

## 995 CMR: PILOT COMMISSIONERS

### 995 CMR 4.00: PILOTS AND PILOTAGE IN DISTRICT THREE MASSACHUSETTS

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#### 4.01: Purpose, Authority and Scope

(1) 995 CMR 4.00 is promulgated by the Deputy Commissioner for Massachusetts Pilot District Three pursuant to M.G.L. c. 103, §§ 3 and 21. 995 CMR 4.00 is intended to promote the safety of navigation in Massachusetts Pilot District Three, avoid interruption to navigation within the area and to prevent damage to the marine environment and other coastal natural resources of the region.

(2) The Commissioner shall exercise all authority as provided in M.G.L. c. 103.

(3) 995 CMR 4.00 applies to and is binding upon persons who are authorized to and who actually perform pilotage services upon the waters of District Three in Massachusetts under M.G.L. c. 103.

#### 4.02: Definitions

(1) Definitions as used 995 CMR 4.00:

Commissioned Pilot is an individual who holds a Full Branch, Warrant or Transit commission issued by the Deputy Commissioner of Pilots under M.G.L. c.103.

Commissioner, when used without further description, means the Deputy Commissioner of Pilots, District Three.

District Three or District, when used without further description, means those waters of southeastern Massachusetts specified as such in M.G.L. c. 103.

Federal First Class Pilot means an individual holding a credential issued by the United States Coast Guard containing an endorsement entitling the individual to serve in the capacity of "First Class Pilot" of certain vessels and over specified routes or within a specific port or waterway area.

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Gross Tonnage refers to the International Gross Tonnage of a vessel, as reflected on the International Tonnage Certificate of the vessel.

Observer means an individual who is documenting training experience, but does not possess Federal First Class Pilot endorsement for the waters in training.

Pilot-in-command means an individual who holds a Federal First Class Pilot license or is a Commissioned Pilot that is providing pilotage services to a vessel whether underway or at anchor, and to whom the vessel owner is compensating for such pilotage services.

Pilot-in-training or Pilot under Instruction means an individual who holds a Federal First Class Pilot endorsement or is a Commissioned Pilot who is providing pilotage services while underway under the supervision of a Commissioned Pilot to a vessel, and to whom the vessel owner is not compensating for such pilotage services.

Trustees means the duly elected Trustees of the Boston Marine Society.

Unusual Incident means accidental or intentional grounding; collision or allision with any vessel or object; incident relating to operation of a vessel resulting in serious damage to a vessel, or damage caused by a vessel or crew, which may reasonably be expected to be in excess of \$25,000 in monetary value, or such as to require a report to the US Coast Guard, or any other provisions of the Code of Federal Regulations; any incident that places a Pilot in danger; or any incident that causes environmental damage or may reasonably be thought to pose an environmental hazard or any threat of pollution or any actual pollution.

(2) The Commissioner shall exercise all authority as provided in M.G.L. c. 103.

(3) 995 CMR 4.00 applies to and are binding upon persons who are authorized to and who actually perform pilotage services upon the waters of District Three under M.G.L. c. 103.

### 4.03: Public Information and Access

(1) The Commissioner shall conduct meetings as necessary to address business of the District. There must be at least one meeting held by the Commissioner each year.

(2) The meetings shall be held at locations made aware to the Trustees, the commissioned Pilots and other stakeholders in District business.

(3) A special meeting of the Commissioner may be called by the Commissioner upon 24-hours notice, given to Trustees, Commissioned Pilots and other stakeholders by letter or fax or email or telephone in an emergency.

(4) Any Pilot, when notified by letter, or fax, or email or by telephone shall report in person to the Commissioner at an agreed location in a reasonable time.

(5) All meetings of the Commissioner shall be open to the public and any person shall be allowed to attend such meeting except for meetings or portions of meetings which the Commissioner declares must be held in executive session and which Massachusetts law permits to be held in executive session.

(6) Any public notice required to be given by the Commissioner shall be sufficient if given by;

- (a) Filing a copy of such notice with the Secretary of the Commonwealth;
- (b) Mailing or otherwise furnishing a copy of said notice to newspapers of general circulation in pilotage District Three and other areas of interest; and
- (c) Mailing or otherwise delivering a copy of said notice to any person or group which has filed within one year of the date of such notice a written request with the Commissioner for such notice and has furnished particulars for delivery of such notice.

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(7) The Commissioner may require that any person or group desiring to communicate views or information to the Commissioner do so in writing and prior to oral presentation. The Commissioner shall at meeting have the right and obligation to control and limit oral presentations in such a fashion as to allow the orderly and efficient conduct of such meetings and of the business of the Commissioner.

(8) The Commissioner shall have all persons in attendance at meetings to register their names and affiliation, and further may have a recorder present.

