

PROPOSED RULEMAKING

NAVIGATION COMMISSION FOR THE DELAWARE RIVER AND ITS NAVIGABLE TRIBUTARIES

[4 PA. CODE CHS. 401—403 AND 405]
Navigation Licensure and Renewal

The Navigation Commission for the Delaware River and its Navigable Tributaries (Commission) proposes to amend Chapters 401—405 to read as set forth in Annex A.

This proposal would revise and update four of the six chapters of the Commission's regulations. The Commission's regulations have not been significantly revised since their promulgation in 1977. Revisions to the remaining Chapters 407 and 409 (relating to navigation; and wharves and docks) will be the subject of future rulemaking by the Commission.

This proposal has three objectives:

(1) To enhance navigational safety on the Delaware River through the implementation of requirements for State-licensed pilots such as random drug testing, continuing education, special training in bridge resource management and automatic radar plotting aids and mandatory pilotage trips to maintain current knowledge of river conditions (recency-of-route).

(2) To eliminate regulations which are obsolete because of statutory changes affecting the Commission and State-licensed pilots or which are unnecessary because their subject matter is adequately covered by statute.

(3) To give those regulations retained by the Commission better organization and clarity.

I. Statutory Authority

The Commission has authority to promulgate regulations under section 4 of the act of March 29, 1803 (P. L. 542, 4 Sml 67) (55 P. S. § 31); and section 2504-B(4) of The Administrative Code of 1929 (71 P. S. § 670.2(4)).

II. Description of Proposed Revisions

A. Chapter 401. General Provisions

§ 401.1 (Definitions)

Section 401.1 lists definitions of words and phrases that are used in Chapters 401—409. The revisions would change the definition of "Department" from the Department of Commerce of the Commonwealth to the Department of State of the Commonwealth and the definition of "Secretary" from the Secretary of Commerce of the Commonwealth to the Secretary of the Commonwealth. These changes are necessary because section 1 of Reorganization Plan No. 1 of 1982 (71 P. S. § 751-37), transferred to the Department of State those powers and duties of the Department of Commerce with regard to the Commission that were not being transferred to the Department of Environmental Protection (DEP). The Secretary of the Commonwealth is the Secretary of the Department of State who chairs the Commission.

§ 401.2 (Commission offices)

The proposal amends § 401.2 by identifying the Commission's office at 1400 Spring Garden Street, Philadelphia, as the location of the Philadelphia State Office Building. The revisions identify the Philadelphia State Office Building as the principal office of the Commission and 302 North Office Building, Harrisburg, 17105-2649 as the location of the Commission's administrative office. Section 475(a) of The Administrative Code of 1929 (71 P. S. § 180-5(a)) requires the Commission's principal office to be in Philadelphia.

B. Chapter 402. Administration

§§ 402.5 and 402.9 (Composition of Commission; and Quorum)

These sections set forth the Commission's membership and quorum requirements, respectively, which are found in section 475 of The Administrative Code of 1929 as modified by the Reorganization Plan 1 of 1982. The proposal would repeal these sections as unnecessary.

§ 402.10 (Standing committees)

The section now provides for standing committees. Because of the transfer of many of the Commission's duties to DEP (see, Chapter 403, *infra*), it is not necessary for the Commission to continue to organize itself into standing committees. The revisions would repeal this section.

§ 402.11 (Meetings)

Subsection (a) provides that the Commission's regular meetings are held on the second Tuesday of every month unless cancelled by the Commission chair for lack of business. The proposed revisions provide that the Commission will meet semiannually. Subsection (b) allows the Commission chair to convene special meetings; the revisions would make editorial changes to this subsection. Subsection (c) provides that the chairs of the Commission's standing committees may convene committee meetings. The revisions would repeal this subsection to conform to proposed § 402.10.

C. Chapter 403. Construction Permits

This chapter sets forth the procedures by which the Commission formerly issued permits for the construction of piers, wharves, and other harbor structures within the Delaware River and its navigable tributaries under sections 7 and 8 of the act of June 8, 1907 (P. L. 496) (55 P. S. §§ 6 and 9).

The Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) repealed sections 7 and 8 of the act of June 8, 1907 and established a plan for joint approval by the Commission and the Department of Environmental Resources (DER) for permits for dams, water obstructions and encroachments in the commercially navigable waters of the Delaware River and its tributaries. Section 2 of Reorganization Plan No. 1 of 1982 transferred the Commission's functions in this area to DER, which is now the DEP. See 71 P. S. § 751-37(1). The revisions would repeal this chapter as obsolete.

D. Chapter 405. Pilots and Pilotage

This chapter relates to the Commission's licensure of pilots on the Delaware River and to pilotage fees and other pilotage requirements. The Commonwealth and Delaware, operating under similar enabling statutes, are empowered to license pilots of foreign vessels and vessels

that are traveling to or from a foreign port; the Federal Government, through the Coast Guard, licenses pilots of domestic vessels that are traveling to or from a United States port.

§ 405.2 (Authority)

This section recites an incomplete and outdated list of the Commission's powers and duties under section 4 of the act of March 29, 1803, section 2504-B of The Administrative Code of 1929, and section 12 of the act of June 8, 1907 (55 P.S. § 111). The revisions would repeal this section as unnecessary.

Section 1 of the act of June 23, 1993 (P. L. 114, No. 27), (55 P.S. § 31) rewrote the Commission's powers and duties. One of the major changes made was that those aggrieved by any decision or penalty imposed by the Commission shall have the right of review under 2 Pa.C.S. Chapter 7, Subchapter A (relating to judicial review of Commonwealth agency action). Previously, the right of review was granted to the court of common pleas of the county of Philadelphia.

§ 405.3 (Applications)

This section currently provides that an applicant for a pilot's license in any class, or for appointment as an apprentice, must appear in person before the Commission to obtain an application and specifies the five types of application forms that the Commission uses. The revisions would alter this section to provide that an applicant for initial licensure, for renewal of a license or for appointment as an apprentice shall submit an application on a form provided by the Commission.

§ 405.4 (Examinations)

This section currently requires an applicant for a fourth-class pilot's license to pass an oral and written examination; no examination is required for the other license classes. Subsection (a) authorizes the Commission to appoint at least three first-class pilots to conduct or develop an oral or written examination for an entry level pilot's license, as authorized by section 17 of the act of March 29, 1803 (55 P.S. § 42). Subsection (b) lists the topics on which an applicant may be examined and establishes that the applicant obtain at least a passing grade. Subsection (c) provides that the Commission may conduct further examinations as necessary to establish an applicant's proficiency.

