

TITLE 40: COMMONWEALTH PORTS AUTHORITY

**SUBCHAPTER 40-20.1
HARBOR REGULATIONS**

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Subchapter Authority: 2 CMC § 2122(j).

Subchapter History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000); Amdts Proposed 16 Com. Reg. 12391 (Sept. 15, 1994);* Amdts Adopted 14 Com.

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Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Amdts Adopted 6 Com. Reg. 2785 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2613 (Mar. 15, 1984); Amdts Adopted 6 Com. Reg. 2549 (Jan. 15, 1984); Amdts Proposed 5 Com. Reg. 2490 (Nov. 15, 1983); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

*A notice of adoption for the September 1994 proposed amendments was never published.

Commission Comment: For the history of the regulatory authority of the Commonwealth Ports Authority, see the general Commission comment to subchapter 40-10.1.

PL 2-48, the “Commonwealth Ports Authority Act,” codified as amended at 2 CMC §§ 2101-2190, took effect October 8, 1981. It was based on the “Mariana Islands Airport Authority Act” enacted by the Congress of Micronesia as PL 6-58. See the commission comment to 2 CMC § 2101. PL 2-48 created the Commonwealth Ports Authority to implement its provisions and operate the ports of the Commonwealth. See 2 CMC §§ 2121-2122.

Executive Order 94-3 (effective August 23, 1994), reprinted in the commission comment to 1 CMC § 2001, reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. Executive Order 94-3 § 304(a) allocated the Commonwealth Ports Authority to the Department of Public Works for purposes of administration and coordination. PL 11-109 (effective December 21, 1999) vacated section 304(a) in its entirety and reenacted and reinstated all provisions of 2 CMC, division 2, chapter 1, 2 CMC §§ 2101-2190, in effect immediately prior to the effective date of Executive Order 94-3. PL 11-109 §§ 2(b) and 4.

The Commonwealth Ports Authority Act contains special provisions related to rules and regulations. See 2 CMC §§ 2141-2146.

Part 001 - General Provisions

§ 40-20.1-001

[Reserved.]

§ 40-20.1-005 Definitions

(a) “Executive Director” shall mean the Executive Director of the Commonwealth Ports Authority, and any person acting for him under his authority.

(b) “CPA” shall mean the Commonwealth Ports Authority created by PL 2-48 [2 CMC §§ 2101-2190].

(c) “Territorial waters” shall mean all territorial waters contiguous to the islands of Saipan, Tinian, and Rota.

(d) “Pilot” shall mean a person who holds a valid federal or Trust Territory pilot’s license for the waters in which he is operating.

(e) “Vessel” embraces power boats, ships, tugs, sailing vessels, barges, scows, lighters, ferry boats, and any and all other water craft except public vessels of the United States or of the government of the Northern Mariana Islands.

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(f) “Berth”: A vessel which is moored or made fast to a quay, wharf, dolphin or other structure is said to occupy a berth.

(g) “Outside berth”: A vessel which moors or makes fast to another vessel which is occupying a berth is said to occupy an outside berth.

(h) “Dockage” is the charge assessed against a vessel when:

- (1) Berthed at or made fast to a quay, wharf, dolphin or other structure;
- (2) Occupying an outside berth;
- (3) Not tied up to or lying alongside of a quay or wharf but is using such by means of boats, rafts, lighters, or other means.

(i) “Wharfage” shall mean the charge assessed against all cargo:

- (1) Passing or conveyed over, onto or under any quay, wharf or
- (2) Passing or conveyed to or from a vessel while such vessel is:
 - (i) Made fast to a quay, wharf; or
 - (ii) Moored in any slip, channel, basin or canal; or
 - (iii) Made fast to another vessel which is made fast to a way,* wharf, or moored in any slip, channel, basin or canal. (Wharfage is solely the charge on cargo for the use of the quay, wharf, slip, channel, basin or canal and does not include charges for any other activity or service.)

*So in original; see the commission comment to this section.

(j) “Flammable liquid” is any liquid which gives off flammable vapors (as determined by the Tagliabue open cup tester, as used for test of burning oils) at or below a temperature of 80 degrees Fahrenheit.

(k) “Shipping container” means a cargo carrying unit, equipment or device designed to be transported directly and mechanically between vessels and other forms of transportation, so as to eliminate intermediate dockside re-handling and/or storage of cargo, in addition, such container shall have minimum dimensions of eight feet in width and ten feet in length. Sea Vans, (also called vanpacks) of the type commonly used by companies or firms to ship household goods or personal effects, are excluded from the definition of a shipping container as described herein.

(l) “Container cargo” means any and all cargo carried and contained in a shipping container.

(m) “Container berth” means any berth at a Commonwealth Ports Authority dock or pier designated by the Executive Director for preferential or exclusive use by vessels loading or discharging shipping containers.

(n) “Tanker” means a self-propelled cargo vessel, especially designed and equipped with tanks for the transportation of oil gasoline, molasses or other liquids, fluids and free flowing materials and which is actually transporting therein fuel oil, diesel oil, lubricating

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oil, gasoline, jet fuels, benzene, kerosene, naphtha or other flammable petroleum or other products.

(o) “Tanker line vessel” means a cargo ship, primarily designed to carry ordinary freight but equipped with additional bunkers or compartments in which it is actually transporting fuel oil, diesel oil, lubricating oil, gasoline, jet fuels, benzene, kerosene, naphtha, or other flammable petroleum products or like products in excess of its own requirements.

(p) “USCG” means the United States Coast Guard.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The 1992 Harbor Regulations readopted and republished all of the then existing Harbor Regulations. The Commission, therefore, cites the 1992 regulations in the history sections throughout this subchapter.

The Commission inserted quotation marks around words defined. The starred word “way” in subsection (i)(2)(iii) probably should be “quay.” Compare 14 Com. Reg. at 9250 (May 26, 1992) and 5 Com. Reg. at 1983 (Apr. 29, 1983). In subsection (i)(2)(i), the Commission replaced the final comma with a semi-colon to correct a manifest error.

Part 100 - General Regulations Governing Harbor Usage

§ 40-20.1-101 General Statement in Conflict with Other Laws, Rules or Regulations

Nothing contained in the rules and regulations in this subchapter shall be construed to limit the powers and authority of the government of the Northern Mariana Islands or any federal agency. If any of these provisions are in conflict with any rule or regulation adopted by the government of the Northern Mariana Islands or any federal agency, the*

*So in original; see the commission comment to this section.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The 1992 amendments erroneously omitted the following language from this section: “rule or regulation more severe in discipline shall prevail.” Compare 14 Com. Reg. at 9251 (May 26, 1992) and 5 Com. Reg. at 1985 (Apr. 29, 1983).

§ 40-20.1-105 Port Superintendent

(a) The Port Superintendent is the designated representative of CPA and its Executive Director, and as such is delegated full authority and jurisdiction over all territorial waters, exclusive of federally restricted areas; and to administer the Harbor Regulations of CPA;

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and to establish procedures necessary for the efficient and safe operation of docks, harbors, and territorial waters within his jurisdiction.

(b)(1) A master or person in charge of any vessel shall obey and carry into effect any orders given by the Port Superintendent in relation to the plans and manner of bringing vessels to anchorage, entering or leaving a harbor, or any quay or wharf, and shall not move or allow his vessel to be moved in, out, or within a harbor, or anchorage without permission of the Port Superintendent.

(2) The safe navigation of the vessel, including the piloting, is the paramount duty of the master, and the presence of a harbor pilot on the bridge shall in no way relieve the master of his duties. The master remains at all times in full command of the vessel. He shall continue to navigate and shall take bearings and soundings and check compass courses, check radar, and take all actions necessary to safeguard the vessel under his command. In this regard, it shall be the duty of the vessel and her master:

(i) To have posted, and at all time properly instructed, efficient and competent lookouts, each with no other duty to perform, and each with efficient means of rapid communications with the bridge;

(ii) To immediately inform the pilot of all reports by lookouts;

(iii) On radar equipped vessels, to have the radar functioning and manned by a competent observer under instructions to keep the master and the pilot constantly and currently informed of observed targets;

(iv) To arrange for and provide adequate tug assistance, if desired and available, and to arrange for and have available adequate vessel's lines to assist in tying up the tug or tugs;

(v) For the master to remain on the bridge at all times and to accompany the pilot in his duties on and about the bridge;

(vi) To provide and supervise competent vessel's personnel;

(vii) To understand and agree that a pilot is employed only to have the benefit of his knowledge of the harbor;

(viii) To understand and agree that, in as much as all orders of the pilot shall be given in the presence of the master and fully concurred with by him, it being further agreed that the pilot is acting in an advisory, and not in a command, capacity and has no authority independent of the master;

(ix) To have at all times an adequate ship's anchor properly manned and ready to drop;

(x) To provide officers conversant with the English language; and if they do not understand, then request, that the pilot give his orders by hand signals thru the master;

(xi) It is compulsory upon, and the duty of the vessel, her owner, master, operators, charterers, or agents to inform the harbor pilot, either before or immediately at his boarding, of vessel peculiarities, including but not limited to the following:

(A) Any defects or deficiencies in the vessel, her personnel, engines or tackle;

(B) Any vessel peculiarities concerning steering, stopping, handling, speed and maneuvering and the propensity of the vessel to steer;

(C) The number and names of the tugs to be supplied to said vessel; and

(D) Any other information, whether or not herein enumerated, that may or might assist the pilot in the pilotage of the vessel.

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(E) It is understood and agreed, and is the essence of the contract under which pilotage services are proffered and rendered, and are requested and accepted by the vessel, that the services of the pilot are requested and accepted on the express understanding that such pilotage services are given, done or performed solely in the pilot's capacity as the servant of the vessel and of her owner, master, operator, charterers or agents, and not otherwise, and the owners, master, operators, charterers and agents of the vessel expressly covenant and agree to comply with the provision.

(c) The berthing of vessels at the Commonwealth Ports Authority's quays or wharves under its jurisdiction shall be at the discretion of the Port Superintendent.

(d) The Master of every vessel and the crew thereof, when requested by the Port Superintendent, shall give and afford the Port Superintendent all possible aid in the performance of any of his duties in relation to such vessel.

(e) If by reason of there being no person aboard a vessel with proper authority, or if by reason of an insufficient number of persons aboard such vessel, or if the master and/or crew of a vessel refuses to aid the Port Superintendent in moving, pumping, mooring and unmooring of such vessel when so directed by the Port Superintendent, the Port Superintendent is empowered to move, pump, moor or unmoor, place or remove such vessel. To this end, the Port Superintendent may, if necessary, hire such assistance, equipment and tackle and/or purchase and put aboard such quantity of ballast as to him seems requisite, all at the expense of the master, owners, or agents of such vessel. All costs shall be paid to CPA before permission for departure is given. CPA shall in no way be liable for any damage or loss occurring to any vessel in consequence of such proceedings.

(f) No person without the consent of the Port Superintendent shall cut or cast off any mooring lines, rope or tackle made fast or attached to any vessel, quay, wharf, mooring, buoy or other place when the same has been fastened or attached by the Port Superintendent, or by his order.

