Agency Name: Commissioners of Pilotage ‑ Labor, Licensing and Regulation

Statutory Authority: 40‑1‑50, 40‑1‑70, 54‑15‑10, and 54‑15‑140

Document Number: 5159

Proposed in State Register Volume and Issue: 46/10

House Committee: Regulations and Administrative Procedures Committee

Senate Committee: Transportation Committee

120 Day Review Expiration Date for Automatic Approval: 05/10/2023

Final in State Register Volume and Issue: 47/5

Status: Final

Subject: Commissioners of Pilotage

History: 5159

By Date Action Description Jt. Res. No. Expiration Date

‑ 10/28/2022 Proposed Reg Published in SR

‑ 01/10/2023 Received President of the Senate & Speaker 05/10/2023

S 01/10/2023 Referred to Committee

H 01/11/2023 Referred to Committee

S 05/03/2023 Resolution Introduced to Approve 773

‑ 05/10/2023 Approved by: Expiration Date

‑ 05/26/2023 Effective Date unless otherwise

 provided for in the Regulation

Document No. 5159

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**

**COMMISSIONERS OF PILOTAGE**

CHAPTER 136

Statutory Authority: 1976 Code Sections 40‑1‑50, 40‑1‑70, 54‑15‑10, and 54‑15‑140

136‑014. Apprentice Citizenship and Physical Requirements.

136.015. Previous Maritime Experience, Apprentice Applicants.

136‑016. Apprentice Training Course Curriculum.

136‑020. Short Branch Qualification.

136‑035. Fees.

136‑040. Pilot Vessel Operation.

136‑045. Pilot Charges and Fees.

136‑070. Pilot Functions and Responsibilities.

136‑090. Pilot Response.

**Synopsis:**

The Commissioners of Pilotage for the Lower Coastal area propose to amend the following sections of the Code of Regulations following a comprehensive review of their regulations conducted pursuant to S.C. Code Section 1‑23‑120(J): Regulations 136‑014, 136‑015, 136‑016, 136‑020, 136‑035, 136‑040, 136‑045, 136‑070, 136‑075 and 136‑090.

The Notice of Drafting was published in the State Register on August 26, 2022.

**Instructions:**

Print the regulation as shown below. All other items remain unchanged.

**Text:**

136‑014. Apprentice Citizenship and Physical Requirements.

 A. Every apprentice applicant must meet the requirements of Section 54‑15‑100 of the 1976 Code and the Coast Guard requirements for citizenship, physical health, and general federal licensure as contained in 46 CFR 10.201‑10.225 and 10.301‑10.306.

 B. All apprentice applicants must certify and be prepared to demonstrate that they can swim unassisted for a distance of not less than 100 meters and can remain afloat unassisted for a period of not less than fifteen minutes immediately thereafter.

 C. Every applicant for apprenticeship must be a resident of the State of South Carolina.

136‑015. Previous Maritime Experience, Apprentice Applicants.

 A. The Commission shall ensure that eligible applicants for apprenticeship be assured that any previous maritime experience is considered in the selection process.

 B. The Commissioners shall assign up to 25 points to any applicant who has demonstrated previous maritime knowledge or experience. Consideration will be given to the following federal license and experience factors:

 KIND OF MARINE EXPERIENCE DOCUMENTED POINTS

 1. Master, oceans, any gross tons 21

 2. Chief Mate, oceans, any gross tons 19

 3. Second Mate oceans, any gross tons 17

 4. Third Mate, oceans, any gross tons 15

 5. Master, near coastal less than 100 GT 10

 6. Operator, uninspected towing vessel or Inland Master 10

 7. Federal first class pilot license or endorsement 1

 8. Motorboat operator license 5

 9. Small craft and sailing experience

 (a) Collegiate sailing team member, years on team 1 to 4

 (b) Local sailing and offshore regatta crew 1 to 5

 (c) Small craft operation in Charleston Harbor and 5 approaches, 1 point per year, but experience must equal or exceed 100 days per year, up to a maximum of (Note: The points awarded for small craft experience cannot total more than five points.) Points awarded to the above factors 1 through 9 may be accumulated to a maximum of 25.

 10. The Commissioners may award up to 5 points for maritime‑related credentials not listed above.

136‑016. Apprentice Training Course Curriculum.

 A. Satisfactory completion of the Apprentice Training Course at Charleston as approved by the Commissioners and the Commandant of the U.S. Coast Guard, requires that the apprentice must have satisfactorily completed 360 round trips encompassing a minimum of 360 days of training aboard vessels over 1600 gross tons. This course of instruction is approved by the Commandant of the U.S. Coast Guard pursuant to 46 CFR Part 10 Subpart D.

