

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
1000 BOARD OF PILOT COMMISSIONERS
Statutory Authority: 23 Delaware Code, Section 102 (23 **Del.C.** §102)
24 **DE Admin. Code** 1000

FINAL

ORDER

1000 Board of Pilot Commissioners

The Delaware Board of River Pilot Commissioners pursuant to 23 **Del.C.** §102(1), proposed to create Regulation 13. The proposed creation of Regulation 13 establishes the process to be followed for accepting applications for licensure.

Summary of the Evidence and Information Submitted

Following publication in the Delaware *Register of Regulations* on July 1, 2017 a public hearing was held on August 18, 2017. Written comment periods were held open for thirty days before the public hearing, and an additional fifteen days following the public hearing pursuant to 29 **Del.C.** §10118(a). At the hearing, the Board accepted as evidence and marked as the Board's Exhibit 1 documentation of publication of the notice of the public hearing in the *News Journal* and the *Delaware State News*. During the written public comment periods, no public comment was received. No public comment was received by the Board during the public hearing on August 18, 2017.

Summary of the Findings of Fact

Pursuant to discussions held at open public Board meetings, the Board proposed to create Regulation 13 to memorialize the process the Board will follow when accepting applications for licensure. This memorialization is needed as the call for applications for new licensees occurs infrequently, and the Board determined that the new Regulation 13 reflects the best practice for handling new applications in the future, based on its experience with the most recent application process. Because the proposed regulations clarify the documentation that will be required of new applications, the Board utilized the full notice and comment requirements of the Delaware Administrative Procedures Act, 29 **Del.C.** Ch. 101, electing not to adopt these regulations as internal operating procedures only under Section 10113 of that Act.

Decision of the Board

Having found that the proposed changes to the regulations are necessary as outlined herein, and having received no public comment on the proposed regulations, the Board finds that the regulations shall be adopted as final in the form as proposed. The exact text of the regulations, as amended, are attached to this order as Exhibit A. These changes will become effective ten days following publication of this order in the Delaware *Register of Regulations* on January 1, 2018.

IT IS SO ORDERED this 17th day of November, 2017 by the Delaware Board of Pilot Commissioners.

Bradford Schell

Mark Reardon

Penelope Marshall (absent)

Carl T. Joseph, III

Stephen McGuinness

Maia Murphy (absent)

Laura Phillips

1000 Board of Pilot Commissioners

1.0 Delaware licensed Bay and River Pilots are required to be familiar with the 23 Del.C. Ch. 1. Pilots §100 through 138.

2.0 Original License

- 2.1 An examination shall be given to apprentices upon completion of their apprenticeship to determine their qualifications for licenses. The written examination shall be based on knowledge required to be learned by the apprentice during his/her apprenticeship.
- 2.2 No license shall be issued to any Pilot for any route for which he/she has not made required trips and passed required examination.

- 2.3 No original license will be issued for anything less than the route from entrance of Delaware Bay to Newbold Channel, and Chesapeake & Delaware Canal. All these licenses must be maintained through your pilot career.
- 2.4 The Board of Pilot Commissioners shall issue endorsements for any tributaries of the Bay and River Delaware to any Delaware licensed Pilot who has passed examination for same.

3.0 To Raise License

Fourth Class Pilots shall demonstrate their knowledge to the Commission of their thorough understanding of vessel "squat" and other deep vessel handling characteristics prior to being licensed as a Third Class Pilot.

4.0 Renewal of License

The renewal date for Pilot Licenses is November 30, or the date determined by the Division of Professional Regulation, to comply with 23 **Del.C.** §115.

13 DE Reg. 503 (10/01/09)

13 DE Reg. 946 (01/01/10)

5.0 All Delaware Licensed Pilots must:

- 5.1 Maintain all licenses they have in hand as of 5 May 1986 throughout the remainder of their Pilot career.
- 5.2 Hold a valid radar certificate. ARPA certification is also required.
- 5.3 Provide a copy of all licenses and certificates to the Commission Secretary.
- 5.4 Notify the Commission Secretary on the form provided each Pilot that the "Rules of the Nautical Road" have been read.
- 5.5 Any pilot who fails to exercise his or her profession for any consecutive 90-day period is forbidden from piloting vessels. Such pilot may resume piloting vessels only after he or she has made refresher trips as outlined in this regulation. Refresher trips shall be made in the company of a first class pilot.
 - 5.5.1 A pilot who fails to exercise his or her profession for 90 to 119 days must complete one round trip at least one ship of which shall be to or from at least Packer Avenue Marine Terminal.
 - 5.5.2 A pilot who fails to exercise his or her profession for 120 to 149 days must complete two round trips at least one ship of which shall be to or from at least Packer Avenue Marine Terminal.
 - 5.5.3 A pilot who fails to exercise his or her profession for 150 to 179 days must complete three round trips at least one ship of which shall be to or from at least Packer Avenue Marine Terminal and at least one ship of which shall be a westbound transit through the C&D Canal to Chesapeake City.
 - 5.5.3.1 A pilot on the active Special Duty list who fails to exercise his or her profession for 150 to 179 days must complete one up river Special Duty transit as part of the three round trips.
 - 5.5.4 A pilot who fails to exercise his or her profession for 180 days or more shall address the Board to determine refreshers required to assure he or she is fully familiar with the conditions along the route.
- 5.6 Attend at least (40) hours of approved education every five (5) years. The course or courses of study shall total not less than 40 hours of formal training on subjects relating to navigation and piloting. All such courses may be taken at an approved education facility. The Board of Pilot Commissioners shall approve all courses before enrollment.
 - 5.6.1 The courses listed here are now approved by the Board and will continue to be approved until further notice:
 - Ship Handling, Port Revel
 - Centre De Port Revel
 - 38136 St. Pierre de Bressieux
 - France

