

Summary of Permits Which May Apply to Wave Power Projects in the State of Hawaii

DRAFT - October 19, 2006

Disclaimer: this table is included as a guide only, and may not be exhaustive or accurate. Although an effort has been made to be complete, not all permits may be required for every project, and some required permits may have been inadvertently omitted. Federal and County permits are not listed in this table.

Permit/ Approval	Applicable Activities	Applicable Areas	Authority and/or Reference	Regulatory Agency Contact Information
Coastal Zone Management Federal Consistency Review	Any activity which requires a Federal permit or license, which uses Federal lands, or which is undertaken directly by a Federal agency.	Statewide	Code of Federal Regulations, 15 CFR 930 Federal Consistency instructions & application, and assessment form available online: www.hawaii.gov/dbedt/czm/federal_consistency/federal_consistency.html	Dept. of Business, Economic Development and Tourism (DBEDT); Office of Planning; Coastal Zone Management (CZM) Program 235 S. Beretania St. #600 Honolulu, HI 96813 Mailing: P.O. Box 2359 Honolulu, HI 96804 Tel 808-587-2878 Fax 808-587-2899 http://www.hawaii.gov/dbedt/czm
Land Use District Boundary Amendment	Proposed change in land use larger than 15 acres, or any change of land use within a Conservation District.	Statewide lands	HRS 205	DBEDT State Land Use Commission (LUC) 235 S. Beretania St. #406 Honolulu, HI 96813 Mailing: P.O. Box 2359 Honolulu, HI 96804 Tel 808-587-3822 Fax 808-587-3827 http://www.luc.state.hi.us/

<p>Conservation District Use Application (CDUA)</p>	<p>Any use of Conservation lands.</p>	<p>Lands designated Conservation by the State, including submerged lands. The State Conservation District extends out to the State's territorial waters (usually 12 mi.).</p>	<p>State Conservation District defined in HRS 183C http://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0183C/ CDU application available at: http://www.hawaii.gov/dlnr/occl/forms/CDUA-marine.pdf</p>	<p>Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) 1151 Punchbowl Street #131 Honolulu, HI 96813 Tel 808-587-0380 Fax 808-587-0321 www.hawaii.gov/dlnr/occl</p>
<p>State Ocean Leases, Rights of Entry, and Revocable Permits</p>	<p>Any activity. HRS Sections 190D-11(a)(6) & (8) specifically require consideration of existing navigational, fishing, recreational, military, governmental, commercial and cultural uses of any targeted marine areas that may be affected by the proposed energy development use.</p>	<p>State-owned lands statewide, including submerged lands, and surface and sub-surface marine waters.</p>	<p>Applications for ocean and submerged lands uses and leases authorized under HRS 190D. http://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0190D/ Revocable permits or rights of entry may be most appropriate for exploratory work.</p>	<p>Department of Land and Natural Resources (DLNR), Land Division 1151 Punchbowl Street #220 Honolulu, HI 96813 Tel 808-587-0410 Fax 808-587-0455 www.hawaii.gov/dlnr/occl</p>

State Environmental Impact Statement	Use of State or County funds or lands. Use of Conservation or Submerged Lands, Registered Historic Sites, Shoreline Setback Area, Waikiki Lands. Rezoning Conservation District lands or County Land Use Plans. Building helicopter facilities. Building power plants (nonrenewable source), landfills, wastewater plants, waste to energy facilities or oil refineries.	Statewide	HRS 343 “The Environmental Guidebook: A Guidebook for the Hawaii State Environmental Review Process” is available online at: www.state.hi.us/health/oeqc/publications/guidebook.pdf	The first discretionary permit approving agency is the primary EIA regulator. State Department of Health (DOH), Office of Environmental Quality Control (OEQC) facilitates the environmental review process. 235 S. Beretania Street #702 Honolulu, HI 96813 Tel 808-586-4185 Fax 808-586-4186 www.state.hi.us/health/oeqc
National Pollutant Discharge Elimination System (NPDES)	Discharging any pollutant, including thermal pollution; altering the quality of any discharge; increasing the quantity of any discharge; disturbing more than 1 acre of land during construction or operation of a facility.	Surface streams and coastal waters (to 3 miles) of the State.	Clean Water Act, Section 402 HRS 342D HAR Title 11, Chapters 54 & 55 http://www.hawaii.gov/health/environmental/water/cleanwater/contact/forms/index.html	DOH Clean Water Branch 919 Ala Moana Blvd. #301 Honolulu, HI 96814 Mailing: P.O. Box 3378 Honolulu, HI 96801 Tel 808-586-4309 Fax 808-586-4352 http://www.hawaii.gov/health/environmental/water/cleanwater/index.html
Water Quality Certification	Putting any “discharge” (including a device) into the water.	Shoreline to 3 miles.	Clean Water Act, Section 401 HRS 342D HAR Title 11, Chapter 54 (see website above)	DOH Clean Water Branch (see contact info above)

