STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
STATE PILOTAGE COMMISSION
NOTICE OF ANNUAL PUBLIC HEARING

Pursuant to the provisions of Chapters 46-9 and 46-9.1 of the General Laws of Rhode Island, as amended, and in accordance with the Administrative Procedures Act, Chapter 42-35 of the General Laws, the Rhode Island State Pilotage Commission (the "Commission") hereby gives notice of its intention to amend the following sections of the Rhode Island State Pilotage Commission Rules and Regulations:

The first proposed amendment is an effort to update the Regulations by supplementing the Definitions section of the Regulations provided in Rule 1.01 by adding several additional terms to be defined therein.

The second proposed amendment proposes an amendment of Rule 14 in order to clarify the geographic area in which pilots are required to utilize a pilot boat holding valid "Certificate of Compliance" meeting appropriate safety standards.

The third proposed amendment proposes the deletion of Rule 15.12 which had governed the reporting of the now defunct Block Island Sound pilotage fees. (Numerous numerical designations of the Rules and subparts following the now eliminated Rule 15.12 are required to be modified due to the deletion of Rule 15.12.)

The fourth proposed amendment proposes an amendment of the current Rule 15.16(D)(5) by eliminating the outdated term "RDF calibration" and updating the current Rule 15.17 (B) by changing the "Department of Transportation" to "Department of Homeland Security."

The fifth proposed amendment proposes the addition of a subpart E. to the current Rule 15.18. Pursuant to Rule 15.18 (E) there will now be a requirement for a pilot in the event that a reportable incident should occur while the vessel is being transited to take certain steps be taken to safeguard the Portable Pilot Unit or computer assisted navigational device that pilots are required to utilize while transiting vessels and thereby afford investigators a record of the events leading up to the reportable incident

The sixth proposed amendment proposes the deletion of Rule 16 which governs the rates previously charged for the now defunct Block Island Sound pilotage fees.

The seventh proposed amendment would substitute a new revised medical form for the medical form that is currently included among the appendices to these Regulations.

In addition to consideration of the above proposed rulemaking, pursuant to the provisions of **Chapters 46-9 and 46-9.1** of the General Laws of Rhode Island, as amended, and in accordance with the Administrative Procedures Act, Chapter 42-35 of the General Laws, the Rhode Island State Pilotage Commission hereby gives notice of its intention to hold a public hearing in compliance with Section 46-9-6(8) of the General Laws of Rhode Island to afford the public an opportunity to offer oral and written testimony on matters pertaining to the administration of **Chapters 46-9 and 46-9.1** of the General Laws of Rhode Island, as amended entitled "Pilots, Narragansett Bay and Tributaries" and "Pilots, Block Island Sound," respectively, including but not limited to the determination as to the number and qualifications of pilots that may be deemed necessary to satisfy the needs of the State as well as review of any proposals that may be presented requesting a modification of the rates charged for the piloting of vessels within the Commission's jurisdiction.

Testimony will be taken on any subject matter pursuant to the requirements of Section 46--9-6(8) of the General Laws of Rhode Island ". . .that the Commission shall conduct at least one public hearing annually, duly advertised, to hear and receive complaints and comments from individual pilots, associations, or other public or private agencies with regard to any matters that may come within the jurisdiction of the Commission."

Written comments concerning the above proposed rulemaking and public opportunity to offer comment the administration the administration of **Chapters 46-9 and 46-9.1** of the General Laws of Rhode Island will be accepted at the offices of the Division of Law Enforcement, Department of Environmental Management, 235 Promenade Street, Providence, Rhode Island 02908 on or before 8:30 a.m. on April 2, 2015. A public hearing will be held at Room 300 located at 235 Promenade Street, Providence, Rhode Island 02908 at 10:00 a.m. on April 2, 2015.

The Commission has determined that small businesses should not be adversely impacted by the proposed regulations. The public is invited to offer comment on the proposals and to allow public input from small businesses or any cities or towns, which may nevertheless believe that they may be adversely affected by the proposed rulemaking. Small businesses are requested to comment on the proposed regulations and on how such proposed action can be changed to minimize the impact on those small businesses affected.

Signed this 18th day of February, 2015.

E. Howard McVay Jr., Chair
Rhode Island State Pilotage Commission

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
STATE PILOTAGE COMMISSION
SUMMARY OF PROPOSED RULEMAKING
NOTICE OF ANNUAL PUBLIC HEARING

Rhode Island State Pilotage Commission (the "Commission") is required pursuant to the provisions of **Chapters 46-9 and 46-9.1** of the General Laws of Rhode Island, as amended, and in accordance with the Administrative Procedures Act, to hold an annual public hearing in compliance with Section 46-9-6(8) of the General Laws of Rhode Island to afford the public an opportunity to offer oral and written testimony on matters pertaining to the administration of **Chapters 46-9 and 46-9.1** of the General Laws of Rhode Island, as amended entitled "Pilots, Narragansett Bay and Tributaries" and "Pilots, Block Island Sound," respectively, including but not limited to the determination as to the number and qualifications of pilots that may be deemed necessary to satisfy the needs of the State as well as review of any proposals that may be presented requesting a modification of the rates charged for the piloting of vessels within the Commission's jurisdiction.

The Commission intends to conduct this annual public hearing on April 2, 2015 and that that time to conduct a public comment hearing concerning several proposed amendments to the Rhode Island State Pilotage Commission Rules and Regulations. Pursuant to the provisions of Chapters 46-9 and 46-9.1 of the General Laws of Rhode Island, as amended, and in accordance with the Administrative Procedures Act, Chapter 42-35 of the General Laws, the Commission proposes to amend the following sections of the Rhode Island State Pilotage Commission Rules and Regulations (the "Regulations"):

The first proposed amendment is an effort to update the Regulations by supplementing the Definitions section of the Regulations provided in Rule 1.01 by adding several additional terms to be defined therein.

The second proposed amendment proposes an amendment of Rule 14 in order to clarify the geographic area in which pilots are required to utilize a pilot boat holding valid "Certificate of Compliance" meeting appropriate safety standards.

The third proposed amendment proposes the deletion of Rule 15.12 which had governed the reporting of the now defunct Block Island Sound pilotage fees. (Numerous numerical designations of the Rules and subparts following the now eliminated Rule 15.12 are required to be modified due to the deletion of Rule 15.12.)

The fourth proposed amendment proposes an amendment of the current Rule 15.16(D)(5) by eliminating the outdated term “RDF calibration” and updating the current Rule 15.17 (B) by changing the “Department of Transportation” to “Department of Homeland Security.”

The fifth proposed amendment proposes the addition of a subpart E. to the current Rule 15.18. Pursuant to Rule 15.18 (E) there will now be a requirement for a pilot in the event that a reportable incident should occur while the vessel is being transited to take certain steps be taken to safeguard the Portable Pilot Unit or computer assisted navigational device that pilots are required to utilize while transiting vessels and thereby afford investigators a record of the events leading up to the reportable incident

The sixth proposed amendment proposes the deletion of Rule 16 which governs the rates previously charged for the now defunct Block Island Sound pilotage fees.

The seventh proposed amendment would substitute a new revised medical form for the medical form that is currently included among the appendices to these Regulations.

Further information concerning this matter may be obtained from the undersigned.

Gary Powers
Deputy Chief Legal Counsel
Office of Legal Services
Department of Environmental Management
235 Promenade Street
Providence, Rhode Island 02908
Telephone 401-222-6607 ext. 2308
Fax 401-222-3378
gary.powers@dem.ri.gov

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

STATE PILOTAGE COMMISSION

RULES AND REGULATIONS

State Pilotage Commission
C/o Division of Law Enforcement
235 Promenade Street
Providence, RI 02908
Telephone (401) 222-3070
Fax (401) 222-6823

Effective Date

Commission Members:

Capt. E. Howard McVay, Jr., Chairman
Larry Mouradjian, Member
Steven Hall., Member
Capt. J. Peter Fritz, Member
Ms. Joanne Scorpio, Secretary
Gary E. Powers, Esq., Legal Counsel

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RHODE ISLAND STATE PILOTAGE COMMISSION

The State Pilotage Commission consists of four (4) members appointed by the Governor for a term of three (3) years one of whom shall be the Associate Director of the Bureau of Natural Resources of the Department of Environmental Management, ex officio; one shall be the Director of the Department of Environmental Management, ex officio; one shall be a State Licensed Pilot with five (5) years of active service on the waters of this State; and one shall represent the public.

The members of the Commission are: Chairman Captain E. Howard McVay Jr., a State Licensed Pilot; Mr. Larry Mouradjian, Associate Director of the Bureau of Natural Resources of the Department of Environmental Management, ex officio; Capt. J. Peter Fritz; and Steven Hall, Chief of the Division of Enforcement, representing Janet L. Coit., Director of the Department of Environmental Management, *ex officio*.

RULE 1. ADMINISTRATIVE PROCEDURES ACT 42-35 AS AMENDED

State of Rhode Island State Pilotage Commission Rules and Regulations Adopted Pursuant to Chapter 42-35 of the General Laws of Rhode Island, 1956, subsequent re-enactment as amended, and to Other Provisions of Law.

1.01 DEFINITIONS

The following words when used in the rules shall have the following meaning:

A. "Adjudicatory Proceeding" - An Adjudicatory Proceeding before the Commission in which the legal rights, duties or privileges of specifically named Persons are determined after an opportunity for a hearing.

B. "Appearance"- An Appearance is defined as notice of participation in an Adjudicatory Proceeding which may be accomplished either by the filing of a pleading or an entry of Appearance with the administrative Secretary of the Commission.

C. "Certification" - A statement wherein a Party attests that they have performed the requirements of Rule 5.09(f).

D. "Commenced" - An administrative hearing has Commenced upon conclusion of the pre-hearing conference.

E. “Commission" - The Rhode Island State Pilotage Commission or, when the context permits, to individual members, sub-committees, its staff, agents or employees.

F. “Commission office" - The offices of the Commission at the Division of Law Enforcement, Department of Environmental Management, 235 Promenade Street, Providence, Rhode Island.

G. "Commission meeting" -Any meeting of the full Commission.

H. “Mile” or “Miles” is a unit of length that is approximately one minute of arc measured along any meridian and by international agreement it has been set at 1,852 meters exactly (or approximately 6,076 feet).

I.. "Papers" - All written communications submitted to the Commission in an Adjudicatory Proceeding, including but not limited to, motions, pleadings, documents and all other correspondence.

J.. "Party" - The specifically named Person(s) whose legal rights, duties or privileges are being determined in an Adjudicatory Proceeding; and any other Person who has been granted the right to intervene.

K. "Person" - Any individual, partnership, corporation, Limited Liability Company, association, governmental subdivision, or public or private organization.

L. "Petitioner" - Person who initiates an Adjudicatory Proceeding.

M. “Portable Pilot Unit” or “PPU” as used in these Regulations shall be defined as any portable computer device issued or made available to a Rhode Island licensed pilot to assist in navigational responsibilities.

~~M.~~ N. "Regular Business Hours" - Papers will be deemed filed during Regular Business Hours if received during the hours of 8:30 a.m. to 4:00 p.m. Monday through Friday on days other than State Holidays. The Department's physical, facsimile, or electronic mail date stamp shall be presumptive of the actual date and the time of filing. Filing by electronic transmittal is permitted, provided, however, an original copy of said filing shall be delivered to the Commission within five (5) days of electronic transmittal.

O. “Reportable incident’ as used in these Regulations shall be defined as any grounding of a vessel while being piloted, or the allision of a piloted vessel with another vessel or structure, or if the pilot becomes aware that a piloted vessel has suffered any engine or navigational control failures while in the waters under the control of the Commission, or any other occurrence that the pilot believes could reasonably affect the safe navigation of the vessel.

~~N.~~ P. "Respondent" - The Party who challenges an order of the Commission, or any other parties not bearing the burden of proof.

~~O.~~ Q. "Secretary" - The administrative Secretary of the Commission.

RULE 2. ORGANIZATION AND METHOD OF OPERATIONS

2.01 Organization - Chapter 46-9 of the General Laws enacted as Chapter 3253 of the Public Laws, 1956, establishes the State Pilotage Commission. This Chapter sets forth the Commission's powers and duties. The Commission consists of four (4) members, one (1) of whom is a licensed pilot with five (5) years active service on the waters of this State, appointed by the Governor, one (1) of whom represents the public, appointed by the Governor, one (1) of whom is the Chief of the Division of Coastal Resources, ex-officio. The Director of the Department of Environmental Management is an ex-officio member of said commission.

2.02 Function - The primary functions of the Commission are the providing of maximum safety from the dangers of navigation for vessels entering or leaving the waters of this State including Block Island Sound, maintaining a State pilotage system devoted to the preservation and protection of lives, property and vessels entering or leaving the waters of this State, including Block Island Sound at the highest standard of efficiency; insuring an adequate supply of pilots well qualified for the discharge of their duties.

2.03 Method of Operation and Powers - The Commission receives applications of a form approved by it, for any individual desirous of being licensed as a pilot in the waters of this State. The application requires the applicant to demonstrate that he has the proper qualifications as set forth in Sections 46-9-7 and 46-9.1-11 of the General Laws of Rhode Island. The Commission is authorized to approve, modify, set conditions for, or reject any such application.

The duties of the Commission shall be to:

A. Make, establish and enforce such rules and regulations, not inconsistent with law, which shall be binding and effectual upon all pilots licensed by the commission, and upon all parties employing such pilots; and, from time to time, revise and amend such rules and regulations as may be necessary to enable the commission to carry into effect the provisions of Chapters 46-9 and 46-9.1.

B. Make and establish rates of pilotage for such vessels as are subject to the provisions of Chapters 46-9 and 46-9.1.

C. Establish and determine the qualifications of any person applying for a pilot's license and conduct examinations.

D. Issue, suspend or revoke any pilot's license in accordance with the provisions of Chapters 46-9 and 46-9.1.

E. Cause the laws, rules and regulations concerning pilots and pilotage matters to be fully observed and executed.

F. Hear and decide complaints made in writing against any pilot for any misbehavior or neglect of or breach of rules or regulations, which it shall deem material to be investigated;

G. Hear and decide complaints made in writing by any pilot against any charterer, owner, agent, master or seaman of a vessel for any misbehavior toward such pilot in the performance of his duty, or any breach of the rules and regulations;

H. Administer oaths and compel the attendance of witnesses at such hearings as it may conduct;

I. Perform all other functions set forth in Chapters 46-9 and 46-9.1 not specifically covered herein.

2.04 Meetings - The Commission shall meet at the call of the Chairman. A quorum consists of three (3) members. A majority vote of those present is required for action. All meetings of the Commission shall be open to the public and the public shall have a reasonable opportunity to be heard.

RULE 3. PRACTICE BEFORE THE COMMISSION

3.01 Any person may appear before the Commission on his own behalf. Any person who has an adjudicatory proceeding before the Commission may appoint an attorney to represent him/her before the Commission if the attorney is licensed to practice before the Supreme Court of the State of Rhode Island, or is authorized to do so in compliance with Provisional Order 20 of the R.I. Supreme Court Rules. The notice

of appointment of counsel must be made prior to the Commission meeting, in writing, and duly signed by the party appointing the representative.

3.02 All persons appearing in proceedings before the Commission in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Rhode Island. If any such person does not conform to such standards, the Commission may decline to permit such person to appear in a representative capacity in any proceeding before the Commission.

3.03 All persons appearing in proceedings before the Commission, shall have the right to examine and cross-examine, through their counsel or through the commission if not represented by counsel, all witnesses.

RULE 4. PRELIMINARY INVESTIGATIONS

Whenever authorized by law, the Commission may conduct preliminary investigations into matters under its jurisdiction. Upon the completion of such investigation,

(1) if the Commission shall make a determination that a violation probably has not been or is not being engaged in, the Commission shall proceed no further, or

(2) if the Commission shall make a determination that a violation probably has been or is being engaged in, the Commission shall proceed as provided by law.

RULE 5. FORMAL ADJUDICATORY PROCEDINGS

5.01 If the Commission makes a preliminary determination that a violation probably occurred or that a formal adjudicatory proceeding should be instituted, the Commission shall serve notice upon the person who alleged committed the violation or identifying as potentially culpable for the incident in question , advising the person(s) served of the time and location upon which the hearing is scheduled.

5.02 In addition to adjudicatory proceedings identified in Section 5.01, any person who has been any person who believes that he/she has been aggrieved by a license or a permit denial may request an ad judiciary proceeding by filing an appeal in writing with the secretary within thirty (30) calendar days of receipt of the contested Commission action. The time and manner of filing established in these rules and regulations are mandatory and jurisdictional.

5.03 Adjudicatory proceedings required or permitted by law shall be conducted in accordance with these rules and regulations. Adjudicatory proceedings shall be before the Commission as a whole. A record shall be kept as provided herein. Upon hearing all of the facts and reviewing the record in its entirety, the Commission shall render its decision in accordance with Chapter 42-35 of the General Laws.

5.04 Representation

A. Appearance. The Commission shall inform a person of his/her right to be represented by legal counsel in an Adjudicatory Proceeding.

B. Any attorney purporting to represent any party in an adjudicatory proceeding shall enter an Appearance with the Secretary of the Commission.

C. No person, who is not an attorney and counselor of the Supreme Court of the State of Rhode Island, shall be permitted to act as attorney or counselor for any party in any proceeding before the Commission, unless authorized to do so in compliance with Provisional Order 20 of the R.I. Supreme Court Rules.

5.05 Continuances

A. the Commission at its sole discretion shall determine when a valid scheduling conflict exists which requires a continuance of the hearing.

B. Any request for a continuance by a Party shall be submitted, in writing, to the Commission at least Twenty Four (24) hours prior to the scheduled proceeding. The Commission may waive this requirement upon the showing of good cause.

C. A scheduled proceeding shall be continued upon presentation of a signed court excuse by an attorney of record covering the date in question.

D. A scheduled proceeding may be continued upon notification to the Commission that an attorney of record is otherwise engaged on the date of the hearing in a state or federal court, or for other good cause shown. The Commission shall be informed of the nature of the conflicting action, the case name and the court in which the attorney's presence is mandated.

E. Should the Commission grant a continuance, it shall be the responsibility of the Party requesting the continuance to immediately notify all other parties of record and their representatives and pay any costs that may be associated with the cancellation of the proceeding.

5.06 Extension of Time

It shall be within the discretion of the Commission, for good cause shown, to extend any time limit contained in these rules, unless precluded by statute. All requests for extensions of time shall be made by motion before the expiration of the original or previously extended time period.

5.07 *Ex Parte* Communications

A. Except as provided below, no Person who is a Party to, or a participant in, any proceeding before the Commission, including his/her counsel, employee, agent or any other Person acting on his/her behalf, shall engage in any *ex parte*, off the record communications with any member of the Commission.

B. The above prohibition does not apply to a communication from a Party or participant or his counsel, agent or other Person acting on his/her behalf, if the communication relates solely to general matters of procedure or scheduling.

5.08 Time

A. Timely filing- Papers required or permitted to be filed under these regulations, or any provision of the applicable law must be filed with the Secretary at the Commission's office within the time limits for such filing as are set by the Commission, or other provision of law.

B. Papers filed in the following manner shall be deemed filed as set forth herein:

1. Hand-delivery. Papers hand delivered during Regular Business Hours shall be deemed filed on the date of hand-delivery. Papers delivered by hand at times other than during Regular Business Hours shall be deemed filed on the next regular business day when stamped by the Secretary of the Commission.

2. Mailing. Papers deposited in the U.S. Mail shall be deemed filed on the date the Papers are postmarked. In the event that no postmark appears, Papers shall be deemed filed on the date received by Commission.

3. Electronic Transmittal. Papers transmitted by electronic mail or facsimile shall be accepted for filing so long as the original copy is received by the Commission within five (5) days of electronic transmittal and opposing counsel is also transmitted a copy of the pleading by facsimile or electronic transmittal simultaneously as well as provided with a hard copy of the pleading within five (5) days of electronic transmittal.

C. Computation of Time. Unless otherwise specifically provided by law or these rules, computation of any time period referred to in these rules shall begin with the first day following the act which initiates the running of the time period. The last day of the time period so computed is to be included unless it is a Saturday, Sunday, or legal holiday or any other day on which the Commission is closed, in which event the period shall run until the end of the Regular Business Hours of the next following business day. When the time period is less than seven (7) days, intervening days when the Commission is closed shall be excluded in the computation.

