

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

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

§19-42-56 Removal and impoundment procedures. The department may impound and remove or dispose, or engage others to impound and remove or dispose, from the harbor, or from a particular berth, any vessel whose presence is contrary to law, or these rules or when the department deems it necessary to protect persons using the harbor, facilities owned by the State, or the property of other persons that may be lawfully within the confines of the harbor. Vessels in the harbor illegally, or under a permit which has expired or which has been revoked may be impounded and removed after the appropriate seventy-two hour notification period elapses as delineated in section 19-42-55; except that where there is an imminent peril to life, property, or to public health and safety, notice to the owner is not required.

Any vessel whose presence creates a danger to persons or property may be impounded immediately. Where circumstances allow, the department shall notify the vessel's owner by certified mail, by posting a notice on or as near to the vessel as possible, by personal service or in any other reasonable manner, to effect the removal of the vessel within seventy-two hours or a reasonable time set by the department. If the vessel's owner cannot be identified, located, or notified, or the owner does not comply with the order to remove the vessel, the department may proceed to remove the vessel. If no emergency exists, an independent marine surveyor shall be engaged to inspect the vessel and to certify its seaworthiness prior to its removal. An inventory of loose property shall be conducted and easily removed property shall be removed for safekeeping. The vessel's owner shall be responsible for all costs of removal and impoundment.

Appropriate fees and charges stemming from impoundment and removal shall be charged to the boat owner. Custody of the offending vessel shall not be released until all fees including costs of removal and storage, and fines levied by a court are paid.

Any action taken by the department to impound and remove the vessel or contrivance and/or remove any property or personal articles located on board the offending vessel, including its tackle, apparel, fixtures, equipment, and furnishings, shall be at the sole cost and risk to the owner.

In addition, the department, within seventy-two hours of impoundment, shall send by certified mail, return receipt requested, a notice of impoundment to the registered owner or operator and/or all lien holder(s) of record of any impounded vessel. The owner or operator of an impounded vessel shall have ten days after receipt of the notice of impoundment of the vessel to request in writing an administrative hearing. The administrative hearing is solely for the purpose of allowing the owner or operator of an impounded vessel to contest the basis given

by the department for the impoundment of the vessel. The administrative hearing must be held within five days, or such longer period as may be allowed by statute, of the department's receipt of the written request excluding Saturdays, Sundays and holidays designated under Section 8-1. The procedures for the administrative hearing are contained in sections 19-42-57 and 19-42-57.1 of these rules. [Eff 5/20/82; am and comp 2/26/96] (Auth: HRS §§266-2, 266-3, 266-27) (Imp: HRS §§266-2, 266-3)