



A Guide to the Pennsylvania Navigation Commission

**Pennsylvania Navigation Commission
for the Delaware River and
Its Navigable Tributaries**

Kathy Boockvar
Acting Secretary of the Commonwealth
Chairperson

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MISSION STATEMENT

As a licensing board within the Bureau of Professional and Occupational Affairs (*BPOA*) at the Pennsylvania Department of State, the Navigation Commission for the Delaware River and Its Navigable Tributaries (*Commission*) shall have full power and authority to grant licenses to pilots and regulate the services they provide. Not only does the *Commission* have the power to promulgate regulations, but it also has the authority to impose penalties on licensees who do not follow the Navigation Act and the *Commission's* regulations. The *Commission* also decides all differences which may arise between masters, owners and consignees of ships and vessels, and pilots. Finally, the *Commission* establishes regulations governing the application, qualifications, recruitment, selection and training of apprentices.

Statutory Citations: Administrative Code, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. §180-5; in the Act of May 29, 1803, P.L. 542, as amended, 55 P.S. §§ 31, 42, 44, 71, 72, 72.1, 103, 132, 171, 172 and 176; and in the Act of May 11, 1889, P.L. 188, as amended 55 P.S. §§41, 173.1-173.3, and 174.

Regulatory Citation: 4 Pa. Code, Part XIII, Chapters 401 - 409.

JURISDICTION OF THE NAVIGATION COMMISSION

Since 1907, the *Commission* has been vested with the statutory power and authority to grant licenses to Pennsylvania pilots and regulate the services they provide. (55 P.S. § 1) The *Commission* has the power to promulgate regulations and the authority to impose penalties on licensees who do not follow the Navigation Act and the *Commission's* regulations. Updated in 2002, the regulations protect the public by enumerating the requirements for both licensed pilots and apprentices. The *Commission* also selects and recruits apprentices.

The Pilots' Association for the Bay and River Delaware (*Pilots' Association*), following the guidelines set forth in the *Commission's* regulations, trains and tests the apprentices, who then become licensed pilots. The regulations finalized in 2002 included many of the sound practices already utilized by the *Pilots' Association* to ensure that licensed pilots would continue their high level of training and professionalism. The regulations require an annual physical exam, random drug testing and continuing education in courses such as radar observation, bridge resource management, navigation and ship handling. By faithfully executing their duties, Pennsylvania's licensed pilots protect the health, safety and welfare of the public and also play an important role in commerce for the nation, including the Commonwealth. In 2013, the *Commission* proposed regulations that would require all Pennsylvania pilots to maintain an active federal first-class pilot's license. In 2014, these regulations were published in the *Pennsylvania Bulletin* and were then incorporated into the *Pennsylvania Code*, which resulted in the regulations having the force and effect of law.

Every foreign vessel and every vessel engaged in foreign commerce, traversing the Delaware River and its navigable tributaries, is required to use the services of a pilot licensed by either Pennsylvania or Delaware, with two exceptions: (1) vessels engaged in coastwise trade; or (2) vessels of less than 100 gross tons. (55 P.S. §§ 172 & 174) A Pennsylvania-licensed pilot has the required local knowledge of tides, currents, channel depths, shoals and other conditions that are needed to safely navigate a vessel on the Delaware River.

HISTORY OF THE NAVIGATION COMMISSION

The licensure and regulation of the pilots on the Delaware River has a long, distinguished and interesting history. Before the American Revolution, the King of England licensed pilots on the Delaware River. Since 1763, the Wardens of the Port of Philadelphia kept records of their revenue received and the expenditures they made in the course of carrying out their duties, which are now maintained at the Pennsylvania Historical and Museum Commission. In Pennsylvania, Public Law 542 of 1803 provided for a Board of Wardens of the Port of Philadelphia consisting of a Master Warden and six assistants. This act defined the powers of the Board to grant licenses to pilots, to make rules for their conduct, to decide disputes involving masters of vessels and ship owners, to direct the mooring of vessels and their loading and unloading, and to publish rules and regulations relating to these duties.