(9) The Commissioner shall contemporaneously provide to all Commissioned Pilots copies of all communications exchanged between the Commissioner and any other government body, or any other entity having any role in 995 CMR 4.00 of pilotage (including without limitation the Boston Marine Society), except to the extent that any part of such communication would be exempt from disclosure under the provisions of applicable public records statutes, including without limitation M.G.L. c. 66, § 10 and M.G.L. c. 4, § 7(26).

### 4.04: Number of Commissions

(1) The Commissioner shall determine if there is need for an additional state Commissioned Pilot for District Three. The Commissioner shall request advice from the existing Commissioned Full Branch Pilots and may obtain further advice and information from any other source prior to making a determination in respect to need. Commissions are issued in a limited number, in light of legitimate interests of the Commonwealth, of the public, and of the existing Commissioned Pilots. No individual has an entitlement or right to obtain a Commission as a Pilot, or to train for the same.

(2) The Commissioner's decision shall be made after consideration of the various factors pertaining to such need, which shall include, but not be limited to: supply and demand for pilotage service, pilot fatigue prevention, safety and efficiency in furnishing pilotage services, and the interest in public and maritime industry in having available a reasonable number of experienced, professional and efficient pilots.

(3) The Commissioner shall make a separate determination of need with regard to Transit Pilots. A need for an additional Transit Pilot shall be found to exist only if the anticipated supply of pilotage services available from the existing Full Branch, Warrant and Transit Pilots appears to be insufficient to serve the anticipated demand from vessels as to which pilotage is compulsory under M.G.L. c. 103.

### 4.05: Types of Commissions

(1) The Commissioner will grant Commissions to the following three types:

- (a) Transit Pilot Commission;
- (b) Warrant Pilot Commission; and
- (c) Full Branch Pilot Commission.

(2) The Commissions shall be signed by the Commissioner on the date of issuance.

(3) The qualifications required as a prerequisite for each such Commission as set forth in 995 CMR 4.00.

(4) The restrictions imposed on the holders of Commissions are set forth in 995 CMR 4.00.

### 4.06: Application for Pilot Commissions

(1) Mariners seeking a commission as a state pilot may contact the Commissioner through the Boston Marine Society ([www.bostonmarinesociety.org](http://www.bostonmarinesociety.org)) or via the Commissioner's web site (<http://sites.google.com/site/massdistrict3pilot>).

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(2) At such time that the Commissioner is provided with all relevant information for application under 995 CMR 4.07 or 4.08, the Commissioner shall determine the validity and completeness of the application and notify the applicant of his or her determination based upon requirement in 995 CMR 4.07 and 4.08.

### 4.07: Application for Transit Pilot Commission

(1) The Commissioner will consider, and will interview and examine, only those applicants for a Transit Pilot Commission who:

- (a) Is a citizen of the United State of America;
- (b) Is at least 21 years of age;
- (c) Has completed 12 years of formal education or equivalent satisfactory to the Commissioner;
- (d) Is fluent in the English language;
- (e) Is physically and mentally fit for pilotage service;
- (f) Possesses a US Coast Guard license as mate or master of steam and motor vessels of unlimited gross tons upon oceans, as well as other endorsements and certificates described in 995 CMR 4.14; and
- (g) Has documented pilotage service or prior maritime service or has suitable veteran sea time.

(2) Each applicant for a Transit Pilot Commission shall submit to the Commissioner:

- (a) A signed letter requesting a Commission specifying the specific type and areas;
- (b) A completed application form (D3-001A) available on the Commissioner's web site (<http://sites.google.com/site/massdistrict3pilot/>);
- (c) Copies of all US Coast Guard credentials and endorsements, as well as endorsements and certificates required under 995 CMR 4.14;
- (d) Copies of US Coast Guard federal first class pilotage for the Cape Cod Canal and Buzzards Bay;
- (e) Proof of 15 round trips as a pilot or as pilot under instruction or equivalent transits over the waters specified within the past three years before the date of application; issued by a pilot association or a federal agency; (one-third of which in each respective category shall be during hours of darkness unless daylight only operations are mandated for a particular area);
- (f) A Letter of Nomination signed by three Full Branch Pilots attesting that they have each observed the applicant while directing the movements of vessels in each of the areas to which the Commission applied for is applicable, and that said applicant is competent, professional and posses the temperament to furnish prompt and safe pilotage services; and
- (g) A separate signed letter explaining any unusual incidents or violations of federal regulations or state statutes involving the applicant, including the disposition of any formal hearings or investigations.

### 4.08: Application for Warrant Pilot Commission

(1) The Commissioner will consider, and will interview and examine, only those applicants for a Warrant Pilot Commission who have:

- (a) Is a citizen of the United State of America;
- (b) Is at least 21 years of age;
- (c) Has completed 12 years of formal education or equivalent satisfactory to the Commissioner;
- (d) Is fluent in the English language;
- (e) Is physically and mentally fit for pilotage service;
- (f) Possesses a US Coast Guard license master of steam and motor vessels of unlimited gross tons upon oceans, as well as other endorsements and certificates described in 995 CMR 4.14; and
- (g) Has documented pilotage service or prior maritime service or has suitable veteran sea time.