The 1993 amendments to section 17 of the act of March 28, 1803 established the sixth-class license as the new entry-level license. Accordingly, the revisions would make the examination requirement applicable to a sixth-class license instead of a fourth-class license.

The revisions would require an oral examination to be tape-recorded and the original recording to be filed with the Commission as part of its permanent records. The revisions also would require that if a written examination is used, the original shall be filed with the Commission.

§ 405.5 (Classification of pilots)

This section mirrors vessel draft limitations that were in effect for the four license classes prior to the 1993 amendments to section 17 of the act of March 29, 1803. The 1993 amendments established new vessel draft limitations for all license classes including the recently-created fifth-class and sixth-class licenses. The revisions would repeal this section as unnecessary.

§ 405.6 (Underrate pilot limitations)

This section repeats the outdated vessel draft limitations in § 405.5 and also establishes limitations on pilots

of the second, third and fourth classes with regard to gross tonnage and vessel length. The purpose of the tonnage and length limitations was to help pilots in the lower, or underrate, license classes adapt gradually to the challenges of piloting larger-size vessels. However, with the establishment of the fifth-class and sixth-class licenses in 1993, the tonnage and length limitations are no longer necessary. Accordingly, the revisions would repeal this section.

§ 405.7 (Qualifications for license)

The proposed revisions rewrite this section, which sets forth the requirements for licensure in the various pilot classes.

A new subsection (a) would provide that an applicant for a pilot's license in any class shall: (1) have served at least 1 year in each of the license classes below the class of license applied for; (2) (if the applicant is a current-license holder seeking renewal) have piloted at least 52 vessels during the previous license period, unless this requirement is waived by the Commission; (3) have passed a physical examination during the prior 6 months based on the requirements in § 405.8 (relating to physical examinations); (4) have participated in a program of random drug testing that meets the standards of Coast Guard regulations in 46 CFR 16.101—16.401 (relating to chemical testing); (5) have been qualified as a radar observer; (6) have completed a Commission-approved course in bridge resource management during the prior 3 years; (7) have completed a Commission-approved course in automatic radar plotting aids (ARPA); (8) post a surety bond in accordance with § 405.13 (relating to bonding); and (9) pay the required license fee.

The requirement that a license applicant have served at least 1 year in each license class below the class of license applied for tracks the 1993 amendments to section 18 of the act of March 29, 1803 (55 P.S. § 44). The physical examination, radar observer, and bonding requirements are consistent with the current licensure requirements in § 405.7.

Under the current regulation in § 405.8(b), physical examinations are required annually for pilots over 50 years of age and are required every 3 years for pilots 50 years of age and under. Under the proposed §§ 405.7(a)(3) and 405.12(1), all pilots must now pass a physical examination within 6 months of the date of application for the annual renewal of their license. New language is also added allowing the Commission to order physical examinations at any time for any cause. These requirements are similar to the rules that the Delaware Board of Pilot Commissioners adopted on April 3, 1996.

Two additional license requirements are also aimed at sharpening a pilot's navigational skills. Mandatory training in ARPA helps a pilot avoid navigational errors caused by overreliance on advanced radar technology. The requirement is consistent with current Coast Guard training regulations. See 46 CFR 10.305 and 10.306 (relating to Radar—Observer Certificates and qualifying courses; and Radar—Operator course and certificates). Bridge resource management (BRM) training helps a pilot make optimum use of bridge personnel in piloting a vessel. Both training requirements have been incorporated into the apprentice training program. The ARPA training would not need to be repeated, while the bridge resource management training would be repeated every 3 years.

Requiring a course in BRM every 3 years also meets two recommendations of the National Transportation Safety Board (NTSB). The first recommendation was

issued as a result of NTSB's investigation of the grounding of the United Kingdom passenger vessel *RMS Queen Elizabeth 2* near Cuttyhunk Island, Vineyard Sound, Massachusetts on August 7, 1992. In its investigation, the NTSB found that a critical need existed for improved communication between the pilot, the master and the other crewmembers of the bridge. The course in BRM teaches pilots how to conduct a conference with the master and other crewmembers of the bridge. The NTSB has recognized these courses as fulfilling its requirements for this recommendation.

The second NTSB recommendation was issued as a result of the NTSB's investigation of the grounding of the Liberian passenger vessel *Star Princess* near Juneau, Alaska on June 26, 1997. In its investigation, the NTSB determined that the probable cause of the grounding was the pilot's poor performance, which may have been exacerbated by chronic fatigue caused by sleep apnea. Also contributing to the accident was the fact that the pilot and watch officers did not practice BRM. All of the American Pilots' Association (APA) approved courses on BRM either include a specific module on identifying and countering the effects of fatigue, on both pilots and crew, or cover the subject as a basic consideration in selecting the most effective BRM. Pilots of this Commonwealth are currently taking APA approved courses on BRM. Because the NTSB in its recommendation asked state pilot commissions to advise their pilots about the effects of fatigue on performance and about sleeping disorders such as sleep apnea, this course on BRM meets or exceeds this NTSB recommendation.

The new random drug testing requirement is intended to ensure that navigational safety on the Delaware River is not compromised because substance abuse has impaired a pilot in the performance of his duties. Coast Guard regulations that took effect October 1, 1991, establish comprehensive standards under which certain categories of marine employers are required to implement random drug testing for crewmembers who serve in positions that affect the safe operation of vessels. The Commission's requirement adopts the Federal standards for drug testing. Since 1986, pilots of this Commonwealth and apprentices have participated in a program of random drug testing, consistent with Federal standards. Voluntary participation has been coordinated through the Pilots' Association for the Bay and River Delaware, a business association that represents State-licensed pilots in this Commonwealth and Delaware.

A new subsection (b) would require an initial applicant for a first-class license, in addition to meeting the requirements of subsection (a), to have completed 40 hours of continuing education in navigation, vessel handling or related topics during the previous 5 years. Courses in BRM, radar observer and ARPA could be counted toward the 40-hour total. The new continuing education requirement follows a recommendation made by the American Pilots Association, a trade group representing all State pilot associations, and parallels a similar requirement adopted by the Delaware Board of Pilot Commissioners. To provide sufficient notice to pilots so that they can meet this new continuing education requirement, this requirement would take effect 2 years after the date of final publication of the regulations in the *Pennsylvania Bulletin*.

The new subsection (b) also would require an initial applicant for a first-class license to appear before the Commission for a personal interview regarding the applicant's qualifications.