The Board of Commissioners of Navigation for the River Delaware was created in 1907 to assume those duties previously assigned to the Wardens for the Port, and the offices of the Harbor Master and Master Warden. Information from the pilot licenses available at the Pennsylvania Historical and Museum Commission provides the name of the applicant, the applicant's place of residence, age of applicant, place of birth, year in which the applicant was first licensed and the signature of the applicant.

In addition to licensure and regulation of pilots, the *Commission* was established and empowered by the Act of June 8, 1907 (P.L. 496, No. 332) to issue licenses for the construction, extension, alternation, improvement, and repair of wharves, piers, bulkheads, docks, slips and basins along the waterfronts of Bucks and Delaware Counties. Because first class cities were exempt from the Act of 1907, the City of Philadelphia had to create the Department of Docks, Wharves and Ferries, which later changed to the Department of Commerce in 1937. The authority to issue these licenses was repealed in 1982 by Reorganization Plan No.1 (71 P.S. Section 760-1.5), and the duties for regulating construction of waterfront activities fell under the jurisdiction of the Pennsylvania Department of Environmental Resources (Protection) through the *Dam Safety and Encroachments Act* of 1979 and the Chapter 105 Rules and Regulations promulgated thereunder relating to *Dam Safety and Waterways Management*.

In Public Law 1960 of 1937, the Navigation Commission for the Delaware River and Its Navigable Tributaries replaced the Board of Commissioners of Navigation for the Delaware River. Originally established in the Department of Forests and Waters, the *Commission* was transferred to the Department of Transportation in 1970, to the Department of Commerce in 1976, and since 1982, has resided in the Department of State, as enacted by Public Law 1482.

GEOGRAPHIC JURISDICTION OF THE COMMISSION

The geographic jurisdiction of the *Commission* is set forth in its regulations at 4 Pa. Code § 401.1 (relating to definitions) as listed below:

Navigable tributaries—Tidal portions of the navigable tributaries are defined as follows:

- (i) Schuylkill River below Fairmount Dam.
- (ii) Chester Creek below Ninth Street.
- (iii) Crum Creek below Route 291 (Industrial Highway) Bridge.
- (iv) Darby Creek below 84th Street.
- (v) Neshaminy Creek below Route 13 Bridge.
- (vi) Pennypack Creek below Frankford Avenue Bridge.
- (vii) Ridley Creek below Baltimore and Ohio Railroad Bridge in Chester.

River—Tidal portions of the Delaware River, from the Delaware border in the South to the Railroad Bridge at Morrisville in the North, and its navigable tributaries within this Commonwealth.

The Delaware River and Bay as well as its navigable tributaries, including the Chesapeake and Delaware Canal to the Maryland state line, falls under the geographic jurisdiction of the *Commission*. The nautical reference for the entrance of the Delaware Bay is described as: "The approaches to the Delaware Bay entrance, the Delaware Bay and River to the head of navigation at Trenton, New Jersey, including any tributary of the Delaware and the Chesapeake and Delaware Canal to the Maryland state line." See the attached map outlining points along the pilot route of the Delaware River.



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COMMISSION MEMBER INFORMATION

The *Commission* consists of nine members, four to be appointed by the Governor, with the advice and consent of the Senate; two of whom shall be appointed from among the residents of Delaware County; one of whom shall be appointed from among residents of Bucks County; and one of whom shall be appointed from among the residents of Philadelphia County; two to be appointed by the Mayor of the City of Philadelphia; one to be the Secretary of Environmental Protection who shall serve ex officio or the designee of secretary; one to be the Secretary of the Commonwealth who shall serve ex officio or the designee of the secretary and who shall be chairperson; and one of whom shall be the Director of Commerce of the City of Philadelphia who shall serve ex officio or the designee of the Director. (55 P.S. § 1) Furthermore, representatives of the United States Coast Guard and the Philadelphia Regional Port Authority serve as consultants to the *Commission*. The individual members of the *Commission* are listed on the Department's website at www.dos.pa.gov.

TRAINING OF PILOTS

An individual seeking to become a pilot must first become an apprentice. Pilot apprenticeships are open to every United States citizen who meets certain requirements. An applicant must have either a bachelor's degree from an accredited college, university or maritime academy; or a United States Coast Guard-issued license to serve as third mate on all oceans aboard vessels of at least 1,600 tons, or a higher class of license.

