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**Report on  
Pilotage Rate Setting  
Processes  
in the  
United States**

**March 7, 2020**

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# US PILOTAGE RATE-SETTING

## EXECUTIVE SUMMARY

All 24 coastal states have a pilotage regulatory program. This generally includes a requirement that all vessels engaged in foreign trade employ a pilot when in local waters. Coupled with this are administrative processes governing licensing, examination, and pilot discipline. This report focuses on how the states set the rates that pilots must charge for their services.

The overwhelming majority of states (19) set rates through an administrative process. The most common model followed (10 states) is to have the state's pilot commission set rates as part of its overall regulatory program. Nine other states follow different administrative processes: public utility commissions (3); single purpose pilot rate commissions (2); and other administrative bodies (4). Seven (7) of these states (including the other two West Coast states of Washington and Oregon) employ a contested case format for decision making. Typically, this includes a full evidentiary hearing presided over by an Administrative Law Judge. It offers all interested parties the right to participate, call witnesses, cross examine witnesses and present arguments.

In only five states has the legislature chosen to remain in the rate-setting process. In two of these (Pennsylvania and Delaware) the legislature is the sole rate-setting body. In three others (Alabama, California and New York) rates are set by the legislature and by the pilot commission. In California and New York, the legislature sets rates based on recommendations by the pilot commission.

California is unique in two ways. First, it is the only state in which the legislature acts after its pilot commission has already conducted an extensive administrative hearing process. Second, California is unique in that it is the only state with legislative rate setting that does not adopt new rates on a regular cycle (the last substantive change was in 2002). The other four legislatures enact rate changes on recurring multi-year cycles covering up to five-year spans. These multi-year enactments typically provide annual rate increases for each year covered.

## RATES SET BY ADMINISTRATIVE PROCESS – PILOTAGE COMMISSION OR COMMITTEE OF COMMISSION

### 1. [ALASKA](#)

The Board of Marine Pilots sets rates.

The Board has two pilots, two agents or managers procuring pilots and two public members. The Commissioner of the Department of Commerce Community and Economic Development or designee is on the board. Public members may not be engaged in or associated by legal contract with a regulated party or have a direct financial interest in the occupation.

To start the rate process, an organization gives notice that it intends to adopt a new rate. Interested parties may object. The board holds a hearing to determine whether the proposed rate is reasonable.

### 2. [FLORIDA](#)

The Board of Pilotage Commissioners sets rates through its Pilotage Rate Review Committee.

The Rate Committee is made up of seven members of the larger board: two pilots; two maritime industry reps; a Certified Public Accountant, and two public citizens. When a rate petition is filed, the committee investigates and holds a hearing in the affected port. All parties can request a hearing. "If the committee concludes that the petitioner has raised a disputed issue of material fact, the committee shall designate a hearing, which shall be conducted by formal proceeding before an administrative law judge assigned by the division of administrative hearings pursuant to sections 120.569 and 120.57(1), unless waived by all parties." The ALJ only resolves material issues of fact and does not make a rate recommendation to the Committee.

### 3. [GEORGIA](#)

Rates are set by the four Boards of Pilotage Commissioners, depending on the location of the port. [O.C.G.A. § 52-6-11](#).

The corporate authorities of Savannah, Darien, Brunswick and St. Mary's each have the power to appoint a seven-member Board. All commissioners must be ship agents, merchants or other persons who are not pilots and who are engaged in or familiar with marine shipping and with the requirements of their respective ports. [O.C.G.A. § 52-6-3](#).

#### 4. [MAINE](#)

The Maine State Pilotage Commission sets rates for all ports other than Portland. It consists of seven members appointed by the governor: three pilots; two consumers of pilotage services; and two public members with a maritime background.

Pilotage rates for the Port of Portland are set by the [Portland Harbor Commission](#) after notice and a hearing and are set forth in the [Port of Portland Harbor Master webpage](#).

#### 5. [NEW JERSEY](#)

The New Jersey Maritime Pilot and Docking Pilot Commission sets rates for ports south of Sandy Hook.

In all other ports, the rates are dictated by legislation to be the same as New York's.