A new subsection (c) would require an applicant for a sixth-class license, in addition to meeting the requirements of subsection (a), to have scored a passing grade or better on an examination conducted or developed by first-class pilots in accordance with § 405.4. Prior to the examination, the applicant would have to be at least 21 years of age, be within 3 months of completing a Commission-approved apprenticeship, and have acquired a Federal pilot's license for the Delaware River issued by the Coast Guard. The age and apprenticeship requirements are in section 18 of the act of March 29, 1803, as amended by section 3 of the act of June 23, 1993 (P. L. 114, No. 27). The acquisition of a Federal pilot's license is already a part of the Commission's comprehensive apprentice training program. The written examination and other requirements related to the Federal pilot's license are useful training tools in helping an apprentice prepare for the more rigorous requirements associated with State licensure. An applicant would not be required to maintain a Federal pilot's license after issuance of the entry-level State license.

A new subsection (d) contains the "recency-of-route" requirement, also known as the "52-vessel rule," which requires an applicant for a pilot's license to have piloted at least 52 vessels during the preceding license period, if the applicant is a current license-holder. The requirement ensures that a pilot has current knowledge of river conditions, which are subject to frequent change, by compelling the pilot to make a minimum number of pilotage trips during each license period. A new subsection (d)(2) would permit the Commission to waive the requirement for illness, disability or other good cause that prevents a pilot from piloting the minimum number of vessels. If a waiver is granted, the Commission would be authorized to withhold issuance of the license until the pilot has completed refresher trips, in the company of a first-class pilot, as the Commission deems necessary to refamiliarize the pilot with conditions along the route.

The "recency-of-route" requirement and the provisions for waiver and refresher trips are similar to rules and adopted by the Delaware Board of Pilot Commissioners in January 1987. Moreover, the use of refresher trips is compatible with the 1993 amendments to section 14 of the act of March 29, 1803, which authorized the Commission to condition a pilot's return to active status from inactive status upon the completion of refresher trips in the company of a first-class pilot.

§ 405.8 (Physical qualifications)

Paragraphs (1) and (2) specify the visual and hearing qualifications for a pilot. Visual acuity of 6/6 refers to the metric system of measurement, and is equivalent to 20/20 vision.

The proposed amendments to paragraph (3) are based on a recommendation of the NTSB as a result of its investigation of the grounding of the Liberian passenger vessel *Star Princess* near Juneau, Alaska on June 26, 1997. The NTSB recommended that state navigation commissions review the medical standards, guidelines and examination forms to ensure that they require the disclosure and appropriate evaluation of the history or presence of any medical conditions, symptoms or medication use that would affect an individual's fitness to pilot a vessel. Paragraph (3) now includes as a physical qualification the absence of any medical condition that may directly affect one's ability to pilot a vessel safely.

When pilots licensed by the Commission renew their license annually, they customarily submit as proof of a

physical examination the "Merchant Marine Personnel Physical Examination Report," of the United States Coast Guard, Form CG-719K (Rev. 3-95). Question 14 on this form addresses medical conditions and symptoms that could affect an individual's fitness to pilot a vessel. Question 15 asks the pilot about medications taken, including dosage, purpose and side effects. Thus, completion and submission of this Coast Guard form meets the NTSB recommendation for disclosure and appropriate evaluation of the history or presence of any medical conditions, symptoms, or medication use that would affect an individual's fitness to pilot a vessel.

The revisions make the requirements in subsection (a) applicable to apprentices as well as pilots and delete subsection (b) in light of the revisions to § 405.7 and § 405.12. The revisions require every pilot, regardless of age, who is applying for initial issuance of a license or annual renewal of a license to have undergone a physical examination within 6 months of making application. The revisions also would make editorial changes to subsection (a).

§ 405.9 (Apprentices)

This section would fix the term of an apprenticeship at a maximum of 4 years; establish the number of trips an apprentice must make during an apprenticeship; and provide for the submission of apprentice reports by pilots to the joint Pennsylvania/Delaware Apprentice Pilot Training Program Administrator, who shall consolidate the reports and file reports with the Commission.

The proposed revisions to this section mirror the 1993 amendments to section 18 of the act of March 29, 1803. A new subsection (a) requires an applicant for an apprenticeship to (1) be of good moral character; (2) have acquired a bachelor's degree from a maritime academy or an accredited college or university or have acquired at least a third mate's license issued by the Coast Guard to serve on all oceans aboard vessels of any gross tons; and (3) have passed a physical examination during the prior 6 months based on the requirements of § 405.8. The new standards are sufficiently broad to allow even individuals without prior maritime experience or education to be considered for apprentice openings.

A new subsection (b) requires every apprentice to serve a 4-year apprenticeship. An apprentice who possesses at least a third mate's license at the time of appointment, however, may serve a 3-year apprenticeship. The new subsection (b) also provides that an apprenticeship consists of both theoretical education and supervised practical experience needed for licensure as a sixth-class pilot. Topics comprising the theoretical education must include those covered by the sixth-class pilot's examination in § 405.4. The new subsection (b) also increases from 350 to 500 the number of trips that an apprentice must make with a pilot licensed by the Commonwealth or Delaware. Finally, subsection (b) also requires pilots who train apprentices to file reports with the Joint Pennsylvania/Delaware Apprentice Pilot Training Program Administrator. When apprentices are in the program, the Administrator will provide reports to the Commission at Commission meetings, which are held twice a year.

§ 405.10 (Term of license)

This section contains editorial changes and establishes the term of a pilot's license at 1 year, subject to renewal by the Commission.

§ 405.11 (Nondiscrimination)

The revisions make editorial changes to this section, which provides that no person will be denied licensure as

a pilot, refused appointment as an apprentice or be discriminated against in the provision of pilotage services because of race, religion, national origin, sex or age.

§ 405.12 (Renewal of license)

This section provides that a pilot is entitled to renew his license each year unless disqualified by the Commission and specifies the type of form that shall be submitted for license renewal.

The revisions would rewrite this section by requiring a pilot who is applying for annual renewal of a license to meet the same requirements as a pilot who is applying for initial licensure under § 405.7(a) and (b)(1).

All first class pilots must attain 40 hours of continuing education every 5 years to maintain their knowledge and skills. Because these courses are only available at limited locations outside of this Commonwealth in 1 or 2 day courses, it is not practical to provide for an annual continuing education requirement. Pilots in the sixth, fifth, fourth, third and second class will generally move from one class to another within a year. Thus, the pilots in classes below the first class will take their continuing education requirements to meet the initial requirement for a first class pilot in § 405.7(b)(1) within a 5 year period. To provide sufficient notice to pilots so that they can meet this new continuing education requirement, this requirement would take effect 2 years after the date of final publication of the regulations in the *Pennsylvania Bulletin*.