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- (2) Each applicant for a Warrant Pilot Commission shall submit to the Commissioner:
  - (a) A signed letter requesting a Commission specifying the specific type and areas;
  - (b) A completed application form (D3-001A) available on the Commissioner's website (<http://sites.google.com/site/massdistrict3pilot>);
  - (c) Copies of all US Coast Guard credentials and endorsements, as well as certificates required under 995 CMR 4.14;
  - (d) Copies of US Coast Guard federal first class pilotage for the Cape Cod Canal and Buzzards Bay, New Bedford Harbor and Approaches; and at least one area of Nantucket Sound, Vineyard Sound, Woods Hole Harbor and Passage, and Hyannis Harbor, as well as other endorsements and certificates as described in 995 CMR 4.14;
  - (e) Proof of 15 round trips as a pilot or as pilot under instruction or equivalent transits over the waters specified within the past three years before the date of application; issued by a pilot association or a federal agency; ( $\frac{1}{3}$  of which in each respective category shall be during hours of darkness unless daylight only operations are mandated for a particular area);
  - (f) A Letter of Nomination signed by three Full Branch Pilots attesting that they have each observed the applicant while directing the movements of vessels in each of the areas to which the Commission applied for is applicable, and that said applicant is competent, professional and possesses the temperament to furnish prompt and safe pilotage services; and
  - (g) A separate signed letter explaining any unusual incidents or violations of federal regulations or state statutes involving the applicant, including the disposition of any formal hearings or investigations.

### 4.09: Application for Full Branch Pilot Commission

- (1) The Commissioner will consider, and will interview and examine, only those applicants for a Full Branch Pilot Commission who have served as Warrant Pilot for a period of at least two years and:
  - (a) A signed letter requesting a Full Branch Commission specifying the areas required;
  - (b) Copies of all US Coast Guard credentials and endorsements, as well as certificates required under 995 CMR 4.14;
  - (c) Copies of US Coast Guard federal first class pilotage for the Cape Cod Canal and Buzzards Bay, Nantucket Sound, Vineyard Sound, Woods Hole Harbor and Passage, and Hyannis Harbor, as well as other endorsements and certificates as described in 995 CMR 4.14.
  - (d) Proof of 15 round trips as a pilot or as pilot under instruction or equivalent transits over the waters specified within the past three years before the date of application; issued by a pilot association or a federal agency; ( $\frac{1}{3}$  of which in each respective category shall be during hours of darkness unless daylight only operations are mandated for a particular area); and
  - (e) A Letter of Nomination signed by three Full Branch Pilots attesting that they have each observed the applicant while directing the movements of vessels in each of the areas to which the Commission applied for is applicable, and that said applicant is competent, professional and possesses the temperament to furnish prompt and safe pilotage services.

### 4.10: Prior Maritime Experience

- (1) Satisfactory maritime experience shall mean, in the case of an applicant for a Warrant Pilot Commission, either merchant marine experience or pilot experience as set forth in 995 CMR 4.00;
- (2) Merchant Marine experience must be:
  - (a) At least two years service at sea during the five year period preceding the date in which original application for such commission is made, provided that time during which an individual is actively training for a Commission as a Pilot shall not accrue against the five year time period; and
  - (b) During such two year period, at least one year shall have been served aboard US documented vessels over 1600 gross tons in the capacity as either:
    1. Master while holding a Master of steam and motor vessels of unlimited tons upon oceans license issued by the US Coast Guard; or

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2. Chief Mate while holding Master for steam and motor vessels unlimited tons upon oceans.
  - (c) One year of service at sea shall mean 180 days service on an operating commercial merchant marine vessel documented under the laws of the United States;
  - (d) The Commissioner shall make an interpretation of sea service for merchant vessels in Reduced Operating Status (ROS) while participating in the National Defense Reserve Force (NDRF), but credit no more than ½ a day for every day of service;
  - (e) Service at sea on a foreign flag vessel may, in the sole discretion of the Commissioner, be determined after appropriate inquiry and receipt of documentary evidence, be treated as equivalent to service on a vessel documented under the laws of the United States;
  - (f) All service at sea shall be evidenced by duly authenticated discharge forms or letters, service books, or other official documents. The originals shall be exhibited to the Commissioner and copies delivered to the Commissioner;
  - (g) Any document not in the English language shall be accompanied by a translation by a certified translator; and
  - (h) In the event that the applicant certifies in writing under oath that any of the original documents have been lost or otherwise are not available, the Commissioner in his or her sole discretion, may accept substitutes or an affidavit by the applicant under oath.

