AMENDMENT §13-256-63 Sharks Cove, Three Tables and Waimea Bay Ocean Waters

§13-256-63 Sharks Cove. Three Tables and Waimea Bay ocean waters. (a) Sharks Cove, Three Tables and Waimea Bay ocean waters means the area confined by the boundaries shown on Exhibit "Q", titled "Ocean Recreation Management Areas, Sharks Cove, Three Tables and Waimea Bay ocean waters, dated October 20, 2000 and located at the end of this subchapter.

(1) Zone 'A' begins at a point in the water at approximately 21°38.296 N, 158°04.092 W, then in a northerly direction along the shoreline to Waimea Point at approximately 21°38.599 N, 158°03.916 W, then in a straight line in a southwesterly direction for approximately one thousand eight hundred thirty-seven feet back to the point of origin.

(2) Zone 'B' begins at a point in the water Three Tables Point at approximately 21°38.751 N, 158°03.925 W; then along the shoreline in a northeasterly direction to a point in the water at approximately 21°39.010 N, l58°03.842 W, then due west to approximately 21°39.010 N, 158°03.874 W, then in a straight line in a southwesterly direction back to the point of origin.

(3) Zone 'C' begins at a point in the water at approximately 21°39.010 N, 158°03.842 W, then in a northerly direction along the shoreline to Kulalua Point at approximately 21°39.296 N, 158°03.823 W, then in a straight line in a southwesterly direction to approximately 21°39.010 N, 158°03.874 W, then in a straight line due east back to the point of origin.

(4) Zone 'D' begins at Kulalua Point at approximately 21°39.296 N, 158°03.823 W, then due west for one hundred yards, then in a straight line in a southwesterly direction to the Wananapaoa Islet at approximately 21°38.340 N, 158°04.198 W, then in a straight line in a southeasterly direction to 21°38.296 N, 158°04.092 W, then in a straight line in the northeasterly direction to Waimea Point at approximately 21°38.599 N, 158°03.916 W, then in a northeasterly direction along the shoreline to approximately 21°38.751 N, 158°03.925 W and then in a straight line in a northeasterly direction to the point of origin.

(b) Following are restrictions for Zone 'A':

(1) Except where permitted by law, motorized vessels, except sailing vessels with auxiliary engines, are prohibited in Zone 'A'.

(2) Sailing vessels with auxiliary engines shall be required to enter and leave Zone 'A' on sail power or by oar only.

(3) Manually-propelled vessels, i.e., kayaks, may embark and disembark from the shoreline of Zone 'A'.

(4) Any vessel anchoring within Zone 'A' shall be prohibited from anchoring within two hundred feet of the shoreline and shall anchor only in sandy areas.

(5) All vessels shall proceed at a speed of slow-no-wake, as defined in section 13-250-5, when in Zone 'A'.

(c) Following are restrictions for Zone 'B':

(1) Manually-propelled vessels, i.e., kayaks, may embark and disembark from the shoreline in Zone 'B'.

(2) Except where permitted by law, motorized vessels, including sailing vessels with auxiliary engines, are prohibited in Zone 'B'.

(d) Following are restrictions for Zone 'C':

(1) Except where permitted by law, all vessels are prohibited from embarking or disembarking from the shoreline into Zone 'C'.

(e) In addition to any federal, state or county law, rule, permit or ordinance requirements, a commercial activity permit shall be required to conduct commercial SCUBA or commercial snorkeling activities in Zone 'C,' issued by the department. This applies to all for-profit and not-for-profit companies or organizations. Allocation of the commercial activity permits shall be in accordance with section 13-231-60 and the applicant shall submit the following with the application:

(1) A list of all instructors or guides to be named on the commercial activity permit. The onus shall be on the commercial activity permittee to update any additions or deletions of the names of the persons utilized for instruction or guided tours;

(2) Proof of insurance, as described in section 13-231-65, for each individual listed on the commercial activity permit;

(3) A copy of the tax clearance certificate or a letter from the state department of taxation that confirms the applicant is paying taxes;

(4) Vehicle license numbers for vehicles utilized for shuttling customers; and

(5) Proof of a leadership level professional credential i.e., dive rnaster or above, from an internationally recognized SCUBA diving training agency, e.g., PADI, for each instructor or guide listed on the commercial activity permit for commercial SCUBA and snorkeling activities.