§ 405.14 (Number of pilots and apprentices)

This section states that the maximum number of pilots in the first and second classes combined may not exceed 42, that the maximum number of pilots in the third and fourth classes combined may not exceed 10, and that the number of apprentices is within the Commission's discretion. These provisions are contrary to section 6 of the act of May 11, 1889 (P. L. 188) (55 P. S. § 41), which, as last revised in 1977, provides that the maximum number of pilots in the first class may not exceed 42, that the maximum number of the pilots in the second, third and fourth classes combined may not exceed 10 and that the number of apprentices is within the Commission's discretion. There is no statutory limitation on the number of pilots in the fifth and sixth classes. The revisions would repeal this section as unnecessary.

§ 405.16 (Acting as pilot without license)

This section recites the criminal penalty for unlicensed pilotage of vessels in excess of 75 gross tons. The 1993 amendments to section 17 of the act of March 29, 1803 raised the tonnage limit for unlicensed practice to 100 gross tons and also set forth new civil penalties that the Commission may impose for unlicensed practice. The revisions would repeal this section as unnecessary.

§ 405.17 (Offering of services)

This section provides that the first pilot who offers pilotage services to an inbound vessel from a foreign port is entitled to take charge of the vessel if the size of the vessel is within the capacity of the pilot's license classification. The language of this section is taken verbatim from section 21 of the act of March 29, 1803 (55 P. S. § 171), which was last amended in 1907. The revisions would repeal this section as unnecessary.

§ 405.18 (Vessels required to take a pilot)

Subsection (a) sets forth the requirement that vessels bound to or from a foreign port are obligated to accept the services offered by a State-licensed pilot unless exempt by

law. Subsection (b) provides that a vessel not subject to compulsory State pilotage that voluntarily accepts the pilotage services of a State-licensed pilot may not be required to pay a pilotage fee that exceeds the fee for compulsory State pilotage.

Because these and other requirements relating to compulsory State pilotage are fully set forth in the 1993 amendments to section 29 of the act of March 29, 1803 (55 P. S. § 172), and the 1969 amendments to section 4 of the act of May 11, 1889 (P. L. 188) (55 P. S. § 174), the revisions would repeal this section as unnecessary.

§ 405.19a (Docking, undocking and anchoring of vessels)

This new section codifies a May 1989 resolution of the Commission requiring a State-licensed pilot to remain on the vessel's bridge, attentive to duty, until the vessel is docked or anchored. The docking, undocking and anchoring of a vessel is within the scope of a pilot's duties, and he has been trained to perform these tasks. However, it is not uncommon for a vessel's master to employ the services of a docking master to conduct docking or anchoring maneuvers. This section clarifies that when a vessel's master has retained a docking master, the pilot shall remain aboard vessel, available to render advice or supervision, until the docking or anchoring procedure has been completed. The Delaware Board of Pilot Commissioners has adopted a similar rule. The use of the term "State-licensed pilot" refers to a pilot in the Delaware Bay and river and is used to distinguish such a pilot from a "docking master" or a "docking pilot."

§ 405.21 (Accident reports)

The proposed subsection (a) requires a pilot involved in a marine accident to submit within 5 days to the Commission a written report of the accident if the accident involves a stranding or grounding, loss of life, injury resulting in hospitalization for more than 72 hours, damage affecting the seaworthiness or efficiency of the vessel or any damage in excess of \$1,500. The Delaware Board of Pilot Commissioners has adopted a similar rule to the proposed rule, and the Coast Guard has a similar rule in 46 CFR 4.05-10(a) (relating to written report of marine casualty).

Subsection (c) requires the accident report to set forth the location, date and time of the accident, the vessels or objects involved in the accident, the weather and sea conditions at the time of the accident, the nature of the accident and the damage caused by the accident. Subsection (c) also provides that a pilot may satisfy the reporting requirement by submitting a copy of a completed Coast Guard vessel casualty or accident form.

The revisions make editorial changes to subsection (a) and rewrite subsection (b) to provide that in addition to a written report, a pilot must make a telephonic report of an accident to the Commission within 24 hours if the accident involves loss of life, a collision or grounding or an oil spill. The purpose of the telephonic report is to enable the Commission to conduct an immediate postcasualty investigation of a serious accident. The Delaware Board of Pilot Commissioners has adopted a similar rule. The revisions make editorial revisions to current subsections (b) and (c) and recodify them as subsections (c) and (d), respectively.

§§ 405.27 and 405.28 (Rates for pilotage between Capes and ports; and rates for pilotage between capes and breakwater)

These sections reflect out-of-date pilotage rates formerly set forth in sections 3.1 and 3.2 of the act of

May 11, 1889 (55 P. S. §§ 173.1 and 173.2). The pilotage rates have been statutorily adjusted by the General Assembly of the Commonwealth several times since 1977, most recently in 1998. The revisions would repeal these sections as unnecessary.

§ 405.29 (Disabled vessels)

This section concerns the method for determining the additional compensation to be paid to a pilot for conducting disabled vessels to or from port. It is based on the original language of section 28 of the act of March 29, 1803, which was amended in 1993. Because basic pilotage rates and increased rates for piloting disabled vessels are set forth in statute, the revisions would repeal this section as unnecessary.

§ 405.31 (Extraordinary services)

This section lists an incomplete and outdated schedule of fees for special pilotage services. These special services include: transportation of vessels on the river by geographic location; adjustment of a compass or calibration of a direction finder; and cancellation of sailing orders. The current fees are in section 3.3 of the act of May 11, 1889 (55 P. S. § 173.3). The revisions would repeal this section as unnecessary.

§ 405.33 (Neglect of duties)

This section tracks the pre-1993 version of section 19 of the act of March 29, 1803, by requiring a pilot to forfeit his license if the pilot refuses or willfully neglects to perform the duties of a pilot during any 2-week span, or if a pilot enters into a combination with a view of preventing another person from executing his duties. The 1993 amendments to section 19 repealed these archaic anti-strike and anticompetition provisions. Accordingly, the revisions would repeal this section as obsolete.

III. *Fiscal Impact*

This proposal would have no measurable fiscal impact on the Commonwealth, its political subdivisions or the private sector because the Commission is supported by fees paid for by licenses. Many proposed changes will harmonize with current Federal regulations and recommendations as well as with stricter regulations now present in Delaware. Although these changes will not have a substantial fiscal impact because many changes have already been implemented by pilots of this Commonwealth, there may be a minimal fiscal impact, which cannot be calculated at this time.

IV. *Paperwork Requirements*

This proposal would require the Commission to revise its application forms for pilot's licenses and for apprentice appointments. However, the amendments would not create new paperwork for other agencies of the Commonwealth, political subdivisions of the Commonwealth or the general public.

