

17 DEPARTMENT OF TRANSPORTATION

387 MAINE PILOTAGE COMMISSION

Chapter 1: RULES AND REGULATIONS

SUMMARY: These Rules outline requirements for licensing, operations and safety, complaints, investigations, and discipline, and other general provisions.

DEFINITIONS

The following terms when used in these regulations shall be deemed to mean and include:

Administrator. The individual designated by the Commissioner of Transportation to provide coordination of administrative support for the Commission and/or the Complaint Officer.

Chair. The Chair of the Commission who shall be elected by the members of the Commission at their first meeting of each calendar year.

Commission. The Maine Pilotage Commission. In the case of reports or notifications to the Commission, it shall be interpreted as having been delivered to the Commission if provided to the Commission Administrator.

Complaint Officer. A member of the Commission designated by the Commission to assist the Commission in carrying out the investigative and disciplinary functions set forth in these regulations. The Complaint Officer may use the Commission Administrator and other Department personnel to assist in discharging these duties.

Department. The State of Maine Department of Transportation.

Incompetence. Incompetence means the licensee has: (1) engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or the general public; or (2) engaged in conduct which evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which licensed.

Initial License. The license or endorsement considered to be the first for the geographic area under consideration to be distinguished from the renewal of licenses.

Low Volume Area: An area covered under the Maine Pilotage Commission Rules that requires pilotage but receives less compulsory pilotage vessel traffic than the defined minimum number of Training Trips per Maine Pilotage Commission Rule 17-387 Chapter 1 Part A.2 (Training Trips) counted on a rolling average over 5 years.

Misconduct. Misconduct is human behavior which violates some commonly accepted rule. Such rules are found in, among other places, statutes, regulations, the common law, the general maritime law, a ship's regulation or order, or shipping articles and similar sources. It is an act which is forbidden or a failure to do that which is required.

Negligence. Negligence is the commission of an act which a reasonable and prudent person of the same station, under the same circumstances, would not commit, or the failure to perform an act which a reasonable and prudent person of the same station, under the same circumstances, would not fail to perform.

Pilot Stations. The location(s) where a pilot makes a rendezvous, for the purpose of boarding or leaving a vessel that requires pilot services.

Pilotage Areas. Specific areas of the Maine coast where the Commission has established licensing requirements.

Reduced Visibility. Conditions that substantially reduce visibility during the majority of a transit including fog or storms.

Training Trips. Those trips made by an applicant acting for the purposes of gaining local knowledge and experience in ship handling within specific waters under the jurisdiction of the Commission.

Recency. Training Trips and/or trips required to be undertaken by a licensed pilot in order to maintain a license.

Tug and Barge. A Tug and Barge is considered to be a single vessel for purposes of determining tonnage and accounting for Recency and Training Trips.

Pilotage Duties. When directing the movement of vessels entering or departing from any port or harbor pursuant to 38 M.R.S. §§ 85 *et seq* and these Rules, the responsibilities of a pilot licensed by the Commission include the maneuvering of such vessels during docking, undocking or changing berths, and while anchoring, mooring or unmooring at any offshore platform or buoy.

PART A. LICENSING REQUIREMENTS

1. Requirements for Initial Licensing

To apply for a license, an applicant for any pilotage area:

- a. Must appear before the Commission to make initial application for a license. At this appearance the sponsoring pilot or pilot organization will also appear and justify, to the satisfaction of the Commission, the need for additional pilots for the specific area. This appearance shall occur prior to initiating any Training Trips for the State license. The Commission may, at its sole discretion, accept trips previously made under the supervision of a pilot licensed by this Commission for the specific area. These trips must have been made within a five year period immediately previous to the date of the appearance before the Commission and must be sufficiently documented to show compliance with the requirements outlined in Section 2.A. of these rules. In the public interest of having qualified pilots on all bodies of water within its jurisdiction, the Commission reserves the right to waive the five-year period if insufficient traffic limits the ability of an applicant to meet these guidelines. The applicant must have, in the opinion of the Commission, significant and sufficient alternative experience that would warrant the public's interest being served.

- b. Submit a complete and accurate application form given under oath.