4.11: Veteran's Sea Time Credit

- (1) Any applicant who is a member of any uniformed service of the United States of America may apply as sea time credit any time during which the applicant served on active duty, and the time shall be applied as experience toward the required experience in the following manner:
  - (a) Military service in command of a vessel shall be applied as credit toward any requirements for service as Master;
  - (b) Military services as second-in-command of a vessel shall be applied as credit toward any requirements for service in the capacity of chief mate; and
  - (c) Military sea service in a capacity as an officer in charge of a navigational bridge watch shall be applied as credit toward any sea service requirements other than those in the capacity of master or chief mate.
- (2) No person's status as a veteran or as a military reservist, and no person's susceptibility to recall to military active duty, shall diminish the person's eligibility for selection for pilot candidate training or for warrant or full branch pilot commission.

4.12: Examination Transit Pilot and Warrant Pilot Commissions

- (1) Each applicant for a Transit Pilot Commission or a Warrant Pilot Commission must attend an examination, oral and written, conducted by the Commissioner.
- (2) The examination will pertain to the management and navigation of vessels, federal and state pilotage, knowledge of appropriate channels, waters, harbors, ports, currents, courses, distances, equipment, aids, weather, laws, regulations, practices and procedures.
- (3) The examination will include the drawing of a chart of the waters to which the commission will be issued; and
  - (a) International and Inland Rules of the Road;
  - (b) Relevant statues and regulations of the United States and the Commonwealth of Massachusetts, and in the case of a Warrant Pilot examination, of applicable ports in the District;
  - (c) Procedures imposed upon the waters and port by federal and state agencies, to include but not limited to, US Coast Guard, US Army Corp of Engineers, US Coast and Geodetic Survey, US Environmental Protection Agency, and Massachusetts Department of Environmental Protection.
- (4) The Commissioner shall examine the applicant as he or she deems appropriate to determine the fitness and ability of the applicant to satisfactorily perform the duties of a Transit or Warrant Pilot.

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(5) An applicant who does not, at such examination, satisfy the Commissioner that the applicant is fit and able to satisfactory perform the duties of a Transit or Warrant Pilot may not reapply until the expiration of 30-days from the date of the conclusion of the applicant's examination.

### 4.13: Examination Full Branch Pilot

(1) Each applicant for Full Branch Pilot Commission must attend an examination, oral and written, conducted by the Commissioner.

(2) The examination will be based upon the expansion of knowledge applicable to the new waters to which the Commission shall be written, but will include at least:

- (a) Drawing a chart for the new waters, and
- (b) Procedures imposed upon these new waters from federal and states agencies.

(3) An applicant who does not, at such examination, satisfy the Commissioner that the applicant is fit and able to satisfactory perform the duties of a Full Branch Pilot may not reapply until the expiration of 30-days from the date of the conclusion of the applicant's examination.

### 4.14: Licenses and Certificates

(1) An individual who holds a Transit Pilot Commission, must at all times, and as a condition to continued right to hold said Commission, possess the following duly issued, current and valid licenses, endorsements or certificates:

- (a) A US Coast Guard license as mate or master of United States steam or motor vessels, of unlimited gross tons upon oceans;
- (b) STCW-1978 as amended in 1995 certificate issued by the US Coast Guard;
- (c) Unlimited Federal First Class Pilot's license issued by the US Coast Guard for routes and areas within the District encompassed within the relevant Commission;
- (d) Radar Observer (Unlimited) endorsement issued by the US Coast Guard;
- (e) Automatic Radar Plotting Aids (ARPA) Certificate of Training as approved by the US Coast Guard;
- (f) A certificate of completion of a Bridge Resource Management for Pilots (BRM-P) course approved by the American Pilots Association or specifically approved by the Commissioner;
- (g) Electronic Chart Display and Information Systems (ECDIS) Certificate of Training; and
- (h) Commissioned Transit Pilots who were commissioned prior to July 1, 2011 may not possess all the above endorsements or certificates, are exempt from them except that they will complete items in 995 CMR 4.14(1)(e) through (g) before September 1, 2012.

(2) An individual who holds a Warrant Pilot Commission or a Full Branch Pilot Commission, must at all times, and as a condition to continued right to hold said Commission, possess the following duly issued, current and valid licenses, endorsements, documents or certificates:

- (a) Master of steam and motor vessels of unlimited gross tons upon oceans license issued by the US Coast Guard;
- (b) STCW-1978 as amended in 1995 certificate issued by the US Coast Guard;
- (c) Unlimited Federal First Class Pilot's license issued by the US Coast Guard for routes and areas within the District encompassed within the relevant Commission;
- (d) Radar Observer (Unlimited) endorsement issued by the US Coast Guard;
- (e) A certificate of completion of a Bridge Resource Management for Pilots (BRM-P) course approved by the American Pilots Association or specifically approved by the Commissioner
- (f) Automatic Radar Plotting Aids (ARPA) Certificate of Training as approved by the US Coast Guard;
- (g) Electronic Chart Display and Information Systems (ECDIS) Certificate of Training; and
- (h) Shiphandling Training or Refresher Certificate as approved by the US Coast Guard.