5.09 Filings Generally

A. Title/Caption. Papers filed with the Commission shall state the file number, if any, the title or caption of the proceeding, and the name of the Person on whose behalf the filing is made.

B. Signatures. Papers filed with the Commission shall be signed and dated by the Party on whose behalf the filing is made. This signature constitutes a certification that: the individual has read the document; knows the content thereof, and to the best of his/her knowledge, that such statements are true; that it is not interposed for delay; and that if the document has been signed by an authorized representative he/she has full power and authority to do so.

C. Form

Size and Printing Requirements. All Papers, except those submittals and documents which are kept in a larger or smaller format during the ordinary course of a Party's business shall be submitted on an 8 1/2" x 11" inch paper. All Papers shall be hand printed or typewritten.

D. Copies. The original of all Papers shall be filed with the Secretary together with such number of additional copies as the Commission may require.

E. Service. Simultaneously with the filing of any and all Papers with the Commission, the Party filing such Papers shall send a copy with certification thereof to Commission's counsel, all other parties, or their authorized representative to the proceedings, by delivery in hand, or by U.S. Mail, postage prepaid, properly addressed and consistent with Section 5.08 (A) (3).

5.10 Motions

A. General Requirements

1. Motion Practice. A Party may request of the Commission any order or action not inconsistent with law or these regulations. Such a request shall be called a motion. The types of motions made shall be those, which are permissible under these Rules and the R.I. Superior Court Civil Rules of Procedure.

2. Presentation/Objection to Motions. Motions may be made in writing at any time, or they may be made orally during a hearing. Each motion shall set forth the grounds for the desired order or action and state whether oral argument is requested. Within seven (7) days after a written motion is filed with Commission, a Party opposing said motion must file a written objection to the allowance of the motion and shall, if desired, request oral argument and allow three (3) extra days if the motion is sent by mail. All motions and objections shall be accompanied by a written memorandum, specifying the legal basis and support of the Party's position. Failure to file a written objection within the prescribed time period will be deemed a waiver of the objection, although a Commission, within his or her discretion, may grant additional time to a Party in order to respond to a motion.

3. Action on Motion. The Commission shall, if he/she determines oral argument on the motion is warranted, give at least three (3) days notice of the time and place for such argument. The Commission may act on a motion when all parties have responded thereto, or the deadline for response has passed, whichever comes first.

5.11 Withdrawals

A Petitioner at any time may withdraw his/her request for an Adjudicatory Proceeding, but the withdrawal must be submitted in writing signed by the Petitioner or his/her authorized representative, or by written stipulation signed by the parties. All withdrawals must be submitted to the Commission.

5.12 Emergency Scheduling

Any Party may on motion request, or by the Commission sua sponte may for good cause order, an accelerated hearing.

5.13 Discovery

A. General. Parties to an Adjudicatory Proceeding are encouraged to engage in voluntary discovery as parties follow the rules of Civil Procedure of the Superior Courts of this State.

B. Time for Filing. In accordance with Superior Court Rules of Civil Procedure, request for discovery may be made any time after a request for a hearing has been filed and shall be made in accordance with Section 5.10 of these rules. The Commission, in its discretion may establish limits on such discovery, including, but not limited to, when discovery shall commence and close.

C. Review of Commission's Files. The Commission must make all discoverable records available for review by the parties at a specified time and provide the parties with an opportunity to copy any discoverable records. However, the Commission is not required to send copies of its records and documents to the parties upon their request.

D. Commission Costs. The Commission shall be entitled to a fee per page for copies, and such other costs as set forth in R.I.G.L. § 38-2-1, et seq.

5.14 Intervention

A. Initiation. Except as otherwise specifically provided by these Rules, any Person not initially a Party who wishes to intervene in, or participate in, an Adjudicatory Proceeding shall file a written petition to intervene with the Commission.

B. Form and Content. The petition shall state the name and address of the Person submitting the petition. It shall specifically describe the injury in fact alleged by the Petitioner and set forth how the Petitioner(s) interests differ from, and are not adequately represented by, existing parties. The petition must identify the areas in dispute, specifically citing each regulation where applicable.

C. Filing the Petition. Except as otherwise specifically provided by these Rules or unless an applicable statute requires otherwise, the petition shall be filed with the Commission not later than seven (7) days prior to the date set for the initial prehearing conference. Petitions filed may be granted at the discretion of the Commission, provided that the parties are given notice and opportunity to object.

D. Rights of Intervenors. Intervenors shall be Persons who have demonstrated an injury in fact which will result from a challenged action or application and whose interests are not adequately represented by other parties to the hearing. Any Person permitted to intervene shall be a full Party to the hearing. Every petition to intervene shall be treated in the alternative as a petition to participate.

5.15 Public Participation

A. Rights to Participate. In general, any Person who is not a Party or intervenor to the proceeding may, in the discretion of the Commission, participate in the hearing by filing a motion with the Commission The Commission shall set such limits on public participation as he/she deems necessary to ensure that the hearing is held in an orderly and expeditious fashion. Permission to participate shall be limited to the right to file a brief. Permission to participate, unless otherwise stated, shall not be deemed to constitute an expression that the Person allowed to participate is a Party in interest who may be aggrieved by any final decision. A Person who petitioned to intervene and who was allowed to participate may participate without waiving its rights to judicial review of the denial of said petition to intervene.

B. Hearing Hours. Whenever possible hearings shall be held during Regular Business Hours. The Commission may, in its discretion, schedule an evening hearing if it deems it necessary to provide adequate opportunity for public comment, public questioning of witnesses or to expedite the case.

5.16 Prehearing Conference

A. The Commission shall require the parties to appear for a prehearing conference at least seven (7) days prior to the scheduled commencement of the hearing to consider:

1. The simplification or clarification of the issues;
2. The possibility of obtaining stipulations, admissions, agreements on documents, understanding on matters already of record, or similar agreement which will avoid unnecessary proof;
3. The limitation of the number of expert witnesses, or avoidance of similar cumulative evidence, if the case is to be heard;
4. The possibility of agreement disposing of all or any of the issues in dispute; and
5. Such other matters as may aid in the disposition of the Adjudicatory Proceeding.

B. The parties may meet prior to the initial prehearing conference to exchange and consider all documentary exhibits. As to those admissible without objection, counsel shall affix sequential numbers and shall prepare a descriptive list in numerical order of all such exhibits. The parties may also consider the qualification of expert witnesses and as to those who may be qualified without objection, counsel shall prepare a list of such qualified Persons and the precise area of agreed qualification.

C. The parties shall submit the following to the Commission at the commencement of the prehearing conference:

1. A typed or printed list of each Party's proposed witnesses and their addresses with a brief statement of each witness' anticipated testimony; specialization areas for proposed expert witnesses; and the precise area of qualification for agreed experts.

2. A typed or printed list of each Party's proposed exhibits which provides the following information:

a. A description of each document.

b. Identification of the document by reference to the offering Party and assignment of a number in sequential order.

c. Indication whether the document has been agreed to be admitted as a full exhibit or is to be marked for identification.

3. The actual exhibits identified and marked as indicated above.

4. A typed or printed statement of proposed stipulated facts and agreed issues to be considered at the hearing signed by the parties.

5. A typed or printed statement of any additional issues which a Party determines should be considered at the hearing.

D. At the prehearing conference, the Commission and parties shall specify the burden of proof for the hearing and that standard shall be announced on the record. In matters in which a violation is alleged the burden of proof shall be on the Commission. In matters in which a permit or application denial is at issue the burden shall rest with the applicant. In both instances, the burden of proof shall be a preponderance of the evidence.

E. All preliminary motions (including but not limited to Motions for Summary Judgment, Motions to Dismiss, Motions to Suppress or Exclude Evidence, Motions for Protective Orders and Motions in Limine) must be in writing and received by the Commission by the date of the Prehearing Conference.

F. A Party shall not be permitted to introduce into evidence in said Party's direct case exhibits which are not filed with the Party's prehearing memorandum.

G. Upon the conclusion of the prehearing conference, the Commission may in its discretion, enter an order reciting the concessions and agreements made by the parties and summarizing the status of exhibits and witnesses.

5.17 Hearings

A. Submission Without a Hearing. The Petitioner may elect to waive a hearing and to submit its case upon the record. Submission of a case upon the record, without a hearing, does not relieve the parties from the necessity of providing the facts supporting their burdens, allegations or defenses.

B. Hearings, When and Where Held. Hearings will be held at the location designated by the Commission. Any Party may, by motion, request that a hearing be held at some place other than that designated, due to disability or infirmity of any Party or witness, or where justice and equity would be best served. Upon motion of any Party and upon good cause shown, the Commission may in his/her discretion schedule a case for hearing.

C. Notice of Hearings. The notice of hearing must include the date, time and place of the hearing and prehearing conference and a statement of the Petitioner's right to have counsel present. The notice shall provide sufficient notice of the issues involved so that the parties may have a reasonable opportunity to prepare and present evidence and argument the notice of hearing must set forth the requirements for intervention as outlined in Rule 5.14.

The Notice of Hearing shall advise the parties as to the burden of proof.

D. Conduct of Hearing

1. General. Hearings shall be as formal as may be reasonable and appropriate under the circumstances.

2. Decorum. All parties, authorized representatives, witnesses and other Persons present at a hearing shall conduct themselves in a manner consistent with the standards of decorum commonly observed in any court. Where such decorum is not observed, the Commission may take appropriate action including adjournment, if necessary.

3. Duties of the Commission. The Commission shall conduct the hearing, make all decisions regarding admission or exclusion of evidence or any other procedural matters, and administer an oath or affirmation to all witnesses.

E. Opening. Except as otherwise required by law, it shall be the usual practice that the Party bearing the burden of proof shall open.

F. Rights of Parties. All parties shall have the right to present evidence, cross- examine witnesses, make objections, bring motions and make oral arguments.

G. Witnesses and Evidence

1. Oath. A witness' testimony shall be under oath or affirmation.

2. Rules of Evidence. Pursuant to R.I. Gen. Laws §42-35-10, the Rules of Evidence shall apply to evidence introduced during public participation to the same extent the rules apply to evidence admitted by other parties.

3. Offer of Proof. An offer of proof may be made in connection with an objection in response to a ruling of the Commission rejecting or excluding proffered testimony. The offer of proof shall consist of a statement and substance of the evidence which the Party contends would be adduced by such testimony, and if the excluded evidence consists of evidence in documentary or written form, or of reference to documents or records, a copy of such evidence shall be marked for identification and shall constitute the offer of proof.

H. Documentary Evidence Included. Documentary evidence may be received in evidence in the form of copies or excerpts.

I. Administrative Notice. Per R.I. Gen Laws §42-35-10(4), the Commission may take notice of any judicially cognizable facts which may be judicially noticed by the courts of this State, or of generally recognized technical or scientific facts within the Commission's specialized knowledge, only if the parties are notified of the material so noticed and are given an opportunity to contest the

facts so noticed. Notice may also be taken of properly adopted rules and regulations adopted by the agencies of this State or Federal agencies.

J. Subpoenas. In all cases of every nature before the Commission, the Chair, Vice-chair, or the Secretary may issue, and the Commission may vacate, and modify subpoenas requiring the attendance and testimony of witnesses and to compel the production and examination of Papers, books, accounts, documents, records, certificates and other legal evidence that may be necessary or proper for the determination and decision of any question before or the discharge of any duty required by law of the said Commission.

1. All subpoenas and subpoenas duces tecum shall be signed by the Chair, Vice-chair, or the Secretary and shall be served as subpoenas are served in civil cases in the Superior Court.

2. Motion to Quash, Vacate or Modify. Any Person to whom a subpoena is directed may, within a five (5) day period, file in writing a motion that the subpoena be quashed, vacated or modified. The Commission may grant such motion in whole, or in part, upon a finding that the testimony, or the evidence whose production is requested, does not relate with reasonable directness to any matter in question, or upon a finding that a subpoena for the attendance of a witness or the production of evidence is unreasonable or oppressive, or has not been issued a reasonable period in advance of the time when the evidence is requested or for other good and sufficient cause.

3. Costs. Witnesses subpoenaed under these Rules shall be entitled to the same fees for attendance and travel as are provided for witnesses in civil cases in the Superior Court. When the subpoena is issued on behalf of the Commission or any state officer or agency, fees and mileage need not be tendered.

4. Contumacy. In cases of contumacy or refusal to obey the command of the subpoena so issued, the Superior Court shall have jurisdiction to compel compliance.

K. Recording and Transcripts

Testimony and argument at the hearing shall be recorded electronically or stenographically. Transcripts of the proceedings shall be supplied to any Party at his/her own expense upon request to the stenographer. The Commission, within its discretion and in order to ensure an accurate record, is authorized to require the record the hearing stenographically and a certified copy of the transcript shall be provided to the Secretary of the Commission.

L. Correction of Transcript

Corrections in the official transcript may be made only to make it conform to the evidence presented at the hearing. Transcript corrections, agreed to by opposing parties, may be incorporated into the record, if and when approved by the Commission, at any time during the hearing, or after the close of evidence. The Commission may call for the submission of proposed

corrections and may make disposition thereof at appropriate times during the course of the proceeding.

M. Contents of Records. The record shall, at all reasonable times, be available for inspection by the parties.

N. Evidence after Completion. No evidence shall be admitted after completion of a hearing or after a case submitted on the record, unless otherwise ordered by the Commission.

O. Weight of Evidence. The weight to be attached to any evidence in the record will rest within the sound discretion of the Commission in accordance with the Rules of Evidence. The Commission may in any case require either Party, with appropriate notice to the other Party, to submit additional evidence on any matter relevant to the administrative hearing.

P. Exceptions. Formal exceptions to rulings on evidence and procedure are unnecessary. It is sufficient that a Party, at the time that a ruling is made or sought, makes known his or her objection to such action and his or her grounds therefore.

5.18 Decisions

A. Decisions. All decisions rendered by the Commission at the conclusion of a hearing shall be in writing. Parties shall be notified either in Person, or by mail, or electronic transmittal of any order. Included in the final order shall be a separate notice advising the parties of the availability of judicial review, the appeal period and the procedure for filing an appeal, and providing a reference to the statutory authority.

B. Withdrawal of Exhibits. After a Decision has become final and all appeal periods have lapsed the Commission may in his/her discretion, upon motion, permit the withdrawal of original exhibits or any part thereof by the Party or Person entitled thereto.

5.19 Consent Order or Withdrawal

A. Negotiations. At any time prior to rendering a final decision, parties to a hearing may attempt to dispose of a matter by entering into a consent order. A joint request for a stay of a hearing for this purpose shall be forwarded to the Commission and shall indicate the present status of negotiations. If an agreement is not reached within the time period for which the stay was approved, a hearing shall be promptly rescheduled by the Commission.

B. Contents of Agreement. Every agreement shall contain, in addition to an appropriate order, an admission of all jurisdictional facts and express waivers of further procedural steps before the Commission and of the right to appeal and shall also state that such agreement is enforceable as an order of the Director in accordance with procedures prescribed by law. In addition, the agreement may contain a statement that the signing thereof is for settlement purposes only and does not constitute an admission by any Party that the law or regulations have been.

C. Disposition of Proposed Agreement. Upon receiving such agreement, the Commission may:

1. Accept it and issue the order agreed upon;
2. Reject it and reschedule a hearing; or
3. Take such other action as he or she deems appropriate

RULE 6. PETITIONS FOR RULE MAKING, AMENDMENT OR REPEAL

6.01 Petitions - Any interested person may petition the Commission requesting the promulgation, amendment, or repeal of any rule. Hearings on any such petition may be held at the discretion of the Commission.

6.02 Forms - At the top of the page shall appear the wording "Rhode Island State Pilotage Commission". On the left side of the page the following caption shall be set out: "In the Matter of the Petition of (name of Petitioning party) for (appropriate insert)". Opposite the foregoing shall appear the word "Petition". Where the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule together with briefs of any applicable law. Where the petition requests the amendment of repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as a suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule.

RULE 7. DECLARATORY RULINGS

7.01 Petitions - As prescribed by Section 42-35-8, G.L. 1956, as amended, any interested person may petition the Commission for a declaratory ruling. Within a reasonable time, and at the discretion of the Commission, after hearing, the Commission shall:

A. Issue a binding declaratory rule: or
B. Issue a non-binding declaratory ruling: or
C. Notify the person that no declaratory ruling is to be issued.

7.02 Forms - Any interested person petitioning the commission for a declaratory ruling shall generally adhere to the following for such purpose:

At the top of the page shall appear the wording "Before the Rhode Island State Pilotage Commission". On the aft side of the page the following caption shall be set out: "In the Matter of Petition (name of petitioning party) for a Declaratory Ruling." Opposite the foregoing caption shall appear the word "Petition". The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts or argument relied upon in form similar to that applicable to complaints in civil actions before the Superior Courts in this State. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the Superior Courts of this State.

RULE 8. PUBLIC INFORMATION

Members of the general public who may desire to secure information, make submissions or requests in accordance with the applicable statutes of the Commission, register complaints, or to conduct business in any manner whatsoever with the Council may do so in writing delivered to the Commission or may appear in person before the Commission during its regular meeting.

RULE 9. REGULATIONS GOVERNING THE RHODE ISLAND APPRENTICE PILOT PROGRAM FOR BLOCK ISLAND SOUND

These regulations govern jurisdiction, apprentice pilot eligibility and selection, apprentice training, pilot license examinations and licenser, pilot qualification, pilot registration, application fees, safety and liability requirements.

9.1 Purpose:

A. The purpose of these regulations is to establish standards for the promotion and continuance of a centralized, coordinated system of pilot apprentices.

B. Safety shall be the primary objective of the pilotage apprentice program with the most qualified applicants being accepted into the pilot apprentice program.

9.2 Definitions:

- *Apprentice* - an individual approved and certified by the Commissioners who is undergoing an approved pilot training and qualification program.
- *Coast Guard* - the United States Coast Guard
- *Commission* - the Rhode Island State Pilotage Commission.
- *License* - a document issued by the Commissioners to a pilot authorizing that individual to serve as a State pilot on board such vessels requiring the same.
- *Loa* - length overall
- *Pilot of record* - Pilot who shall receive all pilotage fees for the vessel movement.
- *Pilots* - licensed Rhode Island State Pilots.
- *Solo* - to direct the movement, including docking/undocking, of any vessel without any verbal guidance from the State Pilot Board Member
- *Supervising pilot* - any full branch pilot licensed by the State of Rhode Island.
- *State pilot board* -Three (3) Full Branch Pilots appointed by the State Pilotage Commission to supervise the training and instruction of Apprentices

9.3 Requirement for Licensure - No person may be licensed as a pilot without first having successfully completed the required program of apprentice training and qualification and hold a current valid Master's License issued by the US Coast Guard. This is applicable to all licenses.

9.4 Apprentice Selection Process:

A. Applicants for apprenticeship shall be required to have not less than a Master's License with a federal First Class Pilot's endorsement covering the waters of Block Island Sound issued by the US Coast Guard.

B. A non-refundable application fee of $25.00 shall be submitted with each application.

C. Upon determination of eligibility by the Commissioners, copies of the complete applications of eligible applicants will be forwarded to the State Pilot Board.

D. At such times as requested by the State Pilot Board, the commission, after public hearing duly called, deems that the number of licensed pilots is not sufficient, shall certificate from among the eligible applicants the best qualified individual or individuals for apprenticeship. Selection shall be in accordance with selection criteria procedures, based upon numerical ranking promulgated by the Commissioners.

E. Numerical ranking shall be based upon a 200 point system.

• INTERVIEW. Every applicant shall be interviewed by the Commissioners. Each person interviewed shall be assigned from 0 to 50 points based upon objective scoring guidelines published by the Commissioners.

• EXPERIENCE. The commissioners shall assign up to 100 points to any applicant who has validated previous maritime experience and education. Consideration shall be given for experience and education as listed in part 10.6.

• PILOT POTENTIAL. The commissioners shall forward the application files of every eligible applicant to the State Pilot Board who shall consider the documentary evidence submitted with the application, any letters of recommendation received, and other information in the applicant's file. The State Pilot board shall assign, from 0 to 50 points to those applicants whose applications indicate that they have the greatest potential and who the pilots believe are the best qualified to become pilots.

F. The names and ranking of the applicant(s) recommended by the State Pilot Board for certification as apprentice pilots will be submitted to the commissioners along with the names and ranking of the next five highest ranked applicants not recommended.

