

HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 96

PILOTAGE

Subchapter 1 General Provisions

- §16-96-1 Repealed
- §16-96-2 Objective
- §16-96-2.1 Definitions

Subchapter 2 Pilotage Rates

- §16-96-3 Pilotage rates and charges
- §16-96-4 Repealed
- §16-96-5 Repealed
- §16-96-5.1 Repealed
- §16-96-6 Repealed
- §16-96-6.1 Repealed
- §16-96-6.2 Repealed
- §16-96-6.3 Repealed
- §16-96-7 Repealed
- §16-96-7.3 Rates and charges when two pilots are required

Subchapter 3 Rate Changes

- §16-96-8 Petition for changes in rates and charges
- §16-96-8.2 Hearings officer
- §16-96-8.4 Public hearing
- §16-96-8.6 Contested hearing administrative procedures
- §16-96-8.8 Prepared written testimony
- §16-96-9 Investigation of rate changes
- §16-96-9.5 Department ex officio party

#### Subchapter 4 Quarterly Reports

- §16-96-13 Filing of reports by pilot associations
- §16-96-14 Filing of reports by non-association member
- §16-96-15 Audit of records

#### Subchapter 5 Repealed

- §16-96-19 Repealed

#### Subchapter 6 Requirements for License

- §16-96-23 Adequate supply of pilots
- §16-96-24 Limitations of deputy port pilot license
- §16-96-25 Requirements for deputy port pilot license
- §16-96-26 Requirements for port pilot license
- §16-96-26.3 Waiver of requirements for port pilot license
- §16-96-26.5 Waiver of requirements for deputy port pilot license
- §16-96-27 Renewal of license
- §16-96-28 Investigations, interviews, examinations, and audits
- §16-96-28.5 Panel of knowledgeable individuals
- §16-96-29 Decision and appeal

#### Subchapter 7 Examination

- §16-96-30 Written examination
- §16-96-31 Repealed
- §16-96-32 Repealed

#### Subchapter 8 Pilot License Suspension, Revocation, and Denial

- §16-96-36 Disciplinary action
- §16-96-37 Suspension, revocation, and denial of license

#### Subchapter 9 Physical Examinations

- §16-96-40 Physical examination requirement
- §16-96-41 Reporting requirements for physical or mental impairment
- §16-96-42 Repealed

## Subchapter 10 Incidents and Accidents

- §16-96-46 Filing of report
- §16-96-47 State department of transportation and United States coast guard rules

## Subchapter 11 Administrative Procedure

- §16-96-51 Administrative procedures
- §16-96-52 Requests for additional material or documentation

## Subchapter 12 Statewide Pilotage System

- §16-96-61 Statewide pilotage system
- §16-96-62 Central scheduling system
- §16-96-63 Training program
- §16-96-64 Work rules

## SUBCHAPTER 1

### GENERAL PROVISIONS

§16-96-1 Repealed. [R 12/2/89]

§16-96-2 Objective. This chapter is intended to clarify and implement chapter 462A, Hawaii Revised Statutes, to the end that the provisions thereunder may be best effectuated and the public interest most effectively served. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-2.1 Definitions. As used in this chapter:

"Active service" means participation in the statewide pilotage system, compliance with work rules adopted pursuant to this chapter, and the piloting or onboard observation of a roundtrip in and out of all designated deep draft harbors in the state in each calendar year; provided that the director may waive the piloting or onboard observation requirement for any particular deep draft harbor if there are insufficient vessel movements in that particular harbor.

"Agency hearing" refers to only such hearing required by law to be held by the director immediately prior to a judicial review of a contested case as provided in section 91-14, Hawaii Revised Statutes.

"Applicant" means an individual applying for a deputy port pilot license, a port pilot license, or for renewal of a pilot's license.

"Application" means a request or proposal for a deputy port pilot license, a port pilot license, or for renewal of a pilot's license.

"Contested case" means a proceeding in which the legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for agency hearing.

"Charges" means the fees assessed by licensed pilots for special or auxiliary services rendered by the pilot.

"Department" means the department of commerce and consumer affairs and any division or branch thereof.

"Director" means the director of commerce and consumer affairs.

"Hearings officer" means any person duly appointed and authorized to hold a hearing for the purpose of taking evidence or oral argument and making a recommended decision in any case or controversy within the jurisdiction of the director.

"Interested person" means any person with a substantial interest in the outcome of any proceeding conducted by the director.