HRS = Hawaii Revised Statutes. To locate a section of the Hawaii Revised Statutes, go to <http://www.capitol.hawaii.gov>, and click on “Bill Status & Documents.” At the bottom of the page you may search HRS by text keyword, or by section number.

HAR = Hawaii Administrative Rules. Each State government department generally publishes its Administrative Rules on its department website. Go to www.hawaii.gov, click on the “Government” link and then on the “State Government” link to bring up a list of departments. From the drop-down menu, select the department you’re looking for. You can also search for “Administrative Rules” at www.hawaii.gov and select the appropriate search result.

Summary of Permits & Permitting Processes Which May Apply to Wave Power Projects in the State of Hawaii

There are a variety of permits required for any development on land or in the ocean in the State of Hawaii. Some are required by the Federal government, others by the State, and still others by the four Counties.

To better understand government regulatory processes, one should consider it as a tiered system with the traditional separation of Federal, State, and County authorities.

As a general rule, the Federal government's regulatory role applies to work in navigable waters, as well as around airports and related facilities and the protection of wetlands. Activities regulated by the State focus on public health, welfare and the management of natural and human resources. Counties regulate activities that are more directly related to land use, zoning, and development of facilities, including building, grading and construction controls.

Possible Federal permits affecting wave power devices have been outlined by the Ocean Renewable Energy Coalition (OREC). The information is posted as a pdf at <http://www.oceanrenewable.com>, listed in OREC's Library of Ocean Resources as "Table of Ocean Energy Regulations."

State of Hawaii permits relating to ocean energy development are summarized in the table, "Possible State of Hawaii Permits for Wave Energy." This summary, intended to provide guidance to potential wave power developers, is a work in progress as of October 2006.

County permits and approvals are a separate matter. Wave power developers are advised to contact the County agencies listed at the end of this summary for guidance on County permits.

Regulatory responsibilities in some instances overlap or are shared among the various agencies. Accordingly, a proposed project may require the permission of only one or all three tiers of government. One example of shared responsibilities is the Hawaii Coastal Zone Management (CZM) Program. The Counties administer a permit system for some types of development within designated special management areas (SMAs) along the shoreline, which the State must monitor to ensure compliance with statewide CZM objectives and policies. Information on SMAs can be found on the Department of Business, Economic Development, and Tourism website at www.hawaii.gov/dbedt/czm. A pdf document entitled, "Participant's Guide to the SMA Permit" provides useful information, including contact information for the appropriate agencies.

There is also shared management responsibility among all three levels of government relating to environmental matters. The Federal government has transferred regulatory authority for some environmental matters, such as the Clean Water Act, to the State. Similarly, some regulatory responsibilities have been transferred to the Counties.

For information on County permit requirements, please contact the following offices:

City and County of Honolulu:

Department of Planning and Permitting

650 South King Street

Honolulu, HI 96813

Tel 808-523-4432

Fax 808-527-6743

Email info@honoluluodpp.org

URL <http://www.honoluluodpp.org>

Permitting information relating to land use policy and Special Management Areas (SMAs) is available from the department's website (URL given above) by clicking on "Permitting Information" or going directly to <http://www.honoluluodpp.org/PermitInfo/>

County of Maui:

Department of Planning

200 South High Street

Wailuku, HI 96793

Tel 808-244-7735

Email planning@mauicounty.gov

URL <http://www.co.maui.hi.us/departments/Planning>

Permit applications, including those for the Special Management Area, are available online at

<http://www.co.maui.hi.us/departments/Planning/planningforms.htm>

County of Hawaii:

Department of Planning

Aupuni Center, 101 Pauahi Street, Suite 3

Hilo, HI 96720

Tel 808-961-8288

Fax 808-961-8742

Email planning@co.hawaii.hi.us

URL http://co.hawaii.hi.us/directory/dir_plan.htm

A useful explanation of the Hawaii Land Use Regulatory System (dated March 2006) is found at: http://co.hawaii.hi.us/planning/Land_Use_Regulatory_System.pdf or by clicking on "General Explanation of Hawaii Land Use System" at the Planning Department's webpage (URL given above).

