

**CHAPTER 64**

**RULES OF THE NEW JERSEY MARITIME PILOT  
AND DOCKING PILOT COMMISSION**

**Authority**

N.J.S.A. 12:8-1 et seq.

**Source and Effective Date**

R.2004 d.361, effective August 26, 2004.  
See: 36 N.J.R. 2401(a), 36 N.J.R. 4305(a).

**Chapter Expiration Date**

Chapter 64, Rules of the New Jersey Maritime Pilot and Docking Pilot Commission, expires on August 26, 2009.

**Chapter Historical Note**

Chapter 61, Rules of the Board of Commissioners of Pilotage, was adopted as R.1993 d.212, effective May 17, 1993. See: 25 N.J.R. 625(a), 25 N.J.R. 2123(a).

Pursuant to Executive Order No. 66(1978), Chapter 61, Rules of the Board of Commissioners of Pilotage, was readopted as R.1998 d.244, effective April 22, 1998. See: 30 N.J.R. 764(a), 30 N.J.R. 1810(a).

Chapter 61, Rules of the Board of Commissioners of Pilotage, was repealed and Chapter 61, Rules of the Board of Commissioners of Pilotage, was adopted as new rules by R.1999 d.129, effective April 19, 1999. See: 31 N.J.R. 6(b), 31 N.J.R. 1084(b).

Chapter 61, Rules of the Board of Commissioners of Pilotage, was readopted as R.2004 d.361, effective August 26, 2004. See: Source and Effective Date.

Pursuant to P.L.2004, c.72, Chapter 61 of Title 7, Rules of the Board of Commissioners of Pilotage, was recodified as N.J.A.C. 16:64, effective September 17, 2004. See: 36 N.J.R. 4835(a).

Subchapter 8, Docking Pilots, was adopted as New Rules by R.2005 d.307, effective September 6, 2005. See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Subchapter 2, Pilot Apprenticeship, was renamed Maritime Pilot Apprenticeship, and Subchapter 9, Docking Pilot Apprenticeship Program, was adopted as new rules by R.2006 d.295, effective August 21, 2006. See: 38 N.J.R. 1402(a), 38 N.J.R. 3311(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

**16:64-1.1 Purpose and scope**

(a) It is the purpose of this chapter to provide for the better governance of pilots and pilot operations by the New Jersey Maritime Pilot and Docking Pilot Commission and to require that pilots and apprentices are qualified through high levels of training and experience. This will reduce the risk of accidents and marine disasters.

(b) This chapter shall apply to all foreign vessels and all United States vessels sailing under register.

(c) This chapter applies to all licensed pilots and registered apprentices regardless of their classification or grade. The President of the Pilots' Association shall provide a copy of this chapter to every licensed pilot and apprentice and receipt of this chapter shall be documented.

(d) The powers, duties, and functions vested in the Commission by statute or the provisions of this chapter shall not be construed to limit the powers, duties, and functions vested therein under any provision of law or regulation except as specifically set forth in this chapter.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Rewrote (a); in (d), substituted "Commission" for "Board" following "vested in the".

**16:64-1.2 Construction, severability, and waiver**

(a) This chapter shall be liberally construed to permit the Commission to discharge its statutory and regulatory obligations.

(b) If any subchapter, section, subsection, or any portion of this chapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation and the remainder of these rules shall not be affected thereby.

(c) The Commission may grant a waiver of the provisions of this chapter when it determines that not granting a waiver would be detrimental to the public safety, the safety of a pilot, an apprentice, other person, or to any vessel or other property. The Commission may grant a waiver through the issuance of an Order and the waiver shall be limited in scope and applicability to that particular circumstance.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

In (a) and (c), substituted "Commission" for "Board" throughout.

**16:64-1.3 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the statute governing pilotage at N.J.S.A. 12:8-1 et seq.

"Apprentice" means a person who is registered with the Commission pursuant to N.J.S.A. 12:8-10 and this chapter.

"Bar of Sandy Hook" means the built-up area under the waters between the northern most point of Sandy Hook extending generally northeastward to the south shore of Long Island caused by a deposit of sediment. The location of the Bar is not static.