Prior to the granting of a license, the applicant must:

- c. Submit proof of current federal license of at least a Master of 1600 Gross Tons with a first class pilot endorsement for the region for which application is being made. Such proof shall be a copy of the license showing the license number, expiration date, and all current endorsements. In those areas where no federal endorsement is available, the Commission may set additional standards for a State license.
- d. Submit proof of Training Trips complying with Section 2.
- e. Submit proof of physical examination and eye examination complying with Section 3.
- f. Submit proof of U.S. Citizenship and State of Maine residency.
- g. Pay all required fees as established by 38 M.R.S. §93.
- h. Submit to a background investigation by the Maine State Police.
- i. Submit two (2) letters of recommendation/character reference from maritime individuals familiar with the applicant but not employed by the sponsoring pilot group.
- j. Appear before the Commission to review their qualifications.
- k. Achieve a score of 90% or better on a written examination on the applicant's knowledge of the local area, which will be given after all other requirements above have been met.
- l. Pass a pre-application drug test or provide proof of enrollment in a federally approved drug testing program.
- m. Submit proof of current radar observer certification.
- n. Submit proof of ARPA (Automatic Radar Plotting Aids) certification.
- o. Submit proof of Bridge Resource Management for Pilots certification.
- p. Submit proof of Electronic Chart Display Information System for Pilots certification. Pilots may alternatively satisfy this requirement by completing an ECDIS course meeting the requirements of the International Standards of Training Certification and Watchkeeping Convention.

The Commission requires the sponsor to provide an update on each applicant at least annually, with reports due to the Commission by January 15th for the preceding calendar year. The Commission may revoke an application if progress is not apparent, or justification for continuing the application is not provided by the sponsor.

2. **Training Trips**

Training Trips must consist of round trips on vessels of tonnage, as established by the Commission, by these regulations and should include trips made in all weather and seasonal conditions anticipated for the Pilotage Area. Additionally, twenty-five percent (25%) of trips shall be made during the hours of darkness where practicable. Such proof shall be a trip sheet showing for each round trip, the date, geographic point of the beginning and ending of the route, time at the beginning and end of the route, the name and gross tonnage of the vessel, the name and signature of the pilot, licensed by this Commission for that area, who was supervising the trip, a brief description from the supervising pilot of the activities of the applicant, and general weather conditions.

- a. **Kennebec River.** 12 Round Trips on vessels of at least 1600 gross tons.
- b. **Sheepscot River.** 12 Round Trips on vessels of at least 1600 gross tons and license certification by the Maine Pilotage Commission in at least one other area. Pilotage in this area is restricted to Daytime Only.
- c. **Boothbay Harbor.** 12 Round Trips on vessels of at least 1600 gross tons and license certification by the Maine Pilotage Commission in at least one other area.
- d. **Penobscot Bay.** 30 Round Trips on vessels of at least 1600 gross tons, except that at least fifty percent (50%) of the trips must be on vessels of at least 5000 gross tons, with a minimum of 12 trips from each approach.
- e. **Penobscot River (Fort Point to Bucksport).** 20 Round Trips on vessels of at least 1600 gross tons, except that fifty percent (50%) of the trips must be on vessels of at least 3000 gross tons.
- f. **Penobscot River (Bucksport to Bangor).** 18 Round Trips on vessels of at least 1600 gross tons.
- g. **Blue Hill Bay.** 6 Round Trips on vessels of at least 1600 gross tons, and the applicant must possess a current license for Frenchman Bay. Pilotage in this area is restricted to Daytime Only.
- h. **Eastern Way/Sommes Sound.** 6 Round Trips on vessels of at least 1600 gross tons, and the applicant must possess a current license for Frenchman Bay. Pilotage in this area is restricted to Daytime Only.
- i. **Frenchman Bay.** 20 Round Trips on vessels of at least 1600 gross tons, except that fifty percent (50%) of the trips must be on vessels of at least 10,000 gross tons.
- j. **Eastport Area (Passamaquoddy Bay, Cobscook Bay, Friar Roads, Head Harbor Passage).** 20 Round Trips on vessels of at least 1600 gross tons, except that that fifty percent (50%) of the trips must be on vessels of at least 5000 gross tons.