#### 6. [NORTH CARLOINA](#)

Rates are set by the Cape Fear Navigation and Pilotage Commission or Morehead City Navigation and Pilotage Commission, depending on the location of the Port.

The Cape Fear Board has five voting members one of whom is the president of the Wilmington Cape Fear Pilots Association who is an *ex officio* voting member. One other voting member represents maritime interests. The Morehead City Commission has three voting members. The president of the Morehead City Pilots Association is an *ex officio*, nonvoting member. Maritime interests are represented by a nonvoting *ex officio* member.

#### 7. [OREGON](#)

The Oregon Board of Maritime Pilots sets rates.

The Board is made up of: three public members, one of whom is the chair; three pilots, one each from the Columbia River, the Columbia River Bar and Coos Bay; and three members who operate or represent commercial oceangoing vessels. A port district may have one of the operator's positions. [ORS 776.105](#). The statute contains some standards to be used in setting rates, but the regulations provide more detailed criteria. Even though the board is administratively within the PUC, the statute does not transfer the decision-making process to the PUC.

Rather, it creates separate procedures for the board to follow in making its decisions and delegates to the board the authority to create its own more detailed procedures consistent with the statute. These procedures are designed to insure that the board receives reliable information pursuant to a balanced process that allows all parties to fairly present their positions. The board is authorized to conduct hearings, issue subpoenas, conduct investigations administer oaths, take depositions and set mileage and witness fees. In setting rates, the board contracts with the PUC for the use of an ALJ. [ORS 776.115](#).

The board has adopted extensive rules governing these proceedings. [OAR 856-030-0010](#) sets out the procedures for a petition and hearing. Prior to filing a petition parties give a prepetition notice and the public members of the board form a rate subcommittee. [OAR 856-030-0002\(3\)](#). Testimony and exhibits are pre-filed in writing. The hearings officer files a proposed order with recommended findings of fact and conclusions of law. The board makes the final decision. Periodic tariff adjusters are specifically allowed – the tariff currently has five (5) automatic adjustments, some quarterly, some annually and one based on traffic changes. Because of the rate adjusters and cost of living increases built into the rates, full rate hearings are infrequent.

## 8. [RHODE ISLAND](#)

The Rhode Island State Pilotage Commission sets rates.

It has four members, two of whom are appointed by the governor, one a licensed pilot and one representing the public. The director of the Department of Environmental Management and the Associate Director of the Bureau of Natural Resources within that department, or their designees, are *ex officio* members of the commission.

The statute requires that the commission have at least one public hearing annually to hear from any interested parties on any matters within the jurisdiction of the commission. The last hearing was in [May 2019](#) and the notice for it indicates that it would consider any and all requests, including rate requests.

## 9. [SOUTH CAROLINA](#)

The South Carolina Commissioners of Pilotage set rates.

There is a South Carolina Commissioners of Pilotage for the Upper Coastal Area and a separate board for the Lower Coastal Area. Each commission has eight members. Charleston is in the Lower Coastal Area. The Upper Coastal Area has eight members: the chairman of the South Carolina State Ports Authority or designee, *ex officio*; President of the International Longshoremen's Association (ILA) local or designee, *ex officio*; and a pilot licensed for the port of Georgetown. The remaining five members are appointed by the governor upon the

recommendation of the Georgetown County legislative delegation. The Lower District is different. It has eight members: the Chair of the South Carolina State Ports Authority, *ex officio*, or designee; the ILA President or designee; a licensed pilot; a nominee of the Beaufort County legislative delegation from within its maritime community; and the remaining members are appointed by the governor upon the recommendation of the Charleston County legislative delegation from a list of nominations submitted by the greater Charleston Chamber of Commerce, the Maritime Association of the Port of Charleston and the Propeller Club of the Port of Charleston.

#### 10. [TEXAS](#)

The Boards of Commissioners of Pilots set rates.

There is a Board for each of the four major port areas – Houston, Freeport, Corpus Christi, and Galveston. They are authorized to set rates pursuant to a list of statutory criteria. [Sec 62.025](#).