County of Kauai:

Department of Planning

4444 Rice Street, Suite 473

Lihue, HI 96766

Tel 808-241-6677

Fax 808-241-6699

URL <http://www.kauai.gov/planning>

Some of the information in this summary has been excerpted from "An Applicant Guide to State Permits and Approvals for Land and Water Development," published in June 1986 by the Hawaii Coastal Zone Management Program, Department of Business, Economic Development, and Tourism. Information has been updated as appropriate.

Marine Management Areas in Hawaii: Possible Implications for Ocean Power Development

Knowledge of marine management rules will be helpful in assessing potential positive and negative impacts of ocean energy devices on marine life.

A map identifying Marine Life Conservation Districts (MLCDs), Fishery Management Areas (FMAs), Fisheries Replenishment Areas, Wildlife Sanctuaries, Natural Area Reserves, the Hawaiian Islands Humpback Whale National Marine Sanctuary, and Bottomfish Restricted Fishing Areas in the waters surrounding the major Hawaiian Islands may be found online at <http://www.hawaii.gov/dlnr/dar/pubs/MPAmap.pdf>.

Information on Marine Protected Areas is also available from the National Oceanographic and Atmospheric Administration (NOAA), www.mpa.gov. “Marine Protected Area” is defined as any area of the marine environment that has been reserved by federal, state, territorial, tribal or local laws or regulations to provide lasting protection to part or all of the natural and cultural resources therein. Each MPA may have unique regulations regarding access, use, and impacts.

In Hawaii, marine management areas include Marine Life Conservation Districts, Fishery Management Areas, Bottomfish Restricted Fishing Areas and others. Some information on these areas is given below.

A Special Permit may be issued by the Department of Land and Natural Resources (DLNR) to exempt persons from various regulations in Marine Life Conservation Districts, Fishery Management Areas, or Public Fishing Areas. Reports and fees may be required. Contact the DLNR Division of Aquatic Resources for more information, or see <http://www.hawaii.gov/dlnr/dar/licenses.htm>.

The following descriptions of selected structures and areas in Hawaiian waters are intended to help potential ocean power developers and other interested parties interpret maps developed by the State of Hawaii and others. It is likely that an ocean power developer would need to reference these structures and areas in an environmental assessment. An ocean energy device might have a beneficial, neutral, or negative impact on the ocean resources managed within these areas.

Artificial Reefs

Department of Land and Natural Resources
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813
Phone 808-587-0100, Fax 808-587-0115
www.hawaii.gov/dlnr/dar

Artificial reef areas are actively used for commercial and recreational fishing. Artificial reef materials such as concrete structures may be emplaced within the areas' limits to provide enhanced habitat for fish species. The periodic deployment of these materials, plus the potential for the materials' movement during hurricanes or other severe storms, may be hazardous to anchors or cables which traverse the artificial reef.

Bottomfish Restricted Areas

Department of Land and Natural Resources
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813
Phone 808-587-0100, Fax 808-587-0115
www.hawaii.gov/dlnr/dar

Scientific studies indicate that certain bottomfish species should be managed and certain areas strictly regulated to conserve the spawning populations. Measures may be established to limit fishing, such as setting a maximum number of fishing vessels, restricting fishing gear types, restricting fishing areas, or restricting maximum amount of catch. The geographic coordinates of 19 bottomfish restricted areas are given in Hawaii Administrative Rules, Chapter 94, accessible at the DLNR website (URL given above.)

Fish Aggregating Devices (FADs)

Department of Land and Natural Resources
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813
Phone 808-587-0100, Fax 808-587-0115
www.hawaii.gov/dlnr/dar

For current FAD locations and status, contact the Division of Aquatic Resources or visit the FAD Program website,
http://www.hawaii.gov/dlnr/dar/fish_regs/fads.htm.

