

CHAPTER 64

**RULES OF THE NEW JERSEY MARITIME PILOT
AND DOCKING PILOT COMMISSION**

Authority

N.J.S.A. 12:8-1 et seq.

Source and Effective Date

R.2009 d.364, effective November 10, 2009.
See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

Chapter Expiration Date

Chapter 64, Rules of the New Jersey Maritime Pilot and Docking Pilot Commission, expires on November 10, 2014.

Chapter Historical Note

Chapter 61, Rules of the Board of Commissioners of Pilotage, was adopted as R.1993 d.212, effective May 17, 1993. See: 25 N.J.R. 625(a), 25 N.J.R. 2123(a).

Pursuant to Executive Order No. 66(1978), Chapter 61, Rules of the Board of Commissioners of Pilotage, was readopted as R.1998 d.244, effective April 22, 1998. See: 30 N.J.R. 764(a), 30 N.J.R. 1810(a).

Chapter 61, Rules of the Board of Commissioners of Pilotage, was repealed and Chapter 61, Rules of the Board of Commissioners of Pilotage, was adopted as new rules by R.1999 d.129, effective April 19, 1999. See: 31 N.J.R. 6(b), 31 N.J.R. 1084(b).

Chapter 61, Rules of the Board of Commissioners of Pilotage, was readopted as R.2004 d.361, effective August 26, 2004. See: 36 N.J.R. 2401(a), 36 N.J.R. 4305(a).

Pursuant to P.L.2004, c.72, Chapter 61 of Title 7, Rules of the Board of Commissioners of Pilotage, was recodified as N.J.A.C. 16:64, effective September 17, 2004. See: 36 N.J.R. 4835(a).

Chapter 64, Rules of the Board of Commissioners of Pilotage, was renamed Chapter 64, Rules of the New Jersey Maritime Pilot and Docking Pilot Commission; and Subchapter 8, Docking Pilots, was adopted as new rules by R.2005 d.307, effective September 6, 2005. See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Subchapter 2, Pilot Apprenticeship, was renamed Maritime Pilot Apprenticeship, and Subchapter 9, Docking Pilot Apprenticeship Program, was adopted as new rules by R.2006 d.295, effective August 21, 2006. See: 38 N.J.R. 1402(a), 38 N.J.R. 3311(a).

Chapter 64, Rules of the New Jersey Maritime Pilot and Docking Pilot Commission, was readopted as R.2009 d.364, effective November 10, 2009. As a part of R.2009 d.364, Subchapter 3, Pilot Licensing, was renamed Maritime Pilot Licensing; and Subchapter 7, Drug Free Workshop Program, was renamed Drug-Free Workshop Program, effective December 7, 2009. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 16:64-1.1 Purpose and scope
- 16:64-1.2 Construction, severability and waiver
- 16:64-1.3 Definitions
- 16:64-1.4 New Jersey Maritime Pilot and Docking Pilot Commission
- 16:64-1.5 Requirement to take a licensed pilot
- 16:64-1.6 Fees for pilotage
- 16:64-1.7 Failure to take a pilot; penalty
- 16:64-1.8 Incorporation by reference

SUBCHAPTER 2. MARITIME PILOT APPRENTICESHIP

- 16:64-2.1 Scope
- 16:64-2.2 Availability and number of apprentices
- 16:64-2.3 Qualifications
- 16:64-2.4 The Maritime Pilot Apprenticeship Program
- 16:64-2.5 Dismissal or suspension of apprentices
- 16:64-2.6 Examination of apprentices

SUBCHAPTER 3. MARITIME PILOT LICENSING

- 16:64-3.1 Scope
- 16:64-3.2 Written examination
- 16:64-3.3 Issuance of initial license as a deputy pilot
- 16:64-3.4 Route extension
- 16:64-3.5 Medical examination
- 16:64-3.6 Oath
- 16:64-3.7 Retirement and age-related requirements
- 16:64-3.8 General license requirements
- 16:64-3.9 Grades of licenses and grade advancement
- 16:64-3.10 Reduction in grade of licenses or route suspension
- 16:64-3.11 Application for increase in grade of licenses
- 16:64-3.12 (Reserved)

SUBCHAPTER 4. PILOT BOATS AND STATIONS

- 16:64-4.1 Scope
- 16:64-4.2 Stationing of pilots
- 16:64-4.3 Log books

SUBCHAPTER 5. DUTIES OF PILOTAGE

- 16:64-5.1 Scope
- 16:64-5.2 Piloting duties
- 16:64-5.3 Master-pilot conference and unsafe passages
- 16:64-5.4 Illness
- 16:64-5.5 Route currency
- 16:64-5.6 Occurrences
- 16:64-5.7 Recurrent training

SUBCHAPTER 6. PENALTIES, ORDERS, AND HEARINGS

- 16:64-6.1 Scope
- 16:64-6.2 Investigations and penalties
- 16:64-6.3 Orders of the Commission
- 16:64-6.4 Suspension, limitation or revocation of a license
- 16:64-6.5 Informal hearing
- 16:64-6.6 Adjudicatory hearings

SUBCHAPTER 7. DRUG-FREE WORKSHOP PROGRAM

- 16:64-7.1 Scope
- 16:64-7.2 Definitions
- 16:64-7.3 Prohibitions
- 16:64-7.4 Use of prescribed dangerous drugs
- 16:64-7.5 Implied consent: cooperation with collection, testing, and record review
- 16:64-7.6 Pre-registration testing
- 16:64-7.7 Random testing
- 16:64-7.8 Reasonable belief testing
- 16:64-7.9 Post-occurrence testing
- 16:64-7.10 Drug testing procedures
- 16:64-7.11 Alcohol testing procedures
- 16:64-7.12 Verification by the Medical Review Officer
- 16:64-7.13 Protection of records
- 16:64-7.14 Notice requirements
- 16:64-7.15 Penalties
- 16:64-7.16 Responsibilities of the Association

SUBCHAPTER 8. DOCKING PILOTS

- 16:64-8.1 Licensing and oaths of docking pilots
- 16:64-8.2 General docking pilot license requirements
- 16:64-8.3 Master/docking pilot conference and unsafe passage
- 16:64-8.4 Illness

- 16:64-8.5 Route currency
- 16:64-8.6 Occurrences
- 16:64-8.7 Investigations and penalties
- 16:64-8.8 Orders of the Commission
- 16:64-8.9 Suspension, limitation or revocation of a license
- 16:64-8.10 Rules of the Road
- 16:64-8.11 Drug Free Work Place
- 16:64-8.12 (Reserved)
- 16:64-8.13 (Reserved)
- 16:64-8.14 (Reserved)

SUBCHAPTER 9. DOCKING PILOT APPRENTICESHIP PROGRAM

- 16:64-9.1 Scope
- 16:64-9.2 List of apprentices
- 16:64-9.3 Qualifications
- 16:64-9.4 Docking pilot apprenticeship program
- 16:64-9.5 Dismissal or suspension of docking pilot apprentices
- 16:64-9.6 Issuance of docking pilot licenses to apprentices
- 16:64-9.7 Alternative apprenticeship program
- 16:64-9.8 Current apprentices

SUBCHAPTER 1. GENERAL PROVISIONS

16:64-1.1 Purpose and scope

(a) It is the purpose of this chapter to provide for the better governance of pilots and pilot operations by the New Jersey Maritime Pilot and Docking Pilot Commission and to require that pilots and apprentices are qualified through high levels of training and experience. This will reduce the risk of accidents and marine disasters.