Using Houston as an example, the Board has nine commissioners: two each appointed by the city Council of Houston and the Harris County Commissioners Court; one appointed by the city of Pasadena; one appointed by a majority of the Harris County Mayors and Councils Association; two appointed by the governor; and the chair is appointed pursuant to a process outlined in the statute. The Board has the authority to establish pilotage rates. [Section 66.017](#). The Houston pilot board has [issued rules](#) for its rate proceedings. They incorporate by reference sections 66.061 through 66.071 of the statute. The board receives a petition and sets an informal hearing. *Ex parte* communications are prohibited. A financial report is required by Sec. 66.063. The chair of the board may hire consultants and may hire a lawyer to advise the board and help with the written decision. The decision is appealable to court.

## RATES SET BY ADMINISTRATIVE PROCESS – PUBLIC UTILITY COMMISSION

#### 11. [MARYLAND](#)

Rates are set by the Maryland Public Service Commission. The Commission sets fees in accordance with its procedures and pursuant to general guidance in the statute. The Public Service Commission is the state agency charged with regulating utilities, transportation (including railroads, taxicabs and pilots) and other businesses and employs full administrative proceedings in pilot rate setting cases. The Maryland rates include cost of living increases and rate hearings are rare.



## 12. [WASHINGTON](#)

Pilotage rates are set by the Washington Utilities and Transportation Commission. This is the general rate-setting agency for utilities, telecommunications, transportation companies and employs full administrative proceedings in pilot rate setting cases.

## 13. [VIRGINIA](#)

The State Corporation Commission sets rates. This is a large state agency that regulates utilities and regulates other types of industries. Administrative procedures are set forth in the State Corporation Commission rules.

### RATES SET BY ADMINISTRATIVE PROCESS – SPECIAL PILOT FEE COMMISSION

## 14. [LOUISIANA](#)

The Louisiana Pilotage Fee Commission sets rates.

It acts pursuant to an extensive list of statutory criteria and enumerated expenses. [RS 34:1122](#). The fee commission is created by [RS 34:1121](#). It has 11 members: one pilot from each of the four state pilot associations, (nominated by the Board of Directors of each Association); four members from maritime industry groups; and three at-large members (no interest). *Ex parte* communications between the at-large member and any pilot Association or nominating maritime industry groups are strictly limited. Criteria for setting fees are set out in [RS 34:1122](#). To set fees, the commission holds a hearing. Its [rules](#) are voluminous (16 pages) and provide that it may appoint a Hearing Panel (one at large, one pilot and one maritime industry rep) or engage a Hearing Master). At the hearing the parties may present evidence, cross-examine witnesses and make arguments. There are provisions for written direct testimony. After the hearing, the Hearing Panel or Hearing Master issues a preliminary recommended decision, hears objections, and issues a final recommendation to the commission. The commission hears objections with or without oral argument and makes its decision by majority vote. It issues an order that includes findings of fact and conclusions of law. Decisions can be appealed to court on the record, which can affirm or remand. The court can reverse or modify the decision only if it is arbitrary or capricious.

## 15. [MASSACHUSETTS](#)

The Massachusetts [Pilotage Rate Board sets](#) rates.

The state has four pilotage districts. Boston is District One. The Rate Board is made up of the following people or designees: Director of the Massachusetts Port Authority; President of the Boston Marine Society; President of the Boston Shipping Association; a designee of the Boston Marine Society; the Chair of the Seaport Advisory Council; the Executive Director of the Boston Harbor Association and the Executive Director of the New Bedford Harbor Development Commission. It appears to operate informally.

### RATES SET BY ADMINISTRATIVE PROCESS – PUBLIC OFFICIALS OTHER THAN PILOTAGE COMMISSIONERS

## 16. [CONNECTICUT](#)

The Connecticut Port Authority sets rates.

The Connecticut Pilot Commission is within the [Connecticut Port Authority](#) and advises the Authority on the establishment of fair and reasonable rates including the establishment of a hearing process.. The Pilot Commission has nine members: the Executive Director of the Port Authority or designee; a pilot designated by the pilots; one gubernatorial appointee representing the maritime industry; a public member with an interest in the environment appointed by the President of the Senate; a public representative with an interest in the environment appointed by the Majority Leader of the Senate; a retired ship master or captain appointed by the Minority Leader of the Senate; a maritime industry representative appointed by the Speaker of the House; a maritime industry representative from a shipping agent perspective appointed by the Majority Leader of the House; and a member with expertise in admiralty law appointed by the Minority Leader of the House. It is clear from 2017 annual report that the Pilot Commission's main motivation in recommending fees is to keep them consistent with New York's.