(g) Typhoon Condition II: masters, owners and agents of vessels greater than 300 gross tons will comply with all applicable rules, regulations, and orders governing typhoon conditions and will proceed to clear the quay, wharf or dolphins which may be damaged or destroyed during such periods. Failure of masters, owners, and/or agents to comply with the said rules, regulations or orders will lay all responsibility of damages caused by vessel upon them.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The first paragraph of subsection (b) was not designated. The Commission designated it subsection (b)(1) and redesignated subsection (b)(2) accordingly.

§ 40-20.1-110 Consent to Regulations

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- (a) The engines of any vessel lying at any quay, wharf, dolphin, or other structure shall not be tried or tested except by permission of the Port Superintendent. This shall not apply to routine pre-departure warming up of engines.
- (b) The speed of engines being tried or tested as referred to in subsection (a) shall not exceed the speed of such engines when operated under a dead slow bell.
- (c) Any vessel trying her engines as previously referred to will be held responsible for any damage to quays, wharves, or other vessels as a result of such trying or testing of her engines.
- (d) No vessel shall blow tubes or emit unnecessary smoke or polluting vapors of any kind at any time while in port.
- (e) No vessel shall transfer or shift fuel from one tank to another without the permission of the USCG.
- (f) No vessel shall do any gas welding, electrical welding, or carry on burning operations, before obtaining a permit from the USCG.
- (g) No garbage, rubbish or trash shall be dumped on any quays or wharves, or into the waters of the harbor. Pollution of any kind will not be tolerated, and penalties as provided by law will be imposed.
- (h)(1) The master of every vessel entering a port of the Commonwealth shall either
 - (i) Seal the outlet on such vessel's sewage disposal system, or
 - (ii) Place a dye in the sewage disposal system which will clearly identify the source of any raw sewage discharged by such vessel. No vessel may remain in any port of the Commonwealth unless its master or agent shall have certified compliance with the provision of this subparagraph.
- (2) The Port Superintendent shall have the authority under this subchapter to inspect any vessel or craft to ensure that proper standards of health and sanitation are being maintained. Should improper conditions be found to exist, the appropriate health authorities will be notified to take whatever actions are deemed necessary.
- (3) Upon the arrival of any vessel in any port of the Commonwealth, the Port Superintendent shall promptly seal the discharge outlet on such vessel's sewage disposal system, with a locking mechanism which shall prevent the discharge of sewage from such sewage disposal system. The Port Superintendent shall not remove such locking mechanism until the vessel is ready to depart from the port. It shall be a violation of these regulations
 - (i) For any vessel having a sewage disposal system to remain in any port of the Commonwealth while such system shall not be locked in accordance with the provisions of this subsection; and
 - (ii) For any person, other than the Port Superintendent or his designee, to tamper with or remove such locking system.

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(i) All vessels over 300 gross tons and all foreign vessels entering or leaving commercial harbors of CPA will have an anchor clear and in readiness to let go if required.

(j) No person shall make fast any rope or mooring piles, bitts, or cleats as provided for that purpose.

(k) All vessels other than barges and vessels under 300 gross tons lying alongside of a quay or wharf shall:

(1) At all times have a safe and proper gangway to the wharf, and

(2) Between the hours of sunset and sunrise display a light visible from the harbor or fairway.

(l) The master, owners or agents of a vessel arriving at, or departing from, a harbor shall notify the Port Superintendent as soon as practicable of the hour or expected arrival, including arrival draft, and long tonnage of cargo, and also the estimated time of departure; and in the event of a change in time, the Port Superintendent shall be notified immediately.

(m)(1) No person or persons shall cause or permit any vessel, raft, log, or other floating object to come alongside of, or to be moored to or near any quay, wharf, or pier in any manner that may cause damage to such quay, wharf, or pier.

(2) The Port Superintendent shall remove any vessel, raft, log, or other floating object which may cause damage or interfere with the use of any quay or wharf to some suitable place. The owner thereof, if known, shall be notified forthwith in writing of such removal; but if the owner is not known, due notice of such removal shall be given by posting a notice in a conspicuous public place. If within ten days after the date of giving or posting such notice no claim is made for this property, the Port Superintendent may sell or otherwise dispose of such vessel, log, raft, or other floating object and apply the proceeds of such sale to defray the expenses of CPA and credit the remainder if any, to the owner. CPA shall not be responsible for loss or damage to such vessel, log, raft, or other floating object.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Amdts Adopted 6 Com. Reg. 2785 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2613 (Mar. 15, 1984); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The 1984 amendments added subsection (h)(3). The Commission added commas after the word “log” and “wharf” in subsections (m)(1) and (m)(2) pursuant to 1 CMC § 3806(g).

§ 40-20.1-115 Explosives

Handling of shipments of explosive and other dangerous articles, as defined by CGFR-52-8, 17 FR, 6464 July 17, 1952, unless otherwise noted, will be permitted only after a full compliance by shipper, carrier, and terminal operator with all applicable rules and

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regulations of that agency, and of the U.S. Coast Guard governing the packaging, marking, labeling, handling, and transporting of such articles. Failure to comply with such regulations will be considered a violation of this subchapter.

Modified, 1 CMC § 3806(d), (g).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission corrected the spelling of “labeling.” The Commission inserted a comma after the word “handling” pursuant to 1 CMC § 3806(g).

§ 40-20.1-120 Damages to Quays, Wharves, Wharf Structures, Utilities and Cargo Handling and Storage Areas

The agents, charterers, master or owners requesting a berth, cargo space allocation, or use of harbor facilities incident to the receiving, discharging, loading, and removal of cargo will be responsible:

- (a) For all damage caused to CPA property by himself, his employees, or any agent, subcontractor or materials handling firm under contract to them doing the discharging, loading, repairing or bunkering of a vessel.
- (b) For providing necessary protection to harbor facilities to protect them from all damages in excess of reasonable wear and tear.
- (c) Repairs to CPA property: Any person responsible for damage to CPA property shall make repairs in accordance with CPA specifications. If the repairs are completed improperly or if the responsible party does not undertake the repairs within a reasonable time, CPA will act to repair the damage and will bill the responsible party as follows:
 - (1) The direct labor charges and cost of materials plus an overhead charge of 25 percent if the repairs are made by CPA employees.
 - (2) The contractor’s charges plus an administrative charge of 25 percent if the repairs are made by a contractor hired by CPA.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-125 Access to Vessels

The Port Superintendent shall be permitted access to enter upon and inspect any vessel to ascertain the kind and quantity of cargo thereon, and upon any rented or leased premises of CPA to inspect such premises as the interest of CPA may require.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-130 Compliance with Federal and Government of the Northern Mariana Islands Laws and Regulations

Use of harbors and harbor facilities is subject to compliance with all applicable federal and CNMI laws, ordinances, rules, and regulations. Particular attention is directed to:

- (a) Regulations relating to the use of rat guards, and other measures required to prevent rodents from leaving the vessel.
- (b) Regulations pertaining to air and water pollution.
- (c) Regulations pertaining to plant and animal quarantine matters.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission inserted a comma after the word “rules” in the first sentence pursuant to 1 CMC § 3806(g).

§ 40-20.1-135 Communications Regarding Harbor Regulations

Requests and complaints from shippers on matters relating to the Harbor Regulations and Tariff must be made to the Executive Director in writing.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-140 Traffic Control

(a) No vessel shall anchor in any fairway of any channel so as to obstruct the approach to any wharf, as per U.S. Coast Guard Rules and Regulations Part 110, “Anchorage Regulations.”

(b) Maximum speed of vessels within channels and harbors:

- (1) All vessels over sixty-five feet in length shall proceed at a rate of speed (except in case of emergency) commensurate with safe navigation and slow enough so as not to cause damage to other vessels and/or property.
- (2) Vessels under sixty-five feet may proceed at a rate of speed not to exceed ten nautical miles per hour.
- (3) Nothing herein shall preclude the Port Superintendent from setting different rates of speed to meet special conditions.

(c) Tugs with or without tows and all other vessels more than sixty-five feet in length or exceeding three hundred gross tons will advise the Port Superintendent of all moves into, within, or departing the harbor, giving the destination, and the time of leaving the berth. All such vessels will operate under the direction of the Port Superintendent.

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- (d) Priorities and scheduling of vessel movements and berth assignments in CNMI harbors:
- (1) Priorities for vessel movements other than for typhoons and unless otherwise authorized by the Port Superintendent, shall be as follows:
- (i) Government vessels when responding to emergencies;
 - (ii) Vessels stopping to discharge sick or injured persons;
 - (iii) Passenger vessels. (Note: The harbor is to be closed to other traffic for an adequate time to permit the safe arrival or departure of passenger vessels);
 - (iv) Inbound vessels scheduled to load or discharge cargo upon arrival:
 - (A) Container/cargo vessels;
 - (B) Other cargo vessels;
 - (C) Tug and tow;
 - (D) Tankers.
 - (v) Shift cargo vessels when required for further cargo handling;
 - (vi) Outbound vessels with inter island cargo;
 - (vii) Incoming vessels arriving for repairs or bunkers;
 - (viii) All others.
- (2) Priorities of vessel sailing in the event of a typhoon warning unless otherwise authorized the Port Superintendent shall be:
- (i) Government vessels;
 - (ii) Tankers;
 - (iii) Vessels with explosive cargo;
 - (iv) Passenger vessels;
 - (v) Freighters;
 - (vi) Others.
- (3) Scheduling procedures: Agents shall submit the following to the Port Superintendents:
- (i) Copies of passenger vessel schedules as far in advance as possible;
 - (ii) At the earliest possible time, any ship scheduled for port arrival. (This shall constitute a tentative booking.)
 - (iii) Prior to 11:00 a.m., the day before a vessel's arrival, or as soon thereafter possible, submit an ETA to the Port Superintendent.
 - (iv) A schedule shall then be prepared by the Port Superintendent. The schedule shall be based on the priorities listed above and on the final ETA, and shall be published by 2:00 p.m. each day. Berthing assignments for changes in schedules will be made on a first-come, first-served and a not-to-interfere basis with the established schedule.
 - (v) Prior to 11:00 a.m., daily, submit known departures and shifts for the following day to the Port Superintendent. Changes in schedules will be made on a first-come, first-served basis, in accordance with the priorities above and on a not-to-interfere basis with the established schedule.
 - (vi) Vessels arriving and/or departing at the same hour will be handled in accordance with the priority described above. Within any category the vessel that was assigned confirmed booking first will be permitted to move first unless the vessel is late or operating conditions in the harbor dictate otherwise.

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(vii) Agents are requested to advise the Port Superintendent at the earliest time when vessels that have been scheduled to call change or cancel their ETA or itineraries by more than 24 hours.

(4) Other requirements:

(i) Application for berth assignment shall include information as to any peculiar requirements; i.e., camels needed for side port bunkering, whether one side has to be alongside pier for repairs or other special reasons, etc. Also, indicate any unusual physical features that would affect piloting or mooring, such as engine or steering gear problems, etc.

(ii) Vessels using side ports for bunkering, storing, passenger debarking, or other reasons, should have side ports closed on approaching the berth, in order to avoid damage to the pier or to the side port.

(iii) Except for those vessels entering to load petroleum products or for special repairs requiring minimum draft, all vessels, will be ballasted so as to reduce freeboard to a reasonable degree, and to provide positive stability as required.