(b) This chapter shall apply to all foreign vessels and all United States vessels sailing under register.

(c) This chapter applies to all licensed pilots and registered apprentices regardless of their classification or grade. Every licensed pilot and apprentice shall be responsible to know the contents of and comply with this chapter.

(d) The powers, duties, and functions vested in the Commission by statute or the provisions of this chapter shall not be construed to limit the powers, duties, and functions vested therein under any provision of law or regulation except as specifically set forth in this chapter.

Amended by R.2005 d.307, effective September 6, 2005.
See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Rewrote (a); in (d), substituted "Commission" for "Board" following "vested in the".

Amended by R.2009 d.364, effective December 7, 2009.
See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

In (c), substituted "Every" for "The President of the Pilots' Association shall provide a copy of this chapter to every" and "shall be responsible to know the contents of and comply with this chapter" for "and receipt of this chapter shall be documented".

16:64-1.2 Construction, severability and waiver

(a) This chapter shall be liberally construed to permit the Commission to discharge its statutory and regulatory obligations.

(b) If any subchapter, section, subsection or any portion of this chapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these rules shall not be affected thereby.

(c) The Commission may grant a waiver of the provisions of this chapter when it determines that not granting a waiver would be detrimental to the public safety, the safety of a pilot, an apprentice, other person, or to any vessel or other property. The Commission may grant a waiver through the issuance of an Order and the waiver shall be limited in scope and applicability to that particular circumstance.

Amended by R.2005 d.307, effective September 6, 2005.
See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

In (a) and (c), substituted "Commission" for "Board" throughout.
Amended by R.2009 d.364, effective December 7, 2009.

See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

Section was, "Construction, severability, and waiver". In (b), deleted a comma following "subsection" and deleted "such judgment shall be confined in its operation and" following "jurisdiction,".

16:64-1.3 Definitions

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

"Act" means the statute governing pilotage at N.J.S.A. 12:8-1 et seq.

"Apprentice" means a person who is registered with the Commission pursuant to N.J.S.A. 12:8-10 and this chapter.

"Bar of Sandy Hook" means the built-up area under the waters between the northern most point of Sandy Hook extending generally northeastward to the south shore of Long Island caused by a deposit of sediment. The location of the Bar is not static.

"Commission" means the New Jersey Maritime Pilot and Docking Pilot Commission established by N.J.S.A. 12:8-1 et seq.

"Commission President" means the President of the New Jersey Maritime Pilot and Docking Pilot Commission.

"Commissioners" means the Commissioners of Pilotage appointed by the Governor pursuant to N.J.S.A. 12:8-1 et seq.

"Deputy pilot" means a pilot of the third, fourth, fifth and sixth grade.

"Docking pilot" means a person licensed by the Commission and entered in the Register maintained pursuant to N.J.S.A. 12:8-52.

"Full branch pilot" means a pilot of the first grade.

"Independent Pilot Association" means any association of pilots or docking pilots, other than the United New York and New Jersey Sandy Hook Pilots' Benevolent Associations, whose members are qualified to pilot vessels in pilotage waters.

“Limited branch pilot” means a pilot of the second grade.

“Maritime pilot” means a person licensed by the Commission pursuant to N.J.S.A. 12:8-15.

“Occurrence” means any possible collision, allision, stranding, touching of bottom, power loss, steering loss, damage to or loss of property, personal injury, or discharge of a substance into the water.

“Order” means an order issued by the Commission in accordance with N.J.A.C. 16:64-6.3.

“Physician” means either a person who is the holder of a M.D. degree and is licensed as a physician or is the holder of a D.O. degree and is licensed as an osteopath.

“Pilot” means a maritime pilot or docking pilot as defined in N.J.S.A. 12:8-1.2.

“Pilots’ Association” or “Association” means the United New Jersey Sandy Hook Pilots’ Benevolent Association or the United New Jersey Sandy Hook Pilots’ Association.

“Regulated vessel” means all vessels required by the laws of the State of New Jersey to take a licensed pilot.

“Rules of the Road” means the International Regulations for Preventing Collisions at Sea, 1972, (72COLREGS) 33 U.S.C. foll. § 1602 and/or the Unified Inland Rules, 33 U.S.C. §§ 2001-71.

“Sandy Hook pilot” means a person licensed in accordance with New Jersey or New York state law to pilot regulated vessels and is a member of the Pilots’ Association as defined in N.J.S.A. 12:8-1.2.

“Secretary” means the Secretary of the New Jersey Maritime Pilot and Docking Pilot Commission.

“Ship docking company” means an enterprise which is regularly engaged in the business of providing docking and undocking services to regulated vessels in pilotage waters utilizing tugboats and docking pilots.

“United States vessels sailing under register” means all U.S. vessels that are engaged in trade with foreign lands.

Amended by R.2005 d.307, effective September 6, 2005.
See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted the term “Commission” for “Board” and rewrote definition; substituted the term “Commission President” for “Board President” and rewrote definition; added definitions “Docking pilot” and “Independent Pilot Association”; rewrote definitions “Order”, “Pilot” and “Secretary”.

Amended by R.2006 d.295, effective August 21, 2006.
See: 38 N.J.R. 1402(a), 38 N.J.R. 3311(a).

In definition “Apprentice”, substituted “Commission” for “Board”; and added definition “Ship docking company”.

Amended by R.2009 d.364, effective December 7, 2009.
See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

Added definition “Maritime pilot”; in definition “Pilot”, deleted “or licensed pilot” and inserted “or docking pilot”; and in definition “Sandy Hook pilot”, inserted “as defined in N.J.S.A. 12:8-1.2”.