## 17. [HAWAII](#)

Rates are set by the director of the Department of Commerce and Consumer Affairs.

Rates cannot be changed without a public hearing in accordance with Chapter 91 which has detailed regulations providing for resolution of contested cases (full ALJ procedure). Appeals from that hearing are to the Circuit Court as provided in chapter 91. Rate proceedings are started with a petition. The director appoints a

hearings officer who makes a recommended decision together with a summary of all the public testimony provided at the public hearing and separate findings of fact, conclusions of law, and a recommended order. The hearings officer or director may require written testimony. The department is an *ex officio* party at the hearing.

#### 18. [MISSISSIPPI](#)

Pilot fees in Mississippi are set by the various Port Commissions. [Miss. Code Ann. §59-1-39](#).

Every port has a port commission with five citizens, three of whom are skilled and experienced in maritime affairs. [Miss. Code Ann. §59-1-1](#). The governor appoints one member experienced in maritime affairs; the Board of Supervisors of the county in which the port is located appoints one who is experienced in maritime affairs; and three members are appointed by the mayor and board of alderman or commissioners in the city where the port is located, one of whom shall be skilled in maritime affairs. [Miss Code Ann §59-1-3](#). Pilotage rates are published in the terminal tariffs. See, e.g. [Terminal Tariff Number Seven Mississippi State Port Authority at Gulfport Mississippi](#).

#### 19. [NEW HAMPSHIRE](#)

Rates are set by the Pease Development Authority (PDA), an authority similar to port commissions in other states.

The PDA was created in connection with the redevelopment of abandoned Pease Air Force Base and replaced the New Hampshire State Port Authority. The commission is made up of appointees designated by the governor, local and state officials and legislators. The PDA regulates pilotage and sets rates. The Director of The Division of Ports and Harbors (a division of the Pease Development Authority) reviews pilotage fees once a year. If the Division Director recommends a change, it is circulated to the parties and then reviewed and submitted to the authority which can act as it sees fit. [The PDA has proposed new pilot fees](#) which were to be considered at a hearing on February 12, 2020 and which are scheduled to take effect on April 1, 2020.

## RATES SET BY LEGISLATURE

### 20. [DELAWARE](#)

Pilotage rates are set by the legislature.

For example in [July 2019](#) the law was amended to provide rates for 2019 through the end of 2022. The pilotage commission has an extensive list of responsibilities, not including rates. Since 2004, the Delaware legislature has adjusted rates on six (6) separate occasions, each on a three or four-year cycle.

### 21. [PENNSYLVANIA](#)

Rates are set by the legislature. The last bill was [Act 26 of 2019](#) setting rates from 2020 through 2022. The state also has the Navigation Commission for the Delaware River and Its Navigable Tributaries which licenses and regulates pilots. The legislature sets rates on a four-year cycle, having enacted rate changes is with effective dates starting in 1998, 2001, 2004, 2007, 2010, 2013, 2016 and 2019. Delaware and Pennsylvania pilots serve many of the same ports and the rates are typically the same in the two states.

## RATES SET IN HYBRID PROCESS – LEGISLATURE AND COMMISSION

### 22. [ALABAMA](#)

The legislature and the Board of Pilotage Commissioners both set rates.

The Alabama law was rewritten in May 2019. There is a three-member Board of Pilotage Commissioners: one operator; one pilot; and one businessperson or person engaged in a professional occupation licensed by the state. Basic pilotage fees are set by the legislature and the commission sets fees for special services such as docking, undocking, dry docking, turning, shifting, anchorage, standby and delayed sailing. In 2019, [HB 369 \(ACT #2019-162\)](#) was enacted creating a state pilotage commission in a Class 2 municipality (Mobile). This included increases in pilotage fees, tonnage fees and annual CPI adjusters. Historically, the Board of Pilotage Commissioners has operated informally. The Alabama legislature enacted multi-year tariff increases effective in 2002, 2006, 2010, 2016 and 2019.