(iv) Agents shall arrange for proper and adequate linemen on time for all vessel arrivals, shifts and departures.

(v) Pilots and tugs: Agents shall make all arrangements for the employment of pilots and adequate tug assistance, and will arrange and have available adequate vessel's lines to assist in tying up the tug or tugs.

(vi) It is the duty of the vessel's agents to keep Customs, Immigration, and Agricultural Quarantine advised as to the docking time of vessels being handled by them. If the vessel carries any live fish or wildlife, or parts or products of any fish or wildlife protected by any federal or Commonwealth law as* regulations, the vessels' agent shall also advise the Fish and Wildlife Division of such docking time. It is not the responsibility of CPA to arrange for any government officials to board and clear vessels.

(vii) All changes in a vessel's arrival time, shifting time or sailing time must be made more than two hours in advance of the previously booked time.

(viii) All commercial vessels using Port Authority wharves, piers, or other dock facilities must use shore provided line handlers for reasons of safety. Personnel from the Port Superintendent's Office are not to be used in lieu of other line handlers.

*So in original; probably should be "or."

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-145 Application of Other Laws and Regulations

Nothing in this subchapter is intended to avoid or alter the application of any other applicable federal or Commonwealth laws or regulations, and this subchapter shall be construed as supplementary to rather than in substitution of the same.

Modified, 1 CMC § 3806(d), (f).

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History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-150 Port Security

Whenever a vessel is in port at any time other than normal government working hours, CPA will endeavor to assign a security officer to duty at the port. Security officers so assigned will utilize their best efforts to assure compliance with this subchapter, and all of the laws and regulations of the United States government and the Commonwealth government in respect of the operation of vessels and the conduct of persons in and at the ports and harbors of the Commonwealth; and shall promptly report any violation thereof to the Port Superintendent. The Port Superintendent shall promptly notify the master or agent of any such violation, and if such violation is not corrected promptly, shall report the same to the Executive Director and to all concerned government agencies for appropriate action.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Amdts Adopted 6 Com. Reg. 2785 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2613 (Mar. 15, 1984).

§ 40-20.1-155 Environmental Control

(a) It is the policy of CPA that the air, land, and water environment of the ports and harbors of the Commonwealth shall be preserved, to the maximum extent possible. Accordingly, the attention of all masters, vessel owners, and agents is drawn to the provisions of §§ 40-20.1-110(g) and (h)(1), 40-20.1-248(b)-(e), and § 40-20.1-250(a) of this subchapter; and all such persons are reminded that, pursuant to the provisions of section 15 of Public Law 2-48 [2 CMC § 2145], any person who violates any of the said regulations is punishable by criminal penalties consisting of a fine not exceeding \$1000, or by imprisonment not exceeding three months, or both, and civil penalties not exceeding \$1000 for each day during which a violation of a regulation continues.

(b) The Executive Director shall vigorously enforce the aforesaid regulations. To this end, the Executive Director shall

- (1) Promptly report all violators to the Attorney General, for criminal prosecution; and
- (2) Promptly take all appropriate steps to levy and collect civil penalties as authorized by law.

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Amdts Adopted 6 Com. Reg. 2785 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2613 (Mar. 15, 1984).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

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The reference to PL 2-48 § 15 in subsection (a) is in error. The referenced provisions appear in PL 2-48 § 16, codified at 2 CMC § 2145. The Commission has provided the citation to the correct Commonwealth Code section in the brackets.

§ 40-20.1-160 Vessels to Have Agents

(a) Except in the event of an emergency, every vessel which enters a port of the Commonwealth shall have an agent duly licensed to do business as such with the Commonwealth. Each agent shall have a resident employee on the island in which the port of entry is situated.

(b) Every vessel which enters a port of the Commonwealth and which does not have an agent at the time of its entry shall utilize its best efforts to obtain an agent within one business day after its arrival in port.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Amdts Adopted 6 Com. Reg. 2785 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2613 (Mar. 15, 1984).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 40-20.1-165 Payment of Port Fees and Charges

(a) The agent of a vessel which enters a port of the Commonwealth shall, no later than upon the entry of such vessel into such port, notify the Port Superintendent of the agency relationship.

(b) Any vessel which does not have an agent authorized to do business in, and having a place of business in the Commonwealth, which enters a port of the Commonwealth, shall within 24 hours of its entry, deposit with the Port Superintendent of the port a sum estimated by the Port Superintendent to be sufficient to cover all fees and charges payable under this subchapter and under CPA's Terminal Tariff [NMIAC, title 40, subchapter 20.2]. The Port Superintendent may, in his discretion, require an addition to such deposit at any time while the vessel remains in port if, in his, opinion, the fees and charges payable by such vessel exceed the amount currently on deposit. No such vessel shall be granted clearance to depart from a port of the Commonwealth unless and until it shall have on deposit with the Port Superintendent a deposit deemed by him to be sufficient to cover all fees and charges payable by the vessel.

(c) All fees and charges payable under this subchapter and under CPA's Terminal Tariff [NMIAC, title 40, subchapter 20.2] shall be paid within thirty days of demand therefor. In the event that such fees and charges are not paid within thirty days of demand, such fees and charges shall bear interest at a rate of 12% per annum from the date that the demand was made; and in addition, the person or persons liable therefor

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shall additionally be liable for a penalty of \$1000 by virtue of the failure to pay such fees and charges within such thirty-day period. No vessel which has failed to pay any fees and charges payable under this subchapter or under CPA's Terminal Tariff [NMIAC, title 40, subchapter 20.2] within thirty days of demand therefor, and no other vessel owned by the owners of such vessel, shall be permitted to enter any port of the Commonwealth for so long as such fees and charges, together with interest and penalty as provided for herein, remain unpaid.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Amdts Adopted 6 Com. Reg. 2785 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2613 (Mar. 15, 1984).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

Part 200 - Safety, Cleanliness and Use of Facilities

§ 40-20.1-201 Fire Alarm

In the event of fire occurring on board any vessel in port, except vessels underway, such vessels will sound five prolonged blasts of the whistle or siren as an alarm indicating fire on board or at the dock to which the vessel is moored. Such signal may be repeated at intervals to attract attention and is not a substitute for, but shall be used in addition to, other means of reporting a fire. The words "prolonged blast" shall mean a blast from four to six seconds in duration. This signal shall not be used for any other purpose.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: Many of the original sections in this part did not have titles. The Commission created the section titles where necessary.

§ 40-20.1-202 Vessels Containing Explosives

No vessel containing more than 25 short tons of class A, 25 short tons of class B, and an unlimited amount of class C explosives (net explosive content) shall enter or be loaded in Commonwealth harbors except on written permission of the Executive Director. The Port Superintendent shall see for* the specific berth to be used and any special instructions to be followed. No class A explosives, as defined by the U.S. Coast Guard, will be admitted in any harbor in quantities in excess of the limitations established by the U.S. Coast Guard. Advance copy of manifest should be submitted with application.

*So in original; see the commission comment to this section.

Modified, 1 CMC § 3806(f).

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History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The starred language “see for” probably should be “set forth.” Compare 14 Com. Reg. at 9264 (May 26, 1992) (“see for”) and 5 Com. Reg. at 1999 (Apr. 29, 1983) (“set for”).

§ 40-20.1-204 Loading or Unloading Explosives

All handling and loading or unloading of explosives shall be done in a safe and careful manner and shall be in accordance with federal regulations pertinent thereto in force at the time.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-206 Hauling Explosives

All hauling of explosives away from or to the pier shall be done in a safe and careful manner and shall be in accordance with regulations of the Department of Public Safety.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-208 Nitrate of Soda; Sulphur

(a) No nitrate of soda, nitrate of ammonia, sulphur, or other similar materials shall be stored or left upon any wharf for more than four hours unless packed in sound and non-leaking containers. Such materials shall be under the continuous care of a competent watchman satisfactory to the Port Superintendent until removed. The cost of such watchmen shall not be borne by CPA.

(b) Masters, owners or agents of vessels or consignees of cargoes of nitrate of soda, sulphur, or other similar materials, during the process of loading, and removing such cargoes, must at all times keep the wharf swept clean and free of such materials.

(c) If loose nitrate of soda, sulphur, or other similar materials are to be discharged onto or loaded from any wharf or structure at any harbor it shall be placed directly into the carrier and immediately removed. A protective device approved by the Port Superintendent shall be used during the period of loading or unloading to prevent the materials being handled from falling upon the wharf structure.

(d) During the process of handling nitrate of soda, sulphur, or other similar materials on any wharf at any harbor under control of CPA, it shall be obligatory on the part of the master, owners or agents of a vessel to provide containers of not less than fifty gallons capacity filled with a solution of nitrate of soda and water at a distance of not more than

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fifty feet apart, with suitable buckets placed alongside each container, for the purpose of fighting any fire which may occur in such cargo.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d). The Commission inserted a comma into the phrase “soda, sulphur or other similar materials” in all subsections pursuant to 1 CMC § 3806(g).

§ 40-20.1-210 Acids

(a) Acids of a dangerous character such as sulphuric, muriatic, and nitric acids shall be removed from the wharf immediately upon discharge from the vessel, and no such acid shall be put upon a wharf under control of CPA for shipment until the carrier is ready to receive it. Permission of the Port Superintendent must be secured in the event it becomes necessary to handle such cargoes at times other than specified.

(b) Electric storage batteries containing electrolyte or corrosive battery fluid of non-spillable type, protected against short circuits and completely and securely in boxes, are exempt from this provision.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b). The Commission inserted a comma after the word “muriatic” in subsection (a) pursuant to 1 CMC § 3806(g).

§ 40-20.1-212 Leaking Containers Prohibited

No gasoline, distillate, kerosene, benzene, naphtha, turpentine, paints, oils, or other flammable substances in leaky containers shall be delivered onto any wharf under the control of CPA. All such substances unloaded from any vessel in a leaky container shall be removed immediately.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission inserted a comma after the word “oils” pursuant to 1 CMC § 3806(g).

§ 40-20.1-214 Flame Treatment of Combustible Materials

No combustible materials such as pitch, tar, resin, or oil shall be flame treated on board any vessel within Commonwealth harbors without the permission of the Port Superintendent.

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History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission inserted a comma after the word “resin” pursuant to 1 CMC § 3806(g).

§ 40-20.1-216 Fumigation of Vessels

No vessel shall be fumigated or smoked at any wharf under the control of CPA without permission in writing from the Port Superintendent. If fumigation is to be with cyanogen products or hydrocyanic acid gas in any form, however generated, the applicant or his agent shall be in possession of a permit as required by regulations and shall have a watchman on duty so long as any danger exists, in order that no one, unless properly entitled to do so, be allowed to board such vessel.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-218 Spark Arresters Required

All fuel burning steam generating appliances when used on any wharf under control of the Port Authority, or on any scow, pile driver, or other vessel working alongside or near any wharf under control of the Port Authority shall be equipped with spark arresters satisfactory to the Port Superintendent. At the close of each day’s work all ashes, cinders, waste, or other deposits caused by such appliances upon any wharf shall be promptly removed and shall not be disposed of in, near, or upon waters of the harbor.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission inserted commas after the words “driver,” “waste” and “near” pursuant to 1 CMC § 3806(g).