V. *Regulatory Review*

On June 14, 2000, as required by section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Commission submitted copies of this notice of proposed rulemaking to the Independent Regulatory Review Commission (IRRC), the Senate Standing Committee on Consumer Protection and Professional License and the House Standing Committee on Professional Licensure. The Commission also provided IRRC and the Committees with copies of a regulatory analysis form prepared by the Commission in compliance with Executive Order 1996-1 (relating to regulatory review and promulgation). Copies of the regulatory analysis form are available to the public upon request.

If IRRC has objections to the amendments, it will notify the Commission within 10 days after the close of the Committees' review period, specifying the regulatory review criteria that have not been met. The Regulatory Review Act sets forth procedures for review, prior to final adoption of the amendments, by IRRC, the General Assembly and the Governor of objections raised.

VI. *Public Comment*

The Commission invites interested persons to submit written comments, suggestions or objections regarding this proposal to L. Lawrence Boyle, Deputy Chief Counsel, Department of State, 302 North Office Building, Harrisburg, PA 17120, within 30 days following publication of this notice of proposed rulemaking in the *Pennsylvania Bulletin*.

KIM PIZZINGRILLI,
Chairperson
Secretary of the Commonwealth

Fiscal Note: 16A-662. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. COMMERCE AND TRADE

PART XIII. NAVIGATION COMMISSION FOR THE DELAWARE RIVER AND ITS NAVIGABLE TRIBUTARIES

CHAPTER 401. GENERAL PROVISIONS

§ 401.1. Definitions.

The following words and terms, when used in this part, [shall] have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Department—The Department of [Commerce] State of the Commonwealth.

* * * * *

Secretary—The Secretary of [Commerce of] the Commonwealth.

§ 401.2. Commission offices.

(a) The [address of the] principal office of the Commission is [as follows: Navigation Commission for the Delaware River] located in the Philadelphia State Office Building, 1400 Spring Garden Street, Philadelphia [, Pennsylvania 19130].

(b) The administrative office of the Commission is located at 302 North Office Building, Harrisburg 17105-2649.

CHAPTER 402. ADMINISTRATION

§ 402.5. [Composition of Commission] (Reserved).

[The Commission will consist of nine members as follows:

(1) Four appointed by the Governor, by and with the advice and consent of a majority of the members of the Senate as follows:

(i) Two of whom shall be residents of Delaware County.

(ii) One of whom shall be a resident of Bucks County.

(iii) One of whom shall be a resident of Philadelphia County.

(2) Two appointed by the Mayor of the City of Philadelphia.

(3) One to be the Secretary of the Department of Environmental Protection or designee who will serve ex officio.

(4) One to be the Director of Commerce of the City of Philadelphia who shall serve ex officio.

(5) One to be Secretary or a designee.]

§ 402.9. [Quorum] (Reserved).

[A majority of the Commissioners, appointed by the Governor and the Mayor of the City of Philadelphia, will constitute a quorum for the transaction of business.]

§ 402.10. [Standing committees] (Reserved).

[(a) The standing committees of the Commission will be as follows:

(1) Committee on Navigation and Pilotage, which will conduct hearings and make recommendations to the Commission on matters related to Chapters 405 and 407 (relating to pilots and pilotage and navigation).

(2) Committee on Construction, wharves and docks, which will conduct hearings and make recommendations to the Commission on matters related to Chapters 403 and 409 (relating to construction permits and wharves and docks).

(b) Chairpersons and members of standing committees will be appointed by the Chairperson.]

§ 402.11. Meetings.

(a) The regular meetings of the Commission will be [on the second Tuesday of every month unless cancelled by the Chairperson for lack of business to transact, with] held semiannually after public notice [made] as required by law.

(b) Special meetings may be called by the [Chairman] Chairperson after 3 days notice [given] to the [members of the] Commission and after public notice [made] as required by law.

[(c) Meetings of the committees may be called by committee chairpersons after three days notice given to the members of the committees and public notice made as required by law.]

CHAPTER 403. [CONSTRUCTION PERMITS] (Reserved)

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete the existing text of Chapter 403, 4 Pa. Code pages 403-1—403-5, serial pages (229967)—(229971).)

§§ 403.1—403.5. (Reserved).

§§ 403.11—403.14. (Reserved).

§§ 403.21—403.25. (Reserved).

CHAPTER 405. PILOTS AND PILOTAGE

§ 405.2. [Authority] (Reserved).

[(a) Section 4 of the act of March 29, 1803 (P. L. 542, 4 Sml 67) (55 P. S. § 31) authorizes the Commissioners the full power and authority, under the limitations prescribed in the act, to grant licenses

to persons to act as pilots in the River and to make rules for the government while employed in that service, to decide, on application of the parties in interest, all differences which may arise between masters, owners and consignees of ships or vessels, and pilots, and to make, ordain and publish rules and regulations with penalties for the breach thereof in respect of the matters aforesaid, as they shall deem fitting and proper.

(b) Section 12 of the act of June 8, 1907 (P. L. 469, No. 317) (55 P. S. §§ 111) authorizes the Commission to take the necessary action to enforce the laws of the Commonwealth pertaining to pilots and pilotage in the bay and River.

(c) Section 4 of the act of 1976 authorizes the Commission to do the following:

(1) Develop, implement and administer a pilot licensure testing program.

(2) Maintain a complete set of records relating to the licensure of pilots.

(3) Impose fines and penalties including revocation of pilot's license for violation of Commission rules and regulations.]

§ 405.3. Application for licensure or apprenticeship.

[(a) Every person not now a licensed pilot, and who desires to exercise the profession of pilot in the River shall appear in person before the Commission for an application for a license to entitle him to follow that occupation.] An applicant for initial issuance of a pilot's license, for renewal of a pilot's license or for appointment as an apprentice shall submit an application on a form provided by the Commission.

[(b) Application for appointment as an apprentice pilot shall be made upon a completed Form DC-752 (10-76) (Application for Appointment as Apprentice Pilot).

(c) Application by an apprentice for a license shall be made upon a completed Form DC-753 (10-76) (Application for Fourth Class Pilot's License).

(d) Application by a fourth class pilot for a third class license shall be made upon a completed Form DC-754 (10-76) (Application for Third Class Pilot's License).

(e) Application by a third class pilot for a second class license shall be made upon a completed Form DC-755 (10-76) (Application for Second Class Pilot's License).

(f) Application by a second class pilot for a first class license shall be made upon a completed Form DC-756 (10-76) (Application for First Class Pilot's License).]

§ 405.4. Examination for sixth-class license.