16:64-1.4 New Jersey Maritime Pilot and Docking Pilot Commission

(a) The Commission shall annually elect the following officers from the Commissioners: Commission President, Vice-President, Secretary, and Treasurer. The Commission President shall chair all Commission meetings. In the President’s absence, the Vice-President shall assume all of the President’s duties and responsibilities. The Secretary shall be responsible for the recording and publication of minutes of Commission meetings. The Treasurer shall be responsible for the preparation of the Commission’s financial affairs and reports.

(b) The Commission shall hold regular meetings and notice of any regular meeting shall be made in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. in a situation where there exists a matter of urgency and importance, as defined by N.J.S.A. 10:4-9.b, the Commission may hold a meeting where notice has not been provided.

(c) Any formal action taken by the Commission shall be by a majority vote when there is a quorum present. A majority of the current membership of the Commission constitutes a quorum. In an emergency situation or in any matter not expressly controlled by this chapter or the Act, the Commission President may exercise discretion and take any necessary actions. The Commission President shall report all such actions taken to the other Commissioners as soon as practicable.

(d) The Commission shall have the authority to hire administrative staff and any other staff, independent contractors, or investigators in order to provide assistance in the implementation of the Act and this chapter.

(e) The Secretary may require a person requesting information from the Commission to submit a written request and pay fees or costs when necessary. The Secretary shall review the request in accordance with the requirements of the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. and any other State or Federal law pertaining to public records, confidentiality, and the rules of evidence.

Amended by R.2005 d.307, effective September 6, 2005.
See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted “New Jersey Maritime Pilot and Docking Pilot Commission” for “Board of Commissioners” in the rule heading; substituted “Commission” for “Board” throughout section.

Amended by R.2006 d.295, effective August 21, 2006.
See: 38 N.J.R. 1402(a), 38 N.J.R. 3311(a).

In (e), substituted “Open Public Records Act” for “Right to Know Law”, and deleted “/or” preceding “the rules of evidence”.

16:64-1.5 Requirement to take a licensed pilot

(a) The masters of all regulated vessels are required to carry a licensed pilot.

(b) The Pilots’ Association shall utilize a rotation system for pilots as approved by the Commission.

Amended by R.2005 d.307, effective September 6, 2005.
 See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).
 In (b), substituted "Commission" for "Board".

16:64-1.6 Fees for pilotage

(a) On or before the regular monthly meeting of the Commission, the Pilots' Association shall render to the Treasurer:

1. An accounting of all fees collected for pilotage during the preceding month; and
2. A payment to the Commission of a percentage of the fees collected as required by N.J.S.A. 12:8-4.

(b) Fees for maritime pilotage are as follows:

1. For every vessel entering or departing underway on pilotage waters, but not including those south of Sandy

Hook, the pilotage rates shall be the same as those charged by maritime pilots licensed by the State of New York. The Commission shall review and adopt these rates by resolution after they are signed into law in the State of New York.

2. Pilotage rates for vessels entering or departing ports and underway on waters of ports south of Sandy Hook to, and including, Atlantic City shall be the same as for vessels as established in (b)1 above.

3. After conferring with the New York Pilotage Commission it has been determined that maritime pilotage rates for intermediate or intra-harbor movement of vessels shall be as follows:

CHARGES FOR INTRAHARBOR AND INTERMEDIATE SERVICES

<u>Service</u>	<u>Fee</u>
Un-established Transporting Fee	\$300.00
Vessel Returning From Sea Due to Stress of Weather Detention Due to Delay for Convenience of Vessel	Full Pilotage
Detention Due to Delay for Awaiting Favorable Tide or Berth	\$150.00 Per Hour or Part of Hour
Dismissal of Pilot without Rendering Service	\$150.00 Per Hour or Part of Hour
Standing By on Vessel for Convenience of Vessel	\$400.00
Additional Pilot at request of vessel	\$150.00 Per Hour with Minimum of \$300.00
Docking Fees:	One-Half Base Pilotage Tariff
* Without Assistance of Tugs or Bow Thruster	33 Percent Base Pilotage Tariff
* Without Assistance of Tugs, with Bow Thruster	26 Percent Base Pilotage Tariff
* With Assistance of Tug or Tugs	20 Percent Base Pilotage Tariff
Swinging Vessel for Compass or Calibration of Instruments	\$150.00 In Addition to Regular Pilotage
Anchoring in Vicinity of Pilot Station at Request of Vessel	\$300.00
Vessel On Station Requesting Pilot Less Than 24 Hours Notice	20 Percent Base Pilotage Tariff, Minimum Charge of \$300.00
Cancellation Less Than Six Hours Before Scheduled Arrival Time	20 Percent Base Pilotage Tariff, Minimum Charge of \$300.00
Vessel Arriving More Than Two Hours Late without Six Hours Notice from Scheduled Arrival Time	\$100.00 Per Hour, not to exceed 20 Percent Base Pilotage Tariff, Minimum Charge of \$300.00
Sailing Order Received Less Than Three Hours Prior To Sailing Time	\$150.00

Maritime Pilot Transporting/Intra Harbor Movement Fees – Port of New York and New Jersey

CHARGES IN DOLLARS FOR SERVICES BETWEEN ANY TWO POINTS ON THIS CHART ARE NOTED IN THE INDIVIDUAL BOXES	UPPER BAY AND GRAVES END BAY	HUDSON RIVER SOUTH OF GEORGE WASHINGTON BRIDGE	HUDSON RIVER AT YONKERS	EAST RIVER SOUTH OF HELL GATE	EAST RIVER WEST OF HUNTS POINT	NEWARK BAY AND TRIBUTARIES	KILL VAN KULL AND ARTHUR KILL NORTH OF TUFTS POINT	JAMAICA BAY	LEONARDO VIA CHAPEL HILL CHANNEL	LEONARDO VIA AMBROSE AND SANDY HOOK CHANNELS	PERTH AMBOY	RARITAN RIVER	ARTHUR KULL, SOUTH OF TUFTS POINT	KILL VAN KULL, ARTHUR KILL, AND NEWARK BAY, SOUTHWAY
UPPER BAY AND GRAVES END BAY	300	400	500	400	500	400	400	400	400	23M	32M	34M	38M	42M
HUDSON RIVER SOUTH OF GEORGE WASHINGTON BRIDGE	400	300	400	400	500	500	500	500	500	34M	43M	45M	49M	53M
HUDSON RIVER AT YONKERS	500	400	300	500	600	600	600	600	600	41M	51M	53M	57M	60M
EAST RIVER SOUTH OF HELL GATE	400	400	500	300	400	500	500	500	500	31M	40M	42M	46M	50M
EAST RIVER WEST OF HUNTS POINT	500	500	600	400	300	500	600	600	600	35M	44M	46M	50M	54M
NEWARK BAY AND TRIBUTARIES	400	500	600	500	600	300	400	600	600	31M	40M	42M	46M	50M
KILL VAN KULL AND ARTHUR KILL NORTH OF TUFTS POINT	400	500	300	500	600	400	300	500	500	44M	53M	55M	59M	63M
JAMAICA BAY	400	500	600	400	600	600	500	300	500	Approximate Mileage Between Points. *See (b)3i through iv below.				
LEONARDO VIA CHAPEL HILL CHANNEL	400	500	600	500	600	600	500	500						

