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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

May 7, 2002

COMMITTEES

PROFESSIONAL LICENSURE,
MAJORITY CHAIRMAN
LIQUOR CONTROL
FIREFIGHTERS' CAUCUS,
COCHAIRMAN EMERITUS

John R. McGinley, Jr., Chairman
Independent Regulatory Review Commission
14th Floor, Harrisstown 2
333 Market Street
Harrisburg, PA 17101

Dear Chairman McGinley:

I am writing to inform you that the House Professional Licensure Committee held a meeting on May 7, 2002. The committee voted to approve Regulation 16A-656, State Board of Physical Therapy; Regulation 16A-5210, State Board of Optometry; and Regulation 16A-662, Navigation Commission for the Delaware River and its Navigable Tributaries.

In addition, the committee voted to take no formal action on Regulation 16A-416, State Architects Licensure Board; and Regulation 16A-539, State Board of Osteopathic Medicine, until final form regulations are promulgated.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Mario J. Civera".

Mario J. Civera, Chairman
House Professional Licensure Committee

MJC/sms
Enclosures

cc: James J. Irrgang, Chairperson
State Board of Physical Therapy
Steven Reto, O.D., Chairperson
State Board of Optometry
C. Michael Weaver
Acting Secretary of the Commonwealth and
Chairperson of Navigation Commission for the
Delaware River and its Navigable Tributaries
Ann Shepard Houston, President
State Architects Licensure Board
Daniel D. Dowd, Jr., D.O., Chairperson
State Board of Osteopathic Medicine

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PROFESSIONAL LICENSURE
REVIEW COMMISSION

Regulation 16A-662

Navigation Commission for the Delaware River and its Navigable Tributaries

PROPOSAL: Regulation 16A-662 amends 4 PA Code, Chapters 401 through 409, regulations of the Navigation Commission for the Delaware River and its Navigable Tributaries (Commission). The amendments would eliminate obsolete regulations, reorganize and clarify existing provisions, and add safety-enhancing provisions.

Regulation 16A-662 is Final Rulemaking which was delivered to the Professional Licensure Committee on May 1, 2002. The Professional Licensure Committee has until May 21, 2002 to approve or disapprove the regulation.

ANALYSIS: The Commission has the authority to promulgate regulations pursuant to 55 P.S. Sec. 31, and Sec. 2504-B(4) of the Administrative Code. The Commission's regulations have not been significantly revised since first promulgated in 1977. The Commission has proposed revisions to the regulations as follows:

Chapter 401 - General Provisions: The definition of "Department" would be changed from "The Department of Commerce of the Commonwealth" to "The Department of State of the Commonwealth", and the definition of "Secretary" would be changed from "The Secretary of Commerce of the Commonwealth" to "The Secretary of the Commonwealth," to reflect the 1982 transfer of powers and duties from the Department of Commerce to the Department of State.

Chapter 402 - Administration: The provisions relating to the "Composition of the Commission" and "Quorum" would be deleted in that they are currently found in Sec. 475 of the Administrative Code. The provision relating to "Standing committees" would be deleted as being no longer required since the transfer of many of the Commission's duties to the Department of Environmental Protection (DEP). Sec. 402.11 (Meetings) would be amended to provide that the Commission meet semiannually, and to allow the Commission chair to convene special meetings. Meetings would be held in Philadelphia or at a location determined by a majority vote of the Commission.

Chapter 403 - Construction Permits: This chapter would be repealed in its entirety. Sec. 2 of Reorganization Plan 1 of 1982, 71 P.S. Sec. 751-37, transferred the Commission's functions in this area to the Department of Environmental Resources, which is now the DEP.