(a) The Commission will [call to their assistance as many pilots of the first class as they may see fit, not less than three in number, to examine every person so applying as to his fitness in all respects to perform the duties of a pilot] designate at least three first-class pilots to conduct or develop an oral or written examination of an applicant for a sixth-class pilot's license for the purpose of ascertaining the applicant's fitness to perform the duties of a

pilot. The Commission will fix the date, time, manner and place of the examination.

(b) [Applicants for a fourth class license must pass a written and oral examination with a score of at least 90%.] The examination for a sixth-class pilot's license may consist of, but not be limited to, the following topics:

* * * * *

(8) [Rules] Regulations of the Commission.

* * * * *

(c) [Further examination as the Commission may consider necessary to establish the proficiency of the applicant may be required.] Each oral examination shall be tape-recorded, and the original copy of the recording shall be filed with the Commission as part of its permanent records. If a written examination is given, the original copy of the written examination shall be filed with the Commission as part of its permanent records.

§ 405.5. [Classifications of pilots] (Reserved).

[(a) *Pilots of the first class.* Persons capable of piloting ships or vessels of any practicable draught of water.

(b) *Pilots of the second class.* Persons capable of piloting ships and vessels drawing 34 feet of water or under.

(c) *Pilots of the third class.* Persons capable of piloting ships or vessels drawing 27 feet of water or under.

(d) *Pilots of the fourth class.* Persons capable of piloting ships or vessels drawing 23 feet of water or under.]

§ 405.6. [Underrate pilot limitations] (Reserved).

[(a) Fourth class pilots shall be subject to the following limitations:

(1) For the first 35 ships; 9,500 gross tons, 575 feet length overall and 23 feet draft.

(2) For the next 35 ships; 15,000 gross tons, 625 feet length overall and 23 feet draft.

(3) Then 18,000 gross tons, 675 feet length overall and 23 feet draft.

(b) Third class pilots shall be subject to the limitations of 30,000 gross tons and 27 feet draft.

(c) Second class pilots—first year—shall be subject to the limitations of 40,000 gross tons and 34 feet draft.

(d) Second class pilots—second year—shall be subject to a limitation of 34 feet draft.]

§ 405.7. Qualifications [of pilots] for license.

(a) [A license may not be granted to any person to act as a pilot of the fourth class unless he has reached the age of 18 and has served a regular apprenticeship of 4 years on board a pilot boat.

(b) A license of the third class may not be granted to any person, unless he shall have served at least 1 year as a fourth class pilot.

(c) A person may not be eligible for a license of the second class who has not served 1 year in the fourth class and at least 1 year in the third class.

(d) A person may not be eligible for a license of the first class who has not served a total of at least 4 years in the second, third and fourth classes, with at least 2 years of the service having been served in the second class.

(e) A license may not be granted to or renewed for any person to act as a pilot of any class unless he is qualified as a radar observer as evidenced by one of the following:

(1) A current Federal pilot's license issued by the United States Coast Guard containing an endorsement that the licensee is so qualified.

(2) A certificate issued by the New York Maritime Administration Office or other certification acceptable to the Commission, dated not more than 5 years prior to the date on which the license is to be granted, evidencing satisfactory completion of the course of instruction for radar observers.]

An applicant for the initial issuance of a pilot's license in any class shall:

(1) Except for first-time applicants for a sixth class license, have served at least 1 year in each of the license classes below the class of license applied for.

(2) Have complied with subsection (d).

(3) Have passed a physical examination within 6 months of the date of application based on the requirements of § 405.8 (relating to physical qualifications), as evidenced by a physician's statement. Physical examinations may also be ordered by the Commission for any pilot at any time for any cause.

(4) Have participated in a program of random drug testing during the preceding license period that meets the standards of Coast Guard Regulations under 46 CFR Part 16 (relating to chemical testing).

(5) Have been qualified as a radar observer, as evidenced by one of the following:

(i) A radar observer endorsement on a current Federal pilot's license.

(ii) A certificate issued by a Coast Guard-approved authority reflecting that the certificateholder satisfactorily completed a course of instruction for radar observers, within 5 years of the date of application.

(6) Have completed a Commission-approved course in bridge resource management within 3 years of the date of application or renewal.

(7) Have completed a Commission-approved course in automatic radar plotting aids (ARPA) once in a pilot's career.

(8) Post a surety bond that satisfies the requirements of § 405.13 (relating to bonding).

(9) Pay the required license fee.

(b) In addition to meeting the requirements of subsection (a), a first-time applicant for a first-class pilot's license shall:

(1) Have completed 40 hours of Commission-approved continuing education in navigation, ship

handling or related topics within the preceding 5 years. Courses in the required areas of radar observer, ARPA and bridge resource management may count towards the 40-hour total. The Commission will approve the education facilities that qualify to provide this education. This continuing education requirement shall become effective _____ (Editor's Note: The blank refers to a date 2 years from the date of publication of the final adoption of this proposal.]

(2) Have appeared before the Commission for a personal interview.

(c) In addition to meeting the requirements of subsection (a), an applicant for a sixth-class pilot's license shall score a passing grade or better on an examination, as provided in § 405.4 (relating to examination for sixth-class license). The Commission may conduct further oral or written examinations it deems necessary to establish an applicant's proficiency. Prior to taking the examination, the applicant shall:

(1) Be at least 21 years of age.

(2) Be within 3 months of completing a Commission-approved apprenticeship.

(3) Have acquired a current Federal pilot's license for the Delaware River issued by the Coast Guard.

(d) In addition to meeting the requirements of subsection (a), applicants for a pilot's license:

(1) Shall have piloted at least 52 vessels during the preceding license period, if the applicant is a current license-holder, unless waived by the Commission under paragraph (2).

(2) May seek a waiver from the Commission of the requirement of paragraph (1), in whole or in part, for illness, disability or other good cause that prevents a pilot from piloting the required number of vessels. If a waiver is granted, the Commission may condition the issuance of the license on the applicant's completion of the refresher trips up or down the river as may be necessary to ensure that the applicant is familiar with current conditions along the route. Refresher trips shall be made in the company of a first-class pilot.

§ 405.8. Physical [examinations] qualifications.

[(a)] The physical qualifications for a pilot [shall be] or apprentice are as follows:

(1) [*Visual. Ability to achieve visual classification*] Visual acuity of 6/9 in one eye and 6/24 in the other—correctable to 6/6 [in one eye] and [at least] 6/9 [in the other], respectively—and normal color perception.

