

**HAWAII ADMINISTRATIVE RULES
TITLE 19
DEPARTMENT OF TRANSPORTATION
CHAPTER 42
VESSEL AND HARBOR CONTROLS**

**SUBCHAPTER 2
SMALL CRAFT AND SMALLER COMMERCIAL VESSELS**

§19-42-32 Allocation of berths; policy. It is the policy of the department to promptly assign an available berth on a first-come, first-served basis to the first qualified applicant for the type of use requested; provided that the proposed use by the vessel affords maximum, safe, convenient, and efficient utilization of facilities and is in conformance with section 19-42-21 and section 19-42-40; and provided further that such assignment is not contrary to public interest, or is not otherwise unlawful or contrary to these rules.

Since each berth and each vessel presents unique ship handling and other peculiar berthing problems in relation to the harbor, the department reserves the right to utilize its fair and impartial judgment, flexibility, and discretionary authority to allocate berths based upon its knowledge of available facilities, prevailing harbor conditions, safe boating practices, effective harbor management procedures and other factors which shall be thoroughly considered prior to acceptance of an application and allocating a berth to a vessel. The many factors that the department may take into consideration in accepting an application and in allocating a berth include, but are not limited to the applicant's vessel length, draft, beam, weight, method of propulsion; proposed vessel use; and any other special or unique vessel handling problems in relation to the size of the available berth; berth location; water depths; prevailing winds and currents and other pertinent factors relative to the available berth.

If the senior applicant is refused a berth because of such considerations the berth shall be offered to the next senior applicant with an acceptable vessel. [Eff 5/20/82; comp 2/26/96] (Auth: HRS §§266-2, 266-3) (Imp: HRS §§266-2, 266-3)