i. For transporting vessels between points, indicated in the second table above on the right, the fee shall be \$2.00 per pilotage unit, with a minimum charge of \$300.00, and a maximum charge of \$800.00.

ii. Every foreign vessel and every American vessel under register entering or departing from the Port of New York by the way of Sandy Hook or by the way of Sands Point or Execution Rocks making more than 10 port calls per month, shall receive a discount of 50 per-

cent of the charges set forth for each port call in excess of 10. This discount is to be calculated for each calendar month.

iii. "Pilotage units" as used in this paragraph 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 10,000, as expressed by the following:

$$\frac{\text{Overall Length} \times \text{Extreme Breadth} \times \text{Depth to the Uppermost Continuous Deck}}{10,000} = \text{Pilotage Units}$$

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

(2) The measurement of overall length, extreme breadth and depth shall be made available to the pilot by the master or the agent for the purpose of computation of pilotage fees.

(3) Failure to provide the measurements so required shall subject the vessel to maximum pilotage tariff.

iv. "Pilotage tariff" as used in this paragraph shall be the same as fees determined by (b)1 above.

Amended by R.2005 d.307, effective September 6, 2005.
See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).
In (a)2, substituted "Commission" for "Board".

Amended by R.2006 d.295, effective August 21, 2006.
See: 38 N.J.R. 1402(a), 38 N.J.R. 3311(a).
Rewrote (b).

Amended by R.2008 d.362, effective December 1, 2008.
See: 40 N.J.R. 4305(a), 40 N.J.R. 6823(a).
Rewrote (b).

16:64-1.7 Failure to take a pilot; penalty

The master, owner, agent, or charterer on any vessel required to take a pilot which fails to do so shall be liable for the full amount of pilotage fees set forth in N.J.A.C. 16:64-1.6 that would otherwise be due, plus a penalty equal to that amount.

New Rule, R.2006 d.295, effective August 21, 2006.
See: 38 N.J.R. 1402(a), 38 N.J.R. 3311(a).

Former N.J.A.C. 16:64-1.7, Incorporation by reference, recodified to N.J.A.C. 16:64-1.8.

16:64-1.8 Incorporation by reference

(a) Any reference in this chapter to any of the items listed in (b) below, including any future supplements or amendments thereto, shall be deemed to incorporate such items by reference.

(b) The following statutes and regulations are incorporated by reference in this chapter:

1. United States Code, Title 21, Parts 802 and 812;
2. Code of Federal Regulations, Title 21, Parts 1301-1316;
3. Code of Federal Regulations, Title 49, Part 40, Procedures for Transportation Workplace Drug Testing Programs, Sections 40.23, 40.25, 40.27, 40.29, 40.31 and 40.39;
4. New Jersey Administrative Code (N.J.A.C. 1:1) Title 1, Chapter 1; and
5. The Rules of the Road as defined in N.J.A.C. 7:61-1.3.

Recodified from N.J.A.C. 16:64-1.7 by R.2006 d.295, effective August 21, 2006.

See: 38 N.J.R. 1402(a), 38 N.J.R. 3311(a).

SUBCHAPTER 2. MARITIME PILOT APPRENTICESHIP

16:64-2.1 Scope

This subchapter prescribes the necessary qualifications and application procedures for persons wishing to be admitted to the apprenticeship program for Sandy Hook pilots. This subchapter also prescribes the requirements of the maritime pilot apprenticeship program.

Amended by R.2006 d.295, effective August 21, 2006.

See: 38 N.J.R. 1402(a), 38 N.J.R. 3311(a).

In the second sentence, inserted "maritime pilot".

16:64-2.2 Availability and number of apprentices

(a) The number of Sandy Hook pilot apprentices shall be set by the Commission after consultation with the Sandy Hook Pilots' Association and the New York Board of Pilot Commissioners. The number shall be set, so as to assure the sufficiency of the number of licensed Sandy Hook pilots necessary to safely, properly and adequately pilot regulated vessels.

(b) The availability of openings for applicant apprentices shall be posted on the Commission's website at <http://www.state.nj.us/transportation/maritimepilot/> and advertised in an appropriate trade journal. These advertisements shall specify a deadline for submitting the applications. Qualified appli-

cants shall be considered without discrimination because of race, color, religion, national origin, sex or marital status.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted "Commission" for "Board".

Amended by R.2009 d.364, effective December 7, 2009.

See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

Section was "Number of apprentices". Inserted designation (a); in (a), inserted a comma following the second occurrence of "set"; and added (b).

16:64-2.3 Qualifications

(a) A person wishing to be registered with the Commission as an apprentice shall present satisfactory evidence, at the time of the application, that he or she:

1. Is at least 18 years of age and is not more than 27 years of age no later than April 15 of the year the application is filed;
2. Is of good moral character as evidenced through at least two written references provided by the applicant and background checks as may be directed by the Commission;
3. Is in good physical health and at a minimum meets all of the medical and hearing requirements required of the holder of a First Class Federal Pilots' license without waiver and has passed a chemical drug test for dangerous drugs as set forth in N.J.A.C. 16:64-7.6;
4. Has a minimum uncorrected visual acuity of at least 20/50 in each eye, correctable to 20/20 in each eye;
5. Is able to satisfactorily pass one of the following tests for color perception without the use of color sensing lenses:
 - i. Pseudoisochromatic Plates (Dvornine 2nd Edition; AOC; revised edition or AOC-HRR; Ishihara 16-, 24-, or 38-plate editions);
 - ii. Eldridge-Green Color Perception Lantern;
 - iii. Farnworth Lantern;
 - iv. Keystone Orthoscope;
 - v. Keystone Telebinocular;
 - vi. SAMCTT (School of Aviation Medicine Color Threshold Tester);
 - vii. Titmus Optical Vision Tester; or
 - viii. Williams Lantern;
6. Holds or will hold a Bachelor's Degree from an accredited college or university by June 30th of the year the application is filed;
7. Has the ability to read, write, and speak fluent English;
8. Is a citizen of the United States; and
9. Has demonstrated through an interview and testing process the aptitude, interpersonal skills and physical skills required of a pilot.