(2) [*Hearing. Ability to maintain hearing*] Hearing acuity to the [minimum] extent of correctly repeating, with eyes closed, words or numbers spoken by the examiner in an ordinary conversational tone of voice from a distance of 20 feet [, the person being examined having his eyes closed during the period of the test. This examination applies equally to each ear with the person being examined closing one ear in turn and directing the open ear towards the examiner]. Each ear shall be tested separately; the ear being

tested shall be turned in the direction of the examiner while the other ear is plugged.

(3) [*Other*: The Commission will take into consideration any and all information supplied by an examining physician when determining the physical fitness of any pilot.] The absence of any medical condition that may directly affect one's ability to pilot a ship safely.

[(b) Physical examinations shall be required as follows:

(1) Every 3 years for pilots 50 years of age and under.

(2) Every year for pilots over 50 years of age.

(3) By all applicants for apprenticeship.]

§ 405.9. Apprentices.

(a) [The term of apprenticeship for the profession of pilot is 4 years.

(b) During the last 2 years of apprenticeship, apprentices shall make at least 350 trips up or down the River in vessels with first or second class pilots, provided that at least 48 trips are made each year.

(c) It shall be the duty of every pilot who brings up or takes down an apprentice to report the trips in writing to the Office of the Commissioners.

(d) The name of every apprentice, together with the name of the vessel and her master, in which every apprentice has come up or gone down shall be recorded by the Commissioners in a book to be kept by them for that purpose. Indentures of apprentices to pilots shall be recorded in the Office of the Commission.]

Apprentice qualifications. An applicant for an apprenticeship as a pilot shall:

(1) Be of good moral character.

(2) Have acquired one of the following:

(i) A baccalaureate degree from a recognized and certified college or university or from a maritime academy operated by the United States or any state.

(ii) A Coast Guard-issued license to serve as a third mate on all oceans aboard vessels of any gross tons, or a higher class of license.

(3) Have passed a physical examination within 6 months of the date of application based on the requirements of § 405.8 (relating to physical examinations), as evidenced by a physician's statement.

(b) *Conduct of apprenticeship.* An apprenticeship shall provide the theoretical education and supervised practical experience required for licensure as a sixth-class pilot and shall be conducted as follows:

(1) Every apprentice shall serve an apprenticeship of 4 years, except that an apprentice who, at the time of appointment, holds at least a third mate's license under subsection (a)(2)(ii) may serve an apprenticeship of 3 years.

(2) The theoretical aspect of an apprenticeship shall cover, but not be limited to, the topics in § 405.4 (relating to examination for license).

(3) An apprentice shall make at least 500 trips up or down the river in vessels with a pilot licensed by Pennsylvania or Delaware.

(4) The pilots who train an apprentice shall file reports with the joint Pennsylvania/Delaware Apprentice Pilot Training Program Administrator, who shall file reports with the Commission on the activities and performance of the Pennsylvania apprentices in the apprentice program.

§ 405.10. Term of license.

[Each license shall be in force for 1 year from the issuance date unless revoked by the Commission.] A license shall be for a term of 1 year, subject to renewal by the Commission.

§ 405.11. Nondiscrimination.

The Commission will comply with applicable State and Federal laws prohibiting discrimination in licensing or apprenticeship opportunities. A person [may] will not be denied a license, refused an apprenticeship indenture, refused sponsorship for a pilot's license or discriminated against in the provision of pilotage services [on the basis] because of race, religion, [National] national origin, sex or age.

§ 405.12. Renewal of license.

(a) [Every pilot shall be entitled to receive a new license each year unless disqualified from exercising the duties of a pilot by the Commission.

(b) Application for a renewal of license shall be made upon a completed, Form DC-757 (10-76) (Application for Renewal of Pilot's License).]

An applicant for renewal of a pilot's license in any class shall:

(1) Have satisfied the requirements of § 405.7(a)(1)–(6) and (8) (relating to qualifications for license).

(2) Pay the required renewal fee.

(b) In addition to meeting the requirements of subsection (a), an applicant for renewal of a first class pilot's license shall have completed 40 hours of Commission-approved continuing education in navigation, ship handling or related topics within the preceding 5 years. Courses in the required areas of radar observer, automatic radar plotting aids (ARPA) and bridge resource management may count towards the 40-hour total. The Commission will approve the education facilities that qualify to provide this education. This continuing education requirement shall become effective _____ (*Editor's Note*: The blank refers to a date 2 years after adoption of this proposal.).

§ 405.14. [Number of pilots and apprentices] (Reserved).

[(a) A person may not receive a license as a first-class pilot until the number of first and second-class pilots be reduced to less than 42 and that the whole number of first and second-class pilots shall not exceed 42.

(b) The number of third-class and fourth-class pilots may not exceed ten.

(c) The number of apprentices indentured will be wholly within the discretion of the Commission.]

§ 405.16. [Acting as pilot without license] (Reserved).

[If any person shall in any manner exercise or attempt to exercise the profession of a pilot in the bay or River, except in vessels under 75 tons burden, without license duly granted or at any time after his license shall have expired, he shall be guilty of a misdemeanor, and, upon conviction thereof, he shall be imprisoned for not less than one month nor more than one year and be fined a sum not exceeding \$200, at the discretion of the court.]

§ 405.17. [Offering services] (Reserved).

[The pilot who shall first offer himself to any inward-bound ship or vessel shall be entitled to take charge thereof; provided, his license shall authorize him to pilot ships or vessels of such draught of water and tonnage burden, and it shall be duty of such pilot, if required so to do, to exhibit his license to the master or commander of such ship or vessel. In case the draught of water or tonnage burden of such ship or vessel shall be greater than such pilot shall be licensed to carry, he may nevertheless, with the consent of the master, take charge of such ship or vessel until a pilot duly qualified shall offer.]

§ 405.18. [Vessels required to take on pilot] (Reserved).

[(a) Every ship or vessel arriving from or bound to any foreign port or place shall be obliged to receive a pilot, except as exempted by law.

(b) Any ship or vessel voluntarily taking a pilot shall pay a fee which is no more than the fee for pilotage as is prescribed in case of a vessel bound to or from a foreign port.]

§ 405.19a. Docking, undocking and anchoring of vessels.

When a vessel which has taken aboard a Pennsylvania or Delaware state-licensed pilot is docking, undocking or anchoring, the Pennsylvania or Delaware state-licensed pilot shall remain on the bridge, attentive to duty, until the vessel has at least one ship's line secured to the dock or until the vessel is anchored properly and firmly within a designated anchorage area or until the state-licensed pilot is discharged at the pilot station area upon the vessel's departure to sea. This section does not prohibit the master of a vessel from employing the services of a docking master.

§ 405.21. Accident reports.

(a) *Written report.* [It shall be the duty of every] A pilot involved in a marine accident [to give] shall submit within 5 days a written report of the accident [promptly] to the Commission [whenever] if the accident results in [any] one of the following:

* * * * *

(5) Injury causing [any persons] a person to remain [incapacitated for a period] hospitalized in excess of 72 hours.

(b) *Telephonic report.* In addition to submitting a written report under subsection (a), a pilot in-

involved in a marine accident shall make a telephonic report of the accident to the Commission within 24 hours of the accident if the accident results in one of the following:

- (1) Loss of life.
- (2) Collision or grounding.
- (3) Oil spill.

(c) *Contents of report.* [The] An accident [reports] report, whether written or telephonic, shall [identify] set forth the following:

- (1) Vessels and objects involved in the accident.

* * * * *

(3) Weather and sea conditions when the accident occurred.

- (4) Events and circumstances leading to the accident.

* * * * *

(6) Nature of loss or damage resulting from the accident.

[(c)] (d) *Coast Guard Report.* A pilot may submit a copy of a completed [United States] Coast Guard Report of Vessel Casualty or Accident Form [and], along with any attachments [thereof is acceptable] to satisfy the requirements of subsection (a).

§ 405.27. [Rates for pilotage between Capes and port] (Reserved).

[For services rendered, the rates of pilotage for conducting a vessel from the Capes of the Delaware to a place on the River no further upriver than the Delair Railroad Bridge between Philadelphia, Pennsylvania and Delair, New Jersey or from a place on the River no further upriver than the Delair Railroad Bridge between Philadelphia, Pennsylvania and Delair, New Jersey to the Capes of the Delaware, in either case, shall be the total of the charges resulting from the two following computations:

- (1) *Unit.* Unit charges shall be as follows:

(i) A charge, to be known as a unit charge, shall be made for each pilotage, determined by length overall, in feet, multiplied by the extreme breadth, in feet, of the vessel, divided by 100.

(ii) For the purposes of this section, the following definitions shall be applied:

(A) *Extreme breadth*—The maximum breadth between the outside of the shell platings of the vessel.

(B) *Length overall*—The distance between the forward and after extremities of the vessel.

(C) *Measurements*—Designated in feet and inches, United States. Inches shall be converted to feet as follows:

- 1 inch = .1 feet
- 2 inches = .2 feet
- 3 inches = .3 feet
- 4 inches = .3 feet
- 5 inches = .4 feet
- 6 inches = .5 feet
- 7 inches = .6 feet
- 8 inches = .7 feet

- 9 inches = .8 feet
- 10 inches = .8 feet
- 11 inches = .9 feet

(iii) The charges per unit shall be as follows:

(A) Vessels not in excess of 300 units 60¢ per unit.

(B) Vessels in excess of 300 units but not in excess of 600 units \$180 plus 50¢ per unit in excess of 300 units.

(C) Vessels in excess of 600 units \$330 plus 40¢ per unit in excess of 600 units.

(D) There shall be a minimum unit charge of 200 units \$120.

(2) *Draft.* Draft charges shall be as follows:

(i) A charge, related to length and draft, shall be determined as follows:

(A) Vessels with a length overall not in excess of 550 feet: \$5.00 per 1/2 foot of draft.

(B) Vessels with a length overall in excess of 550 feet, but not in excess of 800 feet: \$5.50 per 1/2 foot of draft.

(C) Vessels with a length overall in excess of 800 feet: \$6.00 per 1/2 foot of draft.

(ii) All charges related to draft shall be based upon the charge of the nearest 1/2 foot of draft; thus there shall be no charge for the first three inches above any foot draft; above three inches, up to and including nine inches, the charge shall be for 1/2 foot of draft; above nine inches, the charge shall be for the next higher foot; provided, however, that any vessel with a draft of less than 12 feet shall pay pilotage under this computation as though the draft of the vessel were 12 feet.

(3) *Winter pilotage.* No additional charge shall be made for winter pilotage.]

§ 405.28. [Rates of pilotage between Capes and breakwater] (Reserved).

[(a) Every ship or vessel bound to the breakwater for orders shall pay pilotage fees consisting of a sum equal to 1/2 the pilotage to the port, and she shall be obliged to take a pilot and pay the same pilotage fees when outward bound from the breakwater.

(b) If such ship or vessel, without discharging her pilot, proceeds to the port of Philadelphia or any other port or place on the River, only one full pilotage fee shall be paid, as fixed by § 405.27 (relating to rates for pilotage between capes and port) for the entire service in addition to the fee for detention.

(c) If the pilot bringing such ship or vessel to the breakwater is discharged there and if the ship or vessel afterward proceeds to Philadelphia or any other port or place on the River, she shall make the usual signal for a pilot and continue to make such signal till reaching Brandywine Light, and, if spoken by or offered the services of a licensed Commonwealth pilot before reaching Brandywine Light, she shall be obliged to employ such pilot and pay him for services rendered.]

§ 405.29. [Disabled vessels] (Reserved).

[The compensation to be paid to pilots for conducting to or from the port all dismasted or otherwise crippled vessels which shall have been in any way injured so as to occasion to such pilots any extraordinary care or trouble shall not exceed double the amount which they otherwise would have been entitled of which amount the Commission will be the judge.]

§ 405.31. [Extraordinary services] (Reserved).

[For extraordinary services rendered, the rates of pilotage shall be as follows:

(1) *Transportation of vessels on the river.*

Philadelphia (or other place) to Marcus Hook \$150

Philadelphia (or other place) below Marcus Hook..... \$175

Philadelphia Harbor to Torresdale \$150

Philadelphia Harbor to any place above Torresdale \$250

(2) *Extra services.*

Swinging ship to adjust Magnetic Compass \$ 65

Swinging ship to calibrate Direction Finder \$ 65

Vessels anchoring below Brown Shoal in excess of three hours awaiting tide \$125

Carried to/from New York, Norfolk or Baltimore \$150

(3) *Chesapeake and Delaware Canal.*

Vessels with a length not in excess of 550 feet..... \$125

Vessels with a length overall in excess of 550 feet \$150

(4) *Cancellation of Sailing Orders.*

Cancellation Charge \$ 65]

§ 405.33. [Neglect of duties] (Reserved).

[(a) If any person having a license as a pilot shall, for the space of 2 weeks, refuse or willfully neglect to execute the duties of a pilot, the person, upon due proof, shall forfeit his license.

(b) If any pilot shall enter into any combination with a view of preventing any other person from executing his duties, the pilot, upon proof, shall forfeit his license.

(c) This section may not be construed as to prevent any pilot from taking a leave from piloting for vacations, illness or contact with a contagious disease, jury duty, court attendance, Military Reserve or National Guard duties, or other appropriate reasons.]

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