 - Maritime Institute of Technology
 - 5700 Hammonds Ferry Road
 - Linthicum Heights, MD 21090

 - SCI Maritime Training
 - 241 Water Street
 - New York, NY 1003 8

South Hampton Institute
Newtown Road, Warsash Hampshire
England

Star Center Simulation Training Assessment & Research (STAR) Center
2 West Dixie Highway
Dania Beach, FL 33004

Mid-Atlantic Maritime Academy
Virginia Beach, VA

- 5.7 Attend and complete at least once every five (5) years a Bridge Resource Management ("BRM") course recommended and approved by this Board or by the American Pilots Association. Classroom or simulator hours spent in attendance at a BRM course will count towards satisfaction of the requirement of subparagraph "E", above. All licensed pilots shall have passed and approved BRM course prior to 1 July 1997.

6 DE Reg. 635 (11/01/02)

13 DE Reg. 503 (10/01/09)

13 DE Reg. 946 (01/01/10)

20 DE Reg. 300 (10/01/16)

6.0 Pilots must pass a designated physical examination every year before their date of license renewal. Results of the examination shall be reported on the form approved by the Board. Examinations may also be ordered by the Board for any Pilot at any time for any cause. In addition, each Pilot shall report to the Commission concerning the Pilot's request for a waiver from the United States Coast Guard for any medical condition, as permitted by Federal regulation, as well as the results of any such waiver request. The initial report to the Commission shall be made at the same time that the waiver request is made to the Coast Guard, and a copy of the Coast Guard's decision on the waiver request shall be provided to the Commission within five business days of the Pilot's receipt of the waiver decision.

13 DE Reg. 946 (01/01/10)

17 DE Reg. 238 (09/01/14)

7.0 In order to be granted a license renewal, any Pilot licensed by this Commission is and shall be required:

- 7.1 To have rendered pilotage service to not less than 52 vessels in the course of the year preceding the year for which the renewal of such license is sought; and
- 7.2 To furnish to this Commission, in writing, not later than the time when application is made to this Commission for the renewal of such license, a list of all pilotages, during the period of the license whose renewal is sought, giving:
- 7.2.1 The name of the vessel.
- 7.2.2 The date of pilotage.
- 7.3 Provided however, that this requirement shall be proportionally reduced in number, or eliminated, upon presentation of proof in form and substance satisfactory to the Commission, that during the year about to be concluded, the applicant for renewal was engaged in administrative duties connected with pilotage on the Bay and River Delaware, or was duly assigned and engaged in administrative assignments for the benefit of said pilotage, or was temporarily disabled from the performance of this duties as a Pilot or other reason deemed satisfactory to the Commission.
- 7.4 In the event that the requirement for 52 pilotages is reduced or eliminated to the satisfaction of the Commission, a number of refresher trips may be required before renewal is granted.

8.0 Docking, Undocking, and Anchoring of Vessels

- 8.1 When a vessel is docking or anchoring, a Delaware licensed pilot shall remain on the bridge, attentive to duty, until the vessel has at least one ship's line secure to the dock, or until the vessel is anchored properly and firmly within a designated anchorage area.
- 8.2 Nonetheless, nothing in these Rules shall prevent the Master of a vessel from employing the services of a docking master.

9.0 Casualty Reports

- 9.1 It shall be the personal responsibility of all Pilots licensed by this Commission to make reports of all casualties, collisions, groundings, etc. These reports shall be made to the Division of Professional Regulation's Chief Investigator, with a copy sent to the Commission's liaison to the Investigator. All such reports must be made within five days of the occurrence, except that any marine casualty involving oil spillage, pollution, or death must also be reported by telephone, facsimile transmission, or telegram to the Investigator and Commission liaison within twenty-four hours of the occurrence, to be followed thereafter by the written report. Failure to make such reports within the required time frame may result in disciplinary proceedings.
- 9.2 Pilots licensed by this Commission are also required to furnish the Investigator and Commission liaison with a copy of all written reports the pilot makes to the U.S. Coast Guard relating to any occurrence through the pilot's licensed route of all casualties, collisions, or groundings. These pilots must provide the Investigator and the Commission liaison with copies of any Coast Guard findings based on these reports.

