

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

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

§19-42-40 Priority and procedures in allocation of berths. (a) An unassigned berth (a berth that is not assigned to a permittee by a regular mooring permit) shall first be offered to the senior applicant holding a regular mooring permit authorizing the applicant to moor in the harbor who has applied for movement to another berth within the same harbor; provided that the vacant berth is of the same characteristics, category or type as the berth currently allocated to the applicant or the move to the vacant berth would promote greater, safer, more convenient and more efficient utilization of the facilities. This provision for movement also shall apply to charter and cruise boats presently not moored parallel to Ala Moana Boulevard at Kewalo Basin in accordance with the priority expressed in section 19-42-21.

(b) Except as provided in subsection (a), an unassigned berth shall be promptly offered to the senior applicant for a regular mooring permit subject to the limitations contained in these rules. If the senior applicant's vessel is not suitable for the available berth, the berth shall then be promptly offered to the next senior qualified applicant whose vessel is suitable for the berth.

(c) In Kewalo Basin and Kewalo Basin Annex, in addition to the other priorities expressed in these rules, the department shall also employ a "Best Usage" priority which is a matching of the size of the vessel to the size of the available berth. Usually the length of the vessel shall be the prime consideration, however, the beam and other dimensions also may be considered.

"Best Usage" usually shall be determined by the following table:

PRIORITY FOR ASSIGNMENT

Vessel		Pier Length in Feet							
Length in Feet		40'	45'	50'	60'	70'	85'	90'	100'
From	But Less Than
0	25	3	4	5	--	--	--	--	--
25	35	2	3	4	5	--	--	--	--
35	45	1	2	3	4	5	--	--	--
45	55	.	1	1	3	4	5	--	--
55	65	.	.	2	1	3	4	5	5
65	75	.	.	--	2	1	3	4	4

75	85	.	.	--	--	2	2	3	3
85	95	.	.	--	--	--	1	1	2
95	.	.	.	--	--	--	--	2	1

To insure that the assignment of moorings is oriented to those who have been waiting the longest, assignment may be made to an adjacent category of berth, if the applicant is senior to the applicant at the top of the adjacent list, and the vessel length is within five feet of the limits set for that category.

(d) Since commercial fishing vessels may have a priority on the assignment of berths in some harbors, an inspection of the vessel in question shall be made to review the validity of the vessel's claim to being a commercial fishing vessel before a berth is awarded. This inspection shall be made by a team consisting of the harbor agent and a representative from the harbor master's office. The team shall assess a vessel's claim to being a commercial fishing vessel based on such items as: crew, design of vessel, fishing equipment on board, prior record of owner, vessel insurance, excise license and vessel documentation. The burden shall be on the boat owner to demonstrate that the vessel is a commercial fishing boat. The team shall forward its assessment of a vessel to the department for a decision after its review has been completed. Should the department decide that the vessel is not a bona fide commercial fishing boat the offer of a berth shall be withdrawn. The owner of the vessel can refute this decision by engaging at the owner's own expense an approved marine surveyor who will certify to the department that the owner's vessel is outfitted for and capable of being used as a commercial fishing boat. In the case of such a contest the department and the boat owner's surveyor will consult and jointly select a second approved marine surveyor to inspect the vessel. The opinion of this second surveyor will be considered final. The costs of the second surveyor shall be borne by the vessel owner if it is determined that the vessel does not meet the minimum requirements to moor in a berth designated for a commercial fishing boat in accordance with these rules provided that such costs shall be borne by the State if it is determined that the vessel does meet minimum requirements. "Approved marine surveyor" as used in this section means an employee of the department or other person who has been designated or approved by the director to inspect a vessel for an owner seeking a permit to moor the owner's vessel in a berth designated for a commercial fishing boat. [Eff 5/20/82; am 12/20/85; am and comp 2/26/96] (Auth: HRS §§266-2, 266-3) (Imp: HRS §§266-2, 266-3)