- k. **Other Areas.** In areas not listed above, the Commission may establish provisional licensing requirements for pilots currently licensed for other areas within the specific coastal zone. Such requirements must be in writing and may be different from the initial requirements set forth above in this Section 2 in order to protect the public by developing an adequate initial pool of qualified professionals. These provisional requirements will remain in place until the Commission promulgates rules.
- l. **Traffic Variations.** The Commission reserves its right under 38 M.R.S. §91 to vary the number of Training Trips required for an initial license in any given area based on changes in traffic levels within that area. Such action by the Commission must be in consultation with those pilots licensed for the area and noticed on at least two regular meeting agendas with opportunity for the public to comment on the changes during each meeting. Changes to Training Trip requirements in any area will not be made more than once in any given three-year period.
- m. **Low Volume Areas.** The Maine Pilotage Commission has designated the following waters as Low Volume Areas: Sheepscot River, Boothbay Harbor, Penobscot River (Bucksport to Bangor), Blue Hill Bay, Eastern Way/Somes Sound.
- (1) For Initial License in Low Volume Areas:
- The pilot must hold a license certification by the Maine Pilotage Commission in at least one other area governed by the Commission;
 - The pilot must appear before the Maine Pilotage Commission to review applicable qualifications;
 - The pilot must complete a license application and pay licensure fees for an added route endorsement per 38 M.R.S. §93;
 - The pilot must complete at least 12 round trips, except for the Penobscot River (Bucksport to Bangor to the Route 1A Bridge) which requires 18 round trips and Blue Hill Bay, Eastern Way/Somes Sound which require 6 round trips each. 25% of the required Training Trips must be completed during hours of darkness (although a daytime restriction may be issued if adequate Training Trips are not completed during hours of darkness); and
 - The pilot must complete a comprehensive local area written examination upon the conclusion of pilotage training as proctored by the Administrator or a member of the Maine Pilotage Commission. The passing score must be at least 90%.
 - Vessels below 1,600 gross tons may be used for initial Training Trips and Initial License as well as Recency.
- (2) Pilotage waters cease to be Low Volume Areas when the number of ships requiring compulsory pilotage increase to at least the route's defined

minimum number of Training Trips per Maine Pilotage Commission Rule 17-387 Chapter 1 Part A.2 (Training Trips) counted on a rolling average over 5 years. When the volume of vessels meeting the compulsory gross tonnage and draft thresholds achieves the frequency required for the normal Initial License requirements per Maine Pilotage Commission Rule 17-387 Chapter 1 Part A.2 (Training Trips), then paragraph 2m of this rule shall not apply.

3. Physical Examination and Eye Examination

Each applicant for a pilot license or renewal, issued by the Commission shall undergo a physical examination and an eye examination by a qualified physician taken within 30 days of filing their application or within 120 days of filing their renewal. Licensed pilots are also required to submit annual physical and eye examinations to the Commission. A valid Coast Guard Medical Certificate (Form CG-4616A) may be submitted as proof of compliance.

4. Requirements for Maintaining a License and License Renewals

- a. For maintaining a license, licensees are required to comply with Recency as defined below.
 - (1) Recency shall consist of round trips on vessels of tonnage, as established by the Commission. Proof of such round trips shall be, for each Pilotage area, a completed form approved by the Commission showing, the name of the pilot licensed by the Commission, vessel name, gross tonnage, official Number, Inbound Date and Outbound date. The specified number of trips to maintain Recency shall annually be 10% of the number of trips, respective of tonnage requirements, as established for licensing in Subsections 2a - 2k, rounded to the next highest full number, and generally complying with the guidelines set forth in Section 2.
 - (2) An individual license holder may make application to the Commission for consideration of comparable alternative criteria to meet Recency standards as outlined above.
 - (3) All pilots will notify the Commission on the approved forms of their Recency status on an annual basis by submitting the completed form to the Commission by January 15th for the preceding calendar year. The first such report shall be due January 15, 2002.
- b. To renew a license, licensees must submit:
 - (1) Proof of current federal license with a first class pilot endorsement for the region for which application for re-licensing is being made. Such proof shall be a copy of the current federal license showing the license number, expiration date, and all current endorsements.
 - (2) Proof of current physical and eye examination as stated in Section 3.
 - (3) Proof of enrollment in a federally approved drug testing program.

- (4) Current RADAR observer recertification.
 - (5) Current ARPA (Automatic Radar Plotting Aids) certification.
 - (6) Proof of Recency as stated in this Section.
 - (7) Pay all required fees as established by 38 M.R.S. §93.
 - (8) Submit proof of Electronic Chart Display Information System for Pilots certification. Pilots may alternatively satisfy this requirement by completing an ECDIS course meeting the requirements of the International Standards of Training Certification and Watchkeeping Convention.
- c. For all renewals requested after January 1, 2003, proof of continuing education consisting of a minimum of 40 hours during the previous five years. The Commission will develop a list of acceptable courses and will review the listing on a biannual basis. The Commission also reserves the right to approve other curriculum and courses on an individual basis.
- d. **Grace Period.** From the date of expiration of a Maine Pilotage license, there exists a ninety day grace period within which the license may be renewed without re-examination, but all other requirements will still apply. After the grace period, any application for renewal will be subject to the criteria established for an Initial License set forth in Sections 1 and 2. However, a pilot may begin the application process up to one year in advance of the expiration date of a State license.