"Party" means the department or any division or branch thereof, if named, permitted or entitled as of right to participate in a proceeding, each person named in a proceeding, or any interested or aggrieved person permitted or entitled as of right to participate in a proceeding before the director in the capacity of a petitioner, claimant, respondent, intervenor, or in a capacity other than that of a witness.

"Person" means individual, partnership, corporation, association, public or private organization of any character, or any state or federal agency, other than the director.

"Petition" means an application, request, or a proposal to the director by a party for a change in the rates or charges of pilotage for vessels subject to chapter 462A, HRS, or for any relief within the jurisdiction of the director.

"Petitioner" means a party who initiates a proceeding for any relief within the jurisdiction of the director.

"Rates" means the basic charges for all vessels using the services of a licensed pilot to move a nonexempt vessel entering or departing from any port in or transverse the waters of the State designated as pilotage waters. [Eff and comp 12/2/89; am and comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

## SUBCHAPTER 2

### PILOTAGE RATES

§16-96-3 Pilotage rates and charges. (a) All rates, charges, policies, procedures, and practices that are made, charged, or observed by a licensed pilot shall be filed with the director in such form and manner as the director may require, and copies shall be furnished by the pilot to any person upon request. Copies of the rates, charges, rules, and practices shall also be made available at the department.

(b) No rate, charge, rule, or practice shall be made, charged, or observed by any licensed pilot except after a duly noticed public hearing and contested hearing held pursuant to chapter 91, HRS, and as further provided in subchapter 3 of this chapter. Except to the extent that the director finds that unfairness would result, the director shall establish uniform rates and charges.

(c) All rates, charges, rules, and practices that were in effect prior to the effective date of this chapter shall remain in effect until otherwise ordered by the director pursuant to this section. [Eff 8/5/82; am 12/8/86; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§462A-3, 462-11)

§16-96-4 Repealed. [R 12/2/89]

§16-96-5 Repealed. [R 12/2/89]

§16-96-5.1 Repealed. [R 12/2/89]

§16-96-6 Repealed. [R 12/2/89]

§16-96-6.1 Repealed. [R 12/2/89]

§16-96-6.2 Repealed. [R 12/2/89]

§16-96-6.3 Repealed. [R 12/2/89]

§16-96-7 Repealed. [R 12/2/89]

§16-96-7.3 Rates and charges when two pilots are required. Unless there is a port pilot training program established pursuant to section 16-96-63, whenever it is necessary for a Hawaii licensed port pilot and a Hawaii licensed deputy port pilot to provide pilotage services together pursuant to section 16-96-26(a)(1)(B), only the licensed port pilot shall receive compensation for the services provided. [Eff and comp 12/2/89; am and comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§462A-3, 462A-11)

### SUBCHAPTER 3

#### RATE CHANGES

§16-96-8 Petition for changes in rates and charges. (a) The director may at any time increase, lower, or alter any rate, charge, rule, or practice of pilotage after a public hearing and contested hearing pursuant to chapter 91, HRS.

(b) Any interested person may petition the director for a change in any rate, charge, rule, or practice by filing a petition which shall provide the following information:

- (1) Name of the petitioner;
- (2) Statement of petitioner's interest;
- (3) Statement of current and proposed changes;
- (4) Facts and circumstances giving rise to the petition, including the necessity for the proposed changes;
- (5) The anticipated effect or impact of the proposed change on the maritime industry, the pilotage industry, and the general public;
- (6) Financial statements for each of the two annual periods preceding the date of the petition under current and proposed rates and charges, including but not limited to the following:
  - (A) Statement of gross pilotage revenues and expenses;
  - (B) Statement of operating expenses, including maintenance, depreciation, separately stated; and
  - (C) Statement of current and projected rate of return on investment for property used in the business of pilotage;
- (7) Statement of any rates and charges of pilotage at any comparable ports of the United States, including a statement describing the basis or conditions that a port may be comparable; and

(8) Any other relevant information the director or department may require.

(c) The petitioner shall serve a copy of the petition on the individual licensed pilots, any pilot association, and all owners, charters, operators, and agents of vessels who have made a timely written request to the director for advance notice of any proposed change of pilotage rates or charges. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-11)

§16-96-8.2 Hearings officer. (a) Upon the filing of the petition, the director shall assign the petition to a hearings officer for further proceedings consistent with this chapter.