(f) Commercial activity permits for commercial SCUBA or snorkeling activities shall be valid for a period not to exceed one year.

(g) Renewal of a commercial activity permit shall be in accordance with section 13-231-61, except that subsection (b)(1)(4) and (8) shall not apply. The minimum revenue standard shall be the fees provided in subsection (j).

(h) A yearly non-refundable commercial activity permit application fee of $50 shall be paid at the time the application is submitted.

(i) In addition to the commercial activity permit described in subsection (e), a use permit, as described in subsection (j) shall be required when using Zone 'C'.

(j) A maximum of six use permits, with a combination of commercial activity permittees and customers not to exceed ten individuals, including instructors and assistants per use permit, shall be issued for any one of three time periods and the permittee shall only be allowed to use Zone 'C' during the periods reserved by the permittee via a reservation system established by the department.

(k) Use permit fees, that shall be paid in full at the time of the reservation for use periods, shall be as follows:

(1) A seasonal user fee of $420 or

(2) A monthly user fee of $75; or

(3) A weekly user fee of $56; or

(4) A daily user fee of $10.

(1) Individuals who possess a commercial activity permit and pay fees in accordance with section 13-234-25, shall be exempt from the fee requirements provided in subsection (k) but shall be required to make reservations as described in subsection (j).

(m) Commercial activities may be allowed from April 1st through October 31st of each year but shall be prohibited between the hours of 9:00 p.m. to 8:00 a.m. and from November 1st through March 31st of each year.

(n) Individuals conducting instruction or guided tours shall be required to make available to representatives of the department a copy of the use permit upon demand.

(o) Any person who violates any of these rules or who violates any lawful command issued pursuant to these rules shall be subject to fines as prescribed in sections 200-14, 200-14.5, and 200-25, HRS. Prosecution of offenders shall be as provided by law.

(p) Commercial activity permittees shall make available to customers maps or charts that show the boundaries of the area(s), outlined restricted zones, and dangerous areas and conditions and shall establish an education program acceptable to the department addressing the historical, cultural ecological significance of the area, and any rules or laws pertaining to protected species and marine resource conservation etiquette.

(q) Unless otherwise allowed by the County, commercial activity permittees shall be required to shuttle their customers to and from the parking area fronting Zone 'C', when utilizing Shark's Cove for commercial activities.

(r) Following are restrictions for Zone 'D':

(1) All vessels shall proceed at a speed of slow-no-wake, as defıned in section 13-250-5, when in Zone 'D'.

(2) When installed, all vessels mooring in Zone 1)' shall utilize day-use-moorings or shall anchor in sandy areas.

(s) Individuals conducting special events in Zones 'A', 'B', 'C' or 'D', shall be required to obtain a special events, permit in accordance with 13-244-19. [Eff2/24/94 am APR 27, 2002] Auth: HRS §§200-2, 200-3, 200-4, 200-10, 200-22, 200-24) (Imp: HRS §§200-2, 200-3, 200 4, 200-10, 200-22, 200-24).

Amendments to Chapters 13-280, 13-250 and 13-256, Title 13, Hawaii Administrative Rules, on the Summary page dated February 8, 2002, were adopted on January 25, 2002 following public hearing held on November 13, 2002, after public notice was given in the Honolulu Advertiser on October 7, 2002. The rule shall take effect ten days after filing with the office of the Lieutenant Governor.