10.0 Commission Recommendations

It is suggested that, in the event any of the Pilots licensed by this Commission consider it unwise for a ship which he has boarded to get under way or leave a dock either due to weather or tide conditions, and the master of the ship insists on getting under way, the Pilot should refuse to assume his duties until such a time as it is in his opinion safe to proceed.

11.0 Offshore Trip Experience Requirement for Second Class Pilots

Under the provisions of 23 Del.C. §113(b), no person shall be eligible for licensure as a first class pilot by this Board, until that person has served at least one year in each of the lower classes.

6 DE Reg. 635 (11/01/02)

17 DE Reg. 238 (09/01/14)

12.0 Service Requirement for Advancement from License Class to a Higher License Class

- 12.1 Under 23 Del.C. §113(b), a licensed pilot must serve at least one year in each of the previous lower pilot license classifications before the pilot is entitled to a first class license, permitting the pilot to provide pilotage services for "ships or vessels of any practical draft of water." 23 Del.C. §112(1). Using the plain meaning rule of legislative interpretation, the term "serve" as used in Section 113(b) means to actively engage in the pilot profession during a full one-year term, and not merely to hold a current license for twelve months.
- 12.2 For example, if a pilot is unavailable for pilotage assignments during a one-year term, the total time for which the pilot was unavailable shall not be counted toward the one-year requirement. This circumstance will then affect the pilot's license renewal date, at the completion of the total one-year term.

13.0 Applications for Licensure

- 13.1 When notice is received that apprentices are needed, the following procedure will be implemented. The Board will schedule a special meeting within 30 days to begin the application process. The purpose of this meeting is to approve the application packets, determine the deadline for submission, and approve the interview questions.
- 13.2 The application process will begin with a posting of a notice on the Division of Professional Regulation's website. Application packets will be made available in this manner as well at the time the application process begins.
- 13.2.1 A completed application packet will include all of the following:
- 13.2.1.1 An application form.
- 13.2.1.2 A supplemental questionnaire inquiring as to relevant training and experience, and conflict management.
- 13.2.1.3 The fee set by the Division.
- 13.2.2 Proof of age is required in the form of a photocopy of a current driver's license from any state, passport, or birth certificate.
- 13.2.3 Proof of a baccalaureate degree from either a recognized and certified college or university or maritime academy operated by the United States or any State must be sent directly from the degree-granting institution to the Division of Professional regulation or submitted in a school-sealed envelope from the school.
- 13.2.4 Proof of a U.S. Coast Guard-issued license is required in the form of a photocopy of the applicant's current license.

13.2.5 Certificates of good standing are required from every jurisdiction where an applicant is or has been licensed as a river pilot. These certificates must be sent directly to the Division from each jurisdiction where an applicant is or has been licensed.

13.2.6 Only those application packets that are fully completed by the deadline for submission will be considered.

13.3 Completed application packets will be reviewed by the Board after the deadline for submission has passed. At the time of this review, the application packets will have all identifying information redacted by the Division, so the applicants remain unknown to the Board. The Board will select those applicants that should move forward in the selection process. The Board will also determine the number of "alternates" it will ultimately select at this stage of the review.

13.4 Those applicants selected to move forward in the selection process will then have their personally identifiable information and supplemental questionnaires reviewed by the Board. Based on its review of the complete application packet, the Board will select those applicants it wishes to interview. No applicant will be selected for an interview without obtaining at least the vote of four Board members.

13.5 Interviews will be conducted by the Board, or at least four of its members, at the Board's convenience. Telephone or teleconference video interviews will be permitted. All applicants who are interviewed will be asked all of the Board approved interview questions.

13.6 Following the interviews, the Board will select those applicants who will be licensed. This number is as determined by the Pilot's Association. The Board will also select the "alternates" in whatever number the Board previously determined. Offers of licensure will be communicated to the applicants selected by the Division. If an offer of licensure is not accepted by an applicant, an offer will be made to one of the alternates. This process will proceed until the Board has confirmed acceptance from the number of applicants the Pilot's Association determined should be licensed.

6 DE Reg. 635 (11/01/02)

13 DE Reg. 503 (10/01/09)

13 DE Reg. 946 (01/01/10)

17 DE Reg. 238 (09/01/14)

20 DE Reg. 300 (10/01/16)

21 DE Reg. 583 (01/01/18) (Final)