G. The Commissioners may approve the name(s) recommended by the State Pilot Board or they may return the name(s) for reconsideration.

H. The Commission shall award a Certificate of Apprenticeship to every apprentice they have approved. Said certificate shall terminate upon satisfactory completion of the apprentice training program or upon the termination of the apprentice for cause or resignation.

9.5 Apprentice Citizenship and Physical Requirements

A. Every apprentice applicant must meet the requirements of the Coast Guard for citizenship, physical health, and general federal licensure as contained in 46 CFR 10.201 - 10.223.

B. All apprentice applicants must certify and be prepared to demonstrate that they can swim unassisted for a distance of not less than 100 meters and can remain afloat unassisted for a period of not less than fifteen minutes immediately thereafter.

9.6 Apprentice Safety and Liability Requirements:

A. Every apprentice must own an approved and functional VHF hand-held radio and carry, ready for use, such radio on all vessels boarded as an apprentice.

B. Every apprentice must sign documents relieving the State of Rhode Island, the Commissioners, the Pilots Association, pilots, pilot boat crews, pilot boat owners and operators, and examiners from all liability while in the pilot apprentice program.

C. Every apprentice shall own and use such safety equipment, such as personal flotation devices and pilot retrieval gear, approved and required by the pilots or pilot boat owners.

D. Every apprentice must be a part of an approved random drug testing program and pay all costs incurred. Failure to report for testing when called shall be grounds for immediate dismissal from the apprentice pilot program.

9.7 False Statements: Any person who shall make or cause to be made any fraudulent or intentionally false statement on an application, or any other form filed with the Commission is not eligible for the Apprentice Pilot Program or to take an examination for pilot, and shall not be eligible to re-apply for a period of not less than one (1) year.

9.8 Apprentice Maritime Experience and Education Points

A. SAILING EXPERIENCE

The Applicant shall be ranked as set forth below and shall receive the highest rating available for any of the subparts listed in Rule 9.8A upon the Applicant's demonstration to the satisfaction of at least six (6) months responsible service in that capacity.

	Points Allowed
(1) Master of Steam or Motor vessels of over 10,000 Gross Tons	1-5 Points

Points will be allocated according to the types of vessels, service of vessels and amount of ship handling the applicant accomplished. The most valuable experience would be on a variety of coastwise vessels

making repeated port calls and those on which the applicant did a considerable amount of ship handling in challenging situations. The least valuable experience would be on a vessel which sits at anchor or dock for a majority of the time. An oceanographic vessel which spends most of its sea time steaming in open water also would be less valuable. Master's experience in Rhode Island waters would be valuable.

(2) Chief mate of Steam or Motor vessels of over 10,000 Gross Tons 1-4 Points

A Chief Mate experience would be graded based upon the same factors employed above for the grading of experience by a Master. Points would be allocated according to the difficulty and responsibility of the duties preformed by the Chief Mate. For example, the Mate on a coastwise chemical tanker is shouldering more responsibility than a Mate on a container vessel serving most of his/her time on long sea passages.

(3) Second Mate of Steam or Motor vessels of over 10,000 Gross Tons 1-3 Points

The type of vessels, difficulty of the service, and job responsibilities on the vessels would be weighed for the allocation of points. The greatest number of points would be assessed for experience on vessels calling at a variety of ports. The Commission is seeking an applicant who has experienced some of the challenges of piloting on different ships in different situations. Local experience would also be a plus. Increased responsibilities on specific ships would also be weighed. A Second Mate who was responsible for laying out a voyage around the world stopping at many ports would be considered more experienced than a Second Mate on a pre-positioning ship which never left port.

(4) Third Mate of Steam or Motor vessels of over 10,000 Gross Tons 1-2 Points

The greatest number of points would be assessed for experience on a variety of vessels calling at many ports.

(5) Master of Steam or Motor vessels of over 1,600 Gross Tons 1-3 Points

The service of the vessels, the amount of ship handling and the difficulty of such would weigh heavily in the assessment of points. If it is a small research vessel spending most of its time in open waters, the applicant's score would be lower. A vessel in service in local waters where the applicant is doing a lot of challenging would score higher.

(6) Mate of Steam or Motor vessels of over 1,600 Gross Tons 1-2 Points
Same as subpart (5) above.

(7) Master of Tug/Barge Combinations 1- 2 Points

Local experience would be more valuable. The type and amount of ship handling involved in the service would be weighed.

(8) Mate of Tug/Barge Combination 1 Point

Same as subpart (7) above.

(9) USN/USCG Commanding officer 1-4 Points

The applicant would be scored according to the same parameters laid out in subpart (1) above for the Master of Vessels over 10,000 GRT category.

(10) USN/USCG OOD Underway of vessels over 400' LOA 1-2 Points

The applicant would be scored according to the variety of vessels he/she has served upon and the challenges of that service. Experience maneuvering a vessel in close quarters situations is more valuable than experience in open waters.

(11) Recency of Applicable Experience 1-5 Points

An applicant currently employed on vessels dealing with situations comparable to those he/she would see as a pilot would be awarded the most points. An applicant who may have had such experience but has been doing other work for some years would receive fewer points. All experience would be weighed according to applicability to piloting. An applicant teaching ship handling would be awarded points but fewer points than an applicant currently employed ship handling.

B. FURTHER PROFESSIONAL QUALIFICATION

(1) Ship handling Training 1-5 Points

Applicants would receive points according to the amount of ship handling training they have received. Basic ship handling would be worth 1 point. Advanced ship handling on a stimulator would be worth an additional point. Training in a manned model course would be worth 2 points. Additional ship handling training would be weighed according to the type of training and whether the applicant took the initiative to get the course on his/her own. Many employers require the training whether the person has an interest or not.

(2) Federal Pilotage 1-5 Points

An applicant with a Federal Pilotage endorsement will receive one point. An applicant who has worked under an endorsement will be scored according the difficulty of service and its applicability to pilot service Rhode Island waters.

(3) Other Marine Activities 1-5 Points (each)

Applicants who have shown an interest and gained experience in applicable maritime activities will be given points according to their achievements. As an example, an applicant who has a Masters degree in Marine Affairs would receive two points. An applicant who has extensive experience sailing in Rhode Island and thereby has a very high degree of familiarity with our waters would be given a point. Awards for maritime activities, work on local ferries, work on tugs docking ships and all applicable experience in maritime activities would be considered. No single activity would be weighed 5 points.

(4) Simulators. The applicant must have a certificate of competency issued for the following courses, or equivalent, issued by a simulator facility approved by the Commission.

Bridge Team Training	5 Points
Basic Ship handling	5 Points
Advanced Ship handling	10 Points

(5) Education. The applicant shall be ranked as set forth below and shall receive the highest rating available for any one of the subparts listed in Rule 9.8B(5) upon the applicant's demonstration to the satisfaction of the Commission of the satisfactory completion of a recognized course of study at an institution in any one of the following categories:

(a) State or Federal Maritime Academy	5 Points
(b) US Naval Academy/USCG Academy	4 Points
(c) College	3 Points

(6) Pilot Licenses. Upon the applicant's demonstration to the satisfaction of the Commission receipt of USCG Issued First Class Pilot, Unlimited Tons License(s) in any of the categories listed below, the applicant shall be awarded the points listed below for that respective license(s):

Brenton Reef to Providence	1 Point
Brenton Reef to Fall River	1 Point
Brenton Reef to Davisville	1 Point
Brenton Reef to West Passage	1 Point
Rhode Island Sound	1 Point
Rhode Island State Transit license for Fall River	10 Points

(7) Pilotage Experience. Validated pilot of record 25 trips with a First Class Unlimited Tons pilot license issued by the USCG.

On vessels of 4,000 dwt to 10,000 dwt	1 to 5 Points
On vessels over 100,000 dwt	1 to 10 Points
On vessels over 10,000 dwt but not over 100,000 dwt	1 to 15 Points
Pilot of record in Narragansett Bay, 3 round trips	1 to 20 Points

9.9 Apprentice Training course curriculum

A. Satisfactory completion of the Apprentice Training Course as approved by the Commissioners requires that the apprentice must have satisfactorily completed a minimum of fifteen (15) round trips with a State licensed pilot, five (5) of which while holding valid federal first class pilots license over the waters of Block Island Sound. The apprentice must be accompanied by a Supervising Pilot and the Supervising Pilot shall be the pilot of record.

B. General Curriculum Requirements.

1. The curriculum of the approved course require that apprentices learn to direct the movement of vessels, apply the proper rules of the nautical road and other maritime procedures, interface and coordinate with the ships officers and crew, other affected vessels and facilities, and record certain information. During each vessel movement to which the apprentice is assigned, the apprentice shall accompany the licensed pilot assigned to the vessel. The licensed pilot serves as the Supervising Pilot and interacts with the apprentice in the observational and learning process. The ultimate result of the training is marked by the apprentice's satisfactory piloting of vessels under supervision of the various Supervising Pilot assigned to those movements without the need for those pilots to offer coaching or verbal guidance.

2 In addition to the above, the progress of every apprentice must be marked semi-annually during his or her term of apprentice training by the supervising-pilots with whom they have received instruction in the areas of:

a. Attitude and Demeanor

- Attire suitable for the particular job.
- Reporting on time to the pilot boat or ship.
- Wearing proper safety equipment.
- VHF Radio
- Attitude towards office personnel, pilot boat crews, other apprentices, pilots, agents, tugboat crews, ships officers and crews.
- Enthusiasm for the training program.
- Alertness during breaking and while observing other pilots and handling the vessel

b. Voyage Planning

- All relevant publications studied.
- Safe Tracks and Courses.
- Knows dangers of the route and safety margins.
- Tides calculated.
- UKC and Sky draft calculated.
- Currents calculated and effects considered.
- ETA's and distances known.
- Relevant VHF channels known.
- Major lights and buoys known, including light characteristics, sound signals, and dangers they mark.
- Knows names of major landmarks.
- Knows weather forecasts and historic weather patterns.
- Has contingency plans for vessel emergencies.
- Parallel indexing planned
- Local knowledge of unpublished ranges, depths, navigational aids, and currents.

c. Piloting Skills

- Briefing of Master and Officers.
- Meeting vessels anticipated and passed safely.
- Proper VHF procedures and security calls made.
- Master, mates, engine room kept informed.
- ETA's maintained or updated and office informed.
- Proper helm orders given.
- Position fixed and methods used.
- Margins of safety maintained.

- Optimum use of all navigational aids.
- Parallel indexing used.
- Safe speed maintained.
- Efficient lookout maintained.
- Lights and aids properly identified.
- Proper use of bridge personnel.
- Emergencies effectively dealt with.
- Bridge presence.
- Self-control and confidence.
- Conduct under pressure.
- Vessel kept on track.
- Passing signals given.
- Restricted visibility procedures used.
- Rules of the road observed.
- Resourcefulness
- Adaptability

d. Ship handling Skills

- Practical knowledge of basic ship handling principles.
- Ability to maintain the vessel in a safe position
- Decision making under stress
- Decision making with lack of complete information.
- Assessment of approach speeds.
- Assessment of vessels position when stopping or turning.
- Assessment of the effects of wind or current.
- Use of tugs, anchor, or thruster to best advantage.
- Use of lines to best advantage.
- Keeps tugs safe.
- Practical knowledge of basic tug make-ups and limits.

3. Every apprentice must receive satisfactory grades from the pilot-examiners during each semi-annual progress report period. A 3.2 grade point average on a 4.0 scale in every area of grading is required as the minimal satisfactory grade. This minimal grade shall be obtained during the final progress report period in order for an apprentice to receive a certificate that he or she has satisfactorily completed this training course. The State Pilot Board shall, at least semi-annually, advise each apprentice regarding his or her progress and shall also advise the Commissioners.

4. Failure to receive satisfactory grades during the apprentice training course can result in the termination of the apprentice training program for any apprentice, at any point in the program, by the commissioners.

5. Failure to actively participate in the apprentice training program in any report period, without the specific approval of the State Pilot Board, can result in the termination of the apprentice by the Commissioners.

6. The discovery that any apprentice fails to satisfy the physical requirements for federal license shall be just cause for the termination of any such apprentice without regard to the grades received in the apprentice training course.

7. In order to satisfactorily complete this training course, every apprentice must solo to the satisfaction of The State Pilot Board on all routes, day or night, ebb or flood tides and on any size and category of vessel calling in Rhode Island.

C. Upon satisfactory completion of the approved apprentice training course, the apprentice will be awarded a Certificate of Completion by the State Pilot Board.

D. Upon the successful completion of the apprenticeship training and qualification program, including certification by the State Pilot Board of satisfactory completion of the apprentice training course, the State Pilot Board shall provide the commissioners with the name of every successful apprentice along with their recommendations regarding his or her prospective licensure by the Commission.

E. The complete training record of every apprentice so recommended shall be brought before the commissioners at the time such apprentice's name is presented.

F. Nothing shall prohibit the Commissioners from periodically reviewing the progress of any apprentice undergoing training, and reviewing the progress reports on every apprentice that have been submitted by the pilots.

9.10 Examination of Apprentices

A. The Commission shall supervise the administration of a written examination, to every candidate for pilot licensure. Each apprentice shall be examined relative to his or her qualifications for the Office of Pilot, and shall be examined in particular concerning their knowledge of tide,

depth, bearing, and distances of the shoals, rocks and bars, points of land and night lights within the waters of Block Island Sound and its approaches, that area bounded to the east by the Narragansett Bay traffic lane and bounded to the west by the race, and also touching any other matters related there to which the Commission may deem proper.

B. The minimum passing grade shall be specified by the Commission on each part of the written test furnished to the applicant.

C. The Commission may in its own judgment and discretion, re-examine an applicant found to be deficient in any subject.

D. The State Pilot Board shall provide the board of examiners written documentation relative to the qualifying piloting experience of the license candidate. The Commission shall be unanimously satisfied that the evidence of experience provided adequately demonstrates the necessary experience for licensure.

E. The Commission shall orally examine each candidate for licensure with spontaneous questions and discussion. These questions shall be equal in importance and difficulty.

9.11 Written Test: Cheating or other unauthorized conduct.

A. Except as authorized by the commission, no person may:

1. Copy, or intentionally remove, a written test.
2. Give to another, or receive from another, any part or copy of the test.
3. Give help on that test to, or receive help on that test from any person during the period that the test is being given.
4. Take any part of that test on behalf of another person.
5. Use any material or aid during the period that the test is being given.
6. Intentionally cause, assist, and participate in any act prohibited by this paragraph.

B. Any person whom the Commission finds to have committed an act prohibited by Paragraph (A) of this section is not eligible to receive any license granted pursuant to Chapter 46-9 or 46-9.1, or to take any test for a period of not less than one year.

9.12 Probationary Licensure

A. Every apprentice pilot shall be issued an original probationary license after fulfilling the following requirements:

1. Successful completion of the Pilot Apprentice Program.

2. Successful passing examinations as required in sections: 10.8A, 10.8B, 10.8C and 10.8E

3. Providing documentation of compliance with such rules and regulations.

9.13 License Renewal:

A. Prior to the expiration of a state pilot license, the Commission shall notify the licensee of the expiration date and supply the licensee with necessary license renewal forms.

B. Not later than 30 days after the expiration date of the expired license, the licensee shall supply the Commission with the completed renewal forms and a photocopy of his Federal Master's License and pilotage endorsement and said renewal fee.

RULE 10. REGULATIONS GOVERNING THE RHODE ISLAND APPRENTICE PILOT PROGRAM FOR NARRAGANSETT BAY

These regulations govern jurisdiction, apprentice pilot eligibility and selection, apprentice training, pilot license examinations and licenser, pilot qualification, pilot registration, application fees, safety and liability requirements.

10.1 Purpose:

A. The purpose of these regulations is to establish standards for the promotion and continuance of a centralized, coordinated system of pilot apprentices.

B. Safety shall be the primary objective of the pilotage apprentice program with the most qualified applicants being accepted into the pilot apprentice program.

10.2 Definitions:

- *Apprentice* - an individual approved and certified by the Commissioners who is undergoing an approved pilot training and qualification program.
- *Coast Guard* - the United States Coast Guard
- *Commission* - the Rhode Island State Pilotage Commission.
- *License* - a document issued by the Commissioners to a pilot authorizing that individual to serve as a State pilot on board such vessels requiring the same.
- *Loa* - length overall
- *Pilot of record* -Pilot who shall receive all pilotage fees for the vessel movement.

- *Pilots* - licensed Rhode Island State Pilots.
- *Solo* - to direct the movement, including docking/undocking, of any vessel without any verbal guidance from the State Pilot Board Member
- *Supervising pilot* - any full branch pilot licensed by the State of Rhode Island.
- *State pilot board* -Three (3) Full Branch Pilots appointed by the State Pilotage Commission to supervise the training and instruction of Apprentices

10.3 Requirement for Licensure

No person may be licensed as a pilot without first having successfully completed the required program of apprentice training and qualification and hold a current valid license as "Master of Steam or Motor Vessels of any Gross Tons upon Oceans" issued by the US Coast Guard. This is applicable to all licenses.

10.4 Apprentice Selection Process:

A. Applicants for apprenticeship shall be required to have not less than a "Master of Steam or Motor Vessels of any Gross Tons upon Oceans" issued by the US Coast Guard.

B. Possess a current valid pilot's license issued by the State of Rhode Island for the waters of Block Island Sound.

C. Possess a current valid federal first class pilot's endorsements covering the following waters: Rhode Island Sound Narragansett Bay (East Passage) Providence River to Providence Quonset and Davisville Channels Mount Hope Bay and Tiverton Channels

D. Posses a current annual medical certificate issued by the Commission.

E. A non-refundable application fee of $100.00 shall be submitted with each application.

F. Upon determination of eligibility by the Commissioners, copies of the complete applications of eligible applicants will be forwarded to the State Pilot Board.

G. At such times as requested by the State Pilot Board, the commission, after public hearing duly called, deems that the number of licensed pilots is not sufficient, shall certificate from among the eligible applicants the best qualified individual or individuals for apprenticeship possessing current valid federal first class pilot's endorsement covering the sections of the waters of this state required by the commission rules to meet the demands of commerce as determined by public

hearing. Selection shall be in accordance with selection criteria procedures, based upon numerical ranking, promulgated by the Commissioners.

H. Numerical ranking shall be based upon a 200 point system.

1. INTERVIEW. Every applicant shall be interviewed by the Commissioners. Each person interviewed shall be assigned from 0 to 50 points based upon objective scoring guidelines published by the Commissioners.

2. EXPERIENCE. The commissioners shall assign up to 100 points to any applicant who has validated previous maritime experience and education. Consideration shall be given for experience and education as listed in part 10.6.

3. PILOT POTENTIAL. The Commissioners shall forward the application files of every eligible applicant to the State Pilot Board who shall consider the documentary evidence submitted with the application, any letters of recommendation received, and other information in the applicant's file. The State Pilot board shall assign from 0 to 50 points to those applicants whose applications indicate that they have the greatest potential and who the pilots believe are the best qualified to become pilots.

I. The names and ranking of the applicant(s) recommended by the State Pilot Board for certification as apprentice pilots will be submitted to the commissioners along with the names and ranking of the next five highest ranked applicants not recommended.

J. Commissioners may approve the name(s) recommended by the State Pilot Board or they may return the name(s) for reconsideration.

K. The Commission shall award a Certificate of Apprenticeship to every apprentice they have approved. Said certificate shall terminate upon satisfactory completion of the apprentice training program or upon the termination of the apprentice for cause or resignation.

10.5 Apprentice Citizenship and Physical Requirements:

A. Every apprentice applicant must meet the requirements of the Coast Guard for citizenship, physical health, and general federal licensure as contained in 46 CFR 10.201 - 10.223.

B. All apprentice applicants must certify and be prepared to demonstrate that they can swim unassisted for a distance of not less than 100 meters and can remain afloat unassisted for a period of not less than fifteen minutes immediately thereafter.

10.6 Apprentice Safety and Liability Requirements:

A. Every apprentice must own an approved and functional VHF hand-held radio and carry, ready for use, such radio on all vessels boarded as an apprentice.

B. Every apprentice must sign documents relieving the State of Rhode Island, the Commissioners, the Pilots Association, pilot, pilot boat crews, pilot boat owners and operators, and examiners from examiners from all liability while in the pilot apprentice program.

C. Every apprentice shall own and use such safety equipment, such as personal flotation devices and pilot retrieval gear, approved and required by the pilots or pilot boat owners.