5. **Oath**

Before entering upon their duties as such, all pilots accepted by the Commission and licensed shall subscribe to the following oath before a Notary Public:

"I do solemnly swear [or affirm] that I will uphold the Constitution of the United States and the Constitution of the State of Maine, and that I will obey the laws of the United States and the State of Maine and the lawful regulations of the Maine Pilotage Commission, and that I will perform my duties as a licensed pilot to the best of my ability and in the best interest of the State."

PART B. OPERATIONAL & SAFETY REQUIREMENTS

1. **Pilot Stations**

The list below provides a number of locations which the Commission considers appropriate to rendezvous for vessels and pilots. This list is not comprehensive, but it provides examples of appropriate rendezvous locations. Pilots choosing to board or leave a vessel at other locations must only choose locations which will allow the vessel to proceed at least as safely as if the pilot boarded or left the vessel at the listed Pilot Stations considering all the conditions then existing.

a. **For Searsport, Bucksport and Penobscot River**

- (1) At Manana Whistle buoy "14 M" off Monhegan Island.
- (2) Three (3) miles east of lighted whistle buoy "WP".
- (3) Mosquito Island at the MP buoy.

b. **For Kennebec River - White Ledge lighted bell buoy**

c. **For Bar Harbor and Frenchman Bay**

- (1) One mile South or Southeast of the "FB" (Racon) Buoy.
- (2) At any point along the Frenchman Bay recommended route seaward of the above listed location.

d. **For Eastport** - 1.5 nautical miles east of East Quoddy Head Light.

e. **For Boothbay Harbor** – 1 nautical mile south of the Cuckolds Light.

f. **For Sheepscot River** – At the 2SR buoy

Regardless of where a pilot boards a vessel, it is strongly recommended that pilot be in direct contact with any vessel to which they are providing piloting services prior to that vessel entering waters under the jurisdiction of this Commission.

2. **No Pilot Boat Maintained on Station**

In all cases, 24 and 12 hour Estimated Time of Arrival (ETA) are to be given, at which time the individual pilot or pilot association will confirm through the vessel's agent, Captain, Mate, or dispatcher at which station the pilot will board. Accurate ETA's are required as no pilot boats are kept on station.

3. **Pilot Boat Signals**

Any vessel transporting a pilot to/from a rendezvous with a vessel requiring pilotage shall display the proper pilot boat signals in accordance with international COLREGS.

4. **Pilot on Board**

Whenever a pilot is aboard any vessel in a piloting capacity, the pilot shall assure that the International code flag "Hotel" is displayed from the vessel by day. The master of the vessel and the pilot shall exchange information in a timely fashion regarding navigation procedures, local conditions and the ship's characteristics. The master and/or the officer-in-charge of the navigational watch shall co-operate closely with the pilot and maintain an accurate check on the ship's position and movement while operating in bodies of water under the jurisdiction of the Commission.

5. **Navigational Aids**

Whenever pilots observe any navigational aid out of position or operating improperly, it shall be their duty to report the same to the U.S. or Canadian Coast Guard as soon as practical to do so.

6. **Boarding Safety**

A pilot shall have no duty to board or leave a vessel unless the vessel maintains the speed required by the pilot boat operator and there exists a suitable lee and ladder conforming to the current International Maritime Organization (IMO) Standards for pilot ladder safety. The ladder shall be in good condition, properly placed, secured and illuminated to enable the pilot to board and leave the vessel safely.

7. **Reporting Requirements**

a. **Illness or Injury to Pilot**

Pilots who shall suffer illness or injury causing them to be unable to perform their duty for a period of 30 days or more shall notify the Commission to this effect. They shall further notify the Commission as to the date when they expect to be able to resume duty. The Commission may require a physical examination of the pilot before their return to duty status.

b. **Injury to Pilot Sustained in Boarding or Leaving a Ship or while Aboard a Ship being Piloted**

Any pilot who sustains injury in the process of boarding or leaving a ship, falls overboard, or is injured aboard a ship while performing their duty, shall report to the Commission concerning all particulars of the accident within 24 hours, and submit a written report within five calendar days. A duplicate of this report shall also be submitted to the Master or Agents of the ship involved.