"Commission" means the New Jersey Maritime Pilot and Docking Pilot Commission established by N.J.S.A. 12:8-1 et seq.

"Commission President" means the President of the New Jersey Maritime Pilot and Docking Pilot Commission.

"Commissioners" means the Commissioners of Pilotage appointed by the Governor pursuant to N.J.S.A. 12:8-1 et seq.

"Deputy pilot" means a pilot of the third, fourth, fifth and sixth grade.

"Docking pilot" means a person licensed by the Commission and entered in the Register maintained pursuant to N.J.S.A. 12:8-52.

"Full branch pilot" means a pilot of the first grade.

"Independent Pilot Association" means any association of pilots or docking pilots, other than the United New York and New Jersey Sandy Hook Pilots' Benevolent Associations, whose members are qualified to pilot vessels in pilotage waters.

"Limited branch pilot" means a pilot of the second grade.

"Occurrence" means any possible collision, allision, stranding, touching of bottom, power loss, steering loss, damage to or loss of property, personal injury, or discharge of a substance into the water.

"Order" means an order issued by the Commission in accordance with N.J.A.C. 16:64-6.3.

"Physician" means either a person who is the holder of a M.D. degree and is licensed as a physician or is the holder of a D.O. degree and is licensed as an osteopath.

"Pilot" or "licensed pilot" means a maritime pilot as defined in N.J.S.A. 12:8-1.2.

and may, at its discretion, condition the pilot's return to duty upon the completion of a specified number of observation trips over the routes the pilot will be piloting upon return to duty.

Amended by R.2005 d.307, effective September 6, 2005.  
See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

In (b) and (c), substituted "Commission" for "Board".  
Amended by R.2007 d.190, effective June 18, 2007.

See: 39 N.J.R. 622(a), 39 N.J.R. 2366(b).

In (c), substituted "30" for "90" and deleted ", with a copy to the Association," preceding "that".

### 16:64-5.6 Occurrences

(a) Any pilot or apprentice who witnesses an occurrence or who is aboard a vessel involved in an occurrence shall comply with (a)1 and 2 below. An occurrence includes any possible collision, allision, stranding, touching of bottom, power loss, steering loss, damage to or loss of property, personal injury, or discharge of a substance into the water.

1. Immediately after the occurrence, and as soon as the pilot's or apprentice's services are no longer needed, provide a report to the Commission President or designee; and

2. Within 72 hours, or one business day, whichever is longer, provide the Commission President or designee and the President of the Association or designee with a written report, in a form acceptable to the Commission, which provides a detailed description of the occurrence.

(b) Any pilot or apprentice who is involved in or witnesses an occurrence may be required to appear before the Commission.

(c) In addition, the Association, ship docking company or Independent Pilot Association, as appropriate shall promptly investigate any occurrence which occurs during the time a pilot licensed by the Commission was piloting a vessel involved in an occurrence and the occurrence results in one or more of the following:

1. Personal injury;
2. Property damage in excess of \$10,000;
3. A discharge of substance into the water;
4. Delay of the vessel;
5. A collision or allision; or
6. A grounding or touching of the bottom.

(d) After investigating an occurrence pursuant to (c) above, but not later than 30 calendar days after said occurrence, the Association shall, where relevant, obtain and deliver to the Commission copies of the following:

1. Witness statements;
2. Log books (rough and smooth);

3. Printouts from course recorders, depth-measuring devices, and engine orders;

4. Position plots;

5. Photographs; and

6. Soundings.

(e) The Association, in its activities in (c) and (d) above, shall not be required to provide the Commission with any opinions or conclusions of the Association or its investigators as to the culpability of a pilot licensed by this Commission.

(f) Any pilot who fails to make the verbal report or file the written report required by (a) above may be fined \$500.00 for each day the report is late. Any reports filed later than 10 days after the incident shall, in addition to this penalty, subject the pilot to further disciplinary action pursuant to N.J.A.C. 16:64-6. Fines shall be doubled in the event of a second offence.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted "Commission" for "Board" throughout section.