D. Every apprentice must be a part of an approved random drug testing program and pay all costs incurred. Failure to report for testing when called shall be grounds for immediate dismissal from the apprentice pilot program.

10.7 False Statements

Any person who shall make or cause to be made any fraudulent or intentionally false statement on an application, or any other form filed with the Commission is not eligible the Apprentice Pilot Program or to take an examination for pilot and shall not be eligible to re-apply for a period of not less than one (1) year.

10.8 Apprentice Maritime Experience and Education Points:

A. Sailing Experience. The Applicant must have at least 6 months validated time to qualify.
- Master of Steam or Motor vessels of over 10,000 Gross Tons 5 points
- Chief Mate of Steam or Motor vessels of over 10,000 Gross Tons 4 points
- 2nd Mate of Steam or Motor vessels of over 10,000 Gross Tons 3 points
- 3rd Mate of Steam or Motor vessels of over 10,000 Gross Tons 2 points
- Master of Steam or Motor vessels of over 1,600 Gross Tons 3 points
- Mate of Steam or Motor vessels of over 1,600 Gross Tons 2 points
- Master of Tug/barges 2 points
- Mate of Tug/barges 1 point
- USN/USCG Commanding officer of vessels over 400' LOA 4 points
- OOD Underway of Vessels over 400' LOA 2 points

B. Simulators. The applicant must have a certificate of competency issued for the following courses or equivalent, issued by a simulator facility approved by the Commission.
- Bridge Team Training 5 Points

- Basic Ship handling 5 points
- Advanced Ship handling 10 points

C. Education. Graduate from and approved educational facility

- State or Federal Maritime Academy 5 Points
- US Naval Academy 4 points
- College 3 points

D. Pilot Licenses. USCG Issued First Class Pilot, Unlimited Tons.

- Brenton Reef to Fall River 1 Point
- West Passage 1 point
- Rhode Island State Transit license for Fall River 10 points

E. Pilotage Experience. Validated pilot of record 25 trips with a First Class Unlimited Tons pilot license issued by the USCG.

- On vessels of 4,000 dwt to 10,000 dwt 1 to 5 Points On vessels over 100,000 dwt 1 to 10 " On vessels over 10,000 dwt but not over 100,000 dwt 1 to 15 " Pilot of record in Narragansett Bay, 3 round trips 1 to 20”

10.9 Apprentice Training Course Curriculum:

A. Satisfactory completion of the Apprentice Training Course as approved by the Commissioners requires that the apprentice must have satisfactorily completed a minimum of fifteen (15) round trips with a State licensed pilot, five (5) of which while holding valid federal first class pilots license over the waters of Narragansett Bay including Brenton Reef to Providence, Davisville Channel and Mount Hope Bay. The apprentice must be accompanied by a Supervising Pilot and the Supervising Pilot shall be the pilot of record.

B. General Curriculum Requirements

1. The curriculum of the approved course require that apprentices learn to direct the movement of vessels, apply the proper rules of the nautical road and other maritime procedures, interface and coordinate with the ships officers and crew, other affected vessels and facilities, and record certain information. During each vessel movement to which the apprentice is assigned, the apprentice shall accompany the licensed pilot assigned to the vessel. The licensed pilot serves as the Supervising Pilot and interacts with the apprentice in the observational and learning process. The ultimate result of the training is marked by the apprentice's satisfactory piloting of vessels under supervision of the various Supervising Pilots assigned to those movements without the need for those pilots to offer coaching or verbal guidance.

2. In addition to the above, the progress of every apprentice must be marked semi-annually during his or her term of apprentice training by the Supervising Pilots with whom they have received instruction in the areas of:

a. Attitude and Demeanor
    - Attire suitable for the particular job.
    - Reporting on time to the pilot boat or ship.
    - Wearing proper safety equipment.
    - VHF Radio
    - Attitude towards office personnel, pilot boat crews, other apprentices, pilots, agents, tugboat crews, ship officers and crews.
    - Enthusiasm for the training program.
    - Alertness during breaking and while observing other pilots and handling the vessel

b. Voyage Planning
    - All relevant publications studied.
    - Safe Tracks and Courses.
    - Knows dangers of the route and safety margins.
    - Tides calculated.
    - UKC and Sky draft calculated.
    - Currents calculated and effects considered.
    - ETA's and distances known.
    - Relevant VHF channels known.
    - Major Lights and buoys known, including light characteristics, sound signals, and dangers they mark.
    - Knows names of major landmarks.
    - Knows weather forecasts and historic weather patterns.
    - Has contingency plans for vessel emergencies.
    - Parallel indexing planned
    - Local knowledge of unpublished ranges, depths, navigational aids, and currents.

c. Piloting Skills
    - Briefing of Master and Officers.
    - Meeting vessels anticipated and passed safely.
    - Proper VHF procedures and security calls made.
    - Master, mates, engine room kept informed.
    - ETA's maintained or updated and office informed.
    - Proper helm orders given.

- Position fixed and methods used.
- Margins of safety maintained.
- Optimum use of all navigational aids.
- Parallel indexing used.
- Safe Speed Maintained.
- Efficient lookout maintained.
- Lights and aids properly identified.
- Proper use of bridge personnel.
- Emergencies effectively dealt with.
- Bridge presence.
- Self-control and confidence.
- Conduct under pressure.
- Vessel kept on track.
- Passing signals given.
- Restricted visibility procedures used.
- Rules of the road observed.
- Resourcefulness
- Adaptability

d. Ship handling Skills

- Practical knowledge of basic ship handling principles.
- Ability to maintain the vessel in a safe position
- Decision making under stress:
- Decision making with lack of complete information.
- Assessment of approach speeds.
- Assessment of vessels position when stopping or turning.
- Assessment of the effects of wind or current.
- Use of tugs, anchor, or thruster to best advantage.
- Use of lines to best advantage.
- Keeps tugs safe.
- Practical knowledge of basic tug make-ups and limits.

3. Every apprentice must receive satisfactory grades from the State Pilot Board during each semi-annual progress report period. A 3.2 grade point average on a 4.0 scale in every area of grading is required as the minimal satisfactory grade. This minimal grade shall be obtained during the final progress report period in order for an apprentice to receive a certificate that he or she has satisfactorily completed this training course. The

State Pilot Board shall, at least semi-annually advise each apprentice regarding his or her progress and shall also advise the Commissioners.

4. Failure to receive satisfactory grades during the apprentice training course can result in the termination of the apprentice training program for any apprentice, at any point in the program, by the commissioners.

5. Failure to actively participate in the apprentice training program in any report period, without the specific approval of the State Pilot Board, can result in the termination of the apprentice by the Commissioners.

6. The discovery that any apprentice fails to satisfy the physical requirements for federal license shall be just cause for the termination of any such apprentice without regard to the grades received in the apprentice training course.

7. In order to satisfactorily complete this training course, every apprentice must solo to the satisfaction of all the State Pilot Board on all routes, day or night, ebb or flood tides and on any size and category of vessel calling in Rhode Island.

C. Upon satisfactory completion of the approved apprentice training course, the apprentice will be awarded a Certificate of Completion by the State Pilot Board.

D. Upon the successful completion of the apprenticeship training and qualification program, including certification by the State Pilot Board of satisfactory completion of the apprentice training course, the State Pilot Board shall provide the commissioners with the name of every successful apprentice along with their recommendations regarding his or her prospective licensure by the Commission.

E. The complete training record of every apprentice so recommended shall be brought before the Commissioners at the time such apprentice's name is presented.

F. Nothing shall prohibit the Commissioners from periodically reviewing the progress of any apprentice undergoing training, and reviewing the progress reports on every apprentice that have been submitted by the pilots.

10.10 Examination of Apprentices:

A. The Commission shall supervise the administration of a written examination, to every candidate for pilot licensure. Each Apprentice shall be examined relative to his or her qualifications for the Office of Pilot, and shall be examined in particular concerning their Knowledge of tide, depth, bearing, and distances of the shoals, rocks and bars, points of land and night lights within the waters of Block Island Sound and its approaches, that area bounded to the east by the Narragansett Bay traffic lane and bounded to the west by the Race, and also touching any other matters related there to which the Commission may deem proper.

B. The minimum passing grade shall be specified by the Commission on each part of the written test furnished to the applicant.

C. The Commission may in its own judgment and discretion, re-examine an applicant found to be deficient in any subject.

D. The State Pilot Board shall provide the board of examiners written documentation relative to the qualifying piloting experience of the license candidate. The Commission shall be unanimously satisfied that the evidence of experience provided adequately demonstrates the necessary experience for licensure.

E. The Commission shall orally examine each candidate for licensure with spontaneous questions and discussion. These questions shall be equal in importance and difficulty.

10.11 Written Test: Cheating or other unauthorized conduct.

A. Except as authorized by the Commission, no person may
    1. Copy, or intentionally remove, a written test.
    2. Give to another, or receive from another, any part or copy of that test.
    3. Give help on that test to, or receive help on that test from any person during the period that test is being given.
    4. Take any part of that test in behalf of another person.
    5. Use any material or aid during the period that the test is being given.
    6. Intentionally cause, assist, and participate in any act prohibited by this paragraph.

B. Any person whom the Commission finds to have committed an act prohibited by paragraph (A) of this section is not eligible to receive any license granted pursuant to Chapter 46-9 or 46-9-1, or to take any test for a period of not less than one year.

10.12 Probationary Licensure:

A. Every apprentice pilot shall be issued an original probationary license after fulfilling the following requirements:

1. Successful completion of the Pilot Apprentice Program.
2. Successful passing examinations as required in sections: 10.8A, 10.8B, 10.8C and 10.8E
3. Providing documentation of compliance with such rules and regulations.

10.13 License Renewal:

A. Prior to the expiration of a state pilot license, the Commission shall notify the licensee of the expiration date and supply the licensee with necessary license renewal forms.

B. Not later than 30 days after the expiration date of the expired license, the licensee shall supply the Commission with the completed renewal forms and a photocopy of his Federal Master's License and pilotage endorsement and said renewal fee.

RULE 11. RHODE ISLAND STATE PILOTAGE COMMISSION RULES AND REGULATIONS CLASSIFICATION OF BLOCK ISLAND PILOTS

Classification of Block Island sound pilots as defined in Chapter 46-9.1-2 (2)

11.01 There shall be three (3) classes of Licenses to act as a Block Island Sound Pilot, a probationary pilot, a limited pilot, and a Branch pilot.

11.02. A probationary license shall be issued to a successful applicant who has never previously held a Block Island Sound Pilot license. A probationary license shall not be renewed, except by a unanimous vote of the Commission. Such License shall expire after one (1) year.

11.03 An original probationary license shall not authorize the holder thereof to act as a pilot of vessels drawing more than thirty-six (36) feet of water or of more than thirty thousand (30,000) gross tons burden, that six (6) months after the issuance of such probationary license, the State Pilotage Commission shall review the probationary licensee's record of pilotage and may increase the draft and tonnage of vessels. Such licensee may thereafter pilot, but in no case in excess of the draft and tonnage for vessels a limited licensed pilot may pilot.

11.04. During the period of the probationary license, the State Pilotage Commission may, after consideration of a probationary licensee's pilotage record, revoke said license for inactivity or for other just cause.

11.05 At the expiration of a probationary license, the Commission shall review such applicant, and, based on his ability, knowledge, aptitude and skills either decline to issue any license to the applicant or shall issue a limited or full branch license.

11.06 A limited license shall be issued to a successful applicant whose ability, knowledge, aptitude and skill do not qualify such applicant for a branch license. Such license may be renewable.

11.07 A limited license shall not authorize the holder thereof to act as a pilot of vessels of more than sixty thousand (60,000) gross tons.

11.08 The holder of a probationary or limited license may six (6) months after the issuance of either such license, apply to the Commission for review and revision of his license states at any time, but not more often than once in any three (3) months.

11.09 A branch license shall authorize the holder thereof to act as a pilot on Block Island Sound without restriction. Such License may be renewed.

RULE 12 CLASSIFICATION OF RHODE ISLAND PILOTS FOR WATERS NORTH OF LINE FROM POINT JUDITH TO SAKONNET POINT AS DEFINED IN R.I. GEN. LAWS SECTION 46-9-2.

12.01 There shall be three (3) classes of Licenses to act as a Rhode Island pilot, a probationary pilot, a limited pilot, and a full branch pilot.

12.02 A probationary License shall be issued to a successful applicant who has never previously held a Rhode Island pilot license. A probationary License shall not be renewed, except by a unanimous vote of the Commission. Such License shall expire after one (1) year.

12.03 The holder of an original probationary license is strictly prohibited from acting as a pilot of any vessels with the exception of the following vessels:

A. During the first (6) months that a holder possesses said license, he/she shall be limited to vessels of no more than twenty-five thousand (25,000grt.) gross tons and which further possess draft restrictions in compliance with the following:
    1. During the first two (2) months that a holder possesses said license, the draft shall not exceed (30) feet; and
    2. During the third and fourth months that a holder possesses said license, the draft shall not exceed thirty- two (32') feet; and
    3. During the fifth and sixth months that a holder possesses said license, and until such time that the Commission modifies the type of vessel the holder is authorized to pilot, the draft of the vessel being piloted shall not exceed thirty-four (34') feet.

B. The State Pilotage Commission shall review the licensee's record of performance during his/her first six (6) months of service with a probationary license. On the basis of said review, the Commission may reduce the restrictions on the vessels for which the licensee is authorized to pilot to the following extent:

1. The Commission may permit the licensee to pilot any vessel of no more than twenty-five thousand (25,000grt) gross tons regardless of draft on said vessel; and
2. The Commission may also permit the licensee to pilot vessels of more than thirty thousand (30,000grt) gross tons which further possess draft restrictions in compliance with the following:
    a. During the first two (2) months that a holder possesses said license, the draft shall not exceed thirty (30') feet; and
    b. During the third and fourth months that a holder possesses said license, the draft shall not exceed thirty-two (32') feet; and
    c. During the fifth and sixth months that a holder possesses said license, and until such time that the Commission modifies the type of vessel the holder is authorized to pilot, the draft of the vessel being piloted shall not exceed thirty-four (34') feet.

12.04 During the period of the probationary license, the State Pilotage Commission may, after consideration of a probationary licensee's pilotage record, revoke said license for inactivity or for other just cause.

12.05 A probationary license shall authorize the holder thereof to act as a pilot only on such routes for which the Commission finds him qualified and certifies thereto by an endorsement on each such license.

12.06 At the expiration of a probationary license, the Commission shall review such applicant, and, based on his ability, knowledge, aptitude and skill either decline to issue any license to the applicant or shall issue a limited or full Branch license.

12.07 A limited license shall expire as provided in Section 46-9-11 of the General Laws, and shall be issued to a successful applicant whose ability, knowledge, aptitude and skill do not qualify such applicant for a full branch license. Such license may be renewable.

12.08 A limited license shall not authorize the holder thereof to act as a pilot of vessels of more than sixty thousand (60,000) gross tons, nor shall it authorize the holder thereof to act as a pilot except on such routes for which the Commission finds the holder qualified and certified thereto by an endorsement on each such license.

12.09 The holder of a probationary or limited license may six (6) months after the issuance of either such license, apply to the Commission for review and revision of his license status at any time, but not more often than once in any three (3) months.

1. A Full Branch License shall authorize the holder thereof to act as a pilot without restriction. Such license may be renewed as provided in Section 46-9-11.

2. The Commission may, after the notice and hearing, revise the license status of the holder or any class of License, and may revoke or restrict any such License, and issue a lower class of license.

RULE 13 PILOTAGE SYSTEM FOR THE WATERS OF NARRAGANSETT BAY AND ITS TRIBUTARIES.

13.01 Every pilot licensed by the Rhode Island State Pilotage Commission pursuant to Chapter 46-9 of the General Laws of Rhode Island, as amended, of Limited or Full Branch Class and of active status, shall be collectively responsible for the maintenance of a State Pilotage System for the state waters north of a line from Point Judith to Sakonnet Point. The Pilotage System shall incorporate but not be limited to the following:

A. The maintenance of a roster of all active, status pilots licensed pursuant to Chapter 46-9 of the General Laws of Rhode Island, as amended, available in a rotation system to serve the needs of commerce, and to insure the equal distribution of pilotage and responsibility for the maintenance of the pilotage system.

B. The maintenance of a pilot station in Rhode Island Sound, including the necessary pilot boats, equipment and personnel as may be required.

C. The appointment by the roster of pilots of an agent responsible for the centralized billing and collection of all pilotage fees and the equitable distribution of such fees and expenses for the maintenance of said system.

D. The maintenance of a pilot apprenticeship training program pursuant to Chapter 46-9-7 (10) of the G.L.R.I., to train applicants who have applied to the Commission for a State Pilot license and who have been designated by the Commission for such training.

E. The responsibility for the operation and maintenance of certain state-owned property or equipment allotted to the roster for use to insure and effective operation of the Pilotage system.

F. The adoption by the roster of pilots of rules, approved by the Pilotage Commission, for the daily operation of said system.

G. In the interpretation of this rule, active status shall mean a pilot who holds a valid Rhode Island State Pilot's License issued pursuant to Chapter 46-9 G.L.R.I., for the waters of Narragansett Bay and its tributaries, who has a current medical certificate, who is a participant in an approved Federal Department of Transportation Random Drug Testing Program, who is in compliance with recency of trip requirements, and who is not retired but licensed, or on a leave of absence approved by the Pilotage Commission.

H. No pilot licensed pursuant to Chapter 46-9 G.L.R.I., other than while acting in conjunction with his Massachusetts District 4 Pilot Commission, shall exercise the office of his license other than through the aforementioned pilots roster pursuant to its rules, nor shall he bill for services rendered other than through the aforementioned pilots agent.

I. The failure of a pilot to comply with the provisions of this rule shall be deemed "Misconduct or Neglect of Duty Detrimental to the Business of Piloting" and shall be subject to the provisions of Chapter 46-9-22 (1) and 46-9-22.1 (2) G.L.R.I., as amended.

RULE 14 PILOT BOATS RULES AND REGULATIONS

14.01 -Certificate of Compliance

The owner or operator of a pilot boat used for the purpose of boarding or disembarking any Rhode Island State Licensed Pilot in the territorial waters of Rhode Island ~~Sound, Block Island Sound, and Narragansett Bay~~ shall secure from and hold a valid "Certification of Compliance", issued annually by the Rhode Island State Pilotage Commission. Said certificate shall be conspicuously displayed on the pilot boat to show that it is manned and operated in compliance with the Rules and Regulations of the State Pilotage Commission. The Commission may suspend or revoke the ~~above certificate for any infraction of~~ license of any Rhode Island State Licensed Pilot if the Commission ~~determines~~ finds that said Rhode Island State Licensed Pilot has boarded or disembarked a vessel in the territorial waters of Rhode Island utilizing a pilot boat that does not possess a valid "Certification of Compliance" and thereby failed to ensure the health, safety, and welfare of the residents of the State of Rhode Island and the individuals utilizing the waters of the state.

14.02 - Log Book to Be Kept

On board each pilot boat, there shall be kept a log book approved by the State Pilotage Commission, and all appropriate entries shall be made therein by the operator of the pilot boat of all registry and enrolled vessels boarding and disembarking pilots from it. On or before the seventh (7) day of the following month, a copy

of the log shall be forwarded to the State Pilotage Commission. The original log book shall be subject to the inspection of the Commissioners at all times and each log book shall be preserved for reference for a period of not less than seven (7) years thereafter.

14.03 -Inspection and Certification of Pilot Boats

A. The owner or operator of a pilot boat 'used for the purpose of boarding or disembarking any Licensed Pilot on the waters of Rhode Island Sound, Block Island Sound, and Narragansett Bay, shall secure from and hold a valid "Certificate of Compliance" issued annually by the Rhode Island State Pilotage Commission. Said certificate shall be conspicuously displayed on the pilot boat to show that it is manned and operated in compliance with the Rules and Regulations of the State Pilotage Commission. The above certificate may be revoked by the Commission for infractions of Commission Rules and Regulations.
B. The "Certificate of Compliance" will be issued only after vessels have been inspected and found to be satisfactorily in compliance with the safety standards and regulations as set forth in this Section.
C. A "Certificate of Compliance" will be issued for a period of one (1) year. All pilot boats will be inspected annually and within the sixty (60) day period immediately preceding the expiration date of the existing "Certificate of Compliance".
D. For the purpose of receiving a "Certificate of Compliance", pilot boats will be inspected by a U.S. Coast Guard Inspection Officer or by a certified marine surveyor or inspector, authorized by the Pilotage Commission. Any deficiencies noted by the inspection officer shall be corrected by the pilot boat owner to the satisfaction of the Commission prior to the issuance or renewal of the "Certification of Compliance".
E. For the purposes of receiving a Certificate of Compliance", a pilot boat must satisfy the standards set forth in the U. S. COAST GUARD REQUIREMENTS FOR UNINSPECTED PASSENGER VESSELS (For The Atlantic District) a copy of which is attached hereto and designated as Appendix #2 and which the Commission incorporates by reference pursuant to R.I. Gen. Laws Section 42-35-3.2.

