

# Comments of the Independent Regulatory Review Commission



## Navigation Commission for the Delaware River & its Navigable Tributaries Regulation #16A-663 (IRRC #2995)

### General Revisions

June 5, 2013

We submit for your consideration the following comments on the proposed rulemaking published in the April 6, 2013 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (RRA) (71 P.S. § 745.5b). Section 5.1(a) of the RRA (71 P.S. § 745.5a(a)) directs the Navigation Commission for the Delaware River & its Navigable Tributaries (Commission) to respond to all comments received from us or any other source.

#### 1. Section 405.12. Renewal of license. – Clarity.

Subsection (b) includes notice that the continuing education requirements contained in the subsection shall become effective July 6, 2004. The Commission is deleting similar language in Section 405.7(b)(1) because the date has already passed. The Commission should delete this obsolete language, as well, in the final-form regulation.

#### 2. Section 405.36. Federal license. – Clarity.

Subsection (b) states that if a pilot's federal license is suspended, revoked or surrendered (i.e., inactive), "the Commission *may* . . . revoke, suspend, limit or otherwise restrict the pilot's state license." (Emphasis added.) It is unclear as to how subsection (b) is consistent with new language in Section 405.7(a)(10) which requires an applicant for a pilot's license to "hold and *maintain an active Federal first-class pilot's license*" (emphasis added) and Section 405.12(a)(1) which requires an applicant renewing a pilot's license to satisfy the requirements in Section 405.7(a)(10).

We recognize the need for the Commission to provide notice and an opportunity for a hearing in accordance with the Administrative Agency Law before taking action against a pilot's state license; however, subsection (b) appears to allow for a circumstance in which a pilot can hold an active state pilot's license without an active Federal pilot's license. We ask the Commission to explain how these provisions are consistent, or to address this circumstance in the final-form regulation.