## 23. [CALIFORNIA](#)

The legislature sets pilotage rates.

California only regulates pilotage and sets pilotage rates for Monterey Bay and the Bays of San Francisco, San Pablo and Suisun and their tributaries up to the Ports of Sacramento and Stockton. Rates are set through a two-step process, involving administrative hearings before the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun (the “Pilot Commission”), followed by a political process to adopt the Commission’s recommendations into law. (CA Harbors and Navigation Code – HNC - [Sections 1200 et. Seq.](#))

The Pilot Commission licenses and regulates the San Francisco Bar Pilots, which serve some 200 terminals including those in the Ports of San Francisco, Oakland, Redwood City, Martinez, Benicia, Stockton and Sacramento. The Commission is made up of two maritime industry, two pilot, and three public members, all of whom are appointed by the Governor with the consent of the Senate. The Pilot Commission is an agency within the California State Transportation Agency. The Secretary of Transportation is an *ex-officio* member of the Commission. (HNC 1150). The President of the Commission is elected by its members and is by custom one of the public members.

Under existing law, any party directly affected by the pilotage rates may petition the Pilot Commission for a public hearing to develop recommendations to the legislature for an adjustment in the rates. In response, the Commission provides notice of the petition and sets a date for a full evidentiary hearing. The detailed regulations for the hearing process are found in Title 7 California Code of Regulations [Section 236](#). They specify the type of evidence, timeline for submission, and the factors the Board will consider in preparing its recommendations.

Prior to the hearing, the parties meet with the Commission’s President to determine whether any of the issues can be narrowed or resolved by stipulation and address the order, number and identity of witnesses and the scope of their testimony, resulting in a pre-hearing order.

The Commission’s deliberation on the evidence is open to the public. The Commission submits its written findings and recommendations, supported by a transcript of the proceedings, to the Secretary of the Senate and the Chief Clerk of the Assembly. A substantive change in rates requires a bill to pass through both houses of the legislature and be approved by the Governor.

The last rate hearing that resulted in a change to the pilotage rates was held in 2002. The last increase in the rates as a result of that hearing was in 2006. (See HNC 1190(e) and 1191(c).) Rate hearings held in 2011 and 2015 resulted in recommendations by the Commission for rate adjustments, but, with

the exception of the reinstatement of a special surcharge for Navigation Technology, those recommendations did not become law.

#### 24. [NEW YORK](#)

The legislature sets basic rates and the Board of Commissioners of Pilots has limited rate authority. The New York legislature is currently on a five year cycle for rate changes (it used to be shorter), having enacted multi-year rate changes with effective dates starting in 2002, 2006, 2011, 2013 and 2018. Rates are found at [Navigation Code § 86](#).

There is a six-person Board of Commissioners of Pilots. It meets weekly. The Governor the President of the Senate and the Speaker of the Assembly each appoint one member. Two are elected by marine insurance industry and the sixth is appointed by the governor. The Board “shall advise the governor and the legislature on matters pertaining to pilotage fees.” The statute lists factors to be considered. The board submits a report to the governor and legislature containing its findings and recommendations on fees before March 1 of each year.

According to the [2018 annual report](#), fees are set by the legislature for entry into and departure from New York ports. The Board of Commissioners of Pilots retains the authority to establish intermediate rates for other services such as docking and undocking and to review and recommend surcharges for capital construction, pensions, pilot station and communications fees and pilot boat surcharges. In 1999, the legislature enacted variable-rate surcharges providing cost recovery for retirement, capital equipment such as pilot boats, navigation equipment and for recovery of certain operating expenses for the pilot boats, stations, and communications equipment. In 2000, the legislature began authorizing multiyear general tariff adjustments. In 2017, the legislature passed [chapter 390 of 2017](#) enacting the current increases which run from 2018 through 2022. The assembly vote was 142 to 0 and the Senate vote was 58 to 2.