 B. General Curriculum Requirements:

 (1) In order to satisfactorily complete this training course, every apprentice must solo to the satisfaction of the majority of the supervising pilots on every route, day and night, ebb and flood tides, and on every size category of vessel calling at the port. The curriculum of the approved course requires that apprentices learn to direct the movement of vessels, apply the proper rules of the nautical road and other maritime procedures, interface and coordinate with other affected vessels and facilities, and record certain information. During each vessel movement to which the apprentice is assigned, the apprentice shall accompany the licensed pilot assigned to the vessel. The licensed pilot serves as the expert‑master and interacts with the apprentice in observational and mastery learning processes. The ultimate result of the training is marked by the apprentice’s satisfactory piloting of vessels under the supervision of the various pilots assigned to those movements without the need for those assigned pilots to offer coaching or verbal guidance. This accomplishment is termed a “solo”.

 (2) In addition to the above, the progress of every apprentice must be marked semi‑annually during his or her term of apprentice training by the pilots with whom he or she has received instruction in the areas of:

 (a) Procedures

 (b) Skillfulness

 (c) Communications

 (d) Attitude

 (3) Every apprentice must receive satisfactory grades from the majority of the pilots during each semi‑annual progress report period. A 3.2 grade point average on a 4.0 scale in every area of grading is required as the minimal satisfactory grade. This minimal grade shall be obtained during the final progress report period in order for an apprentice to receive a certificate that he or she has satisfactorily completed this training course. The Course Monitor shall semiannually advise each apprentice regarding his or her progress and shall also advise the Commissioners.

 (4) Failure to receive satisfactory grades during the apprentice training course can result in the termination of the apprentice training program for any apprentice at any point in the program by the Commissioners.

 (5) The discovery that any apprentice fails to satisfy the physical requirements for federal licensure shall be just cause for the termination of any such apprentice without regard to the grades received in the apprentice training course.

 C. Upon satisfactory completion of the approved apprentice training course, the apprentice will be awarded a Certificate of Completion by the designated course monitor.

 D. Any federal licensure as a federal, first‑class pilot obtained by any apprentice before the completion of the apprenticeship training and qualification program shall not terminate nor shorten the three‑year term of apprentice training.

 E. No person shall represent himself or herself as an apprentice unless he or she has been approved and certified as an apprentice by the Commissioners. No pilot shall be required to train any uncertified person on board any vessel subject to the jurisdiction of the Commissioners. Any uncertified person posing as an apprentice aboard any vessel subject to the jurisdiction of the Commissioners shall be considered in violation of 1976 Code Section 54‑15‑280.

136‑020. Short Branch Qualification.

 A. The term of the apprentice training and qualification program shall be followed by a period of not less than three years for advanced qualification as a short branch pilot.

 B. With the consent of the apprentice who has passed the term of apprenticeship, the period of short branch qualification may be suspended for a period of time to be approved by the Commissioners. Under such circumstances, the Commissioners shall assure that the passed apprentice has completed a sufficient number of refresher round trips prior to licensure.

 C. The various tonnage and draft limitations for each short branch shall be:

 (1) Initial (first) Short Branch (six months) ...Limited to the average Gross Registered Tons rounded up to the next highest thousand for the previous calendar year and limited to the average deep draft, rounded up to the next even number of feet, said tonnage and draft averages will be for the previous calendar year.

 (2) Second Short Branch (six months) ...No tonnage limit, deep draft limit to be the deep draft limit applicable in subparagraph (1) above, plus two feet.

 (3) Third Short Branch (one year) ...No tonnage limit, deep draft limit to be the deep draft limit applicable in subparagraph (1) above, plus five feet.

 (4) Fourth Short Branch (one year) ...No tonnage limit, deep draft limit to be the deep draft limit applicable in subparagraph (1) above, plus twelve feet.

 D. While undergoing advance qualification, short branch pilots may be observed by full branch pilots on board such vessels to which the short branch pilots may be assigned.

 E. Records of short branch pilot assignments shall be maintained and made available upon request of the Commissioners for up to one year after the fourth short branch period terminates.

136‑035. Fees.

 A. Pilot Registration Fees shall be set by the Commissioners, and collected annually, sufficient to maintain funds for administration, travel, and operational and investigative duties of the Commissioners. Annual Pilot Registration Fees shall not exceed one quarter of the sum of the inbound and outbound pilotage charge for a vessel of average tonnage and average draft for the previous year.

 B. The following issuance fees shall be set by the Commissioners annually, and remitted to the Commissioners of Pilotage for the Lower Coastal Area for each of the respective licenses issued by the Commissioners:

 (1) First short branch license, following apprenticeship, valid for a period of not less than six (6) months; not to exceed 25% of the annual pilot registration fee set according to paragraph (A) above.

 (2) Second short branch license, valid for a period of not less than six (6) months; not to exceed 25% of the annual registration fee set according to paragraph (A) above.