(b) The hearings officer shall preside over the public hearing and contested hearing and shall file with the director a recommended decision together with a summary of all the public testimonies provided at the public hearing and a separate findings of fact, conclusions of law, and a recommended order. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§26-9, 462A-11)

§16-96-8.4 Public hearing. (a) Within thirty days of filing of the petition, the director shall cause proper notice of the petition to be published in a newspaper which is printed and issued at least twice weekly in the county affected by the proposed action. The notice shall include a statement of the proposed change in rates, charges, rules, or practice and the deadline for seeking intervention in the contested hearing as a party. Due notice of the hearing shall also be mailed at least thirty days prior to the date of hearing to the individual licensed pilots, the pilot's association, and all owners, charterers, operators, and agents of vessels who have registered with the director.

(b) The public hearing shall afford all interested persons the opportunity to submit data, views, or arguments in favor or against the proposed changes. Comments may be presented orally or in writing at the hearing or may be filed with the director within seven days subsequent to the public hearing. [Eff and comp 12/2/89; am and comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§92-14, 462A-11)

§16-96-8.6 Contested hearing administrative procedures. Upon completion of the public hearing, the director or hearings officer shall convene a contested hearing in accordance with chapter 91, HRS, and the subchapter on hearing relief

in chapter 16-201, Hawaii Administrative Rules, which is incorporated herein by reference and made a part of this subchapter. The contested case hearing shall commence within ninety days of the completion of the public hearing if the requirements of section 16-96-8 have been met. To the extent that this subchapter may directly conflict with the subchapter on hearing relief in chapter 16-201, Hawaii Administrative Rules, or provide additional requirements, the provisions in this subchapter will prevail. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§91-9, 92-16, 26-9, 462A-11)

§16-96-8.8 Prepared written testimony. (a) To promote an orderly hearing procedure in all contested proceedings for changes in any rate or charges, the director or hearings officer may issue a prehearing order that will establish a schedule during which the parties may file with the director in advance of the hearing the prepared written testimony of any witness providing oral testimony at the hearing. A copy of the written testimony shall be served upon all parties to the proceeding.

(b) The prepared testimony and exhibits accompanying the prepared testimony may be received in evidence without reading. Witnesses may summarize their prepared testimony during the hearing. The parties to the proceeding may during the hearing object on evidentiary grounds to the admissibility of all or part of the prepared testimony or exhibits and move to strike same.

(c) Any amendments to the prepared testimony shall be served upon all parties and filed with the director or hearings officer in accordance with the prehearing order or as the presiding officer directs. A party introducing totally new matters by revisions or supplements shall attach a sworn affidavit explaining why these matters were not submitted with the previous testimony. The presiding officer may, if the explanation is unreasonable, reject the amended testimony. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§26-9, 91-9, 92-16, 462A-3, 462A-11)

§16-96-9 Investigation of rate changes. The department may conduct its own investigation into such rate change requests by either using State auditors or private certified public accountants, whose expenses shall be borne by the department. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)



§16-96-9.5 Department ex officio party. The department is ex officio a party to any proceeding before the director. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§91-4, 462A-11)

#### SUBCHAPTER 4

#### QUARTERLY REPORTS

§16-96-13 Filing of reports by pilot associations. All pilot associations shall file with the director by the thirtieth day of January, April, July, and October of each year a report of revenues and expenses in a form to be determined by the director. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§462A-3, 462A-11)

§16-96-14 Filing of reports by non-association member. A pilot who is not an association member shall also file with the director on or before the above-filing dates, a report of revenues and expenses in a form to be determined by the director. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§462A-3, 462A-11)

§16-96-15 Audit of records. The financial records of port pilots, deputy port pilots, and the pilot associations relating to pilotage shall be subject to audit at the discretion of the director. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§462A-3, 462A-11)

#### SUBCHAPTER 5

§16-96-19 Repealed. [R 12/2/89]

#### SUBCHAPTER 6

#### REQUIREMENTS FOR LICENSE

§16-96-23 Adequate supply of pilots. In order to maintain an adequate supply of pilots, the director may invite, as the need arises, qualified individuals

to apply for licensure as deputy port pilots. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-24 Limitations of deputy port pilot license. Except as otherwise provided, a deputy port pilot license shall authorize the licensee to pilot vessels under five hundred feet in length and less than thirty feet maximum draft at all deep draft harbors in the State. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-25 Requirements for deputy port pilot license. (a) An applicant for a deputy port pilot license shall file an application with the director at least sixty days prior to a scheduled deputy port pilot examination. The applicant shall:

