

to submit to a chemical drug test at the pilot's or apprentice's expense within 48 hours of such positive test and to be subject to increased, unannounced chemical drug testing for dangerous drugs and/or alcohol at the pilot's or apprentice's expense for a period as determined by the Commission.

(c) No pilot or apprentice shall be assigned duties aboard a vessel pending the outcome of the test or tests required by (b) above.

(d) The outcome of the test(s) as required in (b) above shall be reported to the Commission by the Association within 24 hours of its receipt.

(e) The Commission may from time to time cause a search of applicable motor vehicle and criminal records to determine if a pilot or apprentice has been charged or convicted of any offense which would oblige the pilot or apprentice to give notice pursuant to (a) 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 (b), (c), (e) and (f), 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 "Notice of criminal or Coast Guard charges and convictions". Rewrote the section.

16:64-7.15 Penalties

(a) Any pilot who violates either of the prohibitions in N.J.A.C. 16:64-7.3(a)2 or 3 shall immediately be suspended from engaging in pilotage operations pursuant to N.J.A.C. 16:64-6.4(b).

(b) The Commission may, after the opportunity for an adjudicatory hearing pursuant to N.J.A.C. 16:64-6.6:

1. For the first offense, order the pilot:
 - i. Forfeit the pilotage fee for the pilotage operations performed while intoxicated;
 - ii. Be suspended, without pay, for at least one year;
 - iii. The Commission may, based upon the circumstances of the offense, suspend or revoke the license of any pilot deemed to have violated this subchapter; and
 - iv. Pay a penalty of up to \$5,000; and

2. For the second offense, have his or her license revoked.

(c) Any apprentice who violates either of the prohibitions in N.J.A.C. 16:64-7.3(a)2 or 3 shall immediately be prohibited from engaging in pilotage operations and may, after opportunity for a show cause hearing pursuant to N.J.A.C. 16:64-2.5, be suspended or have his or her registration permanently revoked.

(d) Any pilot or apprentice who fails to comply or cooperate with specimen collection and/or chemical drug testing;

or who tests positive on a chemical drug test required pursuant to this subchapter or a chemical drug test required pursuant to a Federal statute or regulations, including 46 CFR Part 16; or who is convicted under a Federal or state criminal drug statute or second conviction under any state statute for operating while under the influence or operating while intoxicated; or who violates any other provision of this subchapter shall immediately be suspended from engaging in pilotage operations and may, after opportunity for a hearing pursuant to N.J.A.C. 16:64-6.4(c) (for pilots) or 2.5 (for apprentices), have his or her license/registration permanently revoked unless there are extenuating circumstances, which, in the discretion of the Commission, justify only the suspension of his or her license/registration.

(e) Any pilot or apprentice who was prohibited from engaging in pilotage operations pending a hearing before the Commission and who is not suspended or who does not have his or her license/registration revoked following the hearing before the Commission shall be returned to normal duties.

(f) Any pilot or apprentice who is suspended from duty pursuant to (a), (b) and/or (c) above must pass a chemical drug test for dangerous drugs and alcohol prior to reinstatement. The specific date of such test shall be unannounced but shall occur within the month prior to reinstatement. Notice of the specific date of such test shall be provided only so far as is necessary to ensure the individual's presence at the time and place set for testing. In addition, the pilot or apprentice shall be subject to increased, unannounced chemical drug testing for dangerous drugs and/or alcohol at the pilot's or apprentice's expense for a period as determined by the Commission.

(g) Any pilot or apprentice whose motor vehicle license is suspended due to a conviction of driving while intoxicated or driving under the influence or refusal to take a required drug or alcohol test shall be subject to such discipline as the Commission deems appropriate including, but not limited to, suspension of the pilot's license, under the totality of the circumstances. In the event of a second conviction, the penalties specified in (a)2 above shall be enforced.

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

In (c) through (e), substituted "Commission" for "Board" throughout.
Amended by R.2007 d.190, effective June 18, 2007.
See: 39 N.J.R. 622(a), 39 N.J.R. 2366(b).