c. **Vessel Going Aground or Other Marine Casualty**

In the event of a vessel going aground or meeting with a certain marine casualty as defined below while a pilot is directing the navigation of a vessel, the pilot shall report all circumstances attending the grounding or other accident to the Commission immediately after addressing resultant safety concerns, specifying the location and exact time of such grounding or accident and the nature thereof, and file a written report within five calendar days to the Commission. Such reportable incidents include:

- An unintended grounding, or an unintended strike of (allison with) a bridge;
- An intended grounding, or an intended strike of a bridge, that creates a hazard to navigation, the environment, or the safety of a vessel;

- An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route;
- An occurrence causing property-damage in excess of \$25,000, this damage including the cost of labor and material to restore the property to its condition before the occurrence, but not including the cost of salvage, cleaning, gas-freeing, drydocking, or demurrage.

(1) **Drug and Alcohol Testing Requirement**

If the Complaint Officer deems necessary, the pilot and/or the pilot's employer will be required to submit a copy of the results of a U.S. Coast Guard-requested drug and alcohol test. Such a test shall be conducted by a Federally-approved testing agency and the results will be made available to the Commission within 5 business days of receiving the test results.

If any pilot refuses to submit to, or cooperate in, the administration of a timely chemical test, when directed by the Complaint Officer or a law enforcement officer or by the marine employer, this fact shall be noted and shall be admissible as evidence in any administrative proceeding.

(2) **Meeting With Commission**

If the Commission or Complaint Officer deems necessary, the pilot will be required to meet with a representative of the Commission within 36 hours of such a marine casualty.

d. **Motor Vehicle License Suspension or Revocation**

Any pilot licensed by this Commission must report, in writing and within 5 days, to the Commission the details of any charges filed against the pilot that may lead to suspension or revocation of a motor vehicle license, including, but not limited to, operating a motor vehicle under the influence of alcohol or narcotics.

e. **Federal License Suspension or Revocation**

Any pilot licensed by this Commission must report to the Commission the details of any complaint filed against the pilot, in writing and within 5 days of receipt of such complaint. Said pilot must surrender the state license immediately upon notification of the suspension or revocation of the federal license.

8. **Trip Log Slip**

Each pilot shall keep and maintain a trip log slip for each transit of a vessel piloted. This slip shall include the following information: the date, general weather conditions, name of the vessel, name of the pilot, time and point of boarding or departing the pilot station, the vessel's dimensions and tonnages, draft of vessel during transit, and the time when passing prominent aids to navigation along the route. Each transit shall have its own log slip. The Commission may call for these slips for review. Trip slips shall be maintained and accessible for five (5) years.

9 **Development of Best Management Practices**

The Commission may adopt Best Management Practices (BMP) for each Pilotage Area. These BMP's will identify the key concerns of pilotage within each area and provide a set of parameters under which vessels can be safely brought into an area.

PART C. COMPLAINTS, INVESTIGATIONS & DISCIPLINARY ACTION

1. **Purpose**

The provisions of this Subsection are remedial in nature. Said provisions are intended to assist in maintaining standards for competence and conduct which are essential to provide maximum safety from the dangers of navigation for vessels entering or leaving the waters regulated by the Commission. Said provisions are not penal in nature and are not intended to be used by pilots in order to gain an unfair competitive advantage.

2. **Grounds for Disciplinary Action**

The following shall constitute grounds for disciplinary action.

- a. Any violation of the provisions of 35 M.R.S. §§ 85 *et seq.*
- b. Any violation of these rules and regulations including all laws, rules and regulations incorporated by reference herein.
- c. Misconduct, Incompetence or Negligence in the performance of any Pilotage Duties.
- d. Habitual intemperance in the use of alcohol or use of narcotic or hypnotic or other substances so as to be unfit to be entrusted with the charge of a vessel;
- e. Mental or physical incapacity so as to be unfit to carry on the Pilotage Duties.
- f. Providing materially false or misleading statements or omissions relating to any matter regulated by the Commission.

3. **Complaints**

Complaints shall be submitted to the Commission in writing, dated and signed. The Commission may also initiate investigations on its own motion.

The complaint must include the following.

- a. The specific grounds for the complaint as set forth in Section 18 above.
- b. The specific facts constituting the alleged act or offense.
- c. The reason(s) for making the complaint.

The Commission will forward a copy of the complaint to the pilot(s) that are the subject of the complaint ("respondent(s)") within 10 days of receipt.