- (1) Be eighteen years of age or older;
- (2) Possess a current United States coast guard license as master of steam and motor vessels of any gross tonnage upon oceans issued by the United States coast guard;
- (3) Possess a United States coast guard endorsement as a first-class pilot for all deep draft harbors where pilot services are provided in the State; and
- (4) Possess the following experience:
  - (A) Four years of ocean or coastwise service as a licensed deck officer, including at least one year as chief officer, on vessels of one thousand or more gross tons; or
  - (B) Two years of ocean or coastwise service as a licensed deck officer on vessels of one thousand gross tons or more, plus one year of pilot service, docking registered or enrolled vessels of at least five thousand gross tons; and
  - (C) The requirement to have served at least one year as chief officer may be substituted on a month-for-month basis by experience as a master of tugs, engaged in docking and undocking vessels of five thousand gross tons or more; and
  - (D) A minimum of fifty round trips in and out of Honolulu harbor to and from the various piers as an observer. Twenty-five of these trips shall have been on vessels over five thousand gross tons and at least ten shall have been during hours of darkness.

(b) The applicant shall submit a certificate of physical examination, dated no earlier than sixty days prior to the date of filing, and pass a written examination approved by the director and administered by the department. [Eff

7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-26 Requirements for port pilot license. (a) An applicant for a port pilot license shall:

- (1) Serve a minimum of eighteen months as a deputy port pilot licensed by the State in the following manner:
  - (A) The first six months shall include piloting vessels under five hundred feet in length and less than thirty feet maximum draft at all deep draft harbors in the State;
  - (B) The next twelve months shall include piloting vessels indicated in subparagraph (A) and in addition, vessels over five hundred feet in length and over thirty feet draft at all deep draft harbors in the State; provided that when piloting a vessel over five hundred feet in length and over thirty feet draft, a licensed Hawaii port pilot shall be present at all times; and
  - (C) A deputy port pilot shall not pilot a tanker or passenger vessel until the deputy port pilot has had twelve months of pilotage experience as a deputy port pilot.
- (2) Provide a summary of all pilotage work performed and copies of all evaluation forms completed by licensed Hawaii port pilots who accompanied the deputy port pilot pursuant to section 16-96-26(a)(1)(B) and by the captain of the piloted vessel regarding the deputy port pilot's performance. The evaluation form shall be formulated and approved by the director. The evaluation forms shall be considered in determining whether a deputy port pilot is granted a port pilot license;
- (3) Hold a current Hawaii deputy port pilot license;
- (4) Possess a current United States coast guard license as master of steam or motor vessel of any tonnage;
- (5) Possess United States coast guard endorsements as a first-class pilot for all deep draft harbors where pilotage services are provided in the State; and
- (6) Submit a certificate of physical examination pursuant to section 16-96-40; provided that the date of the physical examination shall be within sixty days of the application filing date.

The director shall issue a decision granting or denying a port pilot license application within sixty days after the receipt of a completed application. The sixty day time limit may be extended, upon agreement by the applicant and the director.

(b) The director may contract with a qualified entity to establish a port pilot training program. [Eff 7/30/81; am and comp 12/2/89; am and comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-26.3 Waiver of requirements for port pilot license. Upon presentation of proof satisfactory to the director that a deputy port pilot applicant for port pilot license has met the requirements of section 16-96-26(1)(A) and (B), the director may waive all or part of the eighteen months service requirements of section 16-96-26(1). [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-26.5 Waiver of requirements for deputy port pilot license. If the director finds that there is a shortage of pilots that presents an imminent peril to the public health and safety, the director may grant a limited and temporary deputy port pilot license to an applicant that meets all requirements of section 16-96-25 except for first-class endorsements for certain deep draft harbors other than Honolulu Harbor. A deputy port pilot licensed under this section shall provide pilotage services in only those waters for which the deputy port pilot has first-class endorsements. A limited and temporary license issued under this section shall expire after one year and cannot be renewed. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-27 Renewal of license. A pilot who is in active service as a pilot in the State shall be issued a renewed license upon submittal of a renewal application, the renewal fee, and a current certificate of physical examination, dated no earlier than sixty days before the renewal deadline. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§462A-3, 462A-6, 462A-7)

