

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

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

§19-42-34 Offer of regular mooring permit valid only fourteen days; written notice of intention; acceptance; void offer, declining offer. If the applicant decides to accept the offer, the applicant shall, within fourteen days after the date of receipt of the offer, either deliver a written notice of intention to accept the offer to the department or accept the offer by securing a use permit and moving the applicant's vessel into the assigned berth. An applicant who has delivered a written notice of intention to accept the offer shall accept the offer by securing a use permit and moving the applicant's vessel into the assigned berth within fourteen days after the applicant mails or personally delivers the notice of intention to accept to the department.

The applicant's application for a use permit and the offer by the State of a use permit shall be void if the applicant fails to either secure a use permit and move the applicant's vessel into the assigned berth or to give notice of intention to accept or decline the offer in writing, within fourteen days after the date of receipt of the offer, and the use permit shall then be offered to the next senior applicant. The failure of an applicant to secure a use permit and move the applicant's vessel into the assigned berth within fourteen days after mailing or personally delivering the notice of intention to accept the offer shall also void the notice of intention, application for a use permit and offer by the State of a use permit.

An applicant for a regular mooring permit may decline an offer to the applicant of a regular mooring permit and retain seniority if the applicant declines the offer in writing addressed to and received by the department, not later than fourteen days after the date the offer is received. An applicant who declines an offer in writing and retains seniority pursuant to this section, shall not be considered for a second offer on the basis of seniority until six months elapse after the date of the applicant's first refusal. An applicant's application for a regular mooring permit shall also be void if the applicant fails to accept the second offer of a regular mooring permit to use a berth.

Since time is of the essence, an offer delivered or mailed pursuant to section 19-42-33 shall contain a statement that the offer will lapse unless accepted in accordance with this section. For the purpose of this section, an applicant who declines a berth shall not be classified as having declined a berth if conclusive evidence is presented to the department that for reasons of safety or navigation the berth offered is unsuitable for the applicant's vessel.

The department may extend the deadline for acceptance if the applicant presents conclusive evidence to the department that the granting of additional time is necessary for the construction and delivery of the vessel or reasonable and essential to prevent undue hardship. Any extension of time for compliance shall not exceed a period of one-hundred-twenty days from the date the department received from the applicant a written notice of intention to accept the offer of a use permit. This exception is only applicable to an applicant who has been offered a regular mooring permit. [Eff 5/20/82; am and comp 2/26/96] (Auth: HRS §§266-2, 266-3) (Imp: HRS §§266-2, 266-3)