## APPENDICES

### Alabama Statutes

#### **2019 Session Law updating 33-4-48 below:**

[ACT 2019 – 162 \(Enacted May, 2019\)](#)

#### ***BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:***

**Section 1.** This act shall only apply to Class 2 municipalities.

**Section 2.** (a) There shall be a board of pilotage commissioners in each Class 2 municipality, to be known as the State Pilotage Commission. The commission shall consist of three voting members. One voting member shall be engaged in a local maritime business, one voting member shall be an active bar pilot, licensed and branched by the State Pilotage Commission, and one voting member shall be a member of the local business or professional community.

(b) The State Pilotage Commission shall have the powers and duties as are prescribed in this act and as may hereafter be prescribed by law.

(c) A quorum for the transaction of commission business shall be two voting members of the commission.

**Section 3.** All of the members of the commission, at the time of their appointment and during their respective terms of office, shall be citizens of the United States and qualified electors of the State of Alabama.

**Section 4.** The initial appointees to the commission shall be the members of the State Pilotage Commission appointed by the Governor pursuant to the Code of Alabama 1975, as it existed prior to the enactment of this act, and holding office at the time of the enactment of this act. Thereafter, at the expiration of the respective terms, the Governor shall appoint the commissioners to hold office for six years from the dates of the expiration of their respective commissions. Commission members shall serve until their successors are appointed. The commissioners shall serve without compensation, but all traveling expenses incurred by the commissioners in the performance of their duties shall be paid out of funds in the treasury of the commission.

**Section 5.** Before entering upon the duties of their office, the commissioners shall execute a bond in the amount of one thousand dollars (\$1,000), for the faithful performance of the duties of the office.

**Section 6.** The commissioners shall elect a chair to preside at its meetings who shall not be the bar pilot commission member. It shall be the duty of the chair to supervise the official conduct of all the officers and employees of the

## Alabama Laws and Regulations

commission. The chair may administer official oaths to the officers and employees of the commission, except the other commissioners, and to all other persons in relation to the business of the commission. In the absence of the chair, the remaining commissioners shall select from their number an acting chair to hold office during the absence of the chair. The acting chair shall have all the power and authority possessed by the chair.

**Section 7.** The commission may employ a secretary who shall not be a member of the commission and who shall be paid an annual salary set by the commission. Before entering upon the duties of office, the secretary shall execute a bond in the amount of three thousand dollars (\$3,000), for the faithful performance of the duties of the office. The secretary shall safely keep and be responsible for all moneys paid into the office of the commission and for all books and papers of the commission and attend the meetings and keep a record of their proceedings and of the names of the commissioners present at the meetings. The secretary shall keep an account of all moneys received and paid, and once every three months prepare a statement showing all moneys received and paid for during the preceding three months and the source from which the moneys were received and the purpose for which they were paid. A copy of the statement shall be given to each of the commissioners. All moneys collected shall be deposited in a bank or banks designated by the commission and drawn out by check signed by the chair and secretary of the commission.

**Section 33.** (a) The master, owner, agent, or operator of any ship or vessel shall pay the bar pilot who conducts a vessel into or out of the Bay or Harbor of Mobile a fee to be fixed by the commission at the rate of thirty-eight dollars (\$38) per draft foot for actual draft of water at the time of pilotage for every vessel crossing the outer bar of Mobile Bay. The minimum pilot fee shall be computed on a minimum of 15 feet regardless of whether or not the vessel has a draft of less than 15 feet at the time of pilotage.

(b) In addition to the pilotage fee based on the draft of the vessel, the bar pilot shall also be paid a pilotage fee for every vessel crossing the outer bar of Mobile Bay in the sum of six and one-quarter cents (\$0.0625) per ton. The minimum pilot fee shall be computed on a minimum of 6,500 maximum registered gross tons, regardless of whether or not the vessel has a maximum registered gross tonnage of less than 6,500 maximum registered gross tons.

(c) In addition to the foregoing fees, the commission shall set fees for special services rendered by the bar pilots to vessels which are incidental to or connected with vessels being conducted into or out of the Bay or Harbor of Mobile which include, but are not limited to, docking and undocking, going on and off drydock, turning the vessel, shifting, anchorage and stand-by, and delayed sailing.

(d) Vessels drawing seven feet or less of water shall not be required to employ a bar pilot, but if a bar pilot is employed, the regular pilotage shall be paid.