§ 40-20.1-220 Repairs

No person shall make any repairs or do any kind of manufacturing, construction or maintenance work on any wharf without the permission of the Port Superintendent.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-222 Smoking Prohibited

Excepting only within areas designated by the Port Superintendent and plainly marked “Smoking Area,” smoking is positively prohibited at all times within any freight shed, or upon any wharf apron, and during the time cargo is being loaded, unloaded, or stored on any unshedded pier under control of CPA, and no person shall enter into, stand in, or

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under, or pass through any such wharf or structure with a lighted pipe, cigar, cigarette, match, fire, or any flame of whatever nature.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission inserted commas after the words “unloaded” and “fire” pursuant to 1 CMC § 3806(g).

§ 40-20.1-224 Use of Explosives Prohibited

The use of explosives on land, on any wharf, or in any shed or other structure under the control of CPA, or in the waters in the immediate vicinity of the same, without the written approval of the Executive Director, is strictly prohibited.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-226 Charge for Cleaning of Harbor Facilities

In cases where CPA takes over the cleaning of wharves, sheds, or open areas the charge thereof shall be computed at the total cost of labor and/or materials used and shall be assessed against the vessel which is responsible for the necessity of cleaning.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission inserted a comma after the word “sheds” pursuant to 1 CMC § 3806(g).

§ 40-20.1-228 Owner of Mobile Equipment Identified

All mobile equipment used on any property under the control of CPA in connection with the handling of cargo or shipping containers, such as forklifts, cranes, tractors, straddle trucks, or other equipment, shall be clearly identified as to the owner thereof.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-230 Unpermitted Vehicles Prohibited

No vehicle shall be admitted upon any wharf or in any other area used for the storage of cargo except for the purpose of delivering or picking up freight unless the owner thereof shall have been granted a permit by the Port Superintendent.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-232 Speed Limits

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(a) Trucks and other vehicles entering upon a wharf under control of CPA for the purpose of delivering or picking up freight shall not be driven while on such wharf or open area at a speed greater than ten miles per hour. Motor equipment used in handling freight while cargo loading and unloading operations are in progress under the direct supervision of a stevedoring foreman shall not be operated at a speed greater than ten miles per hour.

(b) Trucks and other vehicles operating in container yards shall not be driven at a speed greater than fifteen miles per hour.

(c) Vehicles on roadways adjacent to wharves and pier sheds shall not be driven at a speed greater than fifteen miles per hour, unless otherwise indicated by appropriate traffic signs.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: In subsection (b), the Commission changed “hours” to “hour” to correct a manifest error.

§ 40-20.1-234 Emergency and Government Vehicles

Vehicles conveying or arriving to convey the sick or the infirm, ambulance and vehicles of hospitals and or* the health or police departments, or government vehicles on official business may enter upon wharves without a permit.

* So in original.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-236 Vehicles as Freight Excepted

The provisions of § 40-20.1-230 shall not apply to vehicles left on a wharf for the purpose of shipping the same on any vessel nor shall they apply to any vehicle which has been discharged as freight.

Modified, 1 CMC § 3806(c).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-238 Fowl, Animals, and Livestock

No fowl, animal, or livestock of any kind shall be brought onto any wharf for shipment, unless it has been properly booked in advance for immediate shipment. No fowl, animal,

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or livestock of any kind shall be allowed to remain on any wharf for a period longer than six hours without being fed and watered. After the fowl, animal, or livestock shall have been unloaded on a wharf, it shall be removed from the same within twenty-four hours. No shipment of such fowl, animal, or livestock subject to quarantine shall be unloaded on a wharf by a shipping company or its agents unless first inspected and released by the Agricultural Quarantine Office or unless arrangements have been made for acceptance for quarantine. All such fowl, animals, or livestock requiring quarantine shall be removed from the wharf within eighteen hours. All expenses incurred in the care and maintenance of such fowl, animals, or livestock while on a wharf shall be paid by the consignees thereof and shall constitute a lien upon same until such charges are paid. It is the responsibility of the carrier and its agent to comply with all federal and local laws and regulations applicable to the shipment and importation of domestic fowls, animals, and livestock, as well as fish and wildlife.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission inserted commas after the word “animal” and “animals” pursuant to 1 CMC § 3806(g).

§ 40-20.1-240 Private Use of Harbor Property and Facilities

(a) General statement: No regular or extensive use of any harbor property or facility for private gain or purpose shall be permitted without corresponding and reasonable benefits and returns to the public.

(b) Business activities: No person shall engage in any business or commercial activity at any harbor without prior written approval of the Executive Director.

(c) Solicitations and advertisements: Without limiting its generality, the term “engage in any business or commercial activity” as used above includes solicitation and distribution of advertisements or circulars intended for private gain or purpose.

(d) Signs: No person shall post or display any signs at any harbor without the prior written approval of the Executive Director except that approval will not be required for the posting or displaying of any sign on a vessel which relates solely to the sale of such vessel if the maximum dimensions of such sign do not exceed three feet.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-242 Vehicles under Port Superintendent’s Control

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Any vehicle operating on any wharf under the control of CPA shall be under the control of the Port Superintendent.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-244 Placement of Goods and Equipment

Any person handling goods or using equipment on a wharf under the control of CPA or bringing goods thereon for shipment, shall place, store or stack such goods or equipment in such a way as not to be an impediment to the approaches to the same, nor an obstacle to the removal of other goods, nor to cause damage to the wharf. No goods shall be so placed as to restrict or prevent the use of mooring bitts, cleats, bollards or other devices used for mooring purposes. No goods shall be so placed as to restrict or prevent the use of tracks, water connections, fire hydrants, gutters, oil and bunker connections, or drains.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-246 Wharf Closure; Suspension of Port Operations

(a) The Port Superintendent may close the wharves or any portion thereof and regulate and control the use of the same whenever in his opinion it is advisable to do so. No person shall enter whenever in his opinion it is advisable to refrain from doing so. No person shall enter upon a wharf so closed without the permission of the Port Superintendent.

(b) Suspension of Port Operations:

(1) The Executive Director may order the suspension of any loading, or unloading operation, bunkering, repairs, or other operations as necessary to insure the safety, health and welfare of the public.

(2) At the request of another CNMI agency or department, the U.S. Coast Guard, or other federal agency, the Executive Director after due consideration and for the proper cause may order the suspension of operations.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission inserted a comma after the word “repairs” in subsection (b)(1) pursuant to 1 CMC § 3806(g).

§ 40-20.1-248 Objectionable Materials

(a) No goods or articles of any description which, in the opinion of the port Superintendent, may be likely to cause damage to CPA property shall be landed, discharged or taken upon such property.

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- (b) No person shall place or leave any rubbish, ashes, or trash on any wharf except in areas provided therefor without permission of the Port Superintendent.
- (c) No objectionable materials such as dead animals, decaying or putrefying vegetable matter, manure, or bedding straw shall be left on any wharf but shall be removed immediately, under the direct supervision of an authorized agricultural quarantine inspector.
- (d) No dead animal shall be left in the waters or on the shores of any harbor or upon any reef adjacent to any such harbor.
- (e) No dead animal shall be moved through the waters of any harbor.
- (f) Any goods which, in the opinion of the Port Superintendent, are unfit to remain upon any wharf or may be harmful to other goods on such wharf shall, if necessary, be removed by the Port Superintendent at the expense of the owner or consignee.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission inserted a comma after the word “ashes” in subsection (b) pursuant to 1 CMC § 3806(g).

§ 40-20.1-250 Garbage, Ballast Disposal

- (a) No rubbish, swill, garbage, or refuse shall be thrown, washed overboard, or placed in any harbor. No garbage may be removed from any vessel in port at any time, and all garbage on a vessel shall be placed in suitable containers, covered and secured to prevent spillage or exposure. No garbage on board any vessel shall be dumped into the ocean within the territorial waters of the Commonwealth.
- (b) No ballast, rock, stone, slate, slag, gravel, sand, earth, cinders, rubbish, filth, or other noxious substance shall be deposited on any of the shores, lands, or other property under the control of CPA, unless approved by the Executive Director.
- (c) When any ballast, rock, stone, sand, fertilizer, grain, or other loose material is being handled between a vessel and any wharf or vice-versa, or between two vessels, within any harbor, a canvas chute or other contrivance satisfactory to the Port Superintendent shall be used to prevent any part of the substance being handled from falling into the waters below, or onto the wharf or any part of it.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

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Commission Comment: The Commission inserted commas after the words “garbage” and “overboard” in subsection (a) and “lands” in subsection (b) pursuant to 1 CMC § 3806(g).

§ 40-20.1-252 Disposal of Derelict Vessels, Large Objects

When any owner, agent or individual contemplates or plans the disposal or salvage of a derelict craft, vessel, or other object of any size, type or description, by transporting across, within, or on navigable waters, whether a part or whole craft, or whether a floating or suspended object of any sort which might, if sunk, lost or abandoned in the harbors, channels, or shore waters become hazardous to navigation, to dredging, or to other operations of the CNMI or federal government, or the public in those waters, he shall obtain the written permission of the Executive Director before taking such action.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission inserted commas after the words “vessel,” “within,” “channels,” and “dredging” pursuant to 1 CMC § 3806(g).

§ 40-20.1-254 Objects Abandoned in Navigable Waters

Should any owner, agent, or individual lose, sink, drop, or abandon any floating or sinking object on or in the navigable waters and/or shore waters of the Commonwealth, he shall immediately notify the Port Superintendent and shall immediately take such action as is necessary for removal of the object. Upon failure on the part of the owner to remove such object, CPA will take such actions through federal or commercial channels as are necessary for such removal and will charge all costs incurred by it in effecting the necessary removal to the owner. The Executive Director may require the posting of a bond to assure such payment.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission inserted commas after the words “agent” and “drop” pursuant to 1 CMC § 3806(g).

§ 40-20.1-256 Connection to Dockside Water Supply System

(a) No person shall connect a vessel’s water supply system, siphon, or other water-operated device, equipment, or mechanism to a potable water supply system, or operate any water-operated device, equipment, or mechanism connected to the water supply system, unless an approved backflow prevention device has been installed at the faucet or other point of connection. An “approved backflow prevention device” means a backflow prevention device that meets the requirements contained in standard 1001, American

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Society of Sanitary Engineers or the Uniform Plumbing Code adopted by the International Association of Plumbing and Mechanical Officials (IAPMO).

(b) It shall be illegal to connect up any vessel's water supply system to a dockside water supply system without permission of the Port Superintendent.

(c) No potable water may be supplied from a dockside water supply outlet without the use of a water meter.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission inserted commas after the words "siphon" and "equipment" in subsection (a) pursuant to 1 CMC § 3806(g).

§ 40-20.1-258 Dumping at Sea of Sinkable Objects

When any owner, agent, or individual contemplates the dumping of sinkable materials at sea by hauling across, within, or on the navigable and/or shore waters of the Commonwealth, he shall notify and obtain the permission of the Executive Director prior to movement and shall not fail to perform any duty imposed thereby. All dumping at sea of sinkable objects or materials (the dumping of floating objects is strictly prohibited) shall be done in the areas designated by the Secretary of the Army for such disposal. (Refer to Corps of Engineers, U.S. Army, for information concerning location of such areas.)