Amended by R.2006 d.295, effective August 21, 2006.

See: 38 N.J.R. 1402(a), 38 N.J.R. 3311(a).

Rewrote (a)1; in (a)2, inserted "or one business day, whichever is longer,"; and in the introductory paragraph of (c), substituted "was piloting" for "is on board".

Amended by R.2007 d.190, effective June 18, 2007.

See: 39 N.J.R. 622(a), 39 N.J.R. 2366(b).

Rewrote the introductory paragraph of (a); in the introductory paragraph of (c), inserted ", ship docking company or Independent Pilot Association, as appropriate"; and added (f).

## SUBCHAPTER 6. PENALTIES, ORDERS, AND HEARINGS

### 16:64-6.1 Scope

This subchapter sets forth the Commission's procedures for the issuance of penalties and orders, and the conduct of hearings.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted "Commission's" for "Board's".

### 16:64-6.2 Investigations and penalties

(a) The Commission or a designated Commissioner(s) may conduct an investigation of any occurrence or any matter where there is a potential violation of this chapter or the Act.

(b) The Commission may impose any of the penalties set forth in the Act, N.J.S.A. 12:8-1 et seq., or in this chapter.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

In (a) and (b), substituted "Commission" for "Board".

**16:64-6.3 Orders of the Commission**

(a) The Commission may issue Orders to implement the Act or this chapter, or to ensure the better government of pilots. Orders may include, but are not limited to:

1. The requirement to appear at a meeting of the Commission;
2. The requirement to appear before the Commission at a show cause hearing conducted pursuant to N.J.A.C. 16:64-6.5;
3. The requirement to cease a specified activity or take a specified action;
4. The requirement to submit an oral statement or written report;
5. The requirement to provide written documents, log books, photographs, data, recorded material, or other objects; and
6. The requirement to immediately cease engagement in pilotage operations pursuant to N.J.A.C. 16:64-6.4(b).

(b) Any Order issued by the Commission shall be delivered to the person named in the Order by personal service or by certified mail return receipt requested to the person's usual place of abode as it appears in the records of the Commission. The Order shall specify the time and place for compliance with the Order.

Amended by R.2005 d.307, effective September 6, 2005.  
See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

In the rule heading and in (a) and (b), substituted "Commission" for "Board".

**16:64-6.4 Suspension, limitation, or revocation of a license**

(a) The Commission may suspend, limit, or revoke the license and/or the branch of a pilot for any one of the following grounds:

1. The pilot has violated N.J.S.A. 12:8-1 et seq., this chapter, or any Order issued by the Commission;
2. The pilot has negligently lost any vessel under his or her care;
3. The pilot has a mental or physical condition that precludes proper piloting;
4. The pilot has failed to comply with the Rules of the Road;
5. The pilot has failed to comply with the United States Coast Guard Vessel Traffic Service Regulations or directives;
6. The pilot meets any of the grounds in N.J.A.C. 16:64-7.3 or 7.15; or

7. The pilot has failed to perform his or her piloting duties as a prudent pilot would under the prevailing circumstances.

(b) Where the Commission deems it necessary, it may issue an Order immediately prohibiting the pilot from engaging in pilotage operations. Such an Order shall include the Commission's grounds for its action and shall provide the pilot with an opportunity to appear at an adjudicatory hearing, in accordance with N.J.A.C. 16:64-6.6, within a reasonable time of the date of the Order.

(c) Before a pilot's license is limited, suspended, or revoked, unless it is done so pursuant to (b) above, the Commission shall issue an Order of limitation, suspension or revocation which includes the Commission's grounds for the action, the effective date of the action, and an opportunity for the pilot to request an adjudicatory hearing, pursuant to N.J.A.C. 16:64-6.6.

(d) After a branch or license is limited, suspended or revoked, the Commission may request that the pilot surrender the license. Should the pilot fail to surrender the license, the Commission shall publish a newspaper notice that states that the person no longer has the right to act as a pilot until reinstated by Order of the Commission.