(c) The Commission may request the Association to prepare an individual evaluation for each apprentice who is prepared to take the licensure examinations. The evaluation shall summarize the qualifications, piloting history, and limitations, if any, of each apprentice. Each evaluation shall conclude with a narrative rating of the apprentice as “recommended” or “not recommended.” The Commission shall consider, but is not bound by, the evaluation of the Association.

Amended by R.2005 d.307, effective September 6, 2005.
See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted “Commission” for “Board” throughout (b) and (c).

SUBCHAPTER 3. MARITIME PILOT LICENSING

16:64-3.1 Scope

(a) No person shall be licensed as a pilot by the State of New Jersey except as provided in the Act and this chapter.

(b) This subchapter sets forth the qualifications and procedures that must be satisfied by any person licensed or wishing to be licensed as a maritime pilot.

(c) Where necessary in the event of an emergency, the Commission may issue a temporary pilot license to a person without requiring compliance with this subchapter. The temporary license shall remain in effect as long as the Commission determines that the emergency situation exists. The temporary license may be immediately revoked, for any cause or without cause, by the Commission.

Amended by R.2005 d.307, effective September 6, 2005.
See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted “Commission” for “Board” throughout (c).

Amended by R.2006 d.295, effective August 21, 2006.

See: 38 N.J.R. 1402(a), 38 N.J.R. 3311(a).

In (c), substituted “license” for “permit”.

Amended by R.2009 d.364, effective December 7, 2009.

See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

In (b), substituted “by any person licensed or wishing to be licensed as a maritime” for “before any person is licensed as a”; and in (c), substituted “determines that” for “sees fit to resolve” and inserted “exists”.

16:64-3.2 Written examination

(a) Every applicant for an original license as a deputy pilot and every licensed pilot applying for an extension of route shall be required to take and pass a written examination, which shall be prescribed by the Commission. The examination shall be administered and graded under the supervision of the Commission. Any branch pilot may attend such examination.

(b) The written examination shall test the applicant’s qualifications for employment as a pilot and knowledge of pilotage routes.

(c) A passing grade on the exam shall be 70 percent on all written sections except Rules of the Road, which shall be 90

percent. Any charts drawn by the apprentice shall be graded on a pass/fail basis.

The following annotation applies to N.J.A.C. 16:64-3.2 prior to its repeal by R.2009 d.364:

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted “Commission” for “Board” and “Commission’s” for “Board’s” throughout.

The following annotation applies to N.J.A.C. 16:64-3.2 subsequent to its recodification from N.J.A.C. 16:64-3.3 by R.2009 d.364:

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

In (a), substituted “Commission” for “Board”.

Recodified from N.J.A.C. 16:64-3.3 and amended by R.2009 d.364, effective December 7, 2009.

See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

In (a), inserted a comma following “written examination”, deleted “a Commissioner of” following “by” and substituted “Commission” for “Commissioner” following “supervision of the”; and added (c). Former N.J.A.C. 16:64-3.2, Notice of candidates, repealed.

16:64-3.3 Issuance of initial license as a deputy pilot

(a) The Commission, after an applicant completes the examination and passages required in N.J.A.C. 16:64-2.4, 3.3 and 3.6, shall review the applicant’s results at a regular meeting. The Commission shall decide whether or not the applicant has successfully completed the apprenticeship and the required passages to the satisfaction of the Commission and whether the applicant should be appointed as a deputy pilot. Unless the Commission specifies otherwise, the Commission’s decision shall constitute final agency action.

(b) If the Commission appoints an apprentice as a deputy pilot, the Commission shall issue the deputy pilot a license. The license shall be signed by the President of the Commission.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

In (a), substituted “Commission’s” for “Board’s”; substituted “Commission” for “Board” throughout (a) and (b).

Amended by R.2006 d.295, effective August 21, 2006.

See: 38 N.J.R. 1402(a), 38 N.J.R. 3311(a).

In (b), substituted the first occurrence of “license” for “certificate of appointment”, the second occurrence of “license” for “certificate”, “the President” for “a majority”, and “Commission” for “Commissioners”.

Recodified from N.J.A.C. 16:64-3.4 by R.2009 d.364, effective December 7, 2009.

See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

Former N.J.A.C. 16:64-3.3, Written examination, recodified to N.J.A.C. 16:64-3.2.

16:64-3.4 Route extension

(a) A licensed maritime pilot wishing to extend or add a route shall complete at least 25 round trips as a pilot in training under the supervision and close scrutiny of pilots who are licensed for the route. During these 25 trips, the applicant shall observe the maneuvering of the vessels, which may or may not include such docking and undocking as may customarily be performed by licensed pilots. At least five of the 25 trips shall be made during hours of darkness.

(b) When applying to the Commission to extend or add routes, the applicant shall provide a listing of all passages completed to fulfill the requirements for the extension that shall include the names, gross registered tonnages, and drafts of the vessels, dates and times of passages. The pilot shall sign a certification attesting to the veracity of the list. The pilot shall also provide two letters from pilots licensed for that route who supervised one or more of the training passages as defined in (a) above attesting to the pilot's competency to pilot vessels on that route.

(c) The Commission shall consider the request and either deny or approve the application. Unless the Commission specifies otherwise, the Commission's decision regarding the request shall constitute final agency action.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted "Commission" for "Board" throughout (b) and (c); in (c), substituted "Commission's" for "Board's".

Recodified from N.J.A.C. 16:64-3.5 and amended by R.2009 d.364, effective December 7, 2009.

See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

In (a), inserted "maritime". Former N.J.A.C. 16:64-3.4, Issuance of initial license as a deputy pilot, recodified to N.J.A.C. 16:64-3.3.

16:64-3.5 Medical examination

(a) Every pilot and apprentice shall be examined at least annually for:

1. General health;
2. Hearing equivalent to that required of a holder of a First Class Federal Pilot's license;
3. Visual acuity of at least 20/20 (correctable) in each eye; and
4. Color perception as specified at N.J.A.C. 16:64-2.3(a)5.

(b) The examinations shall be performed by a physician as defined in N.J.A.C. 16:64-1.3. The physician shall provide his or her medical opinion as to whether the pilot or apprentice is competent to perform the duties of a pilot. The results of the examinations shall be reported to the Commission and the Association on forms that have been approved by the Commission at the time of the examination. The pilot shall provide the physician with a Commission-approved written description of a pilot's duties, which shall be signed and dated by the physician and returned to the Commission. The pilot shall advise the physician of all medications he or she is taking. The doctor must certify on the form provided by the Commission that the use of the medications shall not adversely effect the pilot's ability to perform his or her duties. A new form shall be required every time a pilot changes medications or changes the medication dosage and/or frequency.

(c) Examinations shall be at the expense of the individual being examined. The Commission reserves the right to require additional examinations by physicians or specialists

designated by the Commission in which case the examinations shall be at the Commission's expense. The results and findings of any original or additional examinations shall be made available to the Commission, the Association, and the pilot or apprentice.

(d) If a physician reports that the health of a pilot, apprentice, or an applicant for license is deficient, the Commission may, at its discretion:

1. Refuse to grant an original license and/or appointment;
2. Suspend or revoke an existing license or apprenticeship pursuant to N.J.A.C. 16:64-6.4;
3. Issue an Order which imposes conditions or limitations on the pilot's license or on the apprentice's training program; and/or
4. Require additional examinations.

(e) The Association shall not assign to a vessel a pilot or an apprentice if the pilot or apprentice has not successfully completed the annual medical examination required in (a) above or examinations as may be required in (c) above.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted "Commission" for "Board" throughout (b), (c) and (d); in (c), substituted "Commission's" for "Board's".

Recodified from N.J.A.C. 16:64-3.6 and amended by R.2009 d.364, effective December 7, 2009.

See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

In (b), inserted the last three sentences; and in (e), inserted "medical". Former N.J.A.C. 16:64-3.5, Route extension, recodified to N.J.A.C. 16:64-3.4.

16:64-3.6 Oath

After successful completion of all requirements set forth herein and approval by the Commission, the Commission President or designee shall administer the oath of office to the applicant pursuant to N.J.S.A. 12:8-16.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted "Commission" for "Board" throughout (b), (c) and (d).

Amended by R.2006 d.295, effective August 21, 2006.

See: 38 N.J.R. 1402(a), 38 N.J.R. 3311(a).

Section was "Oath, bond, and license". Rewrote the section.

Recodified from N.J.A.C. 16:64-3.7 by R.2009 d.364, effective December 7, 2009.

See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

Former N.J.A.C. 16:64-3.6, Medical examination, recodified to N.J.A.C. 16:64-3.5.

16:64-3.7 Retirement and age-related requirements

(a) All pilots over the age of 65 shall submit each year to two physical examinations, as specified in N.J.A.C. 16:64-3.6. The second examination shall take place approximately six months after the first examination.

(b) All pilots over the age of 68 are precluded from being licensed as a Grade 1 pilot and any Grade 1 pilot who reaches the age of 68 shall automatically be redesignated as a Grade 2 pilot.

ii. The Vessel Traffic Service, or their successors, on the most appropriate sector frequency or by cellphone or land line; and

iii. As soon as practical thereafter to the Commission; and

2. Advise the master that the pilot shall remain on the bridge as an observer only and not as a pilot. However, if the pilot, acting as an observer, notes the vessel is falling into danger, the pilot shall advise the master of the danger and give the master such advice, to the extent the pilot is able, as the master may require in a cooperative effort to extradite the vessel from the impending danger.

(f) Under (e) above, if an occurrence or accident follows, the Commission shall take any special circumstances of the case into account when judging the performance of the pilot.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

In (f), substituted "Commission" for "Board".

Amended by R.2006 d.295, effective August 21, 2006.

See: 38 N.J.R. 1402(a), 38 N.J.R. 3311(a).

In (c)4, inserted "and International"; and in (e)1iii, substituted "Commission" for "Board".

Amended by R.2009 d.364, effective December 7, 2009.

See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

In (e)1i, inserted ", cellphone" and "or"; in (e)1ii, inserted "cellphone or"; and in (e)1iii, deleted "President of the Association and the" preceding "Commission".

16:64-5.4 Illness

(a) A pilot who has been ill or injured to the extent that the pilot has been unable to perform pilotage duties for a period of 30 calendar days or longer shall:

1. Notify the Commission, or arrange for it to be notified as soon as possible, after the 30th day of the disability; and

2. Not resume pilotage duties until the pilot has received the permission of the Commission to return to work.

(b) A pilot applying for permission to return to work shall present to the Commission a statement from a physician indicating fitness for duty and a detailed evaluation of the pilot's physical condition.

(c) Before allowing the pilot to return to duty, the Commission may require the pilot to:

1. Submit to an examination, at the Commission's expense, by a Commission selected physician;

2. Complete the observation trips as set forth in N.J.A.C. 16:64-5.5(c); and

3. Appear before the Commission.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted "Commission" for "Board" throughout section.

Amended by R.2009 d.364, effective December 7, 2009.

See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

In (a)2, deleted "President, or the designated Commissioner," following "Commission"; in (b), deleted "President or designated Commissioner" following "Commission"; and in the introductory paragraph of (c), deleted ", the Commission President or the designated Commissioner" following "Commission".

16:64-5.5 Route currency

(a) Prior to undertaking the piloting of a vessel, the pilot shall be fully conversant with the existing conditions of the pilotage route including, but not limited to:

1. Tidal and current conditions;

2. Status of aids to navigation;

3. Weather conditions; and

4. Obstructions, traffic conditions and changes since the pilot's last trip over the route.

(b) In the event a pilot has been absent from the performance of pilotage duty or it is anticipated that the pilot will be absent for a period of time in excess of 90 continuous days, for reasons other than illness or injury, the pilot shall notify the Commission and the President of the Association in writing. The notice shall include the reasons for the absence and the date the pilot expects to resume pilotage duties.

(c) A pilot who has not performed pilotage duties for more than 30 continuous days shall, prior to resuming piloting activities, submit a written certification to the Commission that the pilot is fully conversant with the conditions in (a) above. The Commission may require the pilot to appear before the Commission prior to resumption of piloting duties and may, at its discretion, condition the pilot's return to duty upon the completion of a specified number of observation trips over the routes the pilot will be piloting upon return to duty.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

In (b) and (c), substituted "Commission" for "Board".

Amended by R.2007 d.190, effective June 18, 2007.

See: 39 N.J.R. 622(a), 39 N.J.R. 2366(b).

In (c), substituted "30" for "90" and deleted ", with a copy to the Association," preceding "that".