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission inserted commas after the words "agent" and "within" pursuant to 1 CMC § 3806(g).

§ 40-20.1-260 Loading of Flammable Liquids

Loading or unloading of flammable liquids shall be in strict accordance with applicable federal laws and regulations. (See title 33, CFR, subchapter L, part 126.15(o).)

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-262 Welding and Burning Operations

Welding and burning operations on piers and wharves and aboard vessels:

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(a)(1) Permits: Before any welding or burning operations can be done on a wharf or waterfront facility, or on a vessel moored thereto, it is required that the party intending to do such work secure a permit from the U.S. Coast Guard. In the event ammunition or other dangerous cargo is in close proximity or on board the ship, the U.S. Coast Guard, and other appropriate federal and CNMI agencies shall be notified, and an inspection will be conducted, and if in their opinion the welding and/or burning operations will not involve the possibility of a fire or explosion, permission may be granted to perform the work.

(2) Before any welding, burning, spark, or flameproducing operations are undertaken aboard any ship dock, wharf, or waterfront facility, all spaces subject to the accumulation of dangerous gases or gas producing materials, in or on which hot work is to be performed, and such other spaces as may be required by the U.S. Coast Guard having jurisdiction over such operations, or required under the provisions of the American Bureau of Shipping, National Fire Protection Association Standards, Bureau of Ships, (U.S. Navy) manual, or U.S. Coast Guard Regulations, shall be inspected by American Bureau of Shipping, certified chemist or other shipyard competent person who is licensed or certified by the National Fire Protection Association.

(i) Such spaces shall include, but shall not be limited to, oil and ballast tanks, cofferdams, void spaces, boiler and machinery spaces, pump rooms, compartments treated with combustible rust preventatives, including hallow rudders and skags, paint lockers, and shaft alleys.

(ii) On completion of his inspection, said chemist shall issue a certificate setting forth in writing the conditions found at the time of inspection and indicating by appropriate designations whether, in his judgment, the contemplated repairs or alterations can be undertaken with safety.

(iii) One copy of the chemist's certificate shall accompany the application for a permit, and one copy shall be left aboard ship or waterfront facility, preferably posted in a conspicuous place near the gangway.

(iv) Hot work shall be done in the locations and under the procedures as designated in writing on the permit and chemist's certificate.

(v) Loading or moving of cargo or the movement of the ship from one location to another within the shipyard or installation for which a chemist's certificate has been issued is permissible without requiring an additional inspection and the issuance of a chemist's certificate when in the judgment of the inspecting authority such movement has not been sufficient to create a hazardous situation. However, the movement of ships from one jurisdiction area to another shall require an additional inspection and the issuance of a chemist's certificate before continuing hot work.

(vi) All welding and burning operations shall be under the supervision and control of a competent foreman or supervisor who shall see that all regulations pertaining to welding or burning operations are fulfilled.

(b) Operations: In all types of operations, fire prevention shall be the watchword, and all workmen should bear in mind that to prevent fire is their individual responsibility. All combustible materials must be removed from the area in which the welding and burning operations are being conducted, or properly protected if removal is not feasible.

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(1)(i) Welding or burning operations shall not be conducted around hatches or companionways, unless they are sealed with their own cover or door. In the event that this is not possible, an asbestos blanket or other flame-proof material may be provided in their place. Such substitutions shall meet with the approval of the inspection authority issuing the permit.

(ii) When welding or burning operations are being conducted in such locations that sparks could spatter or fly over the outside of the ship's hull, a protective shield composed of metal or other flameproof material shall be provided to prevent the sparks from igniting the wharf or dock, barges, or oil slicks on the water, or other combustible materials.

(iii) Water charged fire mains, with hoses and nozzles attached of sufficient length so that the water can reach the bases of any fire which may occur, shall be on each deck of the ship where welding or burning operations are being conducted. A sufficient trained number of trained fire watchers, (number of watchers to be approved by the U.S. Coast Guard) shall be on board and assigned to each group or individual welder or burner to watch for and extinguish incipient fires. Each fire watcher shall be provided with an approved fire extinguisher or hose line, to control any fire which may occur during the welding or burning operations. All firemen and fire watchers shall be instructed by their foremen or supervisor as to their duties in respect to fire prevention and the manner of contacting their plant, industrial, or Department of Public Safety, fire departments when needed.

(iv) When welding or burning operations are conducted on a wooden wharf, or a fire resistant paved wharf with cracks or crevices, the entire surrounding area should be drenched with water by means of a hose line and kept wet during the entire operation to prevent sparks from igniting the flooring or timbers below.

(2) No refueling of equipment with flammable petroleum products will be permitted on any pier or wharf under the control of CPA.

(3)(i) On waterfront facilities which are used for repair work, no gasoline or other flammable liquid shall be stored except as required for normal operations and then only when stored in approved metal lockers and in quantities approved by the Port Superintendent.

(ii) Petroleum based cleaning fluid which has been treated to satisfactorily reduce the flash point may be used for washing grease from machinery parts in an approved location safe from hot work operations. All paint or other flammable liquid materials shall be kept securely covered except when in actual use.

(4) Gasoline-powered generators or compressors shall not be operated on the ship, but must be kept on the wharf. Said equipment shall be equipped with a spark arrestor on the exhaust pipe, and the drip pan set in a position to protect the wharf in the event of any gasoline or oil being spilled. An attendant shall stand by at all times equipped with an approved fire extinguisher to extinguish any fires which may occur. At the conclusion of operations, said gasoline-powered equipment shall be removed from the wharf. Where insulated wire cables are in the patch* of traffic, they shall be protected from damage by crossovers, and where they lead into the ship they shall be protected from chafing damage by a protective wrapped covering. Where electrical cables lead from one ship to another, the same protective measures shall be complied with.

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(5) When acetylene or oxygen cylinders are used, the following precautions shall be followed at all times:

(i) Compressed gas cylinders shall be used in a vertical position only, and shall be secured at all times to prevent falling. Cylinders, when in use, shall be kept on the pier at all times.

(ii) Do not drop cylinders; ruptured cylinders may explode. Do not use cylinders for rollers, anvils, or supports.

(iii) When cylinders are not in use, close valves and replace protective caps.

(iv) Cylinders shall not be handled by cranes, except when they are placed in specially constructed bottle racks or in a skip box. Under no circumstances shall gas cylinders be hoisted by a magnet, manila line, steel cable, chains, slings or nets.

(v) Secure cylinders on a shelled** truck so they can be easily moved if a fire occurs in the immediate vicinity.

(vi) When permanently installed on a pier and exposed to the sun, cylinders shall be provided with adequate protection.

(vii) Valve and hose connections shall be kept tight to prevent leaks. Leaks shall be tested with soapy water and not flame.

(viii) Cylinders shall be kept away from sparks, flame, or heat.

(ix) Under no circumstances shall smoking be permitted in the vicinity of gas cylinders, whether burning/welding operations are in progress or not.

(x) Acetylene hoses shall be tested frequently for leaks. If acetylene has been escaping in confined areas, the areas shall be properly ventilated and cleared of all gas before welding or burning operations are resumed. Acetylene hose in the path of traffic shall be protected from damage by use of cross-overs to protect the hose from damage.

(xi) No acetylene torch shall be left unattended while burning, and when it is not being used the hose shall be coiled or looped in a work-man-like manner and placed on a bracket at the cylinders, and the pressure in the hose relieved by closing off the valves on the cylinders and opening the valves on the torch. Lines left unattended during meal times or other extended periods shall be either removed from compartments or disconnected at the cylinders.

(xii) Oxygen cylinders shall be kept free from oil and grease at all times because oxygen under pressure brought into contact with oil or oily substances oxidizes so rapidly that an explosion may occur.

(xiii) Oxygen shall not be used to blow out oil pipes, or for paint spraying, or for pneumatic tools, as an explosion might occur.

(xiv) Manifolding or the coupling together of cylinders when necessary to obtain greater amounts of acetylene and oxygen shall be done in conformity with the rules and regulations of the U.S. Navy Bureau of Ships Manual, Chapter 92, entitled "Welding and Allied Process," or the regulations of the National Board of Underwriters.

(xv) Compressed gas cylinders shall not be refilled on any wharf.

*So in original; probably should be "path."

**So in original; see the commission comment to this section.

(c) Violation of any of the regulations contained in this section shall necessitate the revocation of the permit, in addition to any other penalties provided by law.

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(d) Notification of other agencies: When the U.S. Coast Guard has issued a permit to do hot work, the appropriate federal and local agencies shall be notified of such action. When hot work is being done in Commonwealth harbors this notification shall include a notification to the U.S. Coast Guard and the Port Superintendent.

(e)(1)(i) Prior to bunkering vessels at any berth under the control of CPA, permission shall have been obtained from the Port Superintendent. Permission will not be granted unless evidence of insurance, in a form satisfactory to the Executive Director, and in an amount deemed by him adequate to cover the costs of cleanup of any spillage and/or other damage, shall have been presented to and accepted by the Executive Director.

(ii) In addition, the U.S. Coast Guard must also be notified and have granted permission for the bunkering operation.

(iii) It is the responsibility of the vessel and its owners and operators to clean up all spillage occurring during the course of, or as a result of bunkering operations, and to pay for all damages and costs arising out of such operations.

(2)(i) During bunkering operations where bunkers are being taken thru an open fuel intake or from a fuel tank truck, where a fire hazard may exist, cargo operations shall cease. This shall not apply when bunkers are taken from a pipeline connecting thru gasketed joints directly to the vessel's piping system. However, the Port Superintendent may at his discretion discontinue operations when an oil spill occurs (as from a broken hose or ruptured gasket) or any hazardous situation exists.

(ii) No welding, burning, or other types of work that may conceivably provide a hazardous condition shall continue within less than fifty feet of the bunkering site while such bunkering operations are in progress. This time period shall include from when

(A) The tank truck arrives onto the wharf or

(B) When a hose is hooked up to the wharf's fuel line, or

(C) The vessel's bunkering connection is opened.

(D) The time shall cease when the tank truck is off the wharf, or the wharf's and vessel's fuel connections have been secured.

(iii) The mooring lines of the vessel will be checked prior to the bunkering operation to ensure they are secure and to prevent any surging.

(iv) Prior to any fuel line hook up being made, or a fuel hose stretched to a vessel, a grounding line will be connected from the vessel to the wharf. This grounding line should be connected first to the vessel and then connected to the shore ground.

(v) Except when bunkers are taken from a pipeline connecting through gasketed joints directly to the vessel's piping system, all engines, motors, fans, and other devices liable to produce sparks located closer than fifty feet will be stopped. On small craft, such as fishing boats and pleasure boats, all ports, windows, doors and hatches shall be closed.

(vi) Only flashlights approved by the U.S. Coast Guard or equivalent organization may be used during bunkering operations.

(vii) Drip pans will be placed under all points where fuel could leak onto either the wharf, decks or into the harbor.