It is unlawful to attach, moor or tie any boat or watercraft, or any rigging or structure to or to board, deface, damage, remove or destroy any fish aggregating device. Permits may be issued for certain activities.

Hawaiian Islands Humpback Whale National Marine Sanctuary

National Oceanographic and Atmospheric Administration
Hawaiian Islands Humpback Whale National Marine Sanctuary
6700 Kalanianaʻole Highway, Suite 104
Honolulu, HI 96825
Phone 808-397-2651, Fax 808-397-2650
<http://hawaiihumpbackwhale.noaa.gov>

Department of Land and Natural Resources
Aquatic Resources Division
1151 Punchbowl Street, #330
Honolulu, HI 96813
Phone 808-587-0106, Fax 808-587-0115

Nearly two-thirds of the entire North Pacific population of endangered humpback whales migrates to Hawaii each winter to breed, calve, and nurse their young.

The Hawaiian Islands Humpback Whale National Marine Sanctuary is jointly managed by the National Oceanic and Atmospheric Administration (NOAA) and the State of Hawaii Department of Land and Natural Resources (DLNR).

The sanctuary is actually a series of five marine protected areas distributed across the main Hawaiian Islands with a total area of about 1,400 square miles. Encompassing about half of the total sanctuary area, the largest contiguous portion of the sanctuary is delineated around Maui, Lanai and Molokai. The four smaller portions are located off the north shore of Kauai, off Hawaii's Kona coast, and off the north and southeast coasts of Oahu.

The sanctuary's goal is to promote comprehensive and coordinated management, research, education and long-term monitoring for the endangered humpback whale and its habitat. Human use of the sanctuary is managed consistent with the Hawaiian Islands National Marine Sanctuary Act and the National Marine Sanctuary Act. Current human uses include ocean recreation, fishing and shipping.

Maps are available at <http://hawaiihumpbackwhale.noaa.gov/maps/maps.html>.

Marine Life Conservation Districts

Department of Land and Natural Resources
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813
Phone 808-587-0100, Fax 808-587-0115
www.hawaii.gov/dlnr/dar

Marine Life Conservation Districts (MLCD) are detailed at http://www.hawaii.gov/dlnr/dar/fish_regs/. The taking of marine life, sand, coral, etc. may be prohibited or restricted in MLCDs, and there may be other restrictions such as operating water craft. Ocean energy systems, including cables, should not be sited in or near MLCDs. Oahu MLCDs include Hanauma Bay, Pupukea, and Waikiki. There are other MLCDs for other islands.

Ocean Recreation Areas

Department of Land and Natural Resources
Division of Boating and Ocean Recreation
333 Queen Street, Room 300
Honolulu, HI 96813
Phone 808-587-1966, Fax 808-587-1977
www.hawaii.gov/dlnr/dobor

Recreational activities, ranging from surfboard instruction to commercial high-speed boating, are regulated in Ocean Recreation Areas. Ocean recreation management areas have been designated for specific activities as described in Chapter 13-256, Hawaii Administrative Rules, accessible at the DLNR website (URL given above.)

Regulated Fishing Areas

Department of Land and Natural Resources
Division of Aquatic Resources
1151 Punchbowl Street, Room 330
Honolulu, HI 96813
Phone 808-587-0100, Fax 808-587-0115
www.hawaii.gov/dlnr/dar

There are several regulated fishing areas (Fishery Management Areas) in Hawaiian waters detailed at:
http://www.hawaii.gov/dlnr/dar/fish_regs/.

Among the areas off Oahu where fishing is regulated are the Hawaii Marine Laboratory Refuge surrounding Coconut Island in Kaneohe Bay, the Waikiki-Diamond Head Shoreline Fisheries Management Area adjacent to the Waikiki MLCB, the He'eia Kea Wharf in Kaneohe Bay, Waialua Bay (Haleiwa Harbor), Honolulu Harbor, and Pokai Bay. There are other Fishery Management Areas on the other islands.

Zones of Military Concern in Hawaiian Waters Which May Affect Ocean Power Development

The following information is excerpted from the Electronic Code of Federal Regulations (e-CFR). e-CFR is a service of the U.S. Government Printing Office's website, GPO Access. The URL is www.gpoaccess.gov/ecfr.