14.04 -Complement of Pilot Boat

The crew of every pilot boat engaged in the service of transporting pilots to and from vessels shall consist of the operator of the boat (federally licensed to carry persons for hire) and at least one (1) other qualified person whose duties shall include in particular, the safety of the pilot in embarking and disembarking and the protection of life and property in general.

14.05 - Additional Equipment on Pilot Boats

In addition to the equipment required by Rule 40.03 and its subsections, every pilot boat subject to certification by the State Pilotage Commission shall be equipped with the following items which shall be maintained in good working order:

- Radar.
- Life Raft - A Commission approved self-inflatable life raft (Renene, Avon, or equivalent) of six (6) person capacity, in a canister, fixed on a deck with a Coast Guard approved hydrostatic release or installed on a float free installation. Said life raft and release shall be tested by a Coast Guard approved inspection station every twelve (12) months.
- Radios -Two (2) fixed VHF radio Tran receivers with appropriate frequencies. Said radios shall be independent of each other including its antennae.
- Flood Lights -Every vessel shall be fitted with floodlights on the mast or superstructure in a manner to light the fore deck and boarding area at night.
- Ladder on Stern -Every vessel shall have fixed on the stern ladder rounds or means to enable a person in the water to be retrieved.
- Work Vest -In addition to the required life preservers to be carried on board, every vessel shall supply the required deck hand and operator with a Coast Guard approved float work vest.
- Survival Suits -During the winter months, October 1st through June 1st, every pilot boat shall have on board three (3) Coast Guard approved survival suits stored in an approved manner. Said suits shall be inspected by a Coast Guard approved inspection station every 24 months.

14.06 -Pilots & Pilot Boats, Exception to Rules

In the case of an emergency, or due to conditions beyond the control of the pilot, or the owner, or operator of a pilot boat where Commission Rules and Regulations cannot be observed, said pilot, owner, or operator of said pilot boat shall within 24 hours of reaching shore, shall make a preliminary report to the Pilotage Commission and may be required to give a detailed written report and appear before the Commission in person.

14.07 -Pilot Station

Brenton Reef Pilot Station, at Lat. 41°-23.4'N, Long. 71°-21.2'W (072° - 6 miles from Point Judith Light), is the main pilot station for the boarding of all State Licensed Pilots in the waters of Rhode Island Sound and Block Island Sound. Pilots shall board vessels, when practical, within the boarding area bounded by the following points:

41°-23.6'N 71°-22.4'W
41°-22.6'N 71°-22.0'W
41°-24.2'N 71°-20.0'W
41°-22.61N 71°-20.6'W

Vessels bound to and from Long Island Sound ports may be boarded and disembarked at Point Judith Pilot Station, at Lat. 41°-17.0'N, Long. 71°-31.0'W, (199° - 4.9 miles from Point Judith Light), through prior arrangement with the vessel's agents or the pilots, weather permitting.

The Rhode Island Pilot Approach Communications system shall maintain a watch of VHF Radio Channel #16 at least two (2) hours before the vessel's E.T.A.

RULE 15 PILOTS RULES AND REGULATIONS

15.01 -Application of Rules and Regulations

The Rules and Regulations adopted by the Rhode Island State Pilotage Commission shall be applicable to all pilots licensed by the Commission and by pilot boats in their employment, except in such cases as where it appears from the regulation that it is applicable to Rhode Island pilots (46-9) only, or to Block Island Sound Pilots (46-9.1) only.

15.02 -Pilots and Pilot Boats, Exception to Rules

In the case of an emergency, or due to conditions beyond the control of the pilot, or the owner or operator of a pilot boat where Commission rules and regulations cannot be observed, said pilot, owner or operator of said pilot boat shall within 24 hours of reaching shore shall make a preliminary report to the Pilotage Commission and may be required to give a detailed written report and appear before the Commission in person.

15.03 -Records to Be Kept By Pilots or Their Agent: Report to Commission

The pilot or his agent, shall maintain records and shall when requested report to the Commission, at the office of the Commission, every vessel piloted by him, specifying the name, draft, nationality, where boarded, destination, time of boarding if inward bound, time of leaving if outward bound or transported, extra services rendered, the length of any detention of the pilot on board at an anchorage or elsewhere, the name of any pilot apprentice or other person accompanying him. Such reports shall be made at such time as the Commission may require. The pilots shall also keep records, which at all times shall be open to the Commission and to the personnel of the Commission. If the records so kept do not contain information, which the Commission may think necessary, the Commission shall direct the pilots to keep their records in such manner, as the Commission may think requisite.

15.04 -Absence of Pilot from Duty: Active And Inactive Status: Notification To Commission: Refresher Pages.

A. Whenever any pilot is absent from duty for any cause, whatsoever, for more than sixty (60) days, he/she shall inform the Commission in writing, or cause them to be informed, as to the reason for, and the probable length of his absence from duty.

B. However, any pilot who has been away from duty for a period of six (6) months or longer, or has not completed a passage through the waters of his Commission during this period shall be placed on inactive status and shall complete at two (2) round trip passages over each route for which he is licensed by the Commission before resuming his pilotage duties as an active status pilot. One of the required round trip passages shall be completed during the night time. The refresher passages shall be made as an observer in the company of an active pilot who is licensed by the Commission in the same or higher grade.

C. Furthermore, such pilot, before resuming his pilotage duties, shall submit to the Commission a list of completed refresher passages including the name, gross tons and draft of each ship involved, a description and date of each passage, and the name of the attending pilot. In addition, such pilot may be required to appear before the Commission prior to resumption of his piloting duties.

D. The Commission at its' discretion may require that the pilot present evidence demonstrating that he/she has successfully completed pilot simulation training as designated by the Commission prior to being authorized to return to active status.

15.05 -Vessels Going Aground or Other Accident to Be Reported To Commission by Pilot: Fine for Violation.

In the event of a vessel going aground or meeting with any accident while a pilot is in charge, the pilot or the pilot's agent shall cause the Commission to be notified of the circumstances of said accident or grounding as soon as practical, and not later than two (2) hours following the incident. Further, the pilot shall provide to the Commission within twenty-four (24) hours of the incident with a written report of the circumstances specifying the location and exact time of such grounding or accident and the nature and cause thereof. Every violation of this rule shall be punishable by a fine of $1.000.00.

15.06 -Duty of Master of Vessel-Safety of Pilot: Damages-Penalty

Whenever a vessel is receiving or discharging a pilot, the master of the vessel shall, at the time of boarding, make a lee for the pilot boat and bring his vessel to a full stop or to a speed as directed by the pilot boat, and shall supply a suitable ladder, in safe condition, properly placed and secured over the side to enable the pilot to board or leave the vessel safely. In addition to any damages which may be awarded to a pilot against any vessel or their owners or agents for failing to provide the pilot with a safe means of boarding or leaving the vessel, the owners or agents of any vessel failing to comply with this regulation shall be subject to a penalty of not more than $1,000 and not less than $500.

15.07 -Pilots Use of Certified Pilot Boat

Every Rhode Island State Licensed Pilot when boarding or disembarking any vessel under registry within the waters of Rhode Island Sound, Block Island Sound or in the waters of Narragansett Bay south of the Newport and Jamestown Bridges, shall use only pilot boats which hold a valid certification of compliance issued by the Rhode Island State Pilotage Commission and which shall be conspicuously displayed in said pilot boats.

15.08 -Pilot Station

Brenton Reef Pilot Station (Lat. 41°-23.4'N, Long. 71°-21.2'W a position 150° - 4 miles from Brenton Reef Pilot Light) is the main pilot station for the boarding of all State Licensed pilots in the waters of Rhode Island Sound and Block Island Sound. Pilots shall board vessels, when practical, within the boarding area bounded by the following points:

41°-23.6'N 71°-22.4'W
41°-22.6'N 71°-22.0'W
41°-24.2'N 71°-20.0'W
41°-22.6'N 71°-20.6'W

Vessels bound to and from Long Island Sound ports may be boarded' and disembarked at Point Judith Station, (in position Lat. 41°-17.0'N, Long. 71°-31.0'W at a position of 199°, 4.1 miles from Point Judith Light) through prior arrangement with the vessel's agents or the pilots, weather permitting.

The Rhode Island Pilot Approach Communications System shall maintain a watch on VHF Radio Channel #16 at least two (2) hours before the vessel's E.T.A.

It is strictly prohibited to identify, reference, or contact any vessel in any manner other than by the registered name of said vessel during any radio communication by, with, or on behalf of any pilot or pilot boat.

15.09 -Pilot Boarding, Ending of a Pilot's Services, Assisting In Docking or Undocking and Leaving Vessel Underway, Disembarking:

A. Every pilot shall board incoming vessels at an adequate distance outside the waters of Rhode Island Sound, Block Island Sound, or Narragansett Bay as appropriate in order to insure that he has ample time in order to complete a full master pilot exchange (MPX) to review the vessel's maneuvering characteristics, draft, air draft, any limitations of the engineering plant and navigational equipment, and to assume full control of the vessels' navigation before passing

inbound north of a line due east and west through a position one and one-half (1 1/2) miles south of Beavertail Light if it is intended to enter Narragansett Bay.

B. In addition to conducting the examination described above in Part 15.09 (A), a pilot shall, before commencing any vessel movement, consult with the Master and other relevant deck officers, the vessel's proposed route, including course, speeds, squat, and unique maneuvers that my be encountered.

C. If a pilot should decide on the basis of the facts determined following his/her examination conducted as required pursuant to Parts 15.09 (A) and/or 1509(B) that the movement of the incoming vessel into or continuing the movement of the vessel within the waters of the State would reasonably present a hazard to the health, safety, and welfare of the residents of the State of Rhode Island and/or the individuals utilizing the waters of the state, the pilot should immediately contact the Commission and, if deemed necessary, prevent the vessel from entering the waters of the state, bring the vessel into safe anchorage, or return the vessel to dock or keep the vessel tied up, as may be deemed appropriate by the pilot. The pilot shall remain with the vessel until the vessel is secured.

D. A pilot's services end and he/she is entitled to discharge by the Master of a vessel when he/she has brought the vessel to a safe anchorage or to a position off the pier to which the vessel is bound, unless the Master shall have formally requested the pilot to assist in the docking of a vessel except in those cases in which a pilot has deemed it necessary to exercise his/her authority pursuant to Part 15.09(C). Whenever formally requested by the Master to do so, the pilot of a vessel may assist in either the docking or undocking as such vessel. A pilot shall not leave a vessel underway unless he/she shall have first been properly relieved. Pilots on outbound vessels shall not disembark vessel before clearing seaward of Beavertail Light.

E. A pilot may only permit a master to relieve the pilot for the purposes of docking or berthing the vessel or releasing the vessel’s anchor in anchorage.

15.10 - Quarterly Report - Negative Report

The provisions of Sections 46-9-20 and 46-9.1-8 of the General Laws of Rhode Island pertaining to quarterly reports are to be strictly adhered to. In case no piloting under the provisions of Chapters 46-9 and 46- 9.1 of the General Laws of Rhode Island has been performed during a particular quarter, a negative report shall be filed.

15.11 - Annual Physical Examination -Annual Medical Certificate

A. No person licensed under any provision of Chapter 46-9 and 46-9.1 G.L.R.I. shall perform any pilotage duties under the overall supervision of the Commission unless he has a current "Annual Medical Certificate".

B. Every pilot licensed pursuant to the provisions of Chapter 46-9 and 46-9.1 G.L.R.I., shall annually during the ninety (90) days period preceding December 31st of each year have at his own expense a physical examination.

C. The results of such examinations on forms provided by the Commission shall be filed with the Commission. Among these forms is the examination report form which is attached hereto and designated as “Attachment A.”. In order for a physician to accomplish the annual physical examination of a licensed pilot, the pilot is obligated to provide said physician prior to commencement of the examination with a copy of Attachment A and the physician is required to submit the form to the Commission in order for the Commission to issue the Annual Medical Certificate referenced above in Section 15.11(A).

D. On or before December 31st of each year the Commission shall award said pilot satisfactorily completing the required examinations an "Annual Medical Certificate: for the following year. Said certificate shall be attached to the pilot's license.

E. Should the examining physician consider the health or eyesight of the pilot, such as to render him unfit to perform his required duties, the Commission shall withhold the issuance of an Annual Medical Certificate until such time after re-examination, the physician finds said pilot~~s~~ to be physically fit to perform his duties. The Commission may, on advice of the examining physician, issue a certificate for a shorter period of time or with limitations attached.

F. The "Annual Medical Certificate" shall automatically become suspended when a pilot becomes hospitalized for any purpose for more than seven (7) days or he is absent from duty for more than 30 days to an accident or any illness. Said pilot or his agent, shall cause the Commission to be notified of the circumstances of said hospitalization, illness or accident and shall supply the Commission with notice from the attending physician that he is physically fit to perform his required duties before the Commission shall reinstate his Annual Medical Certificate.

G. Any violation of the provisions of this rule shall subject said pilot to forfeit to the Commission any pilotage fees he has earned while in violation of this rule and subject him to provisions of Chapter 46-9-22 and 46-9.1-21.

~~15.12 Pilots - Block Island Sound Filing of Report Fees~~

~~Once in every three (3) months, every pilot shall render to the Commission an accurate account of all vessels subject to the law piloted by him. Said report shall be filed within thirty (30) days of the end of the quarter.~~

15.1~~3~~ 2-Pilotage Units - Definitions

A. "Pilotage Units" as used in this Rule shall be determined by multiplying the overall length of the vessel by the extreme breadth by the depth to the uppermost continuous deck and dividing the total by ten thousand, as expressed by the following formula: Overall Length X Extreme Breadth X Depth To Uppermost continuous Deck = Pilotage Units 10,000. Pilots shall first round off any

fraction of an inch to the nearest inch and change the feet and inches to feet and decimal part, using the scale below:

Inches = Feet Inches = Feet
1 .083 7 .583
2 .167 8 .667
3 .250 9 .750
4. .333 10 .833
5 .417 11 .917
6 .500 12 1.000

In cases where vessel's particulars are listed in meters, we recommend that the use of the constant 35.314665 in the conversion, as below:

LOA	X	Ex. Breadth	X	Depth	X	Constant
In Meters		in Meters		in Meters		35.214665 =
Pilotage						
			10,000			Units

(1 Meter - 3.2808399 EXACT) (3.28083993 = 35.314665)

In both cases, the number of pilotage units should be rounded off to the nearest hundredth or two decimal points.

B. Definitions:

- "Overall Length" is the distance between the forward and after extremities of the vessel.
- "Extreme Breadth" is the maximum breadth to the outside of the shell plating of the vessel.
- "Depth" is the vertical distance at amidships from the top of the keel plate to the uppermost continuous deck, fore and aft, and which extends to the sides of the vessel. The continuity of the deck shall not be considered to be affected by the existence of tonnage openings, engine spaces, or a step in the deck.
- All measurements shall be in feet and inches (U.S.).
- The State Pilotage Commission shall be the sole arbiter with respect to a question concerning these definitions. The decision by the Commission shall be final.
- The measurements of overall length, extreme breadth, and depth as previously defined, shall be made available to the pilot by the master or his agent for the computation of

pilotage fees. Failure to provide the measurements so required shall subject the vessel to the maximum pilotage charge.

15.1~~4~~ 3 Rates of Pilotage Fees which shall be paid to state licensed pilots in Rhode Island Waters (Narragansett & Mount Hope Bays & Tributaries

Pilotage rates per pilot unit:

12/1/2003 - 5/31/2005…… $ 9.56

06/1/2005 - 5/31/2006 ……$ 9.94

06/1/2006 - 5/31/2007 ……$10.24

06/1/2007 – 12/31/2008 .....$10.55

01/1/2009 – 12/31/2009.....$10.97

01/1/2010 – 12/31/2010. . . . . .$11.41

01/1/2011 – 12/31/2011. . .. . . . $11.75

01/1/2013 - 12/31/2013 . . . . . .$12.10

01/1/2014- 12/31/2014 . . . . . $12.34

01/1/2015- 12/31/2015 . . . . . $12.59

Period beginning 01/1/2016 …...$12.84

1. All vessels shall pay the yearly pilotage rate per pilotage unit with a minimum of one hundred fifty (150) units and not to exceed a maximum of five hundred (500) units. Pilotage units shall be determined by multiplying the overall length of the vessel by the extreme breadth by the depth to the uppermost continuous deck and dividing the total by ten thousand, as expressed by the following formula:

$$\frac{\text{Overall length x extreme breadth x depth to uppermost continuous deck}}{10{,}000} = \text{Pilotage Units} = \text{Pilotage Units}$$

All measurements shall be in feet and inches (U.S.)

2. The foregoing rates apply to all pilotage between Rhode Island Ports except between:

a. Melville and Tiverton - fee shall be 75% of foregoing rates.

b. Vessels bound to Rhode Island Ports and stopping at Newport/Jamestown for anchorage for the purpose of lightering cargoes to the draft requirements at the discharge berth. The fee for the movement of said vessel from seas to the discharge berth shall be 100% of the rate.

c. Vessels bound to Massachusetts District Four Ports and stopping at Newport/Jamestown anchorage for the purpose of lightering cargo to the draft requirements at the discharge berth. The fee for the movement of said vessel from sea to the Massachusetts District Four line shall be 100% of the rate.

d. Cruise ships bound for Goat Island anchorage shall be charged a fee of 85% of the foregoing rates.

3. Any vessel that meets the following standards has been determined by the Commission not to pose a threat to the environment and as such shall receive a special exemption from the provisions of R.I. Gen. Laws Chapters 46-9 and 46-9.1 and the rules and regulations promulgated pursuant thereto:

a. Any vessel that is less than 200' LOA which is not engaged in commercial operations.

15.1~~5~~ ~~4~~(Pursuant to § 46-9-20 - General Laws of Rhode Island, 1956, as amended)

"ACCOUNTS OF FEES & PAYMENTS TO STATE": Once every month, every pilot or his agent, shall render to the Commission an accurate account of all vessels subject to this chapter piloted by him and of all money received by him for pilotage of such vessels, and shall pay to the State of Rhode Island six percent (6%) of the amount thereof. Pilots shall add six percent (6%) to the rates established by the Commission when they perform the service of piloting any vessel subject to this chapter and collect the same in like manner as they are authorizing to collect passage fees."

15.1~~6~~ 5Estimated Port Disbursement Monies - Payment to Pilots:

A. The master, owner, agent, or consignee of every vessel requiring a pilot pursuant to Chapters 46-9 and 46-9.1 G.L.R.I., as amended, shall include any and all pilotage fees in the "Estimated Port Disbursement Monies" for said vessel, and shall make these pilotage fees available to said vessel's local agent prior to the said vessel's departure from R.I. State waters for timely payment to the pilots.
B. All pilots licensed pursuant to Chapter 46-9 and 46-9.1 G.L.R.I., as amended, who have not received payment for their services on the first day of the fourth month after the month of the original billing date, shall charge the master, owner, agent, or consignee of the said vessel an additional fee of one and one-half percent1 (1 1/2%) of the uncollected monies and a said charge each first day of each month thereafter until full payment is received.
C. Every pilot having uncollected fees as set forth in Paragraph 2 above of this rule shall, during the first fifteen (15) days of every month, report to the R.I. State Pilotage Commission such uncollected fees on forms provided by the Commission.
D. Any party failing to observe the provisions of this rule shall be liable to a Civil Penalty of not more than $200 payable to the State of Rhode Island, for each violation of this rule and also may

be subject to any disciplinary action permitted by R.I. General Laws, 1956, as amended, Chapter 46-9 and 46-9.1, and any relevant provision of the Rules and Regulations of the Rhode Island State Pilotage Commission.