 (3) Third short branch license, valid for a period of not less than one (1) year; not to exceed 50% of the annual registration fee set according to paragraph (A) above.

 (4) Fourth short branch license, valid for a period of not less than one (1) year, not to exceed 50% of the annual registration fee set according to paragraph (A) above.

 (5) Full branch license, not to exceed the annual registration fee set according to paragraph (A) above.

 (6) Certificate of Apprenticeship, not to exceed 10% of annual registration fee according to paragraph (A) above.

 C. Apprentice Application Fee. Every applicant for apprenticeship shall remit to the Commissioners of Pilotage for the Lower Coastal Area a non‑refundable fee of $50, which will cover the period for which the application is maintained current by the applicant. Should an application expire, this fee must accompany a new application.

 D. The Commissioners shall remit to each member of a board of examiners a sum determined annually by the Commissioners, as compensation for each license examination. The fee established for each examiner should not exceed the fee paid to the Commissioners for issuance of the license for which the examinee is being evaluated, as set out in subparagraphs (B)(1) through (B)(5) above.

136‑040. Pilot Vessel Operation.

 A. The pilots for the Lower Coastal Area shall obtain and engage the dedicated services of two or more privately owned pilot vessels for the sole benefit of the pilots.

 B. An appropriate number of such vessels shall be manned and available for duty 24 hours per day, seven days per week, such number to be determined by the Commissioners.

 C. Every pilot vessel shall be materially sufficient and properly manned for its intended duty to the satisfaction of the Commissioners.

 D. Response in support of port or vessel emergencies is considered duty under the role of pilotage.

 E. Pilot vessels are engaged in the mission of state law enforcement when transporting and transferring state licensed pilots in the performance of pilotage, and must not be inhibited to promote the safe execution of pilotage, pilot transfers, and in the interests of placing pilots onboard ships as timely as practicable.

 F. Provided there are not less than two vessels available for pilotage as required in paragraph (A) above, approved pilot vessels in the fleet maintained by the pilots may temporarily provide maritime services to the port or to vessels in the vicinity so long as there is no imposition on pilot operations, and the temporary service adheres to state and federal regulations as applicable.

136‑045. Pilot Charges and Fees.

 A. Pilotage charges and rates shall be promulgated by the Commissioners in accordance with the applicable sections of the 1976 Code.

 B. The pilots shall be due payment for individual pilotage charges and fees upon the departure of any vessel from the Port, except when the pilots have elected to extend credit to such vessel owner, vessel operator, principal agent or local agent. In such cases, all payments are due not later than forty‑five (45) days after the vessel’s arrival in port. When payment has not been made within the 45‑day term, interest may be charged, compounded at the rate of 1.5% monthly, for any portion of a month overdue.

 C. Any agent or other non‑vessel owner who makes arrangements for credit for pilotage shall be held responsible by the pilots for the amount credited if that amount is not paid within the forty‑five (45) day period.

 D. Pilotage charges are based upon the services of one pilot unit. No additional charges are authorized for other pilots or apprentices taken aboard a vessel for the purpose of training or route familiarization. However, nothing shall prohibit additional pilotage charges from being made whenever additional pilots are required to assure the safe maneuvering of the vessel. In such cases, one additional pilot unit may be charged for every additional pilot so embarked.

136‑070. Pilot Functions and Responsibilities.

 A. Pilot services shall be made available to the master of every inbound vessel that requires a state pilot pursuant to the 1976 Code Section 54‑15‑270.

 B. Every pilot received on board a vessel for the Lower Coastal Area subject to the jurisdiction of the Commissioners shall remain on board such vessel while in transit between the pilot station and its terminal or anchorage. The transit shall begin on inbound vessels when the pilot assumes the control of the ship and shall end when the first line is passed to a pier, wharf or other waterfront facility, or until the vessel is anchored fast to the bottom. The transit shall begin on outbound vessels when the last line is passed or when the anchor is aweigh, and shall end when the pilot is discharged by the vessel’s master, having arrived at that place on the bar where the adjoining depths of water are sufficient for safe navigation. The transit on shifting vessels shall be from the passing of the last line or weighing of the anchor until the first line is passed or the anchor is made fast to the bottom.

 C. Every vessel described in the 1976 Code Section 54‑15‑270 requiring a state pilot shall receive on board such pilot to direct the vessel movement for every inbound and outbound transit of the port and for shifting berths and anchorages within the port. This requirement applies regardless of the source of vessel propulsion, be it self‑propelled or propelled by tugs. If the master or operator of any seagoing vessel requiring a state pilot shall refuse to receive on board a pilot, such circumstance shall be considered a “hazardous condition” pursuant to 33 CFR 160.203 and shall immediately be reported to the Coast Guard.