The *Commission* appoints a committee of its members to review all applications received for apprenticeship. This committee then interviews the most qualified candidates. Applicants are judged on relevant education and experience, physical fitness (based on a medical examination) and moral character. Prior maritime experience is desirable but not mandatory. A description of the duties of an apprentice and a pilot are available with each application form. A successful interview is one essential qualification for the position of apprentice. In the past, the committee has conducted telephone interviews with applicants in remote locations.

The Joint Pennsylvania/Delaware Apprentice Pilot Training Program, administered by the *Pilots' Association*, is mentally challenging and physically demanding. A committee of Pennsylvania and Delaware licensed pilots oversees the program. The full time program consists of a quarterly rotation of practical teaching and a regular schedule of seminars, testing and off-site training. Practical instruction is comprised of river trips, pilot launch duty and maritime tower duty. Apprentices are tested on selected curriculum topics on a quarterly basis. An apprentice who, at the time of appointment, possesses at least a third mate's license will serve a three-year apprenticeship; an apprentice who does not possess at least a third mate's license will serve a four-year apprenticeship. A four-year apprentice will complete approximately 800 trips on the Delaware River and Bay under the supervision of a state-licensed pilot while a three-year apprentice will complete approximately 650 trips. To complete the numerous program requirements within the allotted period, apprentice pilots are assigned to duty on the river observing and working with licensed pilots, to special shipboard duty with pilots in Philadelphia Harbor, to duty in the pilot launches and at the Delaware Vessel Traffic Information System tower. Additionally, apprentice pilots are responsible for obtaining federal pilotage for all routes

to be piloted in the Delaware Bay and River and Chesapeake and Delaware Canal prior to the end of the program. In addition to this practical instruction, upon satisfactory completion of the Training Program's requirements, apprentices must pass a written — or in selected cases an oral — examination to become a sixth-class pilot. This examination covers four topics: rules of the road, chart work, shiphandling, and anchoring and local knowledge.

Once individuals become licensed as sixth-class pilots, their training and experience must continue before they can attain a first-class license. To achieve this, they will serve for at least one year in each of five classes of licensure.

DUTIES OF PILOTS

A river pilot is the designated person who has been given the responsibility to be in charge of the movement of a vessel, while that vessel is within the inland waters of the United States of America. The pilot is one of the members of the "Bridge team" responsible for the safe navigation of a vessel while it transits the Delaware River and Bay. Pilots are licensed by the Commonwealth of Pennsylvania to protect the environment and the economy of the whole Delaware Valley Community. While navigating the river, a pilot is responsible for handling all communication for the vessel and keeping the vessel in safe navigation waters.

LICENSURE OF PILOTS

The *Commission* issues the following classes of pilot licenses based on the maximum draft of the vessel that may be piloted: sixth-class license, a maximum draft of 27 feet; fifth-class license, a maximum draft of 32 feet; fourth-class license, a maximum draft of 35 feet; third-class license, a maximum draft of 40 feet; second-class license, a maximum draft of 45 feet; and first-class license, unlimited draft. Therefore, as a pilot gains more experience, the pilot commands larger vessels. Pilot licenses expire on May 1st of each year, and the *Commission* mails renewal notices two months prior to the license expiration date.

ACCIDENT REPORTS

The rules of the *Commission* at 4 Pa. Code § 405.21(a) require the filing of a **written accident report** by a pilot involved in a marine accident while on duty **within 5 days** of the accident to the *Commission* if one of the following occurs:

- Actual physical damage to property in excess of \$1,500.
- Material damage affecting the seaworthiness or efficiency of a vessel.
- Stranding or grounding.
- Loss of Life.
- Injury causing a person to remain hospitalized in excess of 72 hours.