Gilbert S. Coloma-Agaran, Chairperson
Department of Land and Natural Resources

APPROVED AS TO FORM:

Deputy Attorney General

APPROVED

Benjamin J. Cayetano, Governor
State of Hawaii

Dated: 4/15/02

APR 17 2002
Filed

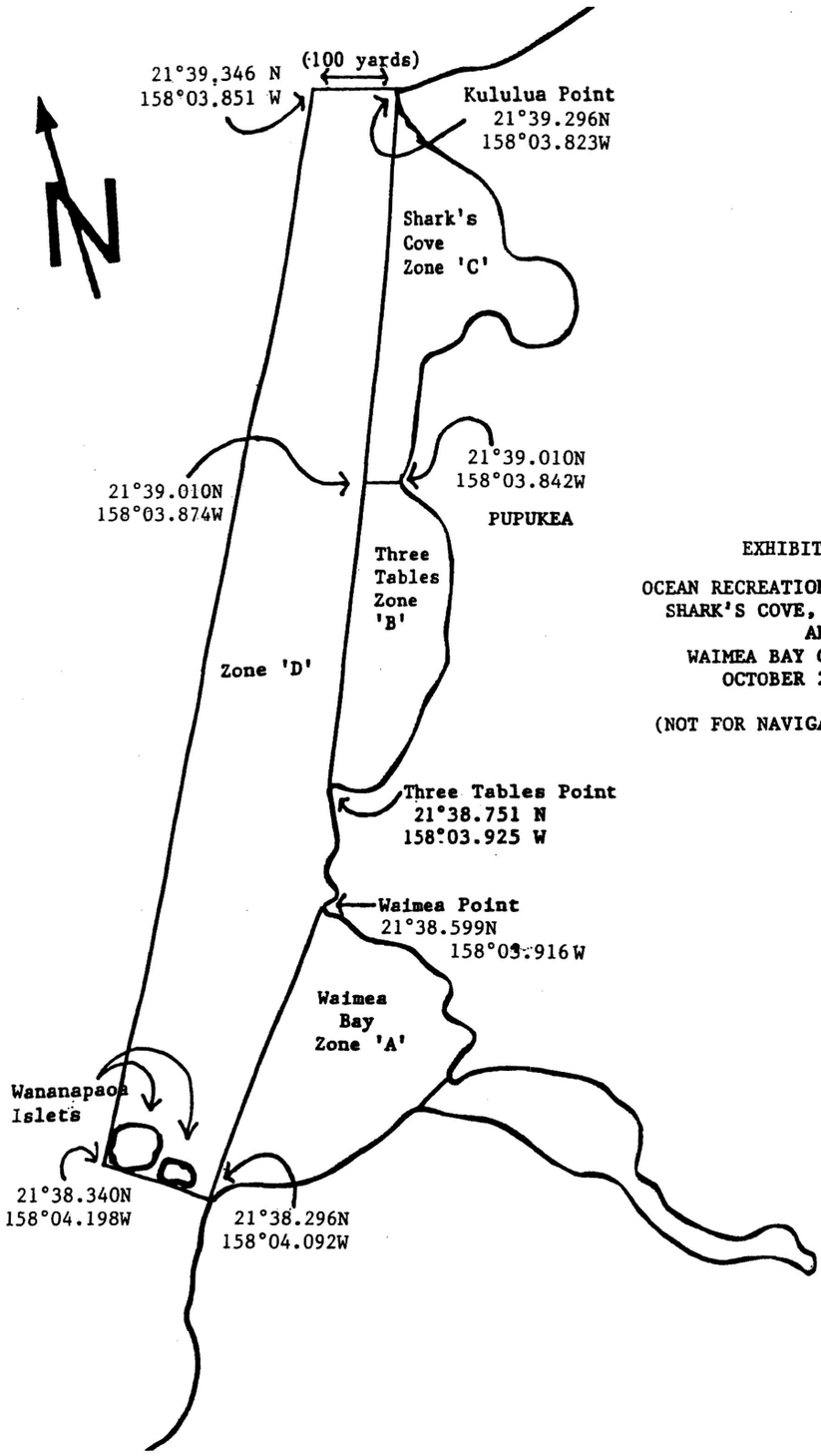

EXHIBIT "Q"

OCEAN RECREATION MANAGEMENT AREAS
SHARK'S COVE, THREE TABLES
AND
WAIMEA BAY OCEAN WATERS
OCTOBER 20, 2000

(NOT FOR NAVIGATION PURPOSES)