E. Additional fees payable to Pilots - Pilot Detention Fee:

1. Vessels anchoring during any movement for more than two hours for reasons other than lack of safe navigational weather shall pay the pilot a detention fee of $75 per hour or fraction thereof during such anchorage time. Where the pilot is discharged from the vessel at anchor a minimum transportation fee of five hundred ($500) dollars shall be paid.
2. Vessel arrivals: When a request/order is placed for a pilot for an arriving vessel, the order shall be placed at least twenty four (24) hours in advance. Should the vessel's arrival ETA change, notification of that change must be communicated at least eight (8) hours in advance of the new ETA. There may be certain circumstances when the additional fees that would be required to be paid pursuant to this regulation may be waived upon the mutual agreement of the vessel agent and the assigned pilot if the pilot deems such a waiver to be consistent with the fatigue policy adopted by the Northeast Pilot Association that is referenced by the Commission in the Commission's letter dated January 12, 2012 to National Transportation Safety Board.
3. Vessel departures: The original order for a departing vessel shall be placed at a minimum of twelve (12) hours in advance of the sailing time. Should the vessel's departure time change from the original schedule sailing time, the following rules shall apply:
    - For a departure time previously scheduled between the hrs of 1200 to 1800 hours, four (4) hours advance notice must be given to change the sailing time.
    - For a departure previously scheduled time between 1800 to 2400 hours there shall be a six (6) hour advance notice. For sailing previously scheduled between 0001 and 1200 hours there shall be an eight (8) hour notice. There may be certain circumstances when the additional fees that would be required to be paid pursuant to this regulation may be waived upon the mutual agreement of the vessel agent and the assigned pilot if the pilot deems such a waiver to be consistent with the fatigue policy adopted by the Northeast Pilot Association that is referenced by the Commission in the Commission's letter dated January 12, 2012 to National Transportation Safety Board.

F. Sailing order table.

Previously scheduled pilot time between:

1200-1800 = 4 hrs. notice of change in departure time

1800-2400 = 6 hrs. notice of change in departure time

0001-1200 = 8 hrs. notice of change in departure time

A sailing time may only be changed once between the hours of 1800 and 2400. No sailing time changes may be called in between the hrs of 2359hours and 0600hours.

Pilots who are detained at the dock for more than one hr aboard a vessel, that is not ready to sail when scheduled to do so shall, pay an additional full pilotage fee. This fee will apply if last line is not within one hr of the ordered sailing time. There may be certain circumstances when the additional fees that would be required to be paid pursuant to this regulation may be waived upon the mutual agreement of the vessel agent and the assigned pilot if the pilot deems such a waiver to be consistent with the fatigue policy adopted by the Northeast Pilot Association that is referenced by the Commission in the Commission's letter dated January 12, 2012 to National Transportation Safety Board.

1. Fee for Being Carried Away to Sea: A pilot who is carried away to sea shall be paid One thousand ($1,000) dollars per day plus first class return transportation, unless the decision to carry the pilot away is a mutual decision by the pilot and the master of the vessel.
2. Fee for adjusting compass ~~and RDF calibration~~ - ~~each~~ $300.
3. Any vessel shifted within the harbor shall pay a fee of $300.

15.1~~7~~ 6 Offenses Involving Narcotic Drugs Marijuana and Depressants or Stimulant Drugs or Substances

A. No person who is convicted of violating any Federal or State statute relating to using, growing, processing, manufacturing, selling, disposing, transporting, or importing of narcotic drugs, marijuana, or depressant or stimulant drugs or substance, is eligible for any license issued pursuant to Chapter 46-9 or 46-9.1 G.L.R.I., as amended, for a period of at least ten (10) years after the date of -conviction.

B. Every active status Rhode Island State Licensed Pilot shall be in compliance with Title 46, Parts 4-5 b 16 of the Code of Federal Regulations "Federal Drug Testing Regulations", prescribed by the United States Coast Guard and the United States Department of ~~Transportation~~ Homeland Security and if not a participant in an approved Random Testing Program, shall furnish the Commission with a pre-employment Chemical Test Certificate to verify his compliance with Code of Federal Regulations Part 16 Subpart B Section 16.210.

C. Any conviction specified in paragraph (a) of this section or failure to comply with the above-mentioned regulation in paragraph (b) is grounds for suspending or revoking any license pursuant to Chapter 46-9 or 46-9.1G.L.R.I.

15.1~~8~~ 7Navigational Rules of the Road

Every pilot licensed pursuant to the provisions of Chapters 46-9 or 46-9.1 of the Rhode Island General Laws shall operate any vessel under his or her care consistent with the Inland Navigational Rules Act of 1980, as amended, as applicable, (33 U.S.C. §§ 2000 et. seq.) and or the International Regulations for Preventing Collisions at Sea 1972 (commonly called the 72 Col Regs), as amended, as applicable, (hereinafter the "Federal Rules of the Road"). Any pilot who is found by the Commission to have operated a vessel under his or her care in violation of the Federal Rules of the Road within the jurisdiction of the Commission may be subject to disciplinary action pursuant to Section 46-9-22 or 46-9-22.1, or 46-9.1-18. G.L.R.I.

15.1~~9~~ 8Utilization of Commission Issued Navigational Computer Equipment

A. No pilot licensed pursuant to the provisions of Chapters 46-9 or 46-9.1 of the Rhode Island General Laws shall navigate any vessel unless he or she possesses on board said vessel a unit of the navigational computer equipment provided by the Commission and the pilot employs said equipment throughout the vessel's journey consistent with the best practices prescribed for its utilization. The only exceptions to the instant requirements are the two following circumstances: (1) when a pilot is navigating a vessel from one ~~girth~~ berth to another berth within the same harbor; or (2) when a pilot is navigating vessel that he or she knows is equipped with computer navigation equipment in whose operation the pilot has been trained and which he or she is familiar, whose capacity is either equal to or better than the computer navigation equipment provided by the Commission, and which the pilot will be afforded the opportunity to employ while navigating the vessel.

B. In the event that a pilot fails or is unable for whatever reason to comply with the requirements of part 15.1~~9~~ 8 (A). The pilot shall cause the Commission to be notified of the circumstances of the incident as soon as practical, as and not later than the pilot's arrival ashore. Further, the pilot shall render to the Commission within twenty four (24) hours of his or her arrival ashore a detailed written report describing the nature and cause of the incident. The Commission may require the pilot to appear before the Commission in person to assist the Commission in determining what penalty, if any, is to be assessed as a result of the incident.

C. Any navigational computer equipment or PPU provided by the Commission for use by pilots remains the property of the State of Rhode Island and as such must be returned to the Commission or its agent by the pilot having possession thereof within twenty four (24) hours of receipt of notice from the commission requesting its return.

D. Any pilot who is found by the Commission to have operated a vessel under his or her care in violation of Part 15.1~~9~~ 8(A) within the jurisdiction of the Commission, or to have failed to comply with Part 15.19 (C), may be subject to disciplinary action pursuant to section 46-9-22 or 46-9-22.1, or 46-9.1-18 of the General Laws of Rhode Island.

E. In the event that a reportable incident should occur while a pilot is charge of a vessel, the pilot shall immediately power down the PPU utilized during the incident upon being relieved by a duly licensed state pilot and provide said PPU to the Commission immediately upon returning to shore.

RULE 16 ~~RATES OF PILOTAGE FEES, WHICH SHALL BE PAID TO STATE LICENSED PILOTS IN BLOCK ISLAND SOUND~~

~~16.01 The following scale of fees for pilotage on Block Island Sound shall be applicable:~~

~~A. All vessels of up to 100 pilotage units shall pay $530.00.~~

~~B. All vessels of 100 pilotage units and over shall pay $5.30 per pilotage unit with a maximum of $2,385.00. C. A pilot detained on board a vessel at anchorage awaiting tide or berth or detained' on board a vessel at berth for more than 2 hours shall be paid at the rate of $25.00 per hour of fraction thereof.~~

~~D. A pilot carried off on board a vessel by reason of bad weather or any other cause shall be paid $200.00 per day during the time of his detention. He shall also be awarded first class return transportation at the earliest possible moment.~~

~~E. "Pilotage units" as used in this subdivision shall be determined by multiplying the overall length of the vessel by the extreme breadth by the depth to the. uppermost continuous deck and dividing the total by ten thousand. as expressed by the following formula:~~

~~Overall Length X Extreme Breadth X Depth~~

~~to Uppermost Continuous Deck~~

~~10.000~~

~~Equals Pilotage Unit~~

~~F. All pilotage fee rates provided in Rule 16.01 shall be increased by Four Percent (4%) effective January 1, 2009, the pilotage fee rates provided in Rule 16.01 shall then be increased by an additional Four Percent (4%) again effective January 1, 2010, and the pilotage fee rates provided in Rule 16.01 shall also be increased by an additional Three Percent (3%) effective January 1, 2011.~~

~~16.02 Definitions:~~

- ~~"Overall Length" is the distance between the forward and after extremities of the vessel.~~

- ~~"Extreme breadth" is the maximum breadth to the outside of the shell plating of the vessel.~~

- ~~"Depth" is the vertical distance at amidships from the top of the keel plate to the uppermost continuous deck. fore and aft. and which extends to the sides of the vessel. The continuity of the deck shall not be considered to be affected by the existence of tonnage openings, engine spaces, or a step in the deck.~~

~~All measurements shall be in feet and inches (U.S.).~~

~~The State Pilotage Commission shall be the sole arbiter with respect to a question concerning these definitions. The decision by the board shall be final.~~

~~16.03 The measurements of overall length, extreme breadth, and depth as previously defined, shall be made available to the pilot by the master of his agent for the computation of pilotage fees. Failure to provide the measurements so required shall be subject to the vessel to the maximum pilotage charge.~~

~~D. Additional fee for a vessel serviced at Point Judith Pilot Station area.~~

~~An additional fee of $125.00 shall be billed to the vessel and payable to the pilot for the servicing of the vessel from the Point Judith Pilot Station area.~~

~~E. Fee for adjusting compass and RDF calibration - $ 100.00.~~

PILOT STATION:

Brenton Reef Light Station (Lat 41 ° - 25.8' N Long 71 ° - 23.4' W). shall be the main pilot station for the boarding and disembarking of all State Licensed Pilots in the waters of Rhode Island Sound and Block Island Sound. Pilots shall board vessels when practical within the precautionary zone area of the Narragansett Bay Traffic Separation Scheme (3 k mile radius - southerly of Brenton Reef Light) (USCG Chart # 1210).

Vessels bound to an from Long Island Sound parts may be boarded and disembarked at Point Judith Station (2 mile radius southerly of Lighted Whistle Buoy 112. Lat. 41 ° 19.3' Long 71 ° 28.5' W) through prior arrangement with the vessel's agents for the pilots. weather permitting.

Pilot boats shall maintain a watch on VHF Radio Channel #16 at least one hour before the vessels E.T.A.
Per order:

The foregoing Rules and Regulations for State of Rhode Island and Providence Plantations State Pilotage Commission, after due notice, are hereby adopted and filed with the Secretary of State this ___ day of _____, 2014, to become effective twenty (20) days thereafter, in accordance with the provisions of Chapter 42-35, ~~42-7.1~~, 46-9 and ~~42-17.6~~ 46-9.1of the General Laws of Rhode Island of 1956, as amended.

Capt. E. Howard McVay, Jr., Chairman
RI State Pilotage Commission

Notice Given on:
Public Hearing Held: April 2, 2015
Filing Date:
Effective Date:

NOTICE TO ALL RHODE ISLAND LICENSED PILOTS:

~~**THIS FORM MUST BE SUPPLIED TO YOUR PHYSICIAN AT THE TIME OF:**~~

~~À **Required annual physical.**~~

~~À **Returning to duty after an injury or illness.**~~

~~À **The prescribing or change of dosages of any medications.**~~

~~**NAME OF PILOT:** _____~~

~~**LIST OF MEDICATIONS INCLUDE BOTH PERSCRIPTION AND NON-PERSCRIPTION, INCLUDING DOSAGES:**~~

~~_____~~

~~**(Attach extra pages if necessary)**~~

~~**DUTIES AND RESPOSSIBILITIES OF A RHODE ISLAND STATE LICENSED PILOT AND THE PHYSICAL EQUIREMENTS NECESSARY TO PERFORM THOSE DUTIES:**~~

~~**In addition to the customary tasks performed by mariners:**~~

~~**A pilots duties include but not limited to:**~~

- ~~À **Safely navigating* a vessel of up to 1100 feet in length through narrow channels during all hours of the day or night in any weather and visibility conditions.**~~
- ~~À **Safely moor and/or anchor those same vessels.**~~
- ~~À **Perform duties with similar physical and mental requirements as operating heavy equipment.**~~

~~**A pilots responsibilities include but are not limited to:**~~

- ~~À **Protecting the Port (its people, property and environment) from the hazards and cargo aboard the vessel under his/her keeping while transiting the waters of the state.**~~
- ~~À **Determining if the proposed vessel transit is safe considering such factors as vessel characteristics, weather, visibility, current, draft, etc.**~~
- ~~À **The ability to bring to the safest possible conclusion any contingencies that may arise.**~~

~~**Physical requirement necessary to perform pilotage duties include but are not limited to:**~~

- ~~À **Transferring between the pilot vessel and the transiting vessel in all weather conditions. This includes jumping from a moving pilot boat onto a Pilot ladder (a rope and wood ladder**~~

~~**hanging down the side of a vessel) and climbing a height of up to 10 meters and then a stair climb of as much as 10 stories.**~~

~~À **Eyesight and hearing up to standards to perform the above duties.**~~

~~À **On call and available for duty 24 hours a day 7 days a week to respond to emergency pilotage requests.**~~

~~À **Unavailability of professional medical intervention during most of the time on board vessels.**~~

~~À **Long periods of stress and concentration periodically interspersed with short periods of extreme stress.**~~

~~***navigation – to steer, direct, manage or sail a vessel. By determining the vessel's position, piloting, directing the vessel along a desired trackline, keeping account of the vessel's progress through the water, ordering or executing changes in course, rudder position or speed, maintaining a lookout.**~~

~~Enclosure (1) to LANT/PACAREAINST 16710.2 United States Coast Guard~~

~~**Atlantic Area**~~

~~I have read and understand the above information concerning the duties of a Pilot and have taken this into consideration during my evaluation of said pilot. I hereby certify that the pilot has, in my opinion, the ability to competently perform his/her duties and that the pilot's use of the medications listed will not adversely interfere with his/her ability to perform those duties.~~

~~Signature of Physician: _____ Date: _____~~

~~Print Name of Physician: _____ License #: _____~~

~~Address: _____ Telephone #: _____~~

THIS FORM MUST BE SUPPLIED TO YOUR PHYSICIAN AT THE TIME OF:

- **Required annual physical.**
- **Returning to duty after an injury or illness.**
- **The prescribing or change of dosages of any medications.**

NAME OF PILOT:

_____

LIST OF MEDICATIONS INCLUDE BOTH PERSCRIPTION AND NON-PERSCRIPTION, INCLUDING

DOSAGES:

_____

_____

DUTIES AND RESPOSSIBILITIES OF A RHODE ISLAND STATE LICENSED PILOT AND THE PHYSICAL REQUIREMENTS NECESSARY TO PERFORM THOSE DUTIES:

In addition to the customary tasks performed by mariners:

A pilots duties include but not limited to:

- **Safely navigating* a vessel of up to 1100 feet in length through narrow channels during all hours of the day or night in any weather condition.**
- **Safely moor and/or anchor those same vessels.**

A pilots responsibilities include but are not limited to:

- **Protecting the Port (its people, property and environment) from the hazards and cargo aboard the vessel under his/her keeping while transiting the waters of the state.**
- **Determining if the proposed vessel transit is safe considering such factors as vessel characteristics, weather, current, draft, etc.**
- **The ability to bring to the safest possible conclusion any contingencies that may arise.**

Physical requirement necessary to perform pilotage duties include but are not limited to:

- **Transferring between the pilot vessel and the transiting vessel in all weather conditions. This may include jumping from a moving pilot boat onto a Jacobs ladder (a rope and wood ladder hanging down the side of a vessel) and climbing a height of up to 10 meters and then a stair climb of as much as 10 stories.**
- **Eyesight and hearing up to standards to perform the above duties.**
- **On call and available for duty 24 hours a day 7 days a week.**
- **Unavailability of professional medical intervention during most of the time on board vessels.**
- **Long periods of stress and concentration periodically interspersed with short periods of extreme stress.**

***navigation – to steer, direct, manage or sail a vessel. By determining the vessel's position, piloting, directing the vessel along a desired trackline, keeping account of the vessel's progress through the water, ordering or executing changes in course, rudder position or speed, maintaining a lookout.**

I have read and understand the above information concerning the duties of a Pilot and have taken this into consideration during my evaluation of said pilot. I hereby certify that the pilot has, in my opinion, the ability to competently perform his/her duties and that the pilot's use of the medications listed will not adversely interfere with his/her ability to perform those duties.

Signature of Physician: _____ Date: _____

Print Name of Physician: _____ License #:_____

Address: _____ Telephone #:_____

Requirements For Uninspected Passenger Vessels

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If you:

♦ **Have questions about the information in this guidebook,**

♦ **Want additional copies of the handout, or**

♦ **Want a courtesy Safety Examination of your boat:**

♦ Please contact the Prevention Department at your local Coast Guard Sector office at:

♦ Or the Coast Guard District Prevention division at:

District One Boston MA (617) 223-8442

District Five Portsmouth, VA (757) 398-6558

District Seven Miami, FL (305) 415-6868

District Eight New Orleans, LA (504) 671-2165

District Nine Cleveland, OH (216) 902-6052

District Eleven Alameda, CA (510) 437-5960

District Thirteen Seattle, WA (206) 220-7217

District Fourteen Honolulu, HI (808) 535-3422

District Seventeen Juneau, AK (907) 463-2808

To suggest additions or corrections to this handout, contact LANTAREA Prevention Division at 757-398-7787.

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U. S. COAST GUARD REQUIREMENTS FOR

UNINSPECTED PASSENGER VESSELS:

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INTRODUCTION

Overview

This document applies to U.S. uninspected passenger vessels (UPVs) that do not carry freight for hire. It has been developed to assist UPV owners and operators as well as Coast Guard Marine Inspectors, Examiners and Boarding officers during dockside or at-sea examinations of UPVs. **It is not meant to replace the federal regulations.** For precise language, exemptions and interpretations of please consult the specific laws or regulations containing that requirement.

Each section corresponds to the checklist, enclosure (2) of OPCONINST 16711.2. The checklist is designed to be used with this booklet.

Abbreviations

Listed are abbreviations found in this document:

CFR: Code of Federal Regulations

CG: U. S. Coast Guard

COD: Certificate of Documentation

COTP: USCG, Captain of the Port

GT: Gross Tons

MMC: Merchant Mariner Credential

MMD: Merchant Mariner Document

MSD: Marine Sanitation Device

NM: Nautical Mile

NT: Net Tons

OCMI: USCG, Officer-in-Charge Marine Inspection

PFD: Personal Flotation Device

SPC: Sector Prevention Command

STCW: Standard Training and Certification Watchstanding

TWIC: Transportation Worker Identification Credential

UPV: Uninspected Passenger Vessel

USC: United States Code

Copy of Regulations

For more detailed information, contact the Prevention Department at your local Sector office. The following summary of requirements is free; however, you may purchase a full text copy

of the Federal regulations through the Government Printing Office at HTTP://bookstore.gpo.gov/ , or by contacting GPO at (866) 512-1800. United States Code (USC) and the Code of Federal Regulations (CFRs) are also available online at www.gpoaccess.gov/cfr/.

Penalties

In accordance with *46 USC 4106*, if an UPV is operated in violation of applicable laws and regulations, the owner, charterer, managing operator, agent, master, and individual in

charge are each liable for criminal or civil penalties. The UPV is liable *in rem* for the penalty.

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DEFINITIONS

Demarcation Line:

The regulations in this part established the lines of demarcation delineating those waters upon which mariners shall comply with the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) and those waters upon which mariners shall comply with the Inland navigation Rules. The waters inside the lines are Inland Rules waters. The waters outside the lines are COLREGS waters. *33 CFR 80.01 (a) (b)*

Merchant Mariner Credential:

An MMC is the credential issued by the Coast Guard under 46 CFR part 10. It combines the individual merchant mariner's document, license, and certificate of registry enumerated in 46 U.S.C. subtitle II part E as well as the STCW endorsement into a single credential that serves as the mariner's qualification document, certificate of identification, and certificate of service.

