

NOTICE OF PUBLIC HEARING

Pease Development Authority
Division of Ports and Harbors

Initial Proposals for Portions of Pda 300, 500 & 600 Administrative Rules

The Pease Development Authority Division of Ports and Harbors will conduct a public hearing on **Monday, May 02, 2016** at 6:00 p.m. in the conference room of the Division of Ports and Harbors, 555 Market Street, Portsmouth, NH 03801, for the purpose of accepting public comment on Initial Proposals for Portions of Administrative Rules Pda 300 Port Captains, Pilots and Pilotage, 500 Moorings and Anchorages and 600 State Owned Commercial Piers and Associated Facilities. Written comments may be submitted to the Division Director regarding the Initial Proposed Administrative Rules Pda 300, 500 and 600. Written comments must be received at the Division of Ports and Harbors office, 555 Market Street, Portsmouth, NH 03801, in person, by mail, by fax (603-436-2780) or by email to g.marconi@peasedev.org before the close of business (4:00p.m.) on **Friday, May 12, 2016**. Copies of the Initial Proposals and Cross Reference Tables for Pda 300, 500 and 600 Administrative Rules are available at the Division office or on the Division of Ports & Harbors web site www.portofnh.org.

Amend Pda 304.01, effective 4-1-11 (Document #9891) by inserting a new paragraph (d), so that Pda 304.01(d) is cited and reads as follows:

Pda 304.01 Pilotage of Vessels.

(d) A vessel requiring a pilot in accordance with (a) or (b) above, engaged in towing and underway in the pilotage area, shall use an assist tug when transitioning between towing modes.

Amend Pda 305.06(b)(2)d., effective 4-1-11 (Document #9891-A), so that (b) intro., (b)(2) intro., and (b)(2)d. are cited and read as follows:

Pda 305.06 Minimum Requirements for Pilot Appointment or Reappointment.

(b) At a minimum, no applicant for appointment or reappointment as a pilot under Pda 305 shall receive an appointment, except as otherwise provided in Pda 305.03(c) and 305.04(b), unless at the time of the application for appointment or reappointment, the applicant shall:

(2) Hold:

d. A bridge resource management certificate from a course approved by the Coast Guard [~~in accordance with 46 CFR 11.302 (10-1-09 edition)~~] in bridge resource management;

Amend Pda 305.06(b)(3), effective 4-1-11 (Document #9891-A), so that (b) intro., and (b)(3) are cited and read as follows:

Pda 305.06 Minimum Requirements for Pilot Appointment or Reappointment.

(b) At a minimum, no applicant for appointment or reappointment as a pilot under Pda 305 shall receive an appointment, except as otherwise provided in Pda 305.03(c) and 305.04(b), unless at the time of the application for appointment or reappointment, the applicant shall:

(3) Provide the division with [~~a copy of a letter from the Coast Guard certifying that the following were received, accepted, reviewed, and determined to be satisfactorily completed by the Coast Guard:~~

1. *A copy of* the [~~pilot physical examination required under 46 CFR 10.215 (10-1-09 edition)~~] *pilot's current medical certificate issued by the Coast Guard;* and

2. *Documentation that the pilot has complied with* the test for dangerous drugs under 46 CFR 16.220 ([~~10-1-09~~]10-1-14 edition) or [~~documentation~~] that the applicant otherwise met, under 46 CFR 16.230 ([~~10-1-09~~]10-1-14 edition), the Coast Guard's requirements for [~~periodic~~] *random* testing;

Amend Pda 305.09(a)(2), effective 4-1-11 (Document #9891-A), so that (a) intro., and (a)(2) are cited and read as follows:

Pda 305.09 Required Annual Certifications.

(a) During a term of appointment and within 90 days prior to the yearly anniversary of a pilot's appointment or reappointment, the pilot shall:

(2) Provide the division with ~~[a copy of a letter from the Coast Guard certifying that the following were received, accepted, reviewed, and determined to be satisfactorily completed by the Coast Guard]:~~

a. ~~[The annual pilot physical examination]~~ *A copy of the pilot's current medical certificate issued by the Coast Guard;* and

b. *Documentation that the pilot has complied with the [annual] test for dangerous drugs under CFR 16.220 (10.1.14 edition) or [documentation] that the applicant otherwise met, under 46 CFR 12.230 (10-1-14 edition), the Coast Guard's requirements for [periodic] random testing.*

Amend Pda 306.01(f)(2)c., effective 4-1-11 (Document #9891-B), so that (f) intro., (f)(2) intro., and (f)(2)c. are cited and read as follows:

Pda 306.01 Application Form for Initial Pilot Appointment.

(f) The applicant shall include, as part of the application:

(2) A certified copy of the applicant's current license issued by the Coast Guard as master or mate, for ocean, near coastal, or inland, for vessels over 1,600 gross tons that includes the applicant's:

c. Bridge resource management certificate from a course approved by the Coast Guard ~~[in accordance with 46 CFR 11.302 (10-1-09 edition)]~~ in bridge resource management;

Amend Pda 306.01(g)(8)c., effective 4-1-11 (Document #9891-B), so that (g) intro., (g)(8) intro., and (g)(8)c. are cited and read as follows:

Pda 306.01 Application Form for Initial Pilot Appointment.

(g) The applicant shall certify whether or not the applicant:

(8) Holds a valid license issued by the Coast Guard as master or mate, for ocean, near coastal, or inland, for vessels over 1,600 gross tons that includes a:

c. Bridge resource management certificate from a course approved by the Coast Guard ~~[in accordance with 46 CFR 11.302 (10-1-09 edition)]~~ in bridge resource management.

Amend Pda 306.02(f)(2)c., effective 4-1-11 (Document #9891-B), so that (f) intro., (f)(2) intro and (f)(2)c. are cited and read as follows:

Pda 306.02 Application Form for Pilot Reappointment.

(f) The applicant shall include, as part of the application:

(2) A certified copy of the applicant's current license issued by the Coast Guard as master or mate, for ocean, near coastal, or inland, for vessels over 1,600 gross tons that includes the applicant's:

c. Bridge resource management certificate from a course approved by the Coast Guard [~~in accordance with 46 CFR 11.302 (10-1-09 edition)~~] in bridge resource management;

Amend Pda 306.02(g)(8)c., effective 4-1-11 (Document #9891-B), so that (g) intro., (g)(8) intro., and (g)(8)c. are cited and read as follows:

Pda 306.02 Application Form for Pilot Reappointment.

(g) The applicant shall certify whether or not the applicant:

(8) Holds a valid license issued by the Coast Guard as master or mate, for ocean, near coastal, or inland, for vessels over 1,600 gross tons that includes a:

c. Bridge resource management certificate from a course approved by the Coast Guard [~~in accordance with 46 CFR 11.302 (10-1-09 edition)~~] in bridge resource management;

Amend Pda 306.03(f)(2)c., effective 4-1-11 (Document #9891-B), so that (f) intro., (f)(2) intro., and (f)(2)c. are cited and read as follows:

Pda 306.03 Application Form for Temporary Pilot Appointment.

(f) The applicant shall include, as part of the application:

(2) A certified copy of the applicant's current license issued by the Coast Guard as master or mate, for ocean, near coastal, or inland, for vessels over 1,600 gross tons that includes the applicant's:

c. Bridge resource management certificate from a course approved by the Coast Guard [~~in accordance with 46 CFR 11.302 (10-1-09 edition)~~] in bridge resource management;

Amend Pda 306.03(g)(8)c., effective 4-1-11 (Document #9891-B), so that (g) intro., (g)(8) intro., and (g)(8)c. are cited and read as follows:

Pda 306.03 Application Form for Temporary Pilot Appointment.

(g) The applicant shall certify whether or not the applicant:

(8) Holds a valid license issued by the Coast Guard as master or mate, for ocean, near coastal, or inland, for vessels over 1,600 gross tons that includes a:

c. Bridge resource management certificate from a course approved by the Coast Guard [~~in accordance with 46 CFR 11.302 (10-1-09 edition)~~] in bridge resource management;

Readopt with amendment Pda 508.03, effective 8-20-11 (Document #9975), to read as follows:

Pda 508.03 Transfer of General Use, Shorefront Property Owner, *Commercial Use*, or Commercial Mooring for Hire Mooring Permit to Surviving Spouse.

(a) If a vessel is owned by spouses jointly with right of survivorship and passes to a surviving spouse as a result of death, and the spouse whose name appears on a general use ~~[or]~~, shorefront property, *or commercial use* mooring permit, or on a commercial mooring for hire mooring permit held by a shorefront property owner as described in Pda 502.05(b), granted by the division dies during the term of the permit, the division shall transfer the permit to the name of the surviving spouse if the conditions under (c) below are met.

(b) If ownership of a vessel previously owned by a deceased spouse whose name appears on a general use ~~[or]~~, shorefront property, *or commercial use* mooring permit, or on a commercial mooring for hire mooring permit held by a shorefront property owner as described in Pda 502.05(b), granted by the division passes by will or in accordance with the laws of intestacy to a surviving spouse, the division shall transfer the permit to the name of the surviving spouse if the conditions under (c) below are met.