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(3) In the event any such license, endorsement, document or certificate of training becomes invalid or the holder loses the right to hold such license, endorsement, document or certificate, the holder shall forthwith inform the Commissioner and shall tender to the Commissioner the holder's Commission, which the Commissioner shall retain until the holder obtains all required licenses, endorsement, document or certificate.

(4) The Commissioner, in consultation with federal and state regulators, and senior Full Branch Pilots, may impose new training standards that render Certificates of Training for new or different programs and equipment.

### 4.15: Health and Medical Examination

(1) Each applicant and individual holding a Commission must be and must remain in good physical and mental health and be at all times fit to perform the duties of a Pilot.

(2) Each individual holding a Commission must have a physical examination that meets the license requirements of the US Coast Guard by a medical doctor licensed and qualified to practice in Massachusetts or their state of residence on an annual basis so as to demonstrate good physical and mental health. The Commissioned Pilot shall submit to the Commissioner a copy of such medical report USCG Form 719K in the first quarter of each calendar year. The cost of such medical examination shall be at the expense of the Commissioned Pilot.

(3) Should the medical and mental examination made by the physician cause US Coast Guard action affecting the validity of the Commissioned Pilot's US Coast Guard license, then the pilot shall immediately report this fact to the Commissioner, who shall suspend the Pilot's Commission until such time as the medical issues are resolved with the US Coast Guard, and the Commissioned Pilot is issued a valid US Coast License. If the period of the Pilot's suspended license exceeds one-year, recency trips and/or renewal examination may be required by the Commissioner.

(4) In the event that a Commissioned Pilot is prescribed prescription drugs by a physician or mental health professional between US Coast annual physicals, the Pilot shall notify the Commissioner in writing, and report the duration that such prescription drugs have been prescribed.

(5) Pursuant to US Coast Guard regulations, a Commissioned Pilot providing pilotage services under the authority of his or her US Coast License shall be subject to substance abuse screening, commonly referred to as "drug testing". Such drug testing shall conform to all elements of screening, including pre-employment (applicants), random selection, post accident and probable cause. In the event that a drug test is reported as "positive" to the US Coast Guard, the Commissioned Pilot shall immediately notify the Commissioner via the most expedient means of communication. The Commissioner shall immediately suspend the Commission of the Commissioned Pilot. If and when the Commissioned Pilot's license is reinstated, the Commissioner may or may not reinstate the Pilot's Commission, but will permit the Commissioned Pilot a hearing to ascertain if reinstatement is appropriate, and if so the Commissioner may require recency trips and/or renewal application.

(6) Commissioned Pilots who are involved in an "unusual incident" as defined in 995 CMR 4.00, or show probable cause to the US Coast Guard shall be subject to urine screen for drugs and blood tests or breathalyzer for alcohol content of the Commissioned Pilot. If the Blood Alcohol Content (BAC) of the Commissioned Pilot is above 0.04%, then the Commissioned Pilot shall immediately notify the Commissioner via the most expedient means of communication. The Commissioner shall immediately suspend the Commission of the Commissioned Pilot. If and when the Commissioned Pilot's license is reinstated, the Commissioner may or may not reinstate the Pilot's Commission, but will permit the Commissioned Pilot a hearing to ascertain if reinstatement is appropriate, and if so the Commissioner may require recency trips and/or renewal application.

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### 4.16: Commissions

- (1) Each Commission shall clearly state the full name, date of birth and current address of the individual holder of such Commission. The type of Commission issued (Full Branch, Warrant or Transit Pilot), any and all restriction on the pilotage services which limit the holder for performing, the date of issuance and date of expiration of said Commission.
- (2) Each Commission shall be signed by the Commissioner and his or her seal shall be affixed.
- (3) Each Commission shall be valid for five years from the date of issuance and shall therefore be renewable by the Commissioner on each fifth year anniversary date for an additional five year period provided that the individual holding said Commission has satisfactorily provided continuous services on that Commission.
- (4) During each five years of the Commission, the individual holding such Commission shall have completed refresher training in the following areas:
  - (a) Bridge Resource Management for Pilots (BRM-P);
  - (b) Shiphandling Refresher Training (simulator based or manned-models);
  - (c) Radar Observer (Unlimited) Renewal; and
  - (d) Any other course the Commissioner believes technology has developed and training is needed.