16:64-5.6 Occurrences

(a) Any pilot or apprentice who witnesses an occurrence or who is aboard a vessel involved in an occurrence shall comply with (a)1 and 2 below. An occurrence includes any possible collision, allision, stranding, touching of bottom, power loss, steering loss, damage to or loss of property, personal injury or discharge of a substance into the water.

1. Immediately after the occurrence, and as soon as the pilot's or apprentice's services are no longer needed, provide a report to the Commission; and

2. Within 72 hours, or one business day, whichever is longer, provide the Commission with a written report, on a form provided by the Commission, which provides a detailed description of the occurrence.

(b) Any pilot or apprentice who is involved in or witnesses an occurrence may be required to appear before the Commission.

(c) In addition to the reports required above, the Association, ship docking company or Independent Pilot Association, as appropriate shall promptly investigate any occurrence, which occurs during the time a pilot licensed by the Commission was piloting a vessel involved in an occurrence and the occurrence results in one or more of the following:

1. Personal injury;
2. Property damage in excess of \$10,000;
3. A discharge of substance into the water;
4. Delay of the vessel;
5. A collision or allision; or
6. A grounding or touching of the bottom.

(d) The pilot shall, when requested by the Commission, not later than 30 calendar days after said occurrence obtain and deliver to the Commission copies of the following:

1. Witness statements;
2. Log books (rough and smooth);
3. Printouts from course recorders, depth-measuring devices, and engine orders;
4. Position plots;
5. Photographs; and
6. Soundings.

(e) The Association, ship docking company and/or Independent pilot association, as appropriate, shall not be required to provide the Commission with any opinions or conclusions of its investigators as to the culpability of a pilot licensed by the Commission.

(f) Any pilot who fails to make the verbal report or file the written report required by (a) above may be fined \$500.00 for each day the report is late. Any reports filed later than 10 days after the incident shall, in addition to this penalty, subject the pilot to further disciplinary action pursuant to N.J.A.C. 16:64-6. Fines shall be doubled in the event of a second offence.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted "Commission" for "Board" throughout section.

Amended by R.2006 d.295, effective August 21, 2006.

See: 38 N.J.R. 1402(a), 38 N.J.R. 3311(a).

Rewrote (a)1; in (a)2, inserted "or one business day, whichever is longer,"; and in the introductory paragraph of (c), substituted "was piloting" for "is on board".

Amended by R.2007 d.190, effective June 18, 2007.

See: 39 N.J.R. 622(a), 39 N.J.R. 2366(b).

Rewrote the introductory paragraph of (a); in the introductory paragraph of (c), inserted "ship docking company or Independent Pilot Association, as appropriate"; and added (f).

Amended by R.2009 d.364, effective December 7, 2009.

See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

In the introductory paragraph of (a), deleted a comma following "injury"; in (a)1, deleted "President or designee" following "Commission"; in (a)2, deleted "President or designee and the President of the Association or designee" following the first occurrence of "Commission" and substituted "on a form provided by" for "in a form acceptable to"; in the introductory paragraph of (c), inserted "to the reports required above" and inserted a comma following the first occurrence of "occurrence"; rewrote the introductory paragraph of (d); and rewrote (e).

16:64-5.7 Recurrent training

(a) All licensed maritime and docking pilots shall be required to undergo recurrent training in a form and frequency approved by the Commission by November 18, 2008, and once every year thereafter, on or before the first day of November. Each pilot shall ensure that the Association, the Independent Pilot Association(s) and/or ship docking companies the docking pilot is affiliated with (as appropriate) submits a detailed plan to the Commission for recurrent training of all licensed pilots for the calendar year following the submission.

(b) The Commission shall review the plans to assure that they provide for an appropriate level and schedule of training, which may include, but not be limited to, bridge resource management, emergency ship handling and communications, for all pilots.

(c) The Commission shall approve the plan or reject it. In the event the Commission rejects the plan, it shall advise the person or entity that submitted the plan of what changes are required for the Commission to approve the plan. The person or entity that submitted the plan shall submit a revised plan for the Commission's review and approval within 30 days of receipt of the Commission's rejection.

(d) Following Commission approval of a plan, the pilot shall ensure that the plan is implemented.

(e) To the extent possible, plans shall provide for coordinated training among the parties in interest.

New Rule, R.2008 d.201, effective July 21, 2008 (operative October 19, 2008).

See: 40 N.J.R. 1077(a), 40 N.J.R. 4341(a).

Amended by R.2009 d.364, effective December 7, 2009.

See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

Rewrote (a); and in (d), substituted "pilot shall ensure that the plan is implemented" for "person or entity that submitted plan shall implement it"; and in (e), substituted "among" for "amongst".

SUBCHAPTER 6. PENALTIES, ORDERS, AND HEARINGS

16:64-6.1 Scope

This subchapter sets forth the Commission's procedures for the issuance of penalties and orders, and the conduct of hearings as they apply to all pilots.

Amended by R.2005 d.307, effective September 6, 2005.
 See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).
 Substituted "Commission's" for "Board's".
 Amended by R.2009 d.364, effective December 7, 2009.
 See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).
 Inserted "as they apply to all pilots".

16:64-6.2 Investigations and penalties

(a) The Commission or a designated Commissioner(s) may conduct an investigation of any occurrence or any matter where there is a potential violation of this chapter or the Act.

(b) The Commission may impose any of the penalties set forth in the Act, N.J.S.A. 12:8-1 et seq., or in this chapter.

Amended by R.2005 d.307, effective September 6, 2005.
 See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).
 In (a) and (b), substituted "Commission" for "Board".

16:64-6.3 Orders of the Commission

(a) The Commission may issue Orders to implement this chapter or the Act, or to ensure the better government of pilots. Orders may include, but are not limited to:

1. The requirement to cease a specified activity or take a specified action;
2. The requirement to submit an oral statement or written report;
3. The requirement to provide written documents, log books, photographs, data, recorded material or other objects;
4. The requirement to appear at a meeting of the Commission;
5. The requirement to appear before the Commission at an informal hearing conducted pursuant to N.J.A.C. 16:64-6.5; and
6. The requirement to immediately cease engagement in pilotage operations pursuant to N.J.A.C. 16:64-6.4(b).

(b) Any Order issued by the Commission shall be delivered to the person named in the Order by personal service or by certified mail return receipt requested to the person's usual place of abode as it appears in the records of the Commission. The Order shall specify the time and place for compliance with the Order.