(c) The surviving spouse shall present a written request for transfer under this section to the division ~~[, accompanied by the following documentation and fee, within 90 days of the date of death of the spouse]~~ *at the time that an application for an existing mooring permit under Pda 506.04 is filed with the division, on or before the March 1 deadline. If the death occurred within 10 days before the March 1 deadline and the surviving spouse submits the request within 10 business days after March 1, the division shall waive the mooring permit reapplication late fee and charge only the mooring permit application fee. The surviving spouse shall provide the following documentation at the time of filing:*

(1) ~~[A copy of]~~ The death certificate of the *deceased* spouse;

~~[(2) Payment of the transfer fee for the transfer of a general use mooring permit, shorefront property mooring permit, or commercial mooring for hire mooring permit held by a shorefront property owner to a surviving spouse pursuant to Pda 508.03, provided that fees in the form of a check or a money order shall be made payable to "Pease Development Authority, Division of Ports and Harbors" or "PDA-DPH;"]~~

~~[(3)](2)~~ Proof that the vessel was owned jointly by the spouses, if the vessel was owned jointly with right of survivorship; and

~~[(4)](3)~~ Either:

a. A copy of the decree of the probate court granting ownership of the vessel to the surviving spouse, if the ownership of the vessel passed to the surviving spouse by will or in accordance with the laws of intestacy; or

b. Evidence that the estate of the deceased spouse is in probate and that the ownership of the vessel will pass to the surviving spouse by will or in accordance with the laws of intestacy.

Readopt with amendment Pda 509.07, effective 8-20-11 (Document #9975), to read as follows:

Pda 509.07 Mooring Wait List Renewal Applications; *Rights of Surviving Spouse.*

(a) An applicant who seeks to remain on a mooring wait list(s) shall renew his or her wait list status annually by March 1 of each year by submitting a mooring wait list application in accordance with Pda 509.03 and payment of the wait list fee, or within 10 business days after March 1 by submitting a mooring wait list application in accordance with Pda 509.03 and payment of the wait list late fee.

(b) If a person on a mooring wait list passes away, the person's surviving spouse may request that the name of the surviving spouse be substituted for the deceased spouse by submitting, with the renewal application, a written request for such substitution and a death certificate for the deceased spouse. If the death occurred within 10 days before the March 1 deadline and the surviving spouse submits the request within 10 business days after March 1, the division shall waive the mooring wait list renewal late fee and charge only the mooring wait list renewal fee.

~~(b)~~(c) The division shall mail a mooring wait list application form once annually on or before January 15 to each applicant on a mooring wait list, to the address specified by the applicant on the mooring wait list application, or, if none is specified, to the applicant's permanent address.

~~(c)~~(d) If an undeliverable wait list application form is returned to the division, the division shall not remail the form. The mooring wait list applicant shall be responsible for timely renewal of the applicant's wait list status without receipt of a renewal notice from the division.

Readopt with amendment Pda 509.08, effective 8-20-11 (Document #9975), to read as follows:

Pda 509.08 Notification of Changes in Wait List Information; *Surviving Spouse Procedures.*

(a) In order to maintain updated information with the division, any person on a mooring wait list shall notify the division in writing, within 30 business days of the change, of any change of wait list information or any change of address or telephone number.

(b) If an applicant listed on a wait list passes away and that person has a surviving spouse who wishes to be substituted for the deceased spouse on the wait list, the surviving spouse shall follow the procedures set forth in Pda 509.07(b).

Amend Pda 603.02(d)(1), effective 11-1-13 (Document #10441), so that Pda 603.02(d) intro., and (d)(1) are cited and read as follows:

Pda 603.02 Business-Use Piers; Restrictions; Skiffs; Emergency Use Allowed.

(d) No commercial fishing vessel or commercial cargo vessel shall be secured [~~between sunset and sunrise or~~] for more than **30 minutes**, [~~12 hours in one day~~] and no other vessel shall be secured at any time to a business-use pier, except a commercial fishing vessel with a berthing permit or as provided in (d) or (e) below, unless the vessel owner or operator requests permission to be so secured and the division director or an employee of the division:

(1) Determines that one or more of the following applies:

a. The volume or complexity of loading or offloading harvested seafood or equipment or both requires longer than 30 minutes;

[~~a-~~]b. The vessel requires [~~emergency~~] repairs *or maintenance that take longer than 30 minutes;*

[~~b-~~]c. Weather or tide conditions make it hazardous for the vessel not to be secured to the pier;

[~~e-~~]d. A medical emergency exists involving a passenger or crew member; or

[~~d-~~]e. Failure to secure the vessel to the pier would result in an imminent and substantial hazard to navigation or to the safety of any person on board such vessel; and

Readopt with amendments Pda 603.11, effective 11-1-13 (Document #10441), to read as follows:

Pda 603.11 General Restrictions and Limitations.

(a) There shall be no camping or sleeping on state-owned commercial piers or associated facilities.

(b) The consumption of alcohol at state-owned piers or associated facilities shall be prohibited, unless permission has been granted in accordance with the terms of a written contractual agreement with the authority.