CFR Title 33 concerns Navigation and Navigable Waters. Part 334, Danger Zone and Restricted Area Regulations, describes areas which are usually under the authority of the Army Corps of Engineers or the U.S. Navy. "Danger zones" are defined water areas used for target practice, bombing, rocket firing or other especially hazardous operations, normally for the armed forces. The danger zones may be closed to the public on a full-time or intermittent basis, as stated in the regulations. A "restricted area" is a defined water area where public access is prohibited or limited. Restricted areas generally provide security for government property and/or protection to the public from the risks arising from the government's use of that area.

CFR Title 33, Part 165, Regulated Navigation Areas and Limited Access Areas, describes safety zones and security zones under the authority of the Coast Guard and the Department of Homeland Security. A "safety zone" is a water area and/or shore area to which, for safety or environmental purposes, access is limited to authorized persons, vehicles or vessels. It may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion.

A "security zone" is designated by the Captain of the Port or District Commander as necessary to prevent damage or injury to any vessel or waterfront facility, and to safeguard ports, harbors, territories or waters of the United States. Security zones are not detailed below. CFR lists security zones at Honolulu Harbor, Keehi Lagoon, Honolulu International Airport, and Barbers Point on Oahu; Kahului Harbor and Lahaina Harbor on Maui; Hilo Harbor and Kailua-Kona Harbor on Hawaii; and Nawiliwili Harbor and Port Allen Harbor, Kauai.

Not all of these zones will be of importance to ocean energy developers. Nautical charts should be consulted for further information on other potential hazards, such as submerged buoys and obstructions.

The numbers in carets, such as <1>, refer to zones depicted on maps prepared by the State of Hawaii Department of Business, Economic Development and Tourism (DBEDT) to assist with the siting and permitting of ocean energy devices.

<1>

§ 334.1390 Pacific Ocean at Barking Sands, Island of Kauai, Hawaii; missile range facility; danger zone.

- (a) The danger zone. The waters within an area beginning at latitude 22°03'15" N., longitude 159°47'15" W.; thence southerly along the shoreline to latitude 22°02'45" N., longitude 159°47'18" W.; thence westerly to latitude 22°02'30" N., longitude 159°51'30" W.; thence northeasterly to latitude 22°06'30" N., longitude 159°49'30" W.; and thence southeasterly to point of beginning.
- (b) Markers.
 - (1) Range markers at the control point at latitude 22°03'17.4" N., longitude 159°47'12.2" W., are separated 300 feet (one pole 95.5 feet northwest and the other pole 334.5 feet southeast of this point) along a line bearing 327°10' True.
 - (2) Range markers at the control point at latitude 22°02'44.5" N., longitude 159°47'16.4" W., are separated 300 feet (one pole 75 feet west and the other pole 225 feet east of this point) along a line bearing 266°20' True.
 - (3) The range marker poles seaward from each control point are 25 feet in height above ground level. The other two poles are 45 feet above ground level.
 - (4) Each range marker consists of a 10-foot equilateral triangle with alternate red and white diagonal stripes.
- (c) The regulations. Entry into the area by any person, boat, vessel or other craft is prohibited at all times. Special permission for transit through the area by the most direct route may be obtainable on an individual basis, by prior arrangement with the Commanding Officer, Pacific Missile Range Facility, Hawaiian Area, Barking Sands, Kauai, Hawaii.

[34 FR 7575, May 10, 1969. Redesignated at 50 FR 42696, Oct. 22, 1985]

§ 165.1406 Safety Zone: Pacific Missile Range Facility (PMRF), Barking Sands, Island of Kauai, Hawaii.

