owner promptly and voluntarily removes the animal waste.

(f) No person shall introduce or keep any animals except for birds, fish, or other common domestic pets within the confines of a small boat harbor.

(g) [~~In any event no~~]No person shall introduce or keep a dog, cat, or other domestic pet at any small boat harbor where dogs, cats, or other domestic pets are prohibited by a sign or other marker posted by the department. [Eff 2/24/94; am 12/31/18; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4, 200-14)

§13-232-57.1 Feeding of colonies, strays, wildlife, or feral animals prohibited. (a) While on any property under the jurisdiction of the division of boating and ocean recreation, no person shall feed or deliberately introduce any food material, substance, or attractant directly to, or in the vicinity of, any colony, stray, wildlife, or feral animal except as authorized in writing by the department or the department's authorized representative.

(b) Animals referenced in (a) include, but are not limited to birds, cats, chickens, deer, dogs, eels, fish, mongooses, pigs, rodents, seals, sharks, and turtles.

(c) [~~Nothing~~] Except where prohibited by law or rule, nothing in this section [~~prohibits~~] shall prohibit the use of bait or chum to attract fish for fishing, traditional Hawaiian Practices, or harvesting purposes. [Eff 12/31/18; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4, 200-14)

§13-232-57.2 Animal abandonment and creating or contributing to colonies prohibited. (a) While on any property under the jurisdiction of the division of boating and ocean recreation, no person shall abandon an animal or create or contribute to a colony.

(b) Violators shall be fined not less than $50 and not more than $1,000 or sentenced to a term of imprisonment of not more than thirty days, or both, for each violation and shall also be subject to penalties in accordance with section 143-2.6, Hawaii Revised Statutes. [Eff 12/31/18; comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4, 200-14, 200-24)

§13-232-58 Sleeping or camping prohibited. Sleeping or [~~camping~~]camping, by residing or using a [~~or both in any~~] state boating facility or other

property under the jurisdiction of the division of boating and ocean recreation, for living accommodation purposes, which can be demonstrated by remaining for prolonged or repetitious periods of time not associated with a permittee[~~is prohibited except~~] on board a vessel moored in a small boat harbor with the proper written authorization of the department. [Eff 2/24/94; am 12/31/18; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4, 200-14)

§13-232-59 Assumption of risk. [~~Any person~~] All persons visiting or using [~~a small boat harbor or facility or offshore mooring area does~~]any property under the jurisdiction of the division of boating and ocean recreation do so at [~~the person's~~]their own risk. The department [~~does not assume any~~]assumes no liability or responsibility for loss [~~of~~]of, or damage [~~to property,~~]to, property; or for injury [~~to~~]to, or death [~~of persons~~]of, persons; on or within [~~a small boat harbor or facility or offshore mooring area and any person visiting or using a small boat harbor or facility or offshore mooring area does so at the person's own risk~~]property under the jurisdiction of the division. [Eff 2/24/94; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3)

§13-232-60 Serving, sale, and consumption of liquor [~~in state small boat harbors, and boat launching facilities~~]; when prohibited. (a) It is declared to be the intent of the department to prohibit the open and unrestricted use or consumption of liquor on or within [~~state small boat harbors and boat launching facilities~~]property under the jurisdiction of the division of boating and ocean recreation. For the purpose of this section, "liquor" or "intoxicating liquor" shall mean the same as defined in section 281-1, Hawaii Revised Statutes.

(b) No person shall possess, other than in a container in the manufacturer's sealed condition, intoxicating liquor on any street or sidewalk, or in any public off-street parking area or any building located [~~thereon~~] on or within [~~a state small boat harbor or state boat launching facility~~] property under the jurisdiction of the division of boating and ocean recreation.

(c) The prohibitions contained in subsection (b) shall not apply to:

(1) Possession, use, or consumption of intoxicating liquor on board a vessel with a valid mooring permit;

(2) Intoxicating liquor procured from a vendor dispensing intoxicating liquor pursuant to a permit or license issued by the department when the intoxicating liquor is possessed or consumed in a manner and in a place consistent with the terms and conditions of such permit or license; or

(3) [~~The consumption or possession of an intoxicating liquor in a motor vehicle upon any public street, road, or highway; or~~

~~(4)~~] The possession of a container of wine authorized to be removed from liquor-licensed premises pursuant to section 281-31(q), Hawaii Revised Statutes, provided that the container has been corked or [~~resealed.~~]resealed, or where proof is made that an appropriate exception of section 281-31, Hawaii Revised Statutes, applies.

(d) Subject to the provisions of chapter 281, Hawaii Revised Statutes, as amended, and if the sale and consumption of intoxicating liquor is permitted by a disposition or agreement with the department, the prohibitions contained in subsection (b) shall not apply within the licensed premises (as described in a liquor license) of concessionaires or licensees of the department.

(e) The penalties provided in this section are criminal penalties and the section shall be enforced by the [~~Division of Conservation and Resources~~

~~Enforcement~~]division of conservation and resources enforcement (DOCARE), the county police department, and any other authorized entity as provided by law.

(1) A DOCARE officer or police officer may arrest an alleged violator of any provision of this section or may issue a citation in lieu of arrest as provided in section 803-6, Hawaii Revised Statutes.

(2) Penalty. Any person convicted of a violation of any provision of this article shall be punished by a fine of not more than $1,000 or by imprisonment for not more than thirty days, or both fine and imprisonment."

[Eff 2/24/94; am 12/31/18; am and comp] (Auth: HRS §200-4) (Imp: HRS §§200-2, 200-3, 200-4, 200-24)

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

3. The amendments to, and compilation of, chapter 13-232, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing is a copy of the rule, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, adopted by the Board of Land and Natural Resources on , and will be filed with the Office of the Lieutenant Governor.

_____
RYAN K.P. KANAKA'OLE
Acting Chairperson
Board of Land and Natural Resources

APPROVED FOR PUBLIC HEARING:



_____
Deputy Attorney General