 D. No pilot licensed by the Commissioners shall knowingly pilot any vessel, the operation of which, in the opinion of such pilot, may introduce an unnecessary risk to the port, other vessels, or the marine environment.

 (1) An “unnecessary risk” includes situations where any vessel is deemed by the pilot not to be in compliance with applicable Federal Navigation Safety Regulations, or where the condition of any vessel’s operation, in the opinion of the pilot, constitutes a “hazardous condition” as defined by federal regulations.

 (2) An “unnecessary risk” may also include situations that may prevent or inhibit the safe movement of a vessel, including, but not limited to, instances wherein the wheelhouse or bridge is not properly manned by sufficient numbers of qualified crew members or, conversely, when the wheelhouse or bridge is encumbered by the presence of extraneous persons who are not members of the crew, docking pilots, pilots or apprentice pilots, owners, agents or operating managers.

 (3) Pilots are to consider dredged channels as areas where vessels are severely restricted in their ability to maneuver, and shall apply the principles of safe navigation, and the Navigation Rules for vessels constrained by draft, accordingly. Should a master refuse to maintain safe speed as determined by the pilot, the pilot may determine that an unnecessary risk exists, and may deny entry or sailing, or anchor the ship at the next available safe location.

 (4) Nothing in this subpart shall prevent a pilot from piloting any vessel when, in his or her opinion, the vessel’s safety or the safety of the port would be further impaired or endangered by the pilot’s refusal to provide pilotage.

 E. No pilot may depart any outbound vessel in pilot waters until that vessel has met or passed any other vessel also navigating on those pilot waters.

 F. The pilots may elect to waive the rates and fees for vessels refusing to receive a pilot on board as provided in 1976 Code Section 54‑15‑270; provided that such vessels have a maximum draft of less than twelve feet and are not engaged in commerce. Whenever such waivers are granted, neither the pilots nor the vessel will be deemed to be in violation of 1976 Code Sections 54‑15‑220 and 54‑15‑270, respectively.

 G. The pilots may assign more than one pilot to any given vessel if, in their opinion, an additional pilot is necessary to assure adequate visibility or otherwise ensure the safe maneuvering of said vessel.

 H. A master or licensed operator of any vessel may relieve the state pilot on board under certain circumstances where the safety of the vessel is perceived by the master, or licensed operator, to be at risk, however;

 (1) No master or licensed operator of any vessel, having relieved the state pilot on board, shall then serve as the pilot on such vessel when the pilot has refused to pilot the vessel pursuant to the conditions described in subparts 136‑070D(1) and 136‑070D(2).

 (2) Whenever a pilot on a vessel has been relieved by a master or licensed operator of said vessel or whenever a pilot refuses to pilot any vessel, such pilot shall immediately broadcast a Sécurité voice message on VHF Channels 13 and 16, stating the name of the vessel, its present position, direction of movement and speed, and the fact that a properly licensed pilot is neither directing nor controlling the vessel’s movement.

 (3) Whenever a pilot on a vessel has been relieved by the vessel’s master or licensed operator or whenever a pilot refuses to pilot any vessel, he shall remain aboard until his disembarkation can be safely effected. Under such circumstances, such pilot is not in the service of his or her license. If such a pilot believes he or she can be of value to the vessel’s master or operator subsequent to the aforementioned relief or refusal, the pilot shall offer his or her services and recommendations to the master or licensed operator, so as to mitigate risk or to provide the maximum safety under the conditions. Unless such a pilot broadcasts a second Sécurité call on VHF Channels 13 and 16 that he or she has reassumed control, such pilot will not be considered in the service of his or her license.

136‑90. Pilot Response.

 A. The pilots will act upon all requests for pilot services without delay, provided they have been notified as follows:

 (1) For vessels entering the Port of Charleston, six hours in advance of the required pilot boarding time.

 (2) For vessels departing or shifting within the Port of Charleston, three hours prior to any vessel’s intended movement.

 (3) For movements in ports other than Charleston, seventy‑two (72) hours in advance of the requested pilot boarding time, sailing time, or other movement.

 B. The pilots will ensure the coordination of pilot assignments in the movements of all state piloted vessels that are or will be underway at the same time on those waters subject to the jurisdiction of the Commissioners.

 C. Vessels arriving at the bar and subsequently waiting for pilotage may be assigned pilots in the order that best facilitates safe and efficient movements within the entrance channel and the harbor.

**Fiscal Impact Statement:**

 There will be no cost incurred by the State or any of its political subdivisions for these regulations.

**Statement of Rationale:**

 The updated regulations will clarify or correct language appearing in Article 1 of Chapter 136, for the purpose of promoting the health, safety and economic well‑being of the public, and reflecting the current state of pilotage as it serves marine commerce in the Port of Charleston and the Lower Coastal Area.