Rewrote (a)l ii; and in (a)l iii, substituted "up to \$5,000" for "\$50.00".
Amended by R.2009 d.364, effective December 7, 2009.
See: 41 N.J.R. 2884(a), 41 N.J.R. 4455(a).

Rewrote the section.

16:64-7.16 Responsibilities of the Association

(a) After consultation with and approval by the Commission, the Association shall promptly enter into an agreement(s) or contract(s) with a testing facility and a MRO, and subsequent facilities and MROs as necessary, for the performance of the tests and duties required by this subchapter.

(b) It shall be the responsibility of the Association, except as otherwise provided in this subchapter, to pay for the tests required by this subchapter and the fees of the MRO.

(c) It shall be the responsibility of the Association to direct the pilots and apprentices to present themselves at the time and place for the test(s) required by this subchapter.

(d) The agreement(s) or contract(s) in (a) above shall provide that the testing facility and MRO:

1. Cooperate with the Commission including agreement to provide documents and competent testimony; and
2. Comply with the requirements of this subchapter including confidentiality and the production of reports, documents, and competent witnesses.

(e) This subchapter shall not in any way limit the authority of the Commission to suspend or revoke the license of any pilot or terminate any apprenticeship as authorized by any other regulations of the Commission or the laws of the State of New Jersey.

(f) The Association shall submit a copy of its proposed and amended procedures for the implementation of this subchapter and copies of the agreement(s) or contract(s) in (a) above to the Commission for review and approval.

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 (d) through (f), substituted "Commission" for "Board" throughout.

SUBCHAPTER 8. DOCKING PILOTS

16:64-8.1 Licensing and oaths of docking pilots

(a) Any person meeting the criteria specified in N.J.S.A. 12:8-49 and who submitted a complete application in the time provided for therein shall, unless the Commission for good cause determines otherwise, be issued a docking pilot license.

(b) Anyone wishing to be licensed as a docking pilot who is not qualified by virtue of N.J.S.A. 12:8-49 shall be required to complete the apprenticeship program specified in N.J.A.C. 16:64-9 before being considered by the Commission for such licensing.

(c) A docking pilot shall pay an initial licensing fee of \$500.00, and an annual license fee of \$250.00. This fee shall be used by the Commission to cover the costs of administration. The annual fee shall be due every year on the anniversary date of the docking pilot's initial licensing.

(d) Upon being approved by the Commission, a docking pilot shall be administered the Oath of Office by the President or, in their absence, any other Commissioner.

16:64-8.2 General docking pilot license requirements

(a) No person may operate as a docking pilot unless such person:

1. Maintains a current radar certificate;
2. Maintains a valid Federal merchant mariner credential or equivalent and first class pilot endorsements for the routes to be traversed;
3. Has fulfilled all of the requirements of any continuing education program established by the Commission; and
4. Has submitted to the Commission evidence of the successful completion of the medical examinations and forms specified in N.J.A.C. 16:64-3.6.

(b) Docking pilots shall appear before the Commission every year at the time specified by the Commission. In the event of a conflict, the Commission may allow the docking pilot to appear at a later meeting. At least seven days before the meeting, the docking pilot shall provide:

1. A completed annual report form for the past year which shall include:
 - i. The total number of vessels piloted;
 - ii. The number of days absent from duty due to illness;
 - iii. The routes for which the docking pilot holds endorsements; and
 - iv. Any activities, outside of piloting, related to the maritime industry that the docking pilot is involved in;
2. Copies of the results of the medical examinations set forth in (a)4 above; and
3. Such additional information as may be required by the Commission of a specific docking pilot.

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, inserted "merchant mariner credential or equivalent and" and substituted "endorsements" for "license and endorsement"; in (a)3, inserted "and" at the end; in (a)4, substituted "the medical examinations and forms specified in N.J.A.C. 16:64-3.6." for "required medical examinations; and"; and deleted (a)5.

16:64-8.3 Master/docking pilot conference and unsafe passage

(a) Prior to assuming the con of a regulated vessel, a docking pilot shall conduct a master/docking pilot conference.

(b) During the conference, the docking pilot will provide the master and any maritime pilot present with information that a prudent pilot should convey under the prevailing circumstances including, but not limited to:

1. Information specific to navigation and conditions along the intended route;