

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

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

§19-42-37 Issuance of use permit. A use permit shall be issued only if:

- (1) Proper application has been submitted;
- (2) An adequate berthing facility is available, and, in the case of a commercial or miscellaneous permit, the necessary state property or facility becomes available;
- (3) The applicant is eligible for assignment under these rules;
- (4) The boat owner executes the use permit;
- (5) The vessel is properly documented, registered or certificated with the appropriate federal or state agencies concerned;
- (6) The vessel is seaworthy and in the case of commercial fishing vessels the vessel shall have a Coast Guard Commercial Fishing Vessel Safety Decal issued by the U. S. Coast Guard in accordance with federal regulations, 46 CFR Part 28; and
- (7) There exists a comprehensive general liability insurance policy or policies, or a certificate of insurance in lieu thereof, evidencing that such policy has been issued and is in force, with a combined single limit of not less than \$100,000 for commercial vessels not authorized to carry passengers and for those authorized to carry not more than six passengers; not less than \$300,000 for vessels authorized to carry more than six passengers, but less than twenty-six passengers; and not less than \$500,000 for vessels authorized to carry more than twenty-five passengers for bodily injury and damage to property per occurrence. The specification of limits contained herein shall not be construed in any way to be a limitation on the liability of the permittee for any injury or damage proximately caused by it.
- (8) In lieu of a comprehensive general liability insurance policy or policies, a vessel owner may have P & I (protection and indemnity) insurance as defined in section 431:1-207(2), Hawaii Revised Statutes, for the vessel excluding coverage for illness and/or injuries to crew and coverage for pollution clean-up.
- (9) If a commercial fishing vessel owner cannot individually or collectively obtain at least the requisite general liability or P & I insurance for the vessel but meets the federal requirements for commercial fishing industry vessels as mandated by the Commercial Fishing Industry Vessel Safety Act (CFIVSA) of 1988, presents proof of meeting such code requirements from the Coast Guard, and upon presentation of satisfactory proof such as a licensed surveyor's certificate of condition survey that a commercial fishing vessel is uninsurable and that the public will not be exposed to unreasonable personal injury or damage, the vessel shall be charged 2 times the daily mooring charge or 2 times the monthly mooring charge, whichever is appropriate, but said vessel shall have a lower priority and may lose its berth to a fishing vessel requiring a berth which has the requisite

insurance. A vessel charged 2 times the monthly mooring charge shall have priority over a vessel charged 2 times the daily mooring rate in the temporary assignment of any berths available for fishing vessels without the requisite insurance. Vessels paying 2 times the daily mooring rate will be accomodated whenever suitable space is available, if available. The applicable parts of the Commercial Fishing Industry Vessel Safety Act include the following:

46 USC 5101, 46 USC 8103, 46 USC 8104,  
46 USC 8304, 46 USC 8701, 46 USC 10601,  
46 USC 11101, 33 CFR 26, 33 CFR 26.03,  
33 CFR 81, 33 CFR 88.05, 33 CFR Part 95,  
33 CFR 130, 33 CFR 151, 33 CFR 155,  
33 CFR 156, 33 CFR Part 159, 33 CFR 173,  
46 CFR Part 4, 46 CFR Part 16, 46 CFR 25,  
46 CFR 25.26, 46 CFR 25.30, 46 CFR 26,  
46 CFR Part 28 Subpart D, 46 CFR Part 28  
Subpart E, 46 CFR 28.080, 46 CFR 28.090,  
46 CFR 28.105, 46 CFR 28.110, 46 CFR 28.115,  
46 CFR 28.120, 46 CFR 28.125, 46 CFR 28.130,  
46 CFR 28.135, 46 CFR 28.140, 46 CFR 28.145,  
46 CFR 28.150, 46 CFR 28.155, 46 CFR 28.160,  
46 CFR 28.165, 46 CFR 28.205, 46 CFR 28.210,  
46 CFR 28.215, 46 CFR 28.225, 46 CFR 28.230,  
46 CFR 28.235, 46 CFR 28.240, 46 CFR 28.245,  
46 CFR 28.250, 46 CFR 28.255, 46 CFR 28.260,  
46 CFR 28.265, 46 CFR 28.270, 46 CFR 28.375,  
46 CFR 67-69, 46 CFR 105, and 47 CFR 80.

(b) The insurance shall:

- (1) Be issued by an insurance company or surety company authorized to do business in the State of Hawaii;
- (2) Name the State of Hawaii as an additional insured;
- (3) Provide that the department 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, 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.

The permittee shall submit evidence to the department of renewals or other actions to indicate that the insurance policy remains in effect as prescribed in this section. [Eff 5/20/82; am 12/5/83; am 12/20/85; am 11/7/91; am and comp 2/26/96] (Auth: HRS §§266-2, 266-3) (Imp: HRS §§266-2, 266-3)