Amended by R.2005 d.307, effective September 6, 2005.
 See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).
 In the rule heading and in (a) and (b), substituted "Commission" for "Board".
 Amended by R.2009 d.364, effective December 7, 2009.
 See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).
 In the introductory paragraph of (a), substituted "this chapter or the Act" for "the Act or this chapter"; deleted former (a)1 and (a)2; recodified former (a)3 through (a)5 as (a)1 through (a)3; in (a)3, deleted a comma following "material" and deleted "and" from the end; and added new (a)4 and (a)5.

16:64-6.4 Suspension, limitation or revocation of a license

(a) The Commission may suspend, limit or revoke the license and/or the branch of a pilot for any one of the following grounds:

1. The pilot has violated N.J.S.A. 12:8-1 et seq., this chapter, or any Order issued by the Commission;
2. The pilot has negligently lost any vessel under his or her care;
3. The pilot has a mental or physical condition that precludes proper piloting;
4. The pilot has failed to comply with the Rules of the Road;
5. The pilot has failed to comply with the United States Coast Guard Vessel Traffic Service Regulations or directives;
6. The pilot meets any of the grounds in N.J.A.C. 16:64-7.3 or 7.15; or
7. The pilot has failed to perform his or her piloting duties as a prudent pilot would under the prevailing circumstances.

(b) Where the Commission deems it necessary, it may issue an Order immediately prohibiting the pilot from engaging in pilotage operations. Such an Order shall include the Commission's grounds for its action and shall permit the pilot, at the pilot's discretion, to request an informal hearing, in accordance with N.J.A.C. 16:64-6.5, within a reasonable time of the date of the Order, or request an adjudicatory hearing, in accordance with N.J.A.C. 16:64-6.6, as soon as same can be scheduled.

(c) Before a pilot's license is limited, suspended or revoked, unless it is done so pursuant to (b) above, the Commission shall issue an Order of limitation, suspension or revocation, which includes the Commission's grounds for the action, the effective date of the action and an opportunity for the pilot to request an informal hearing, pursuant to N.J.A.C. 16:64-6.5.

(d) After a branch or license is limited, suspended or revoked, the Commission may request that the pilot surrender the license. Should the pilot fail to surrender the license, the Commission shall publish a newspaper notice that states that the person no longer has the right to act as a pilot until reinstated by Order of the Commission.

Amended by R.2005 d.307, effective September 6, 2005.
 See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).
 Substituted "Commission" for "Board" throughout section; in (b) and (c), substituted "Commission's" for "Board's".
 Amended by R.2009 d.364, effective December 7, 2009.
 See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

Section was "Suspension, limitation, or revocation of a license". In the introductory paragraph of (a), deleted a comma following "limit"; rewrote (b); and in (c), deleted a comma following "suspended" and the second occurrence of "action", inserted a comma following "revocation", substituted "informal" for "adjudicatory" and updated the N.J.A.C. reference.

16:64-6.5 Informal hearing

(a) The Commission may issue an Order to a pilot, in the form of a written notice, requiring the pilot to appear before the Commission at an informal hearing.

(b) The written notice will include the following information:

1. The date, time and place where the person is required to appear;
2. Where appropriate, the Commission's grounds for its proposed action; and
3. Where appropriate, that the person has the right to challenge the Commission's proposed action.

(c) The written notice shall, at least 15 days before the show cause hearing, be delivered to the person:

1. By personal service; or
2. By certified mail return receipt requested to the person's usual place of abode as it appears in the records of the Commission.

(d) An informal hearing shall be conducted as follows:

1. The Commission may administer an oath and the Commission by and through the Commissioners, may examine any person;
2. The informal hearing shall not be conducted in accordance with the adjudicatory hearing procedures set forth in N.J.A.C. 1:1. However, any person appearing at an informal hearing shall have the right to testify, produce evidence and/or witnesses, bring an attorney or other representative pursuant to New Jersey Court Rule R. 1:21-1(e), and cross-examine any witnesses.

(e) The Commission shall give due consideration of the issues presented and may issue an Order in accordance with N.J.A.C. 16:64-6.3.

Amended by R.2005 d.307, effective September 6, 2005.
See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted "Commission" for "Board" throughout section; in (b), substituted "Commission's" for "Board's" throughout.
Amended by R.2009 d.364, effective December 7, 2009.
See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

Section was "Show cause". Rewrote the section.

16:64-6.6 Adjudicatory hearings

(a) Any person authorized to request an adjudicatory hearing in this chapter may request a hearing by sending written notice to the Commission. The notice shall be postmarked no

later than 30 calendar days after the receipt of the Commission's action. The request for a hearing shall include:

1. The date the Commission's action was received; and
2. A detailed statement of which factual findings or legal conclusions in the Commission's action are being challenged and the basis for the challenged issues.

(b) The Commission shall determine if the matter constitutes a contested case as defined in N.J.S.A. 52:14B-1 et seq.

(c) Where the Commission determines that the matter constitutes a contested case, an adjudicatory hearing shall be conducted before the Commission or, if the Commission so directs, the matter shall be referred to the Office of Administrative Law for a hearing to be conducted in accordance with N.J.A.C. 1:1. Where the Commission determines that the matter does not constitute a contested case, the Commission's determination shall be deemed final agency decision.

(d) Where the Commission conducts an adjudicatory hearing, the following process shall be used:

1. The hearing shall be conducted in accordance with the hearing procedures set forth in N.J.A.C. 1:1; and
2. After reviewing the issues presented, the Commission shall issue a final agency decision in accordance with N.J.S.A. 52:14B-1 et seq.

(e) If the Office of Administrative Law conducts the adjudicatory hearing, the Commission shall issue a Final Decision adopting, rejecting, or modifying the Initial Decision in accordance with N.J.S.A. 52:14B-1 et seq.

Amended by R.2005 d.307, effective September 6, 2005.
See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted "Commission" for "Board" throughout section; in (a) and (c), substituted "Commission's" for "Board's" throughout.
Amended by R.2009 d.364, effective December 7, 2009.
See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

In the introductory paragraph of (a), inserted "sending"; in (c), substituted "determines" for "determined", "determination" for the first occurrence of "action" and "decision" for the second occurrence of "action"; and in (d)2, substituted "final agency decision" for "Final Decision".

SUBCHAPTER 7. DRUG-FREE WORKSHOP PROGRAM

16:64-7.1 Scope

(a) The purpose of this subchapter is to maintain a drug- and alcohol-free workplace. This subchapter applies to maritime pilots and docking pilots.

(b) This subchapter prohibits the use or possession of dangerous drugs by a licensed pilot or registered apprentice whether on duty, subject to being called on duty or off duty.