4. **Investigation**

- a. **Determination to Investigate.** The Commission, through its Complaint Officer, will determine whether the complaint, if accepted as true, is a matter within its jurisdiction and warrants investigation. If the Complaint Officer determines an investigation is not warranted, the Complaint Officer will make a recommendation not to investigate and to dismiss the complaint. Such recommendation must include the reason(s) therefor. The Commission will consider such recommendation and determine whether or not to investigate.
- b. **Initial Investigation.** If the Complaint Officer or the Commission determines that an investigation is warranted, the Complaint Officer will conduct an initial investigation sufficient to determine whether there exist reasonable grounds to support a formal hearing. Such investigation shall include an opportunity of the subject pilot(s) to respond to the complaint.

During such initial investigation, the Complaint Officer may negotiate, but not execute, consent agreements that effectively address the issues raised in the complaint through such measures as voluntary surrender of a license or endorsements, operational changes, equipment changes, and additional education and training.

- c. **Complaint Officer's Recommendation.** Upon conclusion of the initial investigation, the Complaint Officer will recommend to the full Commission that it: (1) dismiss the complaint because there are no reasonable grounds for the complaint, (2) execute a consent agreement, (3) proceed on the complaint and to schedule a hearing on the matter, or (4) take such other affirmative action as will effectively address the issues raised in the complaint.

The Commission will consider such recommendation and determine how to proceed. If the decision is to proceed to hearing, at this time, and not before, a complaint number will be assigned, a hearing will be scheduled, and the matter will be placed on a Commission agenda.

- d. **Continuing Investigation.** At any time before any decision is rendered by the Commission on the complaint, the Commission may conduct such additional investigation as is necessary or convenient to fully evaluate the matter.
- e. **Subpoenas.** The Commission may issue subpoenas to compel the attendance and testimony of witnesses and the production of evidence relating to any material issue in accordance with *Maine Administrative Procedure Act*, 5 M.R.S. §9060.

5. **Hearing**

The respondent(s) shall be provided at least 30 days written notice of the hearing as provided by *Maine Administrative Procedure Act*, 5 M.R.S. §§ 9051 *et seq.* The notice shall specify the nature and substance of such complaint and shall be served personally or by certified mail addressed to such pilot at his last and usual place of abode.

All hearings shall be adjudicatory proceedings held in accordance with the *Maine Administrative Procedure Act*, 5 M.R.S. §§ 9051 *et seq.*

6. **Confidentiality Pending Investigation**

- a. During the pendency of an investigation, all complaints and investigative records of the Commission shall be confidential. The Commission and all pilot complainants shall not knowingly disclose or cause to be disclosed any information contained in or relating to the subject matter of the complaint to any person except the members of the Commission or the Commission Administrator. Those records shall become public records upon the conclusion of the investigation unless confidentiality is required by some other provision of law.

For purposes of this Section, an investigation is concluded when:

- (1) A notice of an adjudicatory hearing under 5 M.R.S. §§ 9051 *et seq.* has been issued;
- (2) The complaint has been listed on a meeting agenda of the Commission;
- (3) A consent agreement has been executed; or
- (4) A letter of dismissal has been issued or the investigation has otherwise been closed.

- b. **Exceptions.** Notwithstanding Subsection 22(a) above, during the pendency of an investigation, a complaint or investigative record may be disclosed for any of the reasons contained in 38 M.R.S. §100-A(2).

- c. **Violation.** Any person who knowingly or intentionally makes a disclosure in violation of this Section commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

7. **Decision**

After hearing, the Commission may take any action allowed by law that is necessary to address the issues raised in the complaint including requiring additional education, training, experience, and/or suspension or revocation of licenses. Such decision shall be written and otherwise in compliance with *Maine Administrative Procedure Act*, 5 M.R.S. §§ 9051 *et seq.* The decision shall be the final agency action of the Commission.

8. **Appeal**

In order to appeal, any person aggrieved by a decision of the Commission with respect to any disciplinary action or any application for, or denial of, a pilot's license must appeal to the Superior Court, Kennebec County, in accordance with the *Maine Administrative Procedure Act* and Rule 80C of the *Maine Rules of Civil Procedure*.

PART D. GENERAL PROVISIONS

1. Access to Records

All records of all pilotage associations as well as any individual pilot shall be made available to the Commission upon written request. Such requests shall indicate the reason(s) why the records are sought. An individual pilot or pilot association shall comply with this request within fourteen (14) days.

2. Requirements of Other Government Agencies

All persons subject to these rules shall be responsible to the Commission for complying with all applicable state and federal laws, rules, and regulations.

STATUTORY AUTHORITY:

38 MRS §90

EFFECTIVE DATE:

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