### 4.17: Restrictions on Commissions

- (1) A Full Branch Commission shall have no limitations;
- (2) A Warrant Commission is of limited scope, within a geographic/route limitations inscribed thereupon. The holder of a Warrant Commission is authorized to serve as a Pilot of vessels of any type, service, origin or destination;
- (3) A Transit Commission is of limited scope within geographic/route limitations inscribed thereupon. The holder of a Transit Commission is authorized to serve as a Pilot of vessels of no greater than 10,000 gross registered tons, including the sum of tug and barge units individual gross tonnages; but only when in uninterrupted transit from a point of origin outside of District Three to a point of destination also outside of District Three, with no landings, dockings, or undockings, and remaining underway at all times other than in response to an emergency or unforeseen weather restrictions

### 4.18: Duties of Pilots

- (1) Pilots shall at all times perform their duties in a professional and workmanlike manner, exercising reasonable care under the circumstances, attentive and faithful to their duties, and exercising unimpaired judgment.
- (2) Each Pilot shall, at all times while on duty, have with him either his original Commission or a notarized copy of said Commission.
- (3) Each Pilot shall engage in providing pilotage services to a vessel by acting as "a person in addition to crew", and should avoid taking full control of the steering or engines except in times of emergency.
- (4) Each Pilot, immediately upon boarding a vessel upon which he/she is to perform pilotage services shall:
  - (a) Engage in a Master/Pilot Conference to establish or confirm the Voyage Plan that the Pilot intends to maintain while engaged in pilotage services to such vessel;
  - (b) If the Pilot intends to temporarily install a personal navigation system, then he or she shall do so fully before taking charge of such vessel; and
  - (c) Exhibit his or her Commission to Master if requested by said Master.

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- (5) A Pilot may not perform pilotage services on, or take charge of, any vessel which draws more water, or the restrictions on vessel type than the Commission of said Pilot authorizes or which exceeds in any respect the limits contained in the Commission of said Pilot.
- (6) Each Pilot shall cause each vessel carrying alien passengers and each vessel subject to quarantine to anchor at the place assigned by the proper authorities.
- (7) Each Pilot shall, at all times while performing pilotage services, comply with all Code of Federal Regulations for navigation and shipping (33 CFR and 46 CFR), international conventions, Captain of the Port Orders and other requirements of the proper authorities.
- (8) Each Pilot shall, at all time while performing pilotage services or otherwise on duty shall refrain from using abusive or insulting language or threatening conduct.
- (9) Each Pilot shall, at all time while performing pilotage services or otherwise on duty, be unimpaired by illness or by any mental or physical condition or by the use of alcohol, drugs, narcotics, chemicals or other similar materials.
- (10) Each Pilot shall perform a reasonable and fair share of all pilotage duties, winter and summer, day and night, unless prevented by illness or other causes satisfactory to the Commissioner.
- (11) No Pilot may, once having boarded the vessel for the purpose of performing pilotage services, leave the vessel:
  - (a) On a transit passage until outside the destination's outer navigational markers;
  - (b) On a outbound passage until safely outside the harbor or adjacent water's outer navigational markers;
  - (c) On an inbound passage until the vessel has been safety anchored or secured to a terminal; or
  - (d) Unless the Master of said vessel has approved his or her departure and noted his or her approval in writing, provided however that the Pilot may leave said vessel:
    1. If he or she is replaced prior to leaving by a Pilot holding an equal or greater Commission; or
    2. In the event of a medical or other emergency.

### 4.19: Pilot Organization

- (1) The Warrant and Full Branch Pilots within District Three shall be and remain members in good standing of Northeast Marine Pilots as a condition of performing pilotage services.
- (2) Northeast Marine Pilots shall provide:
  - (a) Pilot boat services for pilots affiliated with that organization; and
  - (b) A pilot dispatch office at all times, manned by a pilot dispatcher always available by telephone and/or radio electronic means to dispatch lawfully qualified pilots to serve vessels preparing movement through the waters of District Three.
- (3) All pilotage services in District Three that is compulsory under M.G.L. c. 103 shall be dispatched through the Pilot Dispatch Office of Northeast Marine Pilots, including as to any commissioned pilots having no business affiliation with Northeast Marine Pilots. No commissioned pilot may undertake or perform any compulsory pilotage service other than in conformity with the dispatch procedures provided in 995 CMR 4.00.

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(4) The Pilot Dispatch Office shall apportion compulsory state pilotage work among pilots, regardless of the business affiliation or any commissioned pilot, as specified in 995 CMR 4.00. All commissioned Full Branch Pilots, Warrant Pilots, and Transit Pilots shall be enrolled in a single common rotation maintained by the Pilot Dispatch Office. Upon receipt of an order for a pilotage service, such service request shall be assigned to the pilot whose name stands closest to the top of such list (or roster), and whom is legally permitted to serve as pilot upon such vessel pending assignment. Upon being assigned a vessel for pilotage service, the pilot so assigned shall have his or her name moved to the bottom of the list (or roster). A pilot who is closest to the top of the list that was unable to legally perform such pilotage service shall remain at the top of the list (or roster). Each dispatched pilotage service shall be recorded in a form that can be made visible to participating pilots via the internet by use of computer technology, and shall reflect the status of the roster at the time of dispatch, and the actions taken in dispatching the pilotage service.

(5) Persons requesting pilotage services for a vessel intending movements within District Three must place such order with the Pilot Dispatch Office not less than 24-hours in advance of estimated time of arrival of such vessel at the pilot boarding area.