TWIC:

Congress directed the federal government, through the Maritime Transportation Security Act (MTSA), to issue a biometric security credential to individuals who require unescorted access to secure areas of facilities and vessels and all mariners holding Coast Guard- issued credentials or qualification documents A Transportation Worker Identification Credential (TWIC) is needed only for an initial license issuance or if your vessel has a Vessel Security Plan or require unescorted access to secure areas of regulated facilities. CG Policy letter 11-15.

Crewmember:

An individual who is on board a vessel acting under the authority of a license, certificate of registry, or merchant mariner’s document issued under this subchapter, whether or not the individual is a member of the vessel’s crew; or engaged or employed on board a vessel owned in the United States that is required by law or regulation to engage, employ, or be operated by an individual holding a license, certificate of registry, or merchant mariner’s document issued under this subchapter. *46 CFR 16.105 (a) (b).*

In rem:

Unlike in personam (which is against a person and its property) in rem is a technical term meaning "against a thing or property". Any lawsuit or judgment made against the property or thing is an action "in rem". In this case, the location of the property is important as the court can hold the trial only in the jurisdiction under which the land falls. Unlike in personam, the judgment can be against the land and not its owner.

Consideration:

An economic benefit, inducement, right, or profit including monetary payment going to

an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage, by monetary compensation of fuel, food, beverage, or other supplies. *46 USC 2101 (5a)*

Passenger:

Any person on a vessel, other than the owner or an individual representative of the owner or in the case of vessel under charter, an individual charterer or individual representative of the charterer, master and the members of the crew, or other any other person employed or engaged in any capacity on board a vessel in the business of that vessel. *46 USC 2101 (21) and 46 CFR 24.10-1*.

Note: All persons on board are crewmembers, passengers, or National Marine Fisheries Service official observers. **THERE ARE NO GUESTS OR "OTHER" OBSERVERS.**

Passenger for Hire:

Passenger for whom a consideration is contributed as a condition of carriage whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person interested in the vessel is a passenger for hire. *46 USC 2101 (21a)*

UPV :

A vessel not subject to inspection by the Coast Guard under *46 USC 3301*, less than 100 GTs:

♦ Carrying no more than six passengers, including at least one passenger for hire, or

♦ Chartered with the crew provided by the owner or owner's representative, and carrying six or fewer passengers. *46 USC 2101(42)(B)*

UPVs may also include vessels over 100 GTs but less than 300 GTs that carry not more than 12 passengers, with at least one being a passenger for hire. Such vessels are discussed in the Enclousre (3) to OPCOMINST 16711.2. Please contact the Coast Guard using one of the phone numbers provided on page three of this booklet for any questions regarding such vessels.

PERSONNEL LICENSING

Applies To:

All UPVs, 100 GTs or less, carrying at least one passenger for hire.

Personnel Licensing:

Every UPV must be under the direction and control of an individual licensed by the Coast Guard. *46 CFR 15.605*

The following rules apply:

À An individual holding a Merchant Mariner Credential (MMC) or license as master or pilot of inspected, self-propelled vessels is authorized to serve as operator of an UPV within any restrictions other than gross tonnage limitations on the individual's license;

À A licensed mate of inspected, self-propelled vessels on the Great Lakes, inland, or rivers **of not more than 200 GTs** are authorized to serve as an operator of an UPV and must operate in their respective waters only; if a licensed mate of over 200 GTs, see below;

À A licensed mate of oceans and coastwise inspected, self-propelled vessels is authorized to serve as an operator of an UPV, within any restrictions other than gross tonnage limitations on the individual's license. *46 CFR 15.905*

An individual may not serve in a position in which the individual is required to hold a license unless the individual holds a valid license authorizing service in the capacity in which the individual is employed and the individual serves within any restrictions placed on the license. *46 CFR 15.401*

The original Coast Guard MMC or license suitable for the vessel's route and service license must be kept on board and be available for immediate presentation it to Coast Guard officials whenever passengers are being carried for hire.

46 CFR 26.20-1

Mariners who are being issued an initial MMC, or who never held a TWIC, will need to enroll for a TWIC at a TWIC enrollment center. They will also have to pay all applicable fees associated with getting a TWIC. This is required because the TWIC enrollment center is the only place where the Coast Guard can obtain biometric information (fingerprints) from the applicant.

For mariners renewing their MMC, who do not require a TWIC, they may skip the TWIC enrollment process and apply for an MMC at a Regional Exam Center (REC). If a mariner

chooses to do this, only criminal background data from previous applications will be available. 46 CFR 10.113& 12.01-11 Policy Letter 11-15.

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PERSONNEL LICENSING (CONTINUED)

There is no requirement for mates or other UPV personnel who are not in control of the vessel to hold a Coast Guard license or document.

WATCHSTANDING

Applies to:

All UPV's of 100 GTs or less, carrying at least one passenger for hire.

Work-hour Limitations:

A licensed individual may not be *required* to work more than 12 of 24 hours at sea, except in an emergency when life or property is endangered. *46 USC 8104 (b)*

UPVs operating more than 12 hours *should* have a two-watch system, specifically a second licensed operator.

Licensed individuals serving as the operator of a UPV may voluntarily work more than 12 hours in a 24-hour period. *He or she must maintain an adequate watch.* If they have no relief and are too fatigued to stand an alert watch, then that individual would be negligent for failure to maintain an adequate watch. Charter fishing and dive vessels routinely operating more than 24 consecutive hours with only one licensed operator present significant issues of negligence on the part of the UPV operator or owner for failure to provide an adequate watch. Between 12 and 24 hours of operation, there is a gray area in which the owner/operator of the UPV must judge the prudence of a decision to sail without a second licensed individual.

It has been suggested by some operators that a qualified seaman could be left at the helm while the licensed operator sleeps close by. This is an untenable position. *46 USC 8903* mandates the vessel be operated (under the "direction and control") by a licensed individual; the Coast Guard does not have the discretion to allow any unlicensed seaman to control the vessel without supervision.

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VESSEL DOCUMENTATION

Applies To:

All UPVs of at least 5 net tons. If you are not sure if you vessel is at least 5 net tons you can check with the simplified measurement form at http://www.uscg.mil/hq/msc/docs/CG-5397.pdf. Other questions regarding vessel documentation contact National Vessel Documentation Center see contact information below.

Certificate of Documentation: Over 5 Net Tons

A UPV of at least 5 net tons that engages in domestic or coastwise trade must have a Certificate of Documentation (COD) on board bearing a valid endorsement for the activity in which it is engaged. *46 CFR 67.*

UPVs whose route is from point "A" in the U.S. to point "B" in the U.S., or returning to point "A" without leaving U.S. territorial waters must be U.S. built and hold a COD with an operational endorsement for coastwise trade. If the vessel is of foreign or unknown build, it must receive a waiver from MARAD through the Small Vessel Waiver Program. *46 USC 12106(b), 46 CFR 67.19(a), 19 CFR 4.80.*

COD endorsements are valid for 1 year.

♦ To renew, an original Notice of Expiration (CG-1280) or Final Notice of Expiration (CG-1280-B) form must be completed;

♦ The renewal forms can be obtained through the Coast Guard's National Vessel Documentation Center at (800) 799-8362; or at http://www.uscg.mil/hq/cg5/nvdc/default.asp

♦ A renewal decal will be issued which must be affixed to the COD to prove that the COD has been renewed. *46 CFR 67.163*

Display of official number:

♦ BLOCK-type Arabic numerals not less than **three** inches in height;

♦ Preceded by the abbreviation "NO.";

♦ Must be marked on some clearly visible **interior** structural part of the hull;

♦ Must be permanently affixed so that alteration, removal, or replacement would be obvious. *46 CFR 67.121*

Example: NO. 123456

VESSEL DOCUMENTATION (CONTINUED)

Documented Vessel Markings:

UPV name must be marked on some CLEARLY visible **exterior** part of the port and starboard bow and the stern. The hailing port must be marked on some clearly visible **exterior** part of the stern, the hailing port must be a place in the United States and must include the State, territory, or possession in which it is located;

À For UPVs with a square bow, the name must be marked on some clearly visible **exterior** part of the bow in a manner to avoid obliterating. The name and hailing port must be marked on some clearly visible **exterior** part of the stern;

À These markings, which may be made by the use of any means and materials which result in durable markings, must be made in clearly legible letters of the Latin alphabet or Arabic or Roman numerals not less than **four** inches in height. *46 CFR 67.123*

UPVs Under 5 Net Tons

UPVs under 5 net tons shall be State numbered. A State registered, undocumented vessel must have a valid state certificate aboard whenever the vessel is underway. State registration certificate might be endorsed for Commercial or Commercial Passenger service. This endorsement/certificate various from state to state, check with your state. *33 CFR 174.19(a)/173.21(a), 46 CFR 67. /46 CFR 67.9*

Vessel markings (State Registered):

À Numerals and letters of State issued numbers must be plain, block characters reading from left to right, and must not be less than **three** inches in height;

À Numbers must be painted or permanently attached to each side of the forward half of the vessel, must be visible from each side of the vessel;

À The color of the numbers and letters must be in contrast with the background to which they are affixed.

À Spaces must be placed between letters and numerals; they must be equal to the width of a letter or numeral (other than I or 1). *33 CFR 173.27*

Example: VA 1234 AB or FL-1234-AB

DRUG TESTING

Applies To:

♦ Coast Guard (CG) licensed UPV crewmembers, operators and/or masters acting under the authority of a license/MMC.

♦ UPV crewmembers who do not hold a MMC but whose duties directly affect the safe operation of the vessel (such as those who assist passengers in emergency evolutions).

♦ Crewmember includes all individuals above that perform safety sensitive duties aboard.

Pre-Employment Testing

No marine employer shall engage or employ any individual to serve as a crewmember unless the individual passes a chemical test for dangerous drugs for that employer. This may be waived if the individual can satisfactorily provide evidence that the individual either:

À passed a chemical test for dangerous drugs within the past six months with no subsequent positive tests

À or during the previous 185 days, has been subject to random testing for at least 60 days and did not fail or refuse to participate in a chemical test for dangerous drugs. *46 CFR 16.210*

Periodic Testing

Whenever a physical examination is required for an individual for Licensing by 46 CFR Part 10, a chemical test for dangerous drugs must be included as a part of the physical examination, unless exempted under paragraph (c). 4*6 CFR 16.220*

Random Testing

Marine employers shall establish programs for the chemical testing for dangerous drugs on a random basis of their crewmembers. Crewmembers shall be tested on a random basis at an annual rate generally of not less than 25%. Random selection means that all crewmembers have an equal chance of selection. *46 CFR 16.230(b)*

Reasonable Cause Testing

Employers shall require any crewmember of the UPV who is reasonably suspected of using a dangerous drug to be chemically tested for dangerous drugs. The employer's decision must be based on a reasonable and articulate belief that the individual has used a dangerous drug based on direct observation. Where practicable, this belief should be based on observations by two persons in supervisory positions. *46 CFR 16.250 and*

33CFR 95.035

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DRUG TESTING (CONTINUED)

Serious Marine Incident *46 CFR 4.06*

The marine employer shall ensure that all persons directly involved in a serious marine incident (SMI) are chemically tested within 32 hours for dangerous drugs and within 2 hours for alcohol, IAW the requirements for mandatory chemical testing.

Must demonstrate the capability to meet the alcohol testing requirements by carrying test kits on board or identify an approved facility where the testing will be conducted for all the vessel's hours of operation.

Testing

A serious marine incident includes the following events

♦ A marine casualty or accident required to be reported to the CG that results in one or more deaths,

♦ Injury requiring professional medical treatment and, for a crewmember, that renders the person unfit to perform his or her routine duties,

♦ Damage to property in excess of $100,000,

♦ Actual or constructive total loss of any vessel subject to inspection, or

♦ Actual of constructive total loss of any self-propelled vessel, not subject to inspection, of 100 gross tons or more,

♦ A discharge of oil of 10,000 gallons or more into U.S. navigable waters; or

♦ A discharge of a reportable quantity of a hazardous substance into U.S. navigable waters or a release of a reportable quantity of a hazardous substance into the environment of the United States. *46 CFR 16.240*

Failure of a Drug Test *46 CFR 16.201*

(a.k.a. Positive or Non-Negative Test Results)

If an individual fails a chemical test for dangerous drugs under this part, the individual will be presumed to be a user of dangerous drugs.

If an individual holding a license, certificate of registry, or merchant mariner's document fails a chemical test for dangerous drugs, the individual's employer or prospective employer shall report the test results in writing to the nearest Coast Guard Officer in Charge, Marine Inspection (OCMI). An individual shall be denied employment as a

crewmember or removed from duties which directly affect the safe operation of the vessel as soon as practicable. An individual holding a merchant mariner credential shall be subject to suspension and revocation proceedings.

If an individual does not hold a license, merchant mariner's document, or certificate of registry fails a chemical test for dangerous drugs, the individual shall be denied employment as a crewmember or removed from duties which directly affect the safe operation of the vessel as soon as possible. *46 CFR 16.201*

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DRUG TESTING (CONTINUED)

Drug Testing Records

Employers shall maintain records of chemical tests which the Medical Review Officer reports as **positive or "non-negative"** for a period of five years. Records of tests reported as **negative** shall be retained for one year. Safety sensitive employees shall have proof of attending EAP training; supervisors at least 60 minutes of EAP training.
49 CFR 40.333 and *46 CFR 16.260* The CCF and MRO test result.
Pre-employment test records are to be maintained for the duration of employment.
46 CFR 16.260

Chemical Testing History

Employers must conduct 2-year drug and alcohol testing history checks for all newly hired crewmembers. *49 CFR 40.25*

♦ Employers must obtain a newly hired crewmember's written consent to contact previous employers for this purpose.

♦ Employers must contact previous marine employers, and any other employer that are subject to federal DOT chemical testing regulations (i.e. commercial trucking, aviation, railroad, and public transportation agencies);

♦ Employers must inquire of previous employers within 30 days if the newly hired crewmember has failed or refused a federal/DOT chemical test within the previous 2 year period;

♦ Employers must not employ anyone as a crewmember if that person has failed or refused a federal/DOT chemical test within the previous two-year period.

♦ An employer may employ a crewmember who has completed a prescribed treatment program from a SAP as outlined in 49 CFR Part 40.293 through 40.305, and who has been issued a "Return to duty" letter from a certified medical review officer.

♦ Employers must maintain this info on file for at least three years, regardless of the crewmember's duration of employment.

***Note**: Marine employers may obtain a sample consent and report form that may be reproduced and used in order to achieve compliance with this regulation by going to:*
http://www.faa.gov/about/office_org/headquarters_offices/avs/offices/aam/drug_alcohol/forms/media/Release_of_Information_Page.pdf

DRUG TESTING (CONTINUED)

Management Information

System Reports

Employers must submit a Management Information System (MIS) report (OMB No. 2105-0529) by March 15th of the following calendar year. This form must be submitted to Coast Guard Headquarters at the address listed below:

COMMANDANT (CG-5451)

ATTN DAPI

US COAST GUARD

2100 2ND ST SW STOP 77581

WASHINGTON, DC 20593-7581

For additional information, see the “Marine Employers Drug Testing Guidance” which is published by the US Coast Guard and is available on homeport. http://homeport.uscg.mil (click on "Investigations" on right side of page, click "Drug and Alcohol Program” on right side of page, scroll down and click on "Marine Employers Drug Testing Guidance", click "View Document")

Note*: Employers who submitted this form for any three consecutive years, and Who have not employed more than ten crewmembers (including the owner who may also be the operator) are exempt from this requirement. If the employer subsequently employs more than ten crewmembers (including self employed operators) then the MIS form must again be submitted.*

46 CFR 16.500

There is capability online to submit the report at the following site: http://damis.dot.gov

Operating While Intoxicated

A person is prohibited from operating UPVs while intoxicated. A person is considered operating the UPV when that person is a crewmember (including a licensed person) of the vessel. A person operating a vessel (other than recreational vessel) is considered intoxicated if his or her blood alcohol content (BAC) is 0.04 or more by weight. A person is also considered intoxicated when the effect(s) of the intoxicant(s) consumed have an apparent

and observable effect on his or her manner, disposition, speech, and\or muscular movement.

33 CFR 95.015 & .020

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General operating rules for vessels inspected, or subject to inspection, under Chapter 33 of Title 46 United States Code. While on board a vessel inspected, or subject to inspection, under Chapter 33 of Title 46 United States Code, a crewmember (including a licensed individual), pilot, or watchstander not a regular member of the crew: (a) Shall not perform or attempt to perform any scheduled duties within four hours of consuming any alcohol; (b) Shall not be intoxicated at any time; (c) Shall not consume any intoxicant while on watch or duty; and (d) May consume a legal non-prescription or prescription drug provided the drug does not cause the individual to be intoxicated. *33 CFR 95.045*

Note: Intoxicants include alcohol, drugs, or combination thereof.

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MARINE CASUALTY REPORTING

Applies To:

All CG documented UPVs.

For undocumented UPVs (state numbered), a casualty or accident report must be submitted to the reporting authority of the state who issued the state numbers or to the state where the accident occurred. *33 CFR 173.51 & .59, 46 CFR 4.01-3*

Verbal Notice of Marine Casualty:

The following applies to CG documented UPVs:

Immediately after addressing safety concerns, the owner, master, operator, or person in charge shall notify the nearest Coast Guard Sector whenever a vessel is involved in a marine casualty, such as:

♦ An unintended grounding, or an unintended strike of a bridge or bridge fendering system;

♦ An intended grounding or an intended strike of a bridge that creates a hazard to navigation, the environment, or safety of a vessel;

♦ Loss of main propulsion, primary steering, etc. that reduces the maneuverability of the vessel;

♦ An occurrence adversely affecting the seaworthiness or fitness including fire, flooding, or failure of/damage to fire fighting, lifesaving, & auxiliary power equipment, or bilge-pumping systems;

♦ A loss of life;

♦ Injury requiring professional medical treatment and, for a crewmember, that renders the individual unfit to perform his or her routine duties;

♦ Any occurrences of injury or loss of life to any person while diving from a vessel and using underwater breathing apparatus or

♦ Occurrence causing property damage above $25,000 including cost of labor and material but not cost of salvage, gas-freeing, drydocking, or demurrage. *46 CFR 4.05-1*

(Demurrage is "the compensation payable to a carrier of freight whose vehicle or vessel is delayed, as by failure to load or unload the freight within the time allowed." Webster.)

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MARINE CASUALTY REPORTING (CONTINUED)

Written Notice of Marine Casualty

In addition to the verbal report, the owner, master, operator, or person in charge shall, within 5 days, file a written report with the nearest OCMI or Sector Prevention Office on form CG-2692: Report of Marine Accident, Injury or Death and, as necessary, be supplemented by form CG-2692B: Report of Required Chemical Drug & Alcohol Testing following a Serious Marine Incident.

Serious Marine Incident includes the following events involving a UPV in commercial service:

A marine casualty or accident required to be reported to the CG that results in:

♦ one or more deaths,

♦ injury requiring professional medical treatment and, for a crewmember, that renders the person unfit to perform his or her routine duties,

♦ damage to property in excess of $100,000,

♦ actual or constructive total loss of any vessel subject to inspection, or

♦ actual of constructive total loss of any self-propelled vessel, not subject to inspection, of 100 gross tons or more,

♦ a discharge of oil of 10,000 gallons or more into U.S. navigable waters;

♦ a discharge of a reportable quantity of a hazardous substance into U.S. Navigable waters or a release of a reportable quantity of a hazardous substance into the environment of the United States.

46 CFR 4.03-2, 46 CFR 4.05-10

***CG-2692 must be submitted in writing with an original signature.**

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COMMUNICATIONS

Applies To:

All UPVs over 20 meters (65.6 feet) in length. *33 CFR 26.03(a)(1)*

VHF-FM Radio:

UPVs of 20 meters and over must have one or more VHF-FM radios onboard as prescribed by 33 CFR 26 and 47 CFR 80, and must be capable of transmitting and receiving on channel 22A (157.1 Mega-Hertz).