§16-96-28 Investigations, interviews, examinations, and audits. In addition to requesting supporting documentation or clarifying information from the applicant, the director or department may initiate or require any investigation, interview, examination, or audit to be performed as deemed appropriate. Any investigation, interview, examination, or audit regarding an application may include a review of an applicant's background including but not limited to an applicant's formal education and seagoing and ship-handling experience or

performance. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-28.5 Panel of knowledgeable individuals. The director shall appoint a panel of knowledgeable individuals that can be used to assist in the evaluation of the credentials and pilotage experience of any applicant for a deputy port pilot or port pilot license. The director may also consult with the panel of knowledgeable individuals on other matters relating to pilotage. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-29 Decision and appeal. (a) After due consideration of all material presented, including but not limited to the application, experience, background, examination results, and personal interview of the applicant, the director shall issue a decision granting or denying the pilot's license application. In the case of a denial, the decision shall include a statement of the reasons for the decision.

(b) Within sixty days of the date of the decision, the applicant may petition the director for a hearing pursuant to chapter 91, HRS. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§462A-3, 462A-20)

## SUBCHAPTER 7

### EXAMINATION

§16-96-30 Written examination. An applicant for a deputy port pilot license shall pass a written examination that has been approved by the director and administered by the department or a testing agency designated by the director. The examination shall be in the English language. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-31 Repealed. [R 12/2/89]

§16-96-32 Repealed. [R 12/2/89]

## SUBCHAPTER 8

## PILOT LICENSE SUSPENSION, REVOCATION, AND DENIAL

§16-96-36 Disciplinary action. Upon receipt of information which indicates that a licensee has violated any provision of this chapter or chapter 462A, HRS, including but not limited to section 462A-8, HRS, the director upon petition by the department may initiate a hearing conducted pursuant to chapter 16-201, Hawaii Administrative Rules to determine whether the license shall be suspended, revoked, or denied. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§462A-3, 462A-8)

§16-96-37 Suspension, revocation, and denial of license. In addition to the provisions of section 462A-8, HRS, the director may deny the issuance of a license to any applicant, and may suspend or revoke the license of a pilot for the following reasons:

- (1) Incompetence, including but not limited to, solo piloting a vessel that is beyond the capability of the pilot; and
- (2) Noncompliance with the statewide pilotage system established by subchapter 12. [Eff and comp 12/2/89; am and comp 8/20/90] (Auth: HRS §§462A-3, 462A-8) (Imp: HRS §§462A-3, 462A-8)

## SUBCHAPTER 9

### PHYSICAL EXAMINATIONS

§16-96-40 Physical examination requirement. (a) Each applicant for an original or renewed pilot's license shall submit a certificate of physical examination to the director. The certificate shall be in a form prescribed by the director, shall be signed by a physician licensed to practice in the State, and shall be forwarded directly to the director by the physician.

(b) If a pilot fails to submit a current certificate of physical examination to the director prior to the renewal deadline but files the certificate within one year following the renewal deadline, the director shall renew the license without requiring the pilot to requalify as an original applicant for a license. If the pilot submits a certificate of physical examination to the director after one year following the renewal deadline, the director may restore the license based upon evidence that the pilot remains fit to perform pilotage duties or may require the pilot to reapply and fulfill the requirements of section 16-96-25 or 16-96-26 of this chapter. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-41 Reporting requirements for physical or mental impairment. Any licensed port pilot that has been physically or mentally impaired for a period of sixty days or more shall report the impairment to the director as soon as practicable after the sixty days have passed. The pilot shall file with the director an examination report completed by a licensed Hawaii physician declaring that the pilot is fit to resume active pilotage before beginning such pilotage activities. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-42 Repealed. [R 12/2/89]

## SUBCHAPTER 10

### INCIDENTS AND ACCIDENTS

§16-96-46 Filing of report. If a vessel under the directive of a port pilot is involved in any incident of significance, such as collision, oil spillage or harbor pollution, the director shall be notified as soon as practicable. In addition, the pilot shall file a written report to the director within seven working days if the incident or collision involved injury, death, extensive damages, or running aground. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-47 State department of transportation and United States coast guard rules. Pilots shall abide by all applicable rules of the harbors division of the State department of transportation, and of the United States coast guard. Any material violation of such rules shall be punishable as provided under section 462A-8, HRS. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§462A-3, 462A-8)

## SUBCHAPTER 11

### ADMINISTRATIVE PROCEDURE

§16-96-51 Administrative procedures. Except as otherwise provided by chapter 462A, HRS, or by this chapter, the administrative practice and procedure shall be as provided in chapter 16-201, Hawaii Administrative Rules, which are incorporated by reference and made a part of this chapter. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §§91-2, 462A-3) (Imp: HRS §§91-2, 462A-3)