(viii) On all vessels bunkering at berths controlled by CPA, there shall be no smoking, lighting of matches, lighters, or use of other devices producing sparks or flame; or the

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throwing of switches (other than certified non-sparking types) within fifty feet of the bunkering point that could produce a spark.

(ix) No unauthorized persons are to be allowed either on board the vessel, or in the immediate vicinity of the bunkering point.

(x) During bunkering operations when a hose and nozzle are used, the nozzle must be kept in continuous contact with the vessel's fuel intake opening to eliminate the possibility of static sparks.

(xi) A competent crew member will be stationed by the vessel's fuel intake at all times while the operation is in progress. Such person must have a good command of the English language in order to communicate with the shore personnel. Should there be no one in the crew capable of this, an interpreter must be present during the entire fueling operation.

(xii) Upon completion of the taking of bunkers, all shore connections must be closed and vessel's filling lines closed prior to disconnection of the grounding lines. Said grounding lines will be disconnected from the shore and then from the vessel.

(xiii) Any spilled oil or fuel will be wiped up immediately. The vessel should be ventilated thoroughly by the opening of doors, hatches, portholes, etc., to dispel any fumes for at least five minutes before resuming normal operations, or the operating of any spark producing mechanisms. On small craft such as fishing boats and pleasure craft, particular attention should be paid to seeing that there are no accumulated fumes in the bilges, hatches, or other below deck spaces.

(xiv) On full completion of all bunkering operations, the Port Superintendent must be notified.

(xv) Any and all other regulations pertaining to bunkering, not specifically mentioned above, such as for example the flying of a red ("Baker") flag, are also in effect, and must be complied with.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The paragraphs of subsection (a), (b)(1) and (b)(3) were not designated. The Commission designated subsections (a)(1) and (a)(2), (b)(1)(i) through (b)(1)(iv), and (b)(3)(i) and (b)(3)(ii). The Commission also designated subsection (e)(2)(ii)(D) for clarity in that subsection.

In subsection (b)(5)(xi), the Commission corrected the spelling of "relieved." The Commission inserted a comma after the word "lockers" in subsections (a)(2)(i) and after the word "lighters" in subsection (e)(2)(viii) pursuant to 1 CMC § 3806(g).

The double-starred language in subsection (b)(5)(v) probably should be "wheeled." Compare 14 Com. Reg. at 9274 (May 26, 1992) and 5 Com. Reg. at 2010 (Apr. 29, 1983).

§ 40-20.1-264 Dredging and the Removal of Sand, Gravel, Rock, Etc.

(a) It shall be illegal to perform any dredging, or remove any sand, gravel, rock, or top soil from any areas under the control of CPA without receiving permission from the Executive Director in writing.

(b) Should other agencies or departments of CNMI or of the federal government be involved, their written authorization must also be obtained.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b). The Commission inserted a comma after the word “rock” in subsection (a) pursuant to 1 CMC § 3806(g).

§ 40-20.1-266 Structures Prohibited Without Permission

No buildings or structures of any nature whatsoever shall be erected or constructed on CPA property, nor shall existing structures be modified, without obtaining the prior permission of the Executive Director and any other governmental agency as required by law. In general, approval will be dependent on an agreement to return the property to its original state when vacating the property or premises if requested to do so by CPA.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-268 Use of Harbor by Small Craft

(a) CPA may allocate berths and moorings for small craft in all areas under its jurisdiction.

(b)(1) Priorities shall be set up in Commonwealth harbors (commercial port) as follows:

- (i) Commercial fishing boats, or boats hauling commercial fish cargoes;
- (ii) Charter boats;
- (iii) Other commercial craft;
- (iv) Recreational craft.

(2) Berths will be made available only when not required for large, commercial, ocean-going vessels, or government-owned/operated vessels, or for vessels for which prior long-term commitments have been made.

(3) Exceptions to the above priorities may be made when the Port Superintendent deems them to be in the best interests of public safety, health, and welfare.

(c) Priorities may be set up in other areas under its jurisdiction as CPA deems necessary.

(d)(1) It is unlawful to make fast to, moor, dock, anchor at, or lay alongside any CPA controlled pier, wharf, quay bulkhead, landing, dolphin, mooring, or other moored vessel or anchored vessel in areas under the control of CPA without specific authorization of the Port Superintendent, and any offending vessel may be removed without any liability of CPA to its owner.

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(2) Any costs incurred in removing such unauthorized vessels shall be for the account of the owner, master, agent, or operator of the offending vessel.

(e) Small craft mooring permit/request: Any interested person, persons, corporation, or other legal body may apply for a mooring permit by completing in full the application provided by the Port Superintendent. In the case of a legal body, association, or other organized body, such evidence of corporate existence must be submitted as may be decided by the Port Superintendent.

(f) Issuance of a mooring permit. A mooring permit may be issued when

- (1) Proper application has been submitted,
- (2) Upon execution of an agreement,
- (3) When an adequate berthing or mooring facility becomes available,
- (4) The vessel using the facility is in good material and operating condition and capable of operating beyond the confines of the harbor on a regular basis, and
- (5) The payment of any required fees.

(g) Applications for mooring permits may be rejected for the following reasons:

- (1) Failure to properly file an application,
- (2) No berth or mooring available,
- (3) At the request of other competent authority.

(h) Cancellation of mooring permits: Mooring permits may be cancelled for any of the following reasons:

- (1) The vessel berthed or moored is being used for illegal purpose,
- (2) The vessel constitutes a hazard to the port authority and/or the vessels in the vicinity,
- (3) The permit has expired,
- (4) The vessel has been abandoned,
- (5) The owner, operator, legal body or entity have been convicted of a major crime,
- (6) Violation of any pertinent laws of the federal government, CNMI, U.S. Coast Guard, or rules and regulations of CPA.

(i) All small recreational craft utilizing the waters of the areas under the jurisdiction of CPA shall be equipped with fire-fighting and lifesaving equipment as required and approved by the U.S. Coast Guard.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission inserted a comma after the word “health” in subsection (b)(3) and after the word “mooring” in subsection (d)(1) pursuant to 1 CMC § 3806(g).

§ 40-20.1-270 Port Security

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(a) Whenever, in the opinion of the Port Superintendent, the activities of the officers or crew of a vessel in port, or of any persons performing labor in connection with the loading or unloading of a vessel in port, so warrant, the Port Superintendent may engage the services of such security personnel as he deems reasonably necessary to maintain peace and order upon a CPA dock or wharf, and to guard against violations of Commonwealth laws or regulations. Upon so doing, the Port Superintendent shall promptly notify the master or agent of the vessel concerned, or the employer of the laborers concerned. The vessel and its owners and agents, or the employer of such labor, as the case may be, shall be liable to CPA for CPA's actual cost of such additional security personnel, plus 10% of such cost for administrative expenses.

(b) Any person aggrieved by a decision or order of the Port Superintendent made pursuant to this section may appeal such decision or order to the Board of Directors within ten days thereof. The Board shall promptly afford such person notice of, and the opportunity to be heard at a hearing, within 30 days after filing the appeal and the Board of Directors' decision shall be released not more than twenty days after the final hearing.

Modified, 1 CMC § 3806(d), (e).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Amdts Adopted 6 Com. Reg. 2549 (Jan. 15, 1984); Amdts Proposed 5 Com. Reg. 2490 (Nov. 15, 1983).

§ 40-20.1-272 Cost of Cleanup of Oil Spillage

(a) Every vessel which enters a port of the Commonwealth shall carry a current certificate of financial responsibility (water pollution) issued by the Federal Maritime Commission.

(b) Every vessel, and its master, owners, agents, shall be liable for the cost of cleanup of every spillage of oil or other petroleum products from such vessel into any waters of the Commonwealth.

(c) In the event that, because more than one vessel shall be in the vicinity of an oil spill, it shall not be possible to determine which of such vessels is responsible for such spill, all vessels in the vicinity at or about the time of such spill and which utilize or carry the type of oil or other petroleum product which was spilled, shall be jointly responsible for the cost of cleanup. The cost of cleanup shall be paid to CPA upon demand, and the provisions of § 40-20.1-165 of this subchapter shall apply in the event of nonpayment.

Modified, 1 CMC § 3806(c), (f), (g).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Amdts Adopted 6 Com. Reg. 2785 (May 15, 1984); Amdts Proposed 6 Com. Reg. 2613 (Mar. 15, 1984).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

In subsection (c), the Commission deleted the repeated word “in.”

Part 300 - Fishing and Recreational Activities

§ 40-20.1-301 Where Prohibited

Fishing, casting or setting of nets, or the catching of fish by any other means or methods, shall be prohibited in the following areas under the jurisdiction of CPA:

- (a) All channels and fairways;
- (b) All approaches to berths, wharves, slips, piers, or quays;
- (c) In any place where cargo operations are in progress, such as the commercial piers and wharves, or where dredging is taking place;
- (d) Off any bridges;
- (e) Any other areas that may be prohibited by order of the Executive Director.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The Commission created the section titles in part 300.

§ 40-20.1-305 Recreational Water Sports Prohibited

- (a) Swimming, snorkeling, or scuba-diving in areas under the jurisdiction of CPA are prohibited except by special permission of the Port Superintendent.
- (b) Swimming, diving, or entering the water for recreational purposes is prohibited from all commercial or passenger vessels at anchor, and from any vessel or craft while berthed alongside any pier or wharf.
- (c) Water-skiing is prohibited in the following areas:
 - (1) Any fairway;
 - (2) Any channel leading to a pier, wharf or quay,
 - (3) Within the waters adjacent to any wharves or piers in Commonwealth harbors.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: In subsection (c), the Commission changed “area” to “areas” to correct a manifest error. The Commission inserted a comma after the word “snorkeling” in subsection (a) pursuant to 1 CMC § 3806(g).

§ 40-20.1-310 Alcohol Consumption Prohibited

No person shall consume any liquor or other alcoholic beverages in or on any area under the jurisdiction of CPA except in areas specifically set aside for this purpose.

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

§ 40-20.1-315 Persons Under the Influence

(a) Persons in an inebriated condition or under the influence of drugs are prohibited on any wharves, piers, sheds, roads, or open areas under the jurisdiction of CPA.

(b) The Ports Authority specifically and categorically disclaims any liability for any accident incurred by persons under the influence of alcohol or drugs while in any areas under the jurisdiction of CPA.

(c) Any damage caused to CPA property, or to property not belonging to CPA but located on CPA areas with its permission, shall be replaced, or repaired as per § 40-20.1-120 of this subchapter.

Modified, 1 CMC § 3806(c).

History: Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Part 400 - Pilotage

§ 40-20.1-401 Private Tugboat or Pilot Services

CPA offers no tugboat or pilot services. Such services may be available from the private sector, but CPA does not warrant such availability. The terms of any contract for such services are matters between the parties only, except to the extent specifically provided herein.

History: Amdts Proposed 16 Com. Reg. 12391 (Sept. 15, 1994); Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: This section was originally the introduction to former part 5, entitled "Pilotage." The Commission designated it § 40-20.1-401 and created the section title. Many of the original sections in this part did not have titles. The Commission created the section titles where necessary.

The 1994 amendments proposed to delete part 400 and replace it in its entirety. A notice of adoption was never published for the 1994 proposed amendments and, therefore, the Commission has not incorporated the proposed changes into this part.