(6) Each Commissioner Full Branch, Warrant and Transit Pilot shall remain in reasonable contact with the Pilot Dispatch Office to ensure that pilotage services will at all times be available and that vessels will not suffer unreasonable delays because of the lack or unavailability of pilots.

(7) Any Pilot having accepted a pilotage service assignment shall ascertain the time of such vessel's arrival or sailing time and said Pilot shall report at that place and time designated not less than one-hour before said time. Pilots on call must be ready, available and sufficiently rested, physically and mentally fit to perform pilotage services at all times.

(8) Northeast Marine Pilots, and any other organization authorized by a Commissioned Pilot to collect any fee on his or her behalf shall furnish and keep current with the Commissioner;

(a) A list of the full names, residential addresses, business addresses, and personal and business telephone numbers for all Commissioned pilots who have authorized the organization to collect fees attributable to that pilot's pilotage services;

(b) Copies of all the Articles of Organization; and

(c) When requested by the Commissioner, copies of any duty rosters and vacation schedules and medical leave rosters.

(9) Any Commissioned state pilot who is unable to accept pilotage assignments due to illness or reasonable personal issues shall notify the Pilot Dispatch Office as soon as possible.

(10) Existing Commissioned Transit Pilots who are not associated with Northeast Marine Pilots may continue to operate independently from Northeast Marine Pilots, except for the obligation to participate in the rotations system and dispatch services operated by Northeast Marine Pilots.

### 4.20: Pilot Boats

(1) Any boat used by a District Three Pilot for boarding or departing vessels shall:

(a) Have the word "PILOT" in capital letters printed on its house or hull in a conspicuous manner and contrast to the house or hull coating color;

(b) Fly the appropriate flags and carry appropriate navigation lights and symbols as required by the International and Inland Rules of the Road as applicable;

(c) Have one person for operating the boat and one person to assist the Pilot while boarding or departing a vessel, or when an accident occurs;

(d) Be equipped to communicate on all relevant and required radio channels and be equipped to use any other communication method common and usual in industry;

(e) Be equipped to continuously guard all normal distress and emergency radio communications channels;

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### 4.20: continued

- (f) Have on board all required lifesaving, safety and emergency gear and equipment in good working order and condition, and may employ emergency recovery gear in the event of a pilot overboard; and
- (g) Have and maintain a Log Book in which it is required to record, in addition to the usual information recorded in a vessel's log:
  - 1. The names of all Pilots and crew boarding or leaving the boat and times of such actions;
  - 2. The direction and force of wind, sea conditions and weather observations on a periodic basis, and
  - 3. Any unusual events or occurrences.

### 4.21: Pilot Boarding Areas

- (1) Each vessel required to participate in pilotage services pursuant of M.G.L. c. 103 shall carry a pilot:
  - (a) Whenever underway and east of a line drawn from Sakonnet Point and extending through the Buzzards Bay Entrance Light (Light List number 630 and 15985) regardless of direction of travel; and
  - (b) Whenever underway and inshore of the Cape Cod Canal Approach Lighted Buoy #1 (Light List number 13045) at latitude 42° 47.1' North and longitude 070° 28.1' West regardless of direction of travel; and
- (2) Whenever a vessel is anchored for whatever cause in approved anchorages pilots are not required, and shall notify Cape Cod Canal Vessel Traffic of the fact that a pilot is departing the vessel.
- (3) Under no circumstances shall the pilot permit a vessel that has not requested a pilot to operate within the District.

### 4.22: Bonds of Pilots

- (1) No individual may receive a Commission, or act as a pilot, until such individual has furnished to the State Treasurer of the Commonwealth of Massachusetts a bond with two sureties in the penal sum of \$1,000.00, conditioned on the faithful performance of the duties of said individual as pilot and the payment of all damages accruing from said pilot's negligence, unskillfulness or unfaithfulness.
- (2) Each bond shall provide that any surety desiring to be discharged from liability thereon, and each surety desiring to terminate or cancel said bond;
  - (a) Shall give 30 days prior notice thereof in writing to the Commissioner and to the relevant pilot;
  - (b) Shall furnish to the state Treasurer of the Commonwealth of Massachusetts a copy of said written notice together with a return of a constable evidencing service of said notice on the relevant pilot.
- (3) Each surety on said bond must be a surety company authorized to transact business in the Commonwealth of Massachusetts.
- (4) No individual may continue to hold a Commission, or act a pilot, after termination, cancellation or expiration of said pilot's surety bond and said pilot Commission shall be void and said pilot shall deliver to his or her Commission to the Commissioner. Upon replacement, reinstatement or renewal of said bond, the Commissioner may reissue a Commission to said pilot provided that said pilot is in all other respects in compliance with 995 CMR 4.00.
- (5) In case of decease, insolvency or bankruptcy of any surety issuing a pilot's bond, the pilot shall immediately give notice in writing to the Commissioner furnishing details of the event.