§16-96-52 Requests for additional material or documentation. To facilitate the review of an application or petition, the director or department may informally request the applicant or petitioner to submit additional information or supporting documentation to clarify or supplement the information already contained in the application or petition. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

## SUBCHAPTER 12

### STATEWIDE PILOTAGE SYSTEM

§16-96-61 Statewide pilotage system. All pilots shall be required to participate in assuring the maintenance of the pilotage services in all pilotage waters of the State. Such participation shall require that each pilot:

- (1) Remain in active service;
- (2) Participate in the central scheduling system as set forth in section 16-96-62;
- (3) Participate in the pilot training program as set forth in section 16-96-63; and
- (4) Adhere to the work rules adopted pursuant to this chapter. [Eff and comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-62 Central scheduling system. (a) All pilots shall participate in the central scheduling system that is established by the director. The director may contract with any person or entity, including any existing pilotage system, to establish and operate a central scheduling office for all pilotage services in the State.

(b) Any person or entity that seeks to operate the central scheduling system shall submit a proposal to the director that shall include, but is not limited to, work rules that:

- (1) Assure that all needed pilotage services will be available at all times and for all designated pilotage waters;



- (2) Address in a reasonable manner any request for a particular pilot or group of pilots or the refusal to use any particular pilot;
  - (3) Assure an expeditious grievance process for the resolution of all complaints including a pilot's complaint that the central scheduling system has been operated to the disadvantage of that pilot;
  - (4) Assure equitable distribution of pilotage work to all licensed pilots;
  - (5) Establish a method of financing for the proposed central scheduling system;
  - (6) Establish a method for dealing with pilotage requests for exempt vessels; and
  - (7) Establish a method for dealing with the availability of support facilities at reasonable rates for pilots at the various harbors.
- (c) All requests for pilotage services shall be made through the central scheduling office and no pilot may engage in any pilotage service that is not assigned through the central scheduling system; provided that this section shall not apply to pilotage of vessels that are exempt from this chapter.
- (d) All operating costs for the central scheduling office shall be borne by all licensed pilots on an equal basis. [Eff and comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-63 Training program. (a) All pilots shall participate in a program to train deputy port pilots which shall be established by the director. The director may contract with any person or entity to establish and operate such a training program. There shall be only one training program in existence at any one time.

(b) All deputy port pilots shall receive their training under the program established pursuant to this section provided that any deputy port pilot licensed prior to the effective date of this section may complete training outside of this program.

(c) All pilots shall accept training assignments made by the program unless the pilot is physically or mentally impaired or unless the pilot is unable to obtain the necessary support facilities at reasonable rates in the port involved.

(d) The costs of operating the training program shall be offset by a fee to be assessed per vessel movement during any period when a deputy pilot is being trained. The fee shall be assessed on all vessel movements whether or not the particular vessel involved is carrying a deputy port pilot. [Eff and comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

§16-96-64 Work rules. All pilots shall adhere to the work rules of the central scheduling system that is established by the director pursuant to section

16-96-62 or adopted pursuant to subchapters 2 and 3 of this chapter. [Eff and comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-3)

1

Amendments to chapter 16-96, Hawaii Administrative Rules, on Summary page dated August 9, 1990, were adopted on August 9, 1990, following a public hearing held on June 18, 1990, after public notices were given in the Honolulu Advertiser, Hawaii Tribune-Herald, West Hawaii Today, Maui News, and the Kauai Times on May 11, 1990.

They shall take effect ten days after filing with the Office of the Lieutenant Governor.

/s/ Robert A. Alm

ROBERT A. ALM

Director of Commerce and Consumer Affairs

APPROVED AS TO FORM:      Date 8-9-90

/s/ Glenn S. Grayson

Deputy Attorney General

APPROVED:                      Date: 8-10-90

/s/ John Waihee

JOHN WAIHEE

Governor

State of Hawaii

August 10, 1990

Filed

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-96  
Hawaii Administrative Rules

August 9, 1990

SUMMARY

1. §16-96-2.1 is amended.
2. §16-96-7.3 is amended.
3. §16-96-8.4 is amended.
4. §16-96-26 is amended.
5. §16-96-37 is amended.
6. A new subchapter 12 (§§16-96-61 to 16-96-64) is added.
7. Chapter 16-96 is compiled.