Chapter 405 - Pilots and Pilotage: Sec. 405.2 (Authority) would be deleted in that a more complete and updated list of the Commission's powers and duties is set forth in Sec. 2504-B of the Administrative Code. Sec. 405.3 (Applications) would be revised to delete references to the various classes of pilot's licenses and to include application for apprenticeships. Sec. 405.4 (Examinations) would be revised to set forth the procedures for taking the examination for a sixth class pilot's license, which is the entry-level pilot's license. Sec. 405.5 (Classification of

Pilots) and Sec. 405.6 (Underrate Pilot Limitations) would be deleted as outdated since the classifications were revised in 1993.

Sec. 405.7 (Qualifications for License) would be amended to set forth the criteria for all classes of licensure. Except for sixth class applicants, all applicants must have served at least one year in each of the license classes below the class applied for. Applicants must pass a physical examination and have participated in a program of random drug testing. Applicants must be qualified as radar observers, have completed a Commission approved course in automatic radar plotting aids, and have completed a Commission approved course in bridge resource management. Applicants for first class pilot's licenses must have completed 40 hours of Commission approved continuing education within the preceding five years, and appear before the Commission for a personal interview. Applicants for sixth class licenses must be at least 21 years old, be within three months of completing a Commission approved apprenticeship, and have acquired a federal pilot's license for the Delaware River issued by the Coast Guard. Unless waived by the Commission, all licensure applicants must have piloted at least 52 vessels during the preceding license period.

Sec. 405.8 would set forth the physical qualifications for licensure, which include minimum visual and hearing acuity, and the absence of any medical condition which would directly affect one's ability to pilot a ship safely. Sec. 405.9 sets forth the qualifications for apprentices. Applicants must either have a bachelor's degree or hold a Coast Guard issued license to serve as a third mate on ocean going vessels. Apprenticeships must be served for four years, or no longer than three years if the individual holds a Coast Guard issued license. During an apprenticeship, an individual must obtain the theoretical education and supervised practical experience required for sixth class pilots. Sec. 405.10 provides that the term of licenses shall be one year. Sec. 405.11 would require the Commission to comply with federal and state anti-discrimination laws. Sec. 405.12 sets forth the requirements for license renewal. Applicants for first class renewal must have completed 40 hours of Commission approved continuing education. This C.E. requirement will become effective two years from the date the regulations are published as final rulemaking.

Sections 405.14 through 405.18 would be deleted as unnecessary, in that these provisions are now covered by statute. New Sec. 405.19a would require a state licensed pilot to remain on a ship's bridge until docking, undocking or anchoring procedures are completed. Sec. 405.21 would require a pilot involved in a marine accident to submit a written accident report to the Commission within five days of the accident. If the accident involves loss of life, collision or grounding, or an oil spill, a telephonic report must be made to the Commission within 24 hours.

Sections 405.27, 405.28, 405.29 and 405.31 would be deleted in that they reflect out-of-date rates for various pilotage services. Sec. 405.33 would be deleted as unnecessary. The anti-strike and anti-competition provisions contained in that section were repealed by 1993 statutory amendments.

The Committee questioned the validity and/or reliability of the procedure pursuant to Sec. 405.4(a), whereby the Commission designates at least three first class pilots to conduct or develop an oral or written examination for applicants for a sixth class license. In response, the Commission has now articulated, with specificity, the precise format and requirements for passage of the entry-level oral or written examination.

The Committee questioned the use of the metric system of measurement for visual acuity. This may be a standard reference within the profession but is generally unfamiliar to a layperson. In response, the Commission has replaced the metric system with the U.S. standard system.

The Committee noted that Sec. 405.9(b)(1) provided that an apprentice who holds a third mate's license "may serve an apprenticeship of three years." However, that provision of Sec. 18(b) of the enabling statute, 55 P.S. Sec. 44(b), reads that a licensed third mate's apprenticeship "need be no longer than three years." The Commission added language to mirror the statute.

The Committee questioned why the term "examinations" was deleted from the title of Sec. 405.8. The Commission now proposes "Physical examination qualifications" as the title of that section.

RECOMMENDATIONS: It is recommended that the Professional Licensure Committee approve the regulation.

House of Representatives
Professional Licensure Committee
May 2, 2002