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### 4.22: continued

(6) Whenever a pilot's bond shall, in the judgment of the Commissioner, be insufficient, the Commissioner shall furnish written notice to the pilot of such determination and the pilot shall immediately remedy the insufficiency and shall post a new bond satisfactory in form and surety to the Commissioner. No pilot shall provide pilotage services after receipt of such notice from the Commissioner until said pilot has posted a new bond.

### 4.23: Reports to the Commissioner

(1) If any unusual incident occurs on a vessel while a pilot is engaged in the provisions of pilotage services on said vessel, the pilot shall immediately file a written report to the Commissioner and shall furnish the Commissioner with copies of any other reports required by any government agency to be completed and filed by the pilot.

(2) The report shall include, but shall not be limited to:

- (a) Date and time of incident;
- (b) Geographic location, including bearings and distances from known objects;
- (c) Detailed narrative description of incident
- (d) Cause of incident, if known;
- (e) Names and addresses of all persons known to have witnessed the incident;
- (f) Description of injuries suffered and damages resulting from incident;
- (g) Weather conditions at the time and location of the incident; and
- (h) Identification and description of any aids to navigation relevant to such incident.

(3) Any pilot who has reasonable belief that an unusual incident has occurred and that such unusual incident has not been reported to the Commissioner shall determine from the Commissioner if a report has been made. If a report has not been made, the pilot shall make a written report of the pilot's knowledge of the unusual incident.

(4) Any person may file a report or complaint with the Commissioner regarding any suspected violation by pilots or others of M.G.L. c. 103, or 33 CFR or 46 CFR governing pilots and pilotage in District Three. All such reports and complaints shall be in writing. If an oral report is made to expedite reporting, such oral reports shall be confirmed in writing.

(5) Upon receipt of each report or complaint filed pursuant to 995 CMR 4.00, the Commissioner shall review the report or complaint and determine if further investigation or proceedings are appropriate or required.

(6) The Commissioner may conduct any investigation he or she deems reasonable and relevant to any matter within their jurisdiction and may retain such assistance and expend such funds as they believe appropriate for such investigation.

(7) Any report required by 995 CMR 4.00, except a report required by 995 CMR 4.23, is to be filed with the Commissioner and shall be submitted within five business days of the occurrence of the relevant event or the discovery of the relevant information. However, the Commissioner may require that any such report be filed within 24-hours, or that a prompt oral report be made to them in respect to any unusual occurrence. Any pilot who fails, neglects or refuses to make such reports to the Commissioner as required by 995 CMR 4.00 may be suspended from duty by the Commissioner until said pilot make such report or satisfactorily furnishes to the Commissioner valid and persuasive reason why such report should not be required.

### 4.24 Miscellaneous

(1) Each pilot must perform a reasonable and equitable share of pilotage duties at all times except when scheduled vacation or when unable to do so because of a temporary illness. Any pilot refusing or failing to perform a reasonable and equitable share of pilotage duties may have said pilot's Commission suspended or revoked.

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### 4.24: continued

(2) Any pilot desiring to take a leave of absence or permission to remain away from pilotage duties for more than 30 days must file a written application with the Commissioner for permission. Said application must specify the length of such requested leave and must state the reason for the request. The Commissioner may grant or reject the request after consideration of all the current facts.

(3) Each pilot shall report to the Commissioner, or may permit the organization to which he or she has associated, quarterly reports that includes the following information for each vessel piloted:

- (a) Name;
- (b) Draft;
- (c) Date;
- (d) Destination; and
- (e) Amount of Fees collected.

(4) Each pilot is responsible to pay the Commissioner a fee totaling 4% of all pilotage service fees collected, such payment shall be made before the 10<sup>th</sup> day of the month immediately following each quarter.

(5) No pilot serving District Three as a Commissioned State pilot, or others so designated, may engage in unfair means or reduction of fees or rates so as to take a vessel from another pilot, and in the case of so doing, after hearing shall forfeit to the pilot so displaced the full amount of the legal pilotage fee. Such pilot who engages in such action is liable for suspension of his or her Commission.

(6) No pilot serving in District Three shall engage in behavior that is in violation of the ethics laws of the Commonwealth of Massachusetts, and in no way accept or offer gifts in excess of value of \$50.00.

(7) The Commissioners shall provide pilots and their clients a "Pilotage Rate Schedule", based upon the recommendations of the State Pilotage Rate Board, increase such rates for Pilotage services. Such rates shall not exceed rates for Pilotage Services established in District One of Massachusetts.

(8) The Commissioner shall establish rates for Transit Pilotage services as required.

### 4.25: Emergency Waiver

In an emergency, the Commissioner, with the approval of the Trustees, may waive any of the requirements in 995 CMR 4.00 for issuance of any Pilot Commission.

## REGULATORY AUTHORITY

995 CMR 4.00: M.G.L. c. 103, § 3.