Amended by R.2005 d.307, effective September 6, 2005.  
See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted "Commission" for "Board" throughout section; in (b) and (c), substituted "Commission's" for "Board's".

**16:64-6.5 Show cause hearing**

(a) The Commission may issue an Order, in the form of a written notice, to appear before the Commission or a designated Commissioner(s) at a show cause hearing.

(b) The written notice will include the following information:

1. The date, time and place where the person is required to appear;
2. To the extent it is appropriate, the Commission's grounds for its proposed action; and
3. Where appropriate, that the person has the right to show cause why the Commission's proposed action should not be taken.

(c) The written notice shall, at least 15 days before the show cause hearing, be delivered to the person:

1. By personal service; or
2. By certified mail return receipt requested to the person's usual place of abode as it appears in the records of the Commission.

(d) A show cause hearing shall be conducted as follows:

1. The Commission President, or the designated Commissioner(s), may administer an oath and the Commission or the designated Commissioner(s) may examine any person;

2. The show cause hearing shall be an informal hearing and shall not be conducted in accordance with the adjudicatory hearing procedures set forth in N.J.A.C. 1:1. However, any person appearing at the show cause hearing shall have the right to testify, produce evidence and/or witnesses, bring an attorney or other representative approved by the Commission under New Jersey Court Rule R. 1:21-1(e), and cross-examine any witnesses.

(e) The Commission or designated Commissioner(s) shall give due consideration of the issues presented and may issue an Order regarding the matter. The Order shall specify the time frame for compliance with the Order.

Amended by R.2005 d.307, effective September 6, 2005.  
See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted "Commission" for "Board" throughout section; in (b), substituted "Commission's" for "Board's" throughout.

#### 16:64-6.6 Adjudicatory hearings

(a) Any person authorized to request an adjudicatory hearing in this chapter may request a hearing by written notice to the Commission. The notice shall be postmarked no later than 30 calendar days after the receipt of the Commission's action. The request for a hearing shall include:

1. The date the Commission's action was received; and
2. A detailed statement of which factual findings or legal conclusions in the Commission's action are being challenged and the basis for the challenged issues.

(b) The Commission shall determine if the matter constitutes a contested case as defined in N.J.S.A. 52:14B-1 et seq.

(c) Where the Commission determined that the matter constitutes a contested case, an adjudicatory hearing shall be conducted before the Commission or, if the Commission so directs, the matter shall be referred to the Office of Administrative Law for a hearing to be conducted in accordance with N.J.A.C. 1:1. Where the Commission determines that the

matter does not constitute a contested case, the Commission's action shall be deemed final agency action.

(d) Where the Commission conducts an adjudicatory hearing, the following process shall be used:

1. The hearing shall be conducted in accordance with the hearing procedures set forth in N.J.A.C. 1:1; and

2. After reviewing the issues presented, the Commission shall issue a Final Decision in accordance with N.J.S.A. 52:14B-1 et seq.

(e) If the Office of Administrative Law conducts the adjudicatory hearing, the Commission shall issue a Final Decision adopting, rejecting, or modifying the Initial Decision in accordance with N.J.S.A. 52:14B-1 et seq.

Amended by R.2005 d.307, effective September 6, 2005.

See: 37 N.J.R. 1685(a), 37 N.J.R. 3446(b).

Substituted "Commission" for "Board" throughout section; in (a) and (c), substituted "Commission's" for "Board's" throughout.

### SUBCHAPTER 7. DRUG FREE WORKSHOP PROGRAM

#### 16:64-7.1 Scope

(a) The purpose of this subchapter is to maintain a drug and alcohol-free workplace. This subchapter prohibits the use or possession of dangerous drugs by a licensed pilot or registered apprentice whether on duty, subject to being called on duty, or off duty.

(b) This subchapter also prohibits the use of alcohol by a licensed pilot or registered apprentice whether on duty or subject to being called on duty, or during an eight-hour period prior to being on duty or subject to being called on duty.

#### 16:64-7.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise: