



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
HARBORS DIVISION, OAHU DISTRICT
700 FORT STREET
HONOLULU, HAWAII 96813

IN REPLY REFER TO:

JANUARY 25, 2016

OAHU HARBOR MASTER NOTICE 01-16

SUBJECT: COMMERCIAL FISHING VESSEL (MOORING) PERMITS

Summary: To describe the purpose, use and enforcement of commercial (mooring) permits for fishing vessels berthed in commercial harbors on Oahu.

Purpose: A commercial permit authorizes the owner of a commercial vessel to use a state harbor and its facilities for commercial activities as specified in the permit. [HAR §19-42-25(2)]

Background: It is unlawful to make fast to, moor, dock or anchor at, or lay alongside any state-owned or controlled pier, wharf, quay, bulkhead, landing, dolphin, mooring, or other moored vessel without the authorization of the commercial harbor manager. [HAR §19-42-44]. Permittees agree to abide by all applicable Federal, state, or county laws, ordinances, rules, and regulations, including but not limited to Hawaii Administrative Rules.

Action: All commercial fishing vessels shall obtain a commercial permit from the Harbormaster. Due to the nature of commercial fishing, permit holders are not guaranteed a berth even if they hold a permit. The permit simply allows a fishing vessel to moor in the event that a berth is in-fact available when they are in port for provisions, re-supply, maintenance, etc.

1. Consent to Rules. Permit holders (herein referred to as "Permittee") acknowledge and agree that use of the commercial waterways, docks, piers, and facilities of the State constitutes consent to the terms and conditions of the Hawaii Administrative Rules (HAR) Chapters 41-42, and evidences an agreement on the part of the vessel, its owners and agents, and other users of such waterways and facilities to be governed by, and to pay all charges specified in Chapters 41-42. [HAR §19-41-5].

2. Issuance of permits. A permit may be issued as long as:

- a. A proper application has been submitted;
- b. An adequate berthing facility, State property or facility is available;
- c. The applicant is eligible for assignment under the applicable regulations;
- d. The applicant executes the permit; and
- e. The vessel is properly documented, registered or certificated with the appropriate Federal or state agencies concerned.

3. Rejection of application for permit. An application for a commercial permit may be rejected for any of, but not necessarily limited to, the following reasons:

- a. The corporation, partnership, association or group, however organized, is not licensed by the Hawaii Department of Commerce and Consumer Affairs to do business in the State;
- b. Applicant cannot produce a current general excise tax license;
- c. An investigation of credit discloses information detrimental to the best interests of the State;
- d. Applicant is delinquent in the payment of any money due to the State;
- e. Vessel described in the application is not properly documented;
- f. Application is for other than commercial maritime purposes; or
- g. Applicant makes a deliberate misstatement or willfully fails to disclose any material fact in the application.

4. Revocation of Permit: If the Permit holder fails to remedy any breach of any of the duties, covenants, or conditions of the permit or to desist from violating or permitting violation of the HAR, the State may revoke the permit, or at its discretion, refuse to renew the permit.

A permit may be terminated or revoked for the following reasons, including but not limited to

- a. Abandoning a vessel at a berth or mooring.
- b. Failure to renew a mooring permit within the provisions stipulated herein.
- c. Failure to refloat or to remove a sunken vessel within seven (7) days of notification.
- d. Failure to satisfactorily meet delinquent outstanding indebtedness due the State.
- e. Failure to maintain standards of sanitation on Permittee's vessel or area adjacent to berth.
- f. When a vessel is not used for the purpose indicated in the application for a use permit.
- g. Whenever in the opinion of the State the safety, health, and welfare of the public requires.
- h. Whenever in the opinion of the State a vessel is incapacitated for a period in excess of thirty days or otherwise is unable to meet the test of seaworthiness.
- i. Failure to obtain the Harbormaster approval prior to the making of extensive repairs, in the opinion of the Harbormaster, as required in HAR §19-42-52.
- j. When required, failing to submit a monthly report showing gross receipts to the department within thirty days after the last day of the month being reported together with net charges due.
- k. Failure to insure that the vessel named in the mooring permit is properly documented, certificated, or registered with the appropriate Federal or state agencies concerned.
- l. Failure to maintain insurance coverage as required in §19-42-37.

OR Failure to report the following to the State within seven (7) days:

- m. Change in ownership of the vessel.
- n. Change in address of the Permittee.
- o. Change in status of the vessel from one category to another, e.g., from commercial fishing to charter fishing.
- p. Permittee's vessel has been involved in the destruction of, or damage to, state property (or to another vessel).
- q. Material change in a corporation's stock ownership or change in corporate officers.

5. Renewal of Permit. The permit is a month-to-month permit, to continue for a period not to exceed one year from the date of the issuance of this permit. Upon expiration of the period stated therein, the permit and all rights of the Permittee thereunder shall automatically terminate. The mooring privilege under this Permit expires unless the permit is renewed before the expiration date. The Permittee is responsible for the timely renewal of this mooring permit. [HAR §19-42-37].

Within 90 days of expiration, an application for a permit may be renewed. Applicants are responsible for the timely renewal of a permit without notice from the State. No use permit shall be renewed unless the conditions of the original issuance are met. Nor shall a permit be issued or renewed unless all fees and charges due and payable are paid, the vessel is in seaworthy condition, minimum requirements as set forth in this permit and HAR Chapters 19-41 and 19-42 have been met, proper insurance coverage is in force, and there has been no change in the ownership or status of the vessel.

Given the shortage of available berths, certain levels of the activity for which the permit was issued (i.e., commercial fishing) must be achieved to be eligible for renewal of the permit. These levels are established in terms of minimum gross receipts which must be realized by a Permittee in the preceding twelve-month period, as provided in HAR §19-42-39.

Thank you for your assistance and cooperation. Should you have any questions, please contact the Harbormaster's Office.



Todd Offutt

Honolulu Harbormaster / Oahu Commercial Harbors Manager