- (a) Location. The following area is established as a safety zone during launch operations at PMRF, Kauai, Hawaii: The waters bounded by the following coordinates: (22°01.2' N, 159°47.3' W), (22°01.2' N, 159°50.7' W), (22°06.3' N, 159°50.7' W), (22°06.3' N, 159°44.8' W). (Datum: OHD)

- (b) Activation. The above safety zone will be activated during launch operations at PMRF, Kauai, Hawaii. The Coast Guard will provide notice that the safety zone will be activated through published and broadcast local notice to mariners prior to scheduled launch dates.
- (c) Regulation. The area described in paragraph (a) of this section will be closed to all vessels and persons, except those vessels and persons authorized by the Commander, Fourteenth Coast Guard District, or the Captain of the Port (COTP) Honolulu, Hawaii, whenever Strategic Target System (STARS) vehicles are to be launched by the United States Government from the PMRF, Barking Sands, Kauai, Hawaii.
- (d) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

[CGD14 92-05, 57 FR 54508, Nov. 19, 1992, as amended by CGD 96-026, 61 FR 33669, June 28, 1996]

<2>

§ 334.1350 Pacific Ocean, Island of Oahu, Hawaii; danger zone.

- (a) *The danger zone.* Beginning at point of origin at Kaena Point Light in latitude 21°34'42" N., longitude 158°16'54" W.; thence on a bearing of 282°30' True to latitude 21°38' N., longitude 158°33' W.; thence along the arc of a circle centered at Kaena Point Light to latitude 21°42'30" N., longitude 158°03' W.; thence on a bearing of 228° true to latitude 21°35'33" N., longitude 158°11'30" W.; thence to point of origin.
- (b) *The regulations.*
 - (1) The area will be closed to the public and all shipping on specific dates to be designated for actual firing and no person, vessel or other craft shall enter or remain in the area during the times designated for firing except as may be authorized by the enforcing agency. Notification to maritime interests of specific dates of firing will be disseminated through the U.S. Coast Guard media of the Local Notice to Mariners and the NOTAMS published by the Corps of Engineers. On dates not specified for firing, the area will be open to normal maritime traffic.
 - (2) The regulations of this section shall be enforced by the Commanding General, U.S. Army, Hawaii/25th Infantry Division, APO 957, and such agencies as he may designate.

[24 FR 5999, July 28, 1959. Redesignated at 50 FR 42696, Oct. 22, 1985, as amended at 62 FR 17559, Apr. 10, 1997]

<3>

§ 334.1360 Pacific Ocean at Barber's Point, Island of Oahu, Hawaii; danger zone.

- (a) *The danger zone.* The waters within a rectangular area beginning at a point in latitude 21°17'56" N., longitude 158°05'21" W., thence to latitude 21°17'30" N., longitude 158°05'21" W.; thence to latitude 21°17'58" N., longitude 158°02'49" W., thence to latitude 21°18'24" N., longitude 158°02'49" W.; thence along the shoreline at the highwater mark along the southerly boundary of Naval Air Station, Barber's Point, to the point of beginning.
- (b) *The regulations.*
 - (1) The area is closed to all surface craft, swimmers, divers and fishermen except to craft and personnel authorized by the enforcing agency.
 - (2) The regulations in this section shall be enforced by the Commanding Officer, Naval Air Station, Barber's Point, Hawaii, 96862, and such agencies as he/she may designate.

[31 FR 8129, June 9, 1966, as amended at 45 FR 57126, Aug. 27, 1980. Redesignated at 50 FR 42696, Oct. 22, 1985]

<4>

§ 334.1400 Pacific Ocean, at Barbers Point, Island of Oahu, Hawaii; restricted area.

- (a) *The area.* That portion of the Pacific Ocean lying offshore of Oahu between Ewa Beach and Barbers Point, basically outlined as follows:

Station	Latitude	Longitude
A (shoreline)	21°18[<small>min</small>]06[<small>sec</small>].	158°04[<small>min</small>]24[<small>sec</small>]
B	21°17[<small>min</small>]00[<small>sec</small>].	158°03[<small>min</small>]30[<small>sec</small>]

C 21°15[*min*]00[*sec*].. 158°03[*min*]18[*sec*]
D 21°15[*min*]36[*sec*].. 158°01[*min*]06[*sec*]
E (shoreline) 21°18[*min*]30[*sec*].. 158°02[*min*]00[*sec*]

(b) *The regulations.*

- (1) Vessels shall not anchor within the area at any time.
- (2) Dredging, dragging, seining, or other fishing operations which might foul underwater installations within the area are prohibited.
- (3) Use of the restricted area for boating, fishing (except as prohibited in paragraph (b)(2) of this section) and other surface activities is authorized.
- (4) The regulations in this section shall be enforced by the Officer in Charge, Fleet Area Control and Surveillance Facility, Pearl Harbor, Hawaii 96860–7625, and such agencies as he/she may designate.

(Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012)

[36 FR 14186, July 31, 1971, as amended at 45 FR 57126, Aug. 27, 1980. Redesignated at 50 FR 42696, Oct. 22, 1985, and amended at 58 FR 53427, Oct. 15, 1993.]

<5>

§ 334.1370 Pacific Ocean at Keahi Point, Island of Oahu, Hawaii; danger zone.

- (a) *The danger zone.* The waters within an area beginning at a point in latitude 21°18'21.4" N., longitude 157°59'14.2" W.; thence to latitude 21°18'11" N., longitude 158°00'17.5" W.; thence to latitude 21°17'11.8" N., longitude 158°00'06.5" W.; and thence to latitude 21°17'22.5" N., longitude 157°59'03.1" W.
- (b) *The regulations.*
 - (1) The area is closed to all surface craft, swimmers, divers, and fishermen except to craft and personnel authorized by the enforcing agency.

- (2) The regulations in this section shall be enforced by the Commanding Officer, Explosive Ordnance Disposal Training and Evaluation Unit One, Barbers Point, Hawaii 96862–5600.

[31 FR 12437, Sept. 20, 1966, as amended at 45 FR 57126, Aug. 27, 1980. Redesignated at 50 FR 42696, Oct. 22, 1985, and amended at 58 FR 53427, Oct. 15, 1993]

<6>

§ 334.1380 Marine Corps Air Station, (MCAS) Kaneohe Bay, Island of Oahu, Hawaii—Ulupau Crater Weapons Training

Range; danger zone.

- (a) *The danger zone.* The waters within a sector extending seaward a distance of 3,900 yards between radial lines bearing 352° true and 61° true, respectively, from a point on Mokapu Peninsula at latitude 21°27'17" N, longitude 157°43'51" W, exclusive of the existing 500 yard wide prohibited area. The interface between the existing 500 yard prohibited area and this danger zone is defined by three points having the following coordinates:

Point A: Latitude 21°27'59" N, Longitude 157°43'56" W

Point B: Latitude 21°27'52" N, Longitude 157°43'02" W

Point C: Latitude 21°27'38" N, Longitude 157°43'12" W

- (b) *The regulations.*
 - (1) Weapons firing at the Ulupau Crater Weapons Training Range may occur at any time between 6:00 a.m. and 11:00 p.m., Monday through Friday, and between 6:00 a.m. and 6:00 p.m., Saturday and/or Sunday, when required. Specific dates and hours for weapons firing, along with information regarding onshore warning signals, will be promulgated by the U.S. Coast Guard's Local Notice to Mariners. Information on weapons firing schedules may also be obtained by calling the Officer in Charge of the Range Training Facility, Headquarters and Headquarters Squadron, MCAS (telephone number 257–2067).
 - (2) Whenever hazardous weapons (machine guns) firing is scheduled and in progress during daylight hours, two large red triangular warning pennants will be flown at each of two highly visible and widely separated locations on the shore at Ulupau Crater.

- (3) Whenever tactical weapons (exclusive of machine guns) firing is scheduled and in progress during daylight hours, a single large red rectangular warning flag will be flown at the two separate locations on the shore.
 - (4) Whenever any weapons firing is scheduled and in progress during periods of darkness, flashing red warning beacons will be displayed on the shore at Ulupau Crater.
 - (5) Boaters will have complete access to the danger zone whenever there is no weapons firing scheduled, which will be indicated by the absence of any warning flags, pennants, or beacons displayed ashore.
 - (6) The danger zone is not considered safe for boaters whenever hazardous weapons (machine guns) firing is in progress. Hazardous weapons firing will usually be scheduled approximately twice per month, on nonconsecutive weekdays, for about eight hours on each occasion. Boaters shall expeditiously vacate the danger zone at best speed and by the most direct route whenever hazardous weapons firing is scheduled. Passage of vessels through the danger zone when hazardous weapons firing is in progress will be permitted, but boaters shall proceed directly through the area at best speed. Hazardous weapons firing will be suspended as long as there is a vessel in the danger zone. Whenever a boater disregards the publicized warning signals that hazardous weapons firing is scheduled, the boater will be personally requested to expeditiously vacate the danger zone by MCAS Kaneohe Bay military personnel utilizing a bull-horn from either a Marine helicopter or Navy crash boat.
 - (7) The danger zone may be occupied for extended periods and with caution at individual risk whenever tactical weapons (exclusive of machine guns) firing is scheduled and in progress because of the remote possibility of a rifle round from an accidental discharge impacting outside the limits of the existing prohibited area.
 - (8) Observation posts will be manned whenever any weapons firing is scheduled and in progress. Visibility will be sufficient to maintain visual surveillance of the entire danger zone and for an additional distance of 5 miles in all directions whenever weapons firing is in progress.
- (c) *The Enforcing Agency.* The foregoing regulations shall be enforced by the Commanding Officer, MCAS Kaneohe Bay and such agencies as he/she may designate.