§ 40-20.1-402 Pilots; Boarding

Pilots will normally board inbound vessels and leave outbound vessels well outside the harbor entrance.

History: Amdts Proposed 16 Com. Reg. 12391 (Sept. 15, 1994); Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: See the comment to § 40-20.1-401.

§ 40-20.1-404 Observance of Regulations Required

Pilots and masters will observe all harbor, quarantine, immigration, and other federal regulations.

Modified, 1 CMC § 3806(f).

History: Amdts Proposed 16 Com. Reg. 12391 (Sept. 15, 1994); Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: See the comment to § 40-20.1-401. The Commission inserted a comma after the word “immigration” pursuant to 1 CMC § 3806(g).

§ 40-20.1-406 Pilot Required

All commercial vessels while underway in the territorial waters of the Northern Mariana Islands shall require a pilot duly licensed by federal or Commonwealth laws.

Modified, 1 CMC § 3806(f).

History: Amdts Proposed 16 Com. Reg. 12391 (Sept. 15, 1994); Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: See the comment to § 40-20.1-401.

§ 40-20.1-408 Tugs; Required for Vessels of 300 Gross Tons

A pilot is required, when bringing in or conducting a vessel of 300 gross tons or above to or from a wharf or berth, to use the aid of tug(s) or any safe docking devices.

History: Amdts Proposed 16 Com. Reg. 12391 (Sept. 15, 1994); Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: See the comment to § 40-20.1-401.

§ 40-20.1-410 Tugs; Vessels Under 300 Gross Tons

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(a) Vessels under 300 gross tons are not required to have the aid of tug(s) or a pilot. However, such tug(s) services shall be made available when requested by the master and/or pilot.

(b) For reasons of safety, the Port Superintendent may require any vessel to use the service of a tug or tugs.

Modified, 1 CMC § 3806(f).

History: Amdts Proposed 16 Com. Reg. 12391 (Sept. 15, 1994); Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: See the comment to § 40-20.1-401.

§ 40-20.1-412 Order of Priority for Pilot Services

(a) A pilot will offer his services in the order of priority established by the Port Superintendent unless another vessel is observed approaching a dangerous position, in which case effort will be made to offer to board and assist the latter vessel.

(b) A pilot will aid and assist, by every means in his power, any vessel in distress.

History: Amdts Proposed 16 Com. Reg. 12391 (Sept. 15, 1994); Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: See the comment to § 40-20.1-401.

§ 40-20.1-414 Specified Wharf or Berth

A pilot bringing a vessel inward, unless required to anchor for quarantine, will bring the vessel to such wharf or berth as the Port Superintendent may direct.

History: Amdts Proposed 16 Com. Reg. 12391 (Sept. 15, 1994); Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: See the comment to § 40-20.1-401.

§ 40-20.1-416 Clearance for Departure; Complaints

A pilot will not conduct a vessel to sea unless she has been regularly cleared by CNMI Customs and Immigration, the agent, and the Port Superintendent. Any person having a complaint to make against a pilot is requested to make such complaint in writing to the Port Superintendent, who shall immediately investigate the complaint and report thereon to the Executive Director.

Modified, 1 CMC § 3806(f).

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History: Amdts Proposed 16 Com. Reg. 12391 (Sept. 15, 1994); Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: See the comment to § 40-20.1-401.

§ 40-20.1-418 Duties of the Pilot and the Vessel's Master

(a) Upon boarding a vessel in response to the request of the vessel, its owner, operator, charterer, or its agent, for pilotage service, it shall be the duty of the master to acquaint the pilot with the peculiarities or possible defects of his vessel, it shall be the duty of the master thereof to relieve such pilot of the particular duty in which he is engaged and to take such steps as the master may deem necessary to insure the safety of such vessel and prevent damage to port facilities.

(b) No vessel, other than publicly-owned vessels 300 gross tons and above, including tugs with tows, shall enter or leave or otherwise be underway without a pilot aboard, unless such vessel is sailing under enrollment with a pilot duly licensed by federal law on board (for the purpose of this section, tug and tow shall be considered as one vessel).

Modified, 1 CMC § 3806(f).

History: Amdts Proposed 16 Com. Reg. 12391 (Sept. 15, 1994); Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

It appears that the 1992 amendments erroneously omitted language from subsection (a). Compare 14 Com. Reg. at 9282 (May 26, 1992) and 5 Com. Reg. at 2020 (Apr. 29, 1983). Originally subsection (a) provided:

5.9 Upon boarding a vessel in response to the request of the vessel, its Owner, Operator, Charterer, or its Agent, for pilotage service, it shall be the duty off the Pilot to pilot such vessel. It shall be the duty of the Master to acquaint the Pilot with the peculiarities or possible defects of his vessel, her machinery, and/or operation. If, in the opinion of the Master, the Pilot is negligent or incompetent at any time while engaged in piloting the vessel, it shall be the duty of the Master thereof to relieve such Pilot of the particular duty in which he is engaged and to take such steps as the Master may deem necessary to insure, the safety of such vessel and prevent damage to port facilities.

Harbor Regulations § 5.9, 5 Com. Reg. at 2020 (Apr. 29, 1983); see also the comment to § 40-20.1-401.

§ 40-20.1-420 Small Craft Operation

Every person operating small craft in a harbor or through channels or entrances leaving or approaching such harbor shall do so at his own risk.

History: Amdts Proposed 16 Com. Reg. 12391 (Sept. 15, 1994); Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

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Commission Comment: See the comment to § 40-20.1-401.

§ 40-20.1-422 Homeported Vessels

(a) Vessels, including tugs and tows, which are homeported in the Northern Mariana Islands and which operate inter-island within the Marianas chain of islands, are not required to have a pilot, provided that the vessel master or operator

- (1) Meets all the requirements of federal and Commonwealth laws to operate such vessel and
- (2) Is familiar with the physical characteristics of the harbors of the Commonwealth.

(b) For purposes of this subchapter, a “homeported vessel” is a vessel that operates on a regular schedule between the harbors of the Northern Marianas and Guam, is licensed to do business in the Commonwealth, pays taxes in the Commonwealth, and maintains and office in the Commonwealth.

(c) A vessel master or operator of a homeported vessel who is new to the Commonwealth and is not familiar with its harbors shall undergo the same number of familiarization trips required of a harbor pilot applicant and shall first be certified by the Port Manager before he is permitted to operate a vessel in the harbors of the Commonwealth.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000); Amdts Proposed 16 Com. Reg. 12391 (Sept. 15, 1994); Amdts Adopted 14 Com. Reg. 9526 (July 15, 1992); Amdts Proposed 14 Com. Reg. 9245 (May 26, 1992); Adopted 5 Com. Reg. 2479 (Oct. 20, 1983); Proposed 5 Com. Reg. 1971 (Apr. 29, 1983).

Commission Comment: The 2000 amendments added new subsections (b) and (c) and amended subsection (a). The 2000 amendments amended this part to provide for the licensing of harbor pilots by the Commonwealth Ports Authority. Prior to 2000, the Board of Professional Licensing had the responsibility for licensing harbor pilots. See 22 Com. Reg. at 17242 (May 19, 2000); see also NMIAC, title 125, chapter 30.

See also the comment to § 40-20.1-401.

§ 40-20.1-424 Pilot’s License Required

(a) All vessels which, under this subchapter, require a pilot to guide the vessel within the harbors of the Commonwealth shall be guided, as they enter or leave a harbor, by a pilot duly licensed by the Commonwealth Ports Authority to provide such service.

(b) The pilot shall guide the movement of a vessel from the outer limit of the harbor entrance or from anchorage to the dock, or from the dock to the outer limit of the harbor entrance or the vessel anchorage site.

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- (c) No person may pilot a vessel within a harbor of the Commonwealth unless that person possesses a valid pilot's license issued by the Authority.
- (d) A license shall specify the pilotage district or harbor where the pilot may serve.
- (e) A pilot's license shall be valid for two years from the date of issue, and shall be subject to renewal every two years. A two-year license fee shall be paid by the licensee upon issuance and for each renewal, as follows: for Saipan, \$600; for Rota, \$300; for Tinian, \$300. The fee may be paid in full or in two installments; one-half upon issuance or renewal, and one-half within one-year later.

Modified, 1 CMC § 3806(d), (e).

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000).

§ 40-20.1-426 Qualification for Harbor Pilot's License

In order to serve as a harbor pilot, a person must file with the Authority a harbor pilot application on a form furnished by the Authority, and shall meet the following qualifications:

- (a) An applicant must be at least 21 years of age;
- (b) Must be either a U.S. citizen, or a lawful permanent resident of the United States, or a citizen of one of the Freely Associated States of Micronesia;
- (c) Must be physically capable of performing the duties of a pilot, as determined by a duly-licensed physician;
- (d) Must be mentally fit and competent to serve as a harbor pilot;
- (e) Must have normal vision, or vision that is correctable to 20/20, for both eyes, as certified by a licensed optometrist;
- (f) Must successfully pass all U.S. Coast Guard examination and requirements required to pilot a vessel;
- (g) Must successfully complete the required number of harbor familiarization trips required by the Authority, and provide proof thereof;
- (h) Must satisfy at least one of the following:
 - (1) Holds a valid U.S.C.G. First Class Pilot License for vessels of unlimited tonnage and endorsed for one, or more of the pilotage districts of the CNMI and must document, to the satisfaction of the Board, at least 30 safe vessel movements, within the preceding year (25% of movements must be at night), in any port of the United States, or former

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Trust Territory of the Pacific Islands, as a harbor pilot working under the authority of his U.S.C.G. First Class Pilot License; or

(2) Possesses a U.S. Coast Guard Master or First Mate's License of unlimited tonnage on steam or motor vessels upon oceans (excluding fishing vessels); or

(3) Possesses a U.S. Coast Guard Master or First Mate's license of not less than 1600 gross ton on steam or motor vessels upon oceans (excluding fishing vessels); or

(4) Possesses a valid U.S. Coast Guard License with a rating as master on steam or motor vessel of 500 gross tons including freight or towing vessels (excluding fishing vessels); and, two-thirds of the required number of vessels movement for that pilotage district have been on vessels of 500 gross tons or more; or

(5) Previously held a Trust Territory deck officer's license for vessels over 500 gross tons and can demonstrate to the satisfaction of the Authority one-year sea time as master or mate of steam or motor vessel of 500 gross tons or more; or

(6) Previously held a CNMI harbor pilot's license for vessels of at least 500 gross tons for the ports in the CNMI and can document to the satisfaction of the Board, at least an average of 10 vessel movements per year in the immediately preceding 5 years in the applicable pilotage district.

(i) Must speak, write and comprehend the English language to the satisfaction of the Authority; and

(j) Pays a non-refundable application fee of \$100.00, at the time the application is submitted.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000).

§ 40-20.1-428 U.S. Coast Guard Examination

(a) Each harbor pilot applicant shall take and pass, or provide satisfactory evidence that the applicant has passed, the U.S. Coast Guard written examination and is licensed, holds or possesses any of the licenses set forth in § 40-20.1-426(h)(2) to (h)(4) inclusive, is familiar with the International Rules of the Road, and possesses a working knowledge of the physical characteristics of the harbor for which the applicant seeks a pilot license.