When transiting any waters within a vessel traffic service (VTS) area, a second VHF-FM radio must also be onboard. *33 CFR 26.03*

VHF-FM, MF and HF Radios Equipped for DSC:

All VHF-FM, Medium and High Frequency (also known as single side band (SSB)) Radios that are equipped for Digital Selective Calling (DSC), should have a Maritime Mobile Service Identity (MMSI) programmed and have an input from a GPS. See: *http://www.uscg.mil/acquisition/rescue21/benefits.asp*

Radio Station Licenses:

Radio transmitting devices onboard UPVs of 20 meters and greater, and UPVs with Single Side Band radios, must be licensed by the Federal Communications Commission (FCC). The licenses are valid for 10 years. If the license has just recently been applied for, a UPV should have a copy of FCC Form 605 and it accompanying Schedule B for use as a temporary permit. FCC ship station license application forms can be obtained by calling the Federal Communications Commission at (800) 418-FORM (3676), or online at *http://www.fcc.gov/*. The license is issued to the UPV, and cannot be transferred to another vessel. *47 CFR 80.13 & .25*

Each UPV 20 meters and greater in length must have a radio operator who holds a restricted radiotelephone operator permit or higher class license. Operator permits and licenses issued on or after 25 March 2008 no longer expire, and are valid for the life of the holder. *47 CFR 80.163*

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CHARTS AND NAUTICAL PUBLICATIONS

Charts and Nautical Publications

As appropriate for the intended voyage, all vessels must carry adequate and up-to-date—

À Paper charts of appropriate scale to make safe navigation possible;

À "U.S. Coast Pilot" or similar publication;

http://www.nauticalcharts.noaa.gov/nsd/cpdownload.htm

À Coast Guard light list; http://www.navcen.uscg.gov/pubs/LightLists/LightLists.htm

À Tide tables; http://www.saltwatertides.com/pickpred.html - and

À Current tables, or a river current publication issued by the U.S. Army Corps of Engineers, or a river authority.

Alternative Compliance:

As an alternative, you may substitute extracts or copies from the publication above. This information must be applicable to area transited.

46 CFR 26.03-4.b

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NAVIGATION LIGHTS & SOUND SIGNALS

Applies to:

All UPVs at anchor or underway from sunset to sunrise, or in or near areas of restricted visibility.

Inland Rules:

The operator of each UPV 12 meters (39.4 feet) long or more, operating in Inland Waters and Canadian Waters of the Great Lakes, shall carry a copy of the Inland Navigation Rules, COMDTINST M16672.2D.

33 CFR 88.05

Navigation Lights:

Each UPV underway, greater than 12 meters (39.4 feet) shall display, per Navigation Rule 23, Inland and International:

UPVs underway shall display:

♦ red and green sidelights (displayed on port and starboard sides respectively) showing light from right ahead across an unbroken arc (unobstructed) of 112.5 degrees across the horizon,

♦ one white masthead light showing light from right ahead across an unbroken arc (unobstructed) of 225 degrees (112.5 degrees on either side of center line) across the horizon,

♦ an additional masthead light abaft of and higher than the first mast head lights if the UPV is 50 meters (164 feet) or greater in length (except that a UPV may show this light forward of and lower than other masthead lights if such lights are displayed on the UPV's aft mast ,*

♦ one white stern light placed on UPV's centerline showing light astern across an unbroken arc (unobstructed) of 135 degrees across the horizon,

** Note: UPVs 20 meters (65.6 feet) or greater in length may not place all of their masthead lights aft of their sidelights. See Navigation Rules Annex I.3 (b) & (d), both Inland and International, for further details on horizontal light placement.*

UPVs less than 12 meters (39.4 feet) may substitute one all around (unobstructed) white light for the white masthead and stern lights.

24 Enclosure (1) to LANT/PACAREAINST 16710.2

NAVIGATION LIGHTS & SOUND SIGNALS (CONTINUED)

Note 1: it is recommended that the Inland and International Navigation Rules COMDTINST M16672.2D Navigation Rules, International - Inland) be
reviewed for specific information on various configurations for lights and
shapes. *Navigation Rule 23, Inland and International 23.*

Note 2: Navigation light fixtures with bulbs must comply with the horizontal
and vertical sectors and meet the range requirements as outlined in Annex I of
the Navigation Rules. Household bulbs and compact fluorescents are not permitted. **Use only manufacturer approved bulbs**.

Navigation Rules ANNEX I, Inland and International.

Sidelight Screens

For UPVs 20 meters (65.6 feet) or more in length, sidelights shall be fitted with matte black inboard screens. For UPVs less than 20 meters, sidelights, if necessary to meet the arc required of the light, shall be fitted with black matte inboard screens.

Vessels less than 20 meters (65.6 feet) can mount a combined lantern using a single vertical filament and a narrow division between the red and green sectors. With combined lanterns, external screens need not be fitted.

33 CFR 84.09

Sound Signals:

Efficient bell and whistle per Navigation Rule 33, Inland and International:

♦ UPVs less than 12 meters (39.4 feet) in length must have a means of making an efficient sound signal.

♦ UPVs of 12 meters (39.4 feet) to 20 meters (65.6 feet) in length must have a whistle and bell of at least 200mm (7.9 inches) in diameter (Note: The bell is not required under the International Rules, but is required if the vessel operates in any area where the Inland Rules apply):

♦ UPVs of 20 meters (65.6 feet) or more in length must have a whistle and bell of at least 300mm (11.8 inches) in diameter:

25 Enclosure (1) to LANT/PACAREAINST 16710.2

NAVIGATION LIGHTS & SOUND SIGNALS (CONTINUED)

Bells shall be of corrosion-resistant material and designed to give a clear tone. When practicable, a power-driven striker is recommended to ensure a constant force but manual operation shall be possible. *33 CFR 86.23*

The bell does not have to be mounted. It must be on board the vessel and accessible.

Whistle

The audibility of a whistle must meet the following distances:

NOTE: This table is provided for information purposes only. It provides guidance that can be useful in explaining the whistle audibility requirements during an exam.

Audibility Table

Vessel Length		Audibility Range
Over or Equal to		Less Than
20 M (65.6 ft)		0.5 NM
20 M (65.6 ft)	75 M (246 ft)	1.0 NM
75 M (246 ft)	200 M (656 ft)	1.5 NM
200 M (656 ft)		2.0 NM

Date of Public Notice: 3/2/2015 Date of Public Hearing: 4/2/2015___
or End of Comment period:_____

NOTIFICATION FORM

Name of Department or Agency here:

SMALL BUSINESS REGULATORY IMPACT AND REGULATORY FLEXIBILITY ANALYSIS

(R.I.G.L. **§** 42-35.1-4)

Title of Administrative Rule or Regulation: RHODE ISLAND STATE PILOTAGE COMMISSION RULES AND REGULATIONS

Statutory Authority: (R.I. General Law(s)) This proposed rulemaking seeks to modify the subject Regulations pursuant to Chapters 46-9 and 46-9.1 of the General Laws of Rhode Island, as amended, and in accordance with the Administrative Procedures Act, Chapter 42-35 of the General Laws.

The Regulation: (*The purpose for the amendment(s)*):

The proposed modifications are as follows::

The first proposed amendment is an effort to update the Regulations by supplementing the Definitions section of the Regulations provided in Rule 1.01 by adding several additional terms to be defined therein.

The second proposed amendment proposes an amendment of Rule 14 in order to clarify the geographic area in which pilots are required to utilize a pilot boat holding valid "Certificate of Compliance" meeting appropriate safety standards.

The third proposed amendment proposes the deletion of Rule 15.12 which had governed the reporting of the now defunct Block Island Sound pilotage fees. (Numerous numerical designations of the Rules and subparts following the now eliminated Rule 15.12 are required to be modified due to the deletion of Rule 15.12.)

The fourth proposed amendment proposes an amendment of the current Rule 15.16(D)(5) by eliminating the outdated term "RDF calibration" and updating the current Rule 15.17 (B) by changing the "Department of Transportation" to "Department of Homeland Security."

The fifth proposed amendment proposes the addition of a subpart E. to the current Rule 15.18. Pursuant to Rule 15.18 (E) there will now be a requirement for a pilot in the event that a reportable incident should occur while the vessel is being transited to take certain steps be taken to safeguard the Portable Pilot Unit or computer assisted navigational device that pilots are required to utilize while transiting vessels and thereby afford investigators a record of the events leading up to the reportable incident

The sixth proposed amendment proposes the deletion of Rule 16 which governs the rates previously charged for the now defunct Block Island Sound pilotage fees.

The seventh proposed amendment would substitute a new revised medical form for the medical form that is currently included among the appendices to these Regulations.

In addition to consideration of the above proposed rulemaking, pursuant to the provisions of **Chapters 46-9 and 46-9.1** of the General Laws of Rhode Island, as amended, and in accordance with the Administrative Procedures Act, Chapter 42-35 of the General Laws, the Rhode Island State Pilotage Commission hereby gives notice of its intention to hold a public hearing in compliance with Section 46-9-6(8) of the General Laws of Rhode Island to afford the public an opportunity to offer oral and written testimony on matters pertaining to the administration of **Chapters 46-9 and 46-9.1** of the General Laws of Rhode Island, as amended entitled "Pilots, Narragansett Bay and Tributaries" and "Pilots, Block Island Sound," respectively, including but not limited to the determination as to the number and qualifications of pilots that may be deemed necessary to satisfy the needs of the State as well as review of any proposals that may be presented requesting a modification of the rates charged for the piloting of vessels within the Commission's jurisdiction.

Testimony will be taken on any subject matter pursuant to the requirements of Section 46--9-6(8) of the General Laws of Rhode Island ". . .that the Commission shall conduct at least one public hearing annually, duly advertised, to hear and receive complaints and comments from individual pilots, associations, or other public or private agencies with regard to any matters that may come within the jurisdiction of the Commission."

Written comments concerning the above proposed rulemaking and public opportunity to offer comment the administration the administration of **Chapters 46-9 and 46-9.1** of the General Laws of Rhode Island will be accepted at the offices of the Division of Law Enforcement, Department of Environmental Management, 235 Promenade Street, Providence, Rhode Island 02908 on or before 8:30 a.m. on April 2, 2015. A public hearing will be held at Room 300 located at 235 Promenade Street, Providence, Rhode Island 02908 at 10:00 a.m. on April 2, 2015.

Expected Small Business Impact: _Beneficial to small businesses.

Regulatory Flexibility Analysis: _**(***agency should make a determination as to whether there is an impact on small businesses)* These regulations support the State's small businesses by ensuring the ability of all business to depend upon the transportation of goods and material into and out of the ports of the State.

The agency shall consider, without limitation, each of the following methods of reducing the impact of the proposed regulation on small businesses:

(1) The establishment of less stringent compliance or reporting requirements for small businesses. The subject regulations do not require compliance with reporting requirements.

(2) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. The subject regulations do not require compliance with reporting requirements.

(3) The consolidation or simplification of compliance or reporting requirements for small businesses. The subject regulations do not require compliance with reporting requirements.

(4) The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation. The establishment of performance standards in place of design or operational standards is not applicable to this type of regulatory action.

(5) The exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The exemption of the marine pilots from these regulations would be disastrous to the State's small businesses and harmful to the health, safety, and welfare of these businesses and all of inhabitants of this State.

SMALL BUSINESS IMPACT STATEMENT (For Review of Existing Regulations)

In order to accurately predict the impact the adoption, amendment, or repeal of a regulation will have on small businesses, the promulgating authority must conduct a thorough analysis that not only considers the potential effects of the action but also quantifies the costs, if any, associated with each. The questions below are designed to aid promulgating authorities in conducting their analysis.

Subject Regulations: *State Pilotage Commission Rules and Regulations*

Agency Submitting Regulation: RI Department of Environmental Management (RIDEM) – Rhode Island State Pilotage Commission

Subject Matter of Regulation: The proposed rulemaking would amend the *Rhode Island State Pilotage Commission Rules and Regulations* (the "Regulations") as follows:

. Pursuant to the provisions of Chapters 46-9 and 46-9.1 of the General Laws of Rhode Island, as amended, and in accordance with the Administrative Procedures Act, Chapter 42-35 of the General Laws, the Rhode Island State Pilotage Commission (the "Commission") hereby gives notice of its intention to amend the following sections of the Rhode Island State Pilotage Commission Rules and Regulations:

The first proposed amendment is an effort to update the Regulations by supplementing the Definitions section of the Regulations provided in Rule 1.01 by adding several additional terms to be defined therein.

The second proposed amendment proposes an amendment of Rule 14 in order to clarify the geographic area in which pilots are required to utilize a pilot boat holding valid "Certificate of Compliance" meeting appropriate safety standards.

The third proposed amendment proposes the deletion of Rule 15.12 which had governed the reporting of the now defunct Block Island Sound pilotage fees. (Numerous numerical designations of the Rules and subparts following the now eliminated Rule 15.12 are required to be modified due to the deletion of Rule 15.12.)

The fourth proposed amendment proposes an amendment of the current Rule 15.16(D)(5) by eliminating the outdated term "RDF calibration" and updating the current Rule 15.17 (B) by changing the "Department of Transportation" to "Department of Homeland Security."

The fifth proposed amendment proposes the addition of a subpart E. to the current Rule 15.18. Pursuant to Rule 15.18 (E) there will now be a requirement for a pilot in the event that a

reportable incident should occur while the vessel is being transited to take certain steps be taken to safeguard the Portable Pilot Unit or computer assisted navigational device that pilots are required to utilize while transiting vessels and thereby afford investigators a record of the events leading up to the reportable incident

The sixth proposed amendment proposes the deletion of Rule 16 which governs the rates previously charged for the now defunct Block Island Sound pilotage fees.

The seventh proposed amendment would substitute a new revised medical form for the medical form that is currently included among the appendices to these Regulations.

In addition to consideration of the above proposed rulemaking, pursuant to the provisions of **Chapters 46-9 and 46-9.1** of the General Laws of Rhode Island, as amended, and in accordance with the Administrative Procedures Act, Chapter 42-35 of the General Laws, the Rhode Island State Pilotage Commission hereby gives notice of its intention to hold a public hearing in compliance with Section 46-9-6(8) of the General Laws of Rhode Island to afford the public an opportunity to offer oral and written testimony on matters pertaining to the administration of **Chapters 46-9 and 46-9.1** of the General Laws of Rhode Island, as amended entitled "Pilots, Narragansett Bay and Tributaries" and "Pilots, Block Island Sound," respectively, including but not limited to the determination as to the number and qualifications of pilots that may be deemed necessary to satisfy the needs of the State as well as review of any proposals that may be presented requesting a modification of the rates charged for the piloting of vessels within the Commission's jurisdiction.

Testimony will be taken on any subject matter pursuant to the requirements of Section 46--9-6(8) of the General Laws of Rhode Island ". . .that the Commission shall conduct at least one public hearing annually, duly advertised, to hear and receive complaints and comments from individual pilots, associations, or other public or private agencies with regard to any matters that may come within the jurisdiction of the Commission."

Written comments concerning the above proposed rulemaking and public opportunity to offer comment the administration the administration of **Chapters 46-9 and 46-9.1** of the General Laws of Rhode Island will be accepted at the offices of the Division of Law Enforcement, Department of Environmental Management, 235 Promenade Street, Providence, Rhode Island 02908 on or before 8:30 a.m. on April 2, 2015. A public hearing will be held at Room 300 located at 235 Promenade Street, Providence, Rhode Island 02908 at 10:00 a.m. on April 2, 2015.

ERLID Number: TO BE ASSIGNED BY THE SECRETARY OF STATE

Statutory Authority: R.I. Gen. Laws 46-9 and 46-9.1, adopted in accordance with 42-35, of the Rhode Island General Laws of 1956, as amended.

Other Agencies Affected: None

Other Regulations That May Duplicate or Conflict with the Regulation: None

Describe the Scope and Objectives of the Regulation See **Subject Matter of Regulation** above.

What was the rational for establishing this regulation? All businesses could potentially be adversely impacted by inefficient and unsafe transportation of products, raw materials, or fuel by water into or out of our ports without proper regulations.

Does the rationale still exist? YES

Is the rationale still relevant? YES

Business Industries Affected by the Regulation: Marine pilots directly whose efficient and safe operation benefit all businesses in the State by permitting these businesses to depend upon prompt and safe transportation goods and materials into and out of the ports of the State.

Types of Businesses Included in the Industry: Marine pilots; In addition, all businesses are impacted by the transportation of product, raw material, or fuel by water into or out of the waters of the State benefit from the safe and financially advantageous rates that are consistently less than the rates charged in sister states.

Total Number of Small Businesses included in the Regulated Industries *Please see the attached guidance documents for assistance determining the total number of small businesses***:**

There are currently 11 Marine pilots who are licensed by the Rhode Island State Pilotage Commission.

Number of Small Businesses Potentially Subject to the Proposed Regulation: Same as above.

What is the cost to your agency of establishing and enforcing this regulation? All businesses could potentially be adversely impacted by inefficient and unsafe transportation of products, raw materials, or fuel by water into or out of our ports without proper regulations.

How often do small businesses contact your agency for assistance with clarification of the regulation and/or receive assistance with compliance issues? The regulated community is fairly well acquainted with the *State Pilotage Commission Rules and Regulations* and the Commissioners and DEM support staff seldom receive inquiries concerning the subject regulations.

What would the consequences be if the regulation did not exist? All businesses could potentially be adversely impacted by inefficient and unsafe the transportation of product, raw material, or fuel by water into or out of our ports.

Effective Date Used In Cost Estimate: Spring 2014.

	Yes	**No**	***Note: For each question, please answer "yes" or "no" and offer a brief explanation. Please describe any facts, data, views, arguments, or other input from small businesses, organizations or any other sources that were used to quantify the impacts outlined below.***
1.	Yes	No X	**Do small businesses have to create, file, or issue additional reports?** No. These regulations do not require additional reports by small businesses with the exception of a Section 15.05 which increases the promptness with which a pilot must report any incident which occurs during his/her time piloting a vessel.
2.	Yes	No X	**Do small businesses have to implement additional recordkeeping procedures?** No the subject regulations do not require additional recordkeeping by small businesses.
3.	Yes	No X	**Do small businesses have to provide additional administrative oversight?** No. These regulations do not require additional administrative oversight by small businesses.
4.	Yes	No	**Do small businesses have to hire additional employees in order to comply with the proposed regulation?**

		X	No. These regulations do not require small businesses to hire additional employees. .
5.	Yes	No X	**Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?** No. These regulations do not require small businesses to hire professionals.
6.	Yes	No X	**Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?** No. These regulations do not require capital investments by small businesses.
7.	Yes	No X	**Are performance standards more appropriate than design standards?** No. This question is not applicable to this type of regulation.
8.	Yes	No X	**Does the regulation require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities?** No. These regulations do not require cooperation in such audits by small businesses.
9.	Yes	No X	**Does the regulation have the effect of creating additional taxes and/or fees for small businesses?** No. These regulations do not create additional taxes and/or fees except for the pilotage fees that are imposed by *R.I.* Gen. Laws Chapter s 46-9 and 46-9.1.
10.	Yes	No X	**Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?** No. These regulations do not require the provision of educational services by small businesses.

11.	Yes	No X	**Is the regulation likely to *deter* the formation of small businesses in Rhode Island?** No. These regulations are not likely to deter the formation of small businesses in Rhode Island.
12.	Yes X	No	**Is the regulation likely to *encourage* the formation of small businesses in Rhode Island?** Yes. These regulations are likely to directly encourage the formation of small businesses in Rhode Island by permitting small businesses a safer more more dependable stream of commerce.
13.	Yes	No X	**Can the regulation provide for less stringent compliance or reporting requirements for small businesses?** No. These regulations can not provide for less stringent compliance reporting requirements by small businesses.
14.	Yes	No X	**Can the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?** No. These regulations can not provide for less stringent schedules for compliance by small businesses.
15.	Yes	No X	**Can the compliance or reporting requirements be consolidated or simplified for small businesses?** No. These regulations can not provide for consolidation in order to obtain compliance by small businesses.
16.	Yes	No X	**Can performance standards for small businesses replace design or operational standards?** No. This question is not applicable to this type of regulation.
17.	Yes	No X	**Are there alternative regulatory methods that would minimize the adverse impact on small businesses?** No. Given that there does not appear to be any adverse impact upon small businesses caused by these regulations, alternative methods would not be available to minimize adverse impact upon small businesses.

18.	Yes X	No	**Were any small businesses or small business organizations contacted during the preparation of this document? If so, please describe.** Although no organization participated in the preparation of this document, all interested parties were afforded the opportunity to comment and participate in adoption of the subject regulations pursuant to R.I. Gen. Laws Gen. Chapter 42-35.