[46 FR 43044, Aug. 26, 1981. Redesignated at 50 FR 42696, Oct. 22, 1985]

<7>

§ 334.1410 Pacific Ocean, at Makapuu Point, Waimanalo, Island of Oahu, Hawaii, Makai Undersea Test Range. Restricted area.

- (a) *The restricted area.* The waters within an area beginning at a point in latitude 21°18'50" N., longitude 157°39'07" W.; thence to latitude 21°20'33" N., longitude 157°38'00" W.; thence to latitude 21°22'02" N., longitude 157°39'07" W.; and thence to latitude 21°19'35" N., longitude 157°40'46" W.
- (b) *The regulations.*
 - (1) During critical testing phases of surface and submerged units, the operating officials of the Makai Test Range will mark in a conspicuous manner the location of the equipment which might be subject to damage from navigation and fishing activities or might represent a hazard to persons or property in the vicinity. During the display of signals in the restricted area, all persons and surface craft will remain away from the area until such time as the signals are withdrawn. At all other times the area is open to unrestricted fishing, boating and general navigation.
 - (2) Operating officers and personnel of the Makai Test Range will be responsible for marking in a conspicuous manner the location of surface and underwater equipment which is subject to damage from navigation and fishing activities in the vicinity or represents a hazard to persons or property in the vicinity, and the location of the work area during critical testing phases. Surface communication by boat will be provided by the Makai Test Range during testing phases.

[34 FR 7964, May 21, 1969. Redesignated at 50 FR 42696, Oct. 22, 1985, as amended at 62 FR 17559, Apr. 10, 1997; 62 FR 24034, May 2, 1997]

<8>

§ 334.1340 Pacific Ocean, Hawaii; danger zones.

- (a) Danger zones
 - (1) Aerial bombing and strafing target surrounding Kaula Rock, Hawaii. The waters within a circular area with a radius of three (3) miles having its center on Kaula Rock at latitude 21°39'30", longitude 160°32'30".

- (2) Submerged unexploded ordnance danger zone, Kahoolawe Island <8>, Hawaii. The waters adjacent to Kahoolawe Island within the area encompassed by the following coordinates beginning at latitude 20°37'30", longitude 156°32'48"; thence to latitude 20°34'48", longitude 156°30'24"; thence to latitude 20°28'54", longitude 156°30'30"; thence to latitude 20°28'06", longitude 156°41'48"; thence to latitude 20°30'30", longitude 156°44'12"; thence to latitude 20°33'12", longitude 156°44'30"; thence to latitude 20°37'30", longitude 156°36'24"; thence to the beginning coordinates.
- (b) The regulations. No person, vessel or other craft shall enter or remain in any of the areas at any time except as authorized by the enforcing agency.
- (c) Enforcing agency. The regulations in this section shall be enforced by Commander, Naval Base, Pearl Harbor, Hawaii 96860–5020, and such agencies as he/she may designate.

[20 FR 4129, June 11, 1955, as amended at 25 FR 4749, May 28, 1960; 31 FR 14255, Nov. 4, 1966; 45 FR 57126, Aug. 27, 1980. Redesignated at 50 FR 42696, Oct. 22, 1985, and amended at 58 FR 53427, Oct. 15, 1993; 61 FR 34733, July 3, 1996; 62 FR 17559, Apr. 10, 1997]