(b) Applicants applying for a harbor pilot license under § 40-20.1-526(h)(5) and (6) shall obtain a U.S.C.G. First Class Pilot license for the harbor in which applicant seeks a license.

(c) Applicants who are applying for a harbor pilot license pursuant to § 40-20.1-426(h)(1) are exempted from the U.S.C.G. examination requirement.

Modified, 1 CMC § 3806(c).

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000).

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Commission Comment: The Commission corrected the phrase “for which the applicant seeks a pilot license for” in subsection (a) to “for which the applicant seeks a pilot license” pursuant to 1 CMC § 3806(g).

§ 40-20.1-430 Examination Results to Authority

Any person who is applying for a harbor pilot license and who needs to take the U.S. Coast Guard written examination shall make arrangements directly with the U.S. Coast Guard regarding the date, time, and location to take the examination and shall request the U.S. Coast Guard to send the results of the exam directly to the Authority. The Authority shall accept the passing criteria established by the U.S. Coast Guard and the results of the examination.

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000).

§ 40-20.1-432 Familiarization Trips

(a) All applicants applying for a harbor pilot license must undergo the following minimum number of familiarization trips for a harbor pilot district:

- (1) For the Port of Saipan, at least 12 trips;
- (2) For West Harbor Rota, at least 6 trips; and
- (3) For San Jose Harbor, Tinian, at least 6 trips.

(b) One familiarization trip shall consist of one vessel movement in the harbor included in the pilotage district without any accident, collision, or similar incident.

(c) At least half of the required familiarization trips shall be conducted between one hour after sunset and one hour before sunrise.

(d) All of the required familiarization trips shall be on self propelled vessels of at least 300 gross tons or larger, with operational radar.

(e) All familiarization trips by an applicant must be made under the supervision of a licensed harbor pilot for the pilotage district.

(f) All familiarization trips shall be documented and signed by the licensed harbor pilot supervising the trips on a form provided by the Authority.

(g) After completion of the required number of familiarization trips, the Authority shall evaluate the applicant’s performance in ship handling skills on the basis of the evaluation forms and other relevant information and decide whether the applicant should be licensed or whether additional familiarization trips should be required. The Authority may require that a pilot applicant perform additional familiarization trips if the supervisory pilot’s evaluations indicate that the applicant needs additional experience in ship handling.

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Modified, 1 CMC § 3806(g).

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000).

Commission Comment: In subsection (a), the Commission changed “trip” to “trips” to correct a manifest error. The Commission inserted a comma after the word “collision” in subsection (b) pursuant to 1 CMC § 3806(g).

§ 40-20.1-434 Physical Examination

(a) The following applicants and pilots must have a physical examination by a CNMI licensed physician as follows:

- (1) For all applicants within 30-days of application; and
- (2) For all licensed pilots on an annual basis, or as determined by the Port Manager.

(b) The physical examination required of all applicants or pilots shall demonstrate that a person is in all respect physically fit to perform the duties of a pilot. The examination shall assure that the person’s abilities as a pilot are not impaired by eyesight, hearing or other bodily function and shall include examination of the pilot’s eyes (including tests for color blindness, depth perception, night vision, disease, field of vision and reflexes); ears; heart; blood pressure; blood components; pulse; speech capabilities; history of diseases (including diabetes, cancer, arthritis, arrhythmia, asthma, bronchitis, emphysema, ulcers, alcoholism and other illnesses) and any other medical information which the physician feels is relevant. The Authority reserves the right to impose unannounced mandatory testing for drug or alcohol use.

(c) The applicant or the pilot shall file with the Authority on a form supplied by the Authority the examining physician’s statement of fitness:

- (1) Within 60 days of the applicant filing the completed application form with the Authority;
- (2) Within 60 days of the date of a pilot’s annual physical examination or physical examination for renewal.

(d) If the physician’s statement of fitness indicates that the applicant is not physically or mentally fit to perform the duties of a pilot, the Authority shall not issue or renew a license.

(e) In the case of the annual physical exam, should the physician’s statement of fitness indicate that the pilot is not capable of performing the duties of a pilot, the Authority shall temporarily suspend such license until a further physical examination has been completed and indicates that the pilot is capable of performing his duties as a pilot.

(f) In the case of the renewal of a pilot’s license, should the pilot be temporarily physically incapacitated at the time his license is due to be renewed, the Authority shall not renew such license until a further physical examination indicates that the pilot is capable of performing his duties as pilot.

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Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000).

§ 40-20.1-436 License Renewal

(a) Each pilot shall renew his or her pilot's license every two years upon the anniversary date of issue. All licensed pilots seeking to renew their license shall complete the application form provided by the Authority and file it at least sixty days prior to the expiration date of the license. Upon approval of the license renewal application the renewal fee shall be paid to the Authority as provided for in § 40-20.1-424(e) above.

(b) In addition to filing the application to renew one's pilot license, the applicant must also meet the following renewal requirements:

(1) Have completed the following vessel movements on self propelled vessels of 300 gross tons or more in the applicable pilotage district during the time he was licensed (half of the trips shall be conducted after sunset). At least half of the trips shall have been completed during the immediately preceding 12 months from the date the application for renewal is filed with the Authority:

- (i) Port of Saipan - 6
- (ii) San Jose Harbor, Tinian - 3
- (iii) West Harbor, Rota - 3

(2) Pass a general physical examination within sixty days prior to the renewal date. The physician shall submit to the Authority a statement of fitness stating whether and under what conditions the pilot is capable of providing pilotage services.

(c) If an applicant for renewal fails to meet the required number of trips in the pilotage district, the Authority shall require the applicant to complete additional familiarization trips under the supervision of a licensed pilot prior to renewing the pilot's license. During such time if the time for the pilot's license renewal has already passed, such pilot shall not pilot a vessel without the supervision of a licensed pilot.

(d) A pilot who fails to renew his or her license and fails to complete the requirements contained in subsection (b) above before the license expiration date, shall be assessed the renewal fee and a \$50.00 monthly delinquent fee for each month the license is not renewed.

(e) A pilot whose license has expired for over 60-days must file a new application and receive approval from the Authority for reinstatement.

Modified, 1 CMC § 3806(c), (d), (e).

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000).

Commission Comment: The original paragraphs of subsection (b)(1) were not designated. The Commission designated subsections (b)(1)(i) through (b)(1)(iii).

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The cross-reference in subsection (d) was originally to “Part 5.19(b) above.” See 22 Com. Reg. at 17843 (Sept. 20, 2000). This was not correct as original part 5.19 is the next section (now § 40-20.1-438). It appears that the intended reference was to part 5.18(b), and the Commission corrected the cross-reference accordingly.

§ 40-20.1-438 Accident Reports Required

(a) In every case where a vessel piloted by a CPA-licensed harbor pilot collides with another vessel, collides with a dock, meets any casualty, or is injured or damaged in any way, the pilot shall file a written report with the Authority immediately upon returning to shore but in no event not later than 24-hours after the incident. The report shall apprise the Authority of all relevant facts relating to the incident.

(b) Any pilot who shall fail, neglect, or refuse to make a written report to the Authority within the time period the report is required to be filed, shall have his license suspended or revoked as the Authority may determine.

(c) The Authority may temporarily suspend the license of a harbor pilot, after an accident, collision or other mishap, if it appears that the same was caused by the pilot’s negligent or intentional act or omission.

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000).

§ 40-20.1-440 Revocation of Pilot’s License

(a) Pursuant to applicable CNMI law, including but not limited to the CNMI Administrative Procedure Act [1 CMC §§ 9101, et seq.], the Authority shall have the power, on its own motion, at its discretion, or upon the written request of any interested party, to investigate the performance of a pilot subject to this subchapter and issue a reprimand, or suspend, withhold, or revoke the license of any pilot, for misconduct, incompetence, inattention to duty, intoxication, drug use, or failure to perform his or her duties under this subchapter, or for violation of any of the rules or regulations or order of the Authority for the government of pilots, including training requirements, or for misrepresentation in the application process. The Authority may require that a pilot satisfactorily complete a specific course of training or treatment prior to reinstatement of one’s pilot’s license.

(b) The Authority shall have the right to suspend or revoke the license of any pilot convicted of a felony offense in any U.S. jurisdiction, a crime related to the harbor pilot profession, or for a crime involving the use of illegal drugs or alcohol, or the use of alcohol or drugs while on duty, including missing an assignment due to alcohol or illegal drug use.

(c) The Authority shall have the right to suspend or revoke the license of any pilot who files false information or a fraudulent report with the Authority.

(d) Any pilot whose license has been revoked must reapply with the Authority to obtain a new license.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000).

§ 40-20.1-442 Unlimited Radar Observation Training Course

(a) All harbor pilots must complete a Coast Guard-approved, unlimited radar observation training course prior to issuance of a pilot license. If a pilot, licensed under the authority of this subchapter, conducts the movement of a vessel required to have a pilot under regulations promulgated by the Commonwealth Ports Authority but does not hold a valid active unlimited radar observation training course certificate of completion, that pilot's license is subject to revocation/suspension proceedings under the authority of this subchapter.

(b) The Authority shall not renew a pilot's license if the applicant's unlimited radar observation certificate has expired.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000).

§ 40-20.1-444 Pilotage in Violation of these Regulations

All persons who pilot a vessel in violation of this subchapter shall be subject to criminal or civil penalties as provided by law, as well as suspension or revocation of one's pilot license.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000).

§ 40-20.1-446 Drug Screening Tests

The Authority reserves the right to require satisfactory completion of a drug-screening test by an applicant prior to issuance or renewal of a license. The Authority also reserves the right to conduct random drug testing/ screening for all persons holding a harbor pilot license issued by the Authority.

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000).

§ 40-20.1-448 Validity of Licenses Issued by Board of Professional Licensing

TITLE 40: COMMONWEALTH PORTS AUTHORITY

All harbor pilot licenses duly issued by the CNMI Board of Professional Licensing prior to the enactment of Public Law 11-99 shall continue being effective until they expire; provided that all harbor pilots duly licensed by the CNMI Board of Professional Licensing shall hereafter be under the jurisdiction of the Commonwealth Ports Authority and shall be governed by this subchapter and applicable federal and Commonwealth law, including any lawful order issued by the Port Manager or Harbor Master, or the Executive Director of the Commonwealth Ports Authority.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000).

Commission Comment: PL 11-99 (effective Sept. 21, 1999), the “Board of Professional Licensing Amendments Acts of 1998,” is codified at 4 CMC §§ 3101, et seq.

The 2000 amendments provided for the licensing of harbor pilots by the Commonwealth Ports Authority. See part 400 of this subchapter. Prior to 2000, the Board of Professional Licensing had the responsibility for licensing harbor pilots. See NMIAC, title 125, chapter 30, for the history of the Board of Professional Licensing’s regulations.

§ 40-20.1-450 Construction of Harbor Superintendent

Whenever in the rules and regulations in this subchapter reference is made to the “Harbor Superintendent” that term shall be construed to mean the Port Manager of the seaport in question.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 22 Com. Reg. 17470 (Sept. 20, 2000); Amdts Proposed 22 Com. Reg. 17236 (May 19, 2000).