In addition to submitting a written report, the rules of the *Commission* at 4 Pa. Code § 405.21(b) require the filing of an accident **report by telephone** by a pilot involved in a marine accident while on duty **within 24 hours** of the accident to the *Commission* if one of the following occurs:

- Loss of life
- Collision or grounding
- Oil spill

An accident report, whether in writing or by telephone, must set forth the following as required by 4 Pa. Code § 405.12(c):

- Vessels and objects involved in the accident.
- Location, date and time of the accident.
- Weather and sea conditions when the accident occurred.
- Events and circumstances leading to the accident.
- Nature of the accident.
- Nature of loss or damage resulting from the accident.

PROCESSING INCIDENTS, ACCIDENTS AND COMPLAINTS

The Department of State's Professional Compliance Office (*PCO*) and the Prosecution Division of the Bureau of Professional and Occupational Affairs (*BPOA*) work together to process complaints related to the 29 boards and commissions that *BPOA* regulates. The *Commission* is one component of this regulatory scheme.

The *Commission* is the licensing and regulatory body in the Commonwealth having jurisdiction over the pilots who transit vessels over Pennsylvania waters of the Delaware Bay, the Delaware River, and its navigable tributaries between Marcus Hook and Bristol. (55 P.S. § 1.) The *Commission* exercises its powers and duties through the Department of State. (71 P.S. § 751-37.)

Complaints for the *Commission's* review are usually received in the form of an accident or incident report filed by the pilot. However, any person may file a complaint with the

Commission regarding misconduct, intoxication, sunken vessels, removal of vessels, casting of refuse, speed of vessels, and enforcement of regulations pertaining to wharfage and docks. (4 Pa. Code §§ 405.34 – 405.35, 407.11 – 407.14, and 409.11 – 409.16)

Receipt of a pilot accident or incident report or a complaint from another party would be cause to open a file and to commence an investigation of the incident. When a file is opened, the complaint is considered under investigation. Under section 708(b)(17) of the Pennsylvania Right to Know Law (*RTKL*) (65 P.S. § 67.708(b)(17)), there is an exception to a public record for records of an agency relating to a noncriminal investigation. Such cases may be closed if the original accident report or complaint, for example, clearly supports a decision that no incapacity, misconduct or negligence was involved.

If an investigation reveals a violation(s) that warrants the filing of formal charges, the pilot or other party (Respondent) will be provided with formal notice of the charges. The *Commission* can make a determination to hear the case or delegate the matter to a Hearing Examiner for a hearing. If the *Commission* decides to hear the case, it sits as the adjudicator to hear the facts and render a determination as to culpability and the degree of penalty to be assessed if a finding is made that the Respondent has violated the law or regulation(s).

Cases before the *Commission* may also be settled through a Consent Agreement and Order. Terms of a settlement are negotiated between the prosecutor for the Department and the Respondent. If a Consent Agreement is reached, the Respondent agrees to forego a hearing on the matter and abide by the *Commission's* Order. Terms of a Consent Agreement may include such items as the Respondent agreeing he had violated the law or regulations at some specific section(s), agreeing to some civil penalty, restricting the Respondent's license privileges, undergoing a suspension, undertaking remedial studies or training, participating in a rehabilitation program, functioning only under supervision for a period of time, etc. The approval of the Consent Agreement and Order would also mark the formal end of the disciplinary matter.

RESOURCES AND CONTACTS

Department of State
Navigation Commission for the Delaware River
and Its Navigable Tributaries
302 North Office Building
401 North Street
Harrisburg, PA 17120
Phone: 717-787-6458

Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063
Phone: 717-787-2814

Pennsylvania Emergency Management Agency (PEMA)
2605 Interstate Drive
Harrisburg, PA 17110-9364
Phone: 717-651-2007

Philadelphia Regional Port Authority
3460 North Delaware Avenue
Philadelphia, PA 19134
Phone: 215-426-2600

U.S. Coast Guard
Sector Delaware Bay
One Washington Avenue
Philadelphia, PA 19147
Phone: 215-271-4851

National Transportation Safety Board
Safety Board's Office of Public Affairs
490 L'Enfant Plaza, SW
Washington, DC 20594
202-314-6100

Pilots' Association for the Bay and River Delaware
800 South Columbus Boulevard
Philadelphia, PA 19147
Phone: 215-465-2856