## Alabama Laws and Regulations

(f) No discounts or adjustments to rates and fees can be offered to shippers, owners, or any agents of shipping companies.

(g) The schedule for all tariff rates and fees shall be maintained by the commission and available to interested parties upon written request.

**Section 34.** A bar pilot who has brought a vessel into port is entitled to his or her fees before the vessel's departure from port, to be paid in advance, or security given for the payment and, on failure thereof, may refuse to carry the vessel out.

Bay

### **710X1.02 Establishment And Operation Of The Commission.**

(1) The Commission has been established and shall operate according to the statute which creates it, Code of Ala. 1975, §3341.

(2) To the extent not expressly set out in its own organic statute, the Commission shall operate in accordance with the Alabama Administrative Procedure Act, Code of Ala. 1975, §§41221

et seq., or where applicable, other laws.

**Author:** David A. Bagwell

**Statutory Authority:** Code of Ala. 1975, §33411.

**History:** Filed February 1, 1991.

**710X1.03 Forms, Etc.** In keeping with its modest task, the Commission maintains no forms or instructions, no written statements of policy or interpretations, and no orders, decisions, or opinions.

**Author:** David A. Bagwell

**Statutory Authority:** Code of Ala. 1975, §33411.

**History:** Filed February 1, 1991.

**710X1.04 Form Of Petition, Etc.** Anyone who requests the adoption, amendment or repeal of a rule should simply write a letter to the Commission saying what he wants done. It will be considered and acted upon by the Commission as soon as reasonably possible.

**Author:** David A. Bagwell

**Statutory Authority:** Code of Ala. 1975, §33411.

**History:** Filed February 1, 1991.

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**Sec. 08.62.046. Rates for pilotage services.**

(a) A pilot organization recognized by the board shall adopt and publish rates for the provision of pilotage services. The pilot organization shall adopt rates for pilotage services as provided under this section. Notwithstanding this section, a pilot organization may enter into agreements with the master, owner, operator, or agent of a master, owner, or operator, of a vessel for the provision of pilotage services at rates of compensation that are different from the rates adopted under this section. Unless a pilot organization has an agreement with the master, owner, operator, or agent of a master, owner, or operator, of a vessel that sets rates for the provision of a pilotage service, the pilot organization may not charge a rate for the provision of the pilotage service to the vessel that is different from the rate adopted or established under this section.

(b) If a pilot organization intends to adopt a new or revised rate for the provision of a pilotage service, the pilot organization shall, before October 15, send a notice of intent to adopt a rate for provision of the pilotage service to the board and to all registered agents and publish the notice on at least three days during a period of 14 consecutive days in a newspaper of general circulation in the state. The notice of intent to adopt a rate must include a copy of the proposed rate and the name and mailing address of the pilot organization that intends to adopt the rate. If no objection to the proposed rate is filed with the board under (c) of this section, the rate takes effect on January 1 of the year following the year in which the notice of the intent to adopt the rate was filed with the board.

(c) The master, owner, operator, or agent of the master, owner, or operator, of a vessel required to employ a pilot under this chapter may object to the proposed rate for a specific pilotage service by filing a written notice of objection, containing the grounds for the objection and relevant evidence demonstrating that the rate is not reasonable, with the board within 60 days after the final date of publication of the proposed rate in a newspaper of general circulation. The pilot organization that proposed the rate has until 15 days after the close of the period for filing objections to the proposed rate to provide its written response to the notice of objection and relevant evidence demonstrating that the rate is reasonable. If the pilot organization does not respond to the notice of objection by the close of the 15-day period for response to the objection, the board may not take action on the proposed rate and the proposed rate does not take effect. If the pilot organization does respond to the notice of objection before the close of the response period, the board shall hold a hearing to determine whether the proposed rate is reasonable. If the board finds that the proposed rate is reasonable, the rate is approved and takes effect retroactive to January 1 of the calendar year in which

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the rate would have taken effect under (b) of this section if no objection had been filed. If the board finds that the proposed rate is not reasonable, the proposed rate is disapproved and does not take effect. In determining what constitutes a reasonable rate, the board shall consider the following factors:

- (1) current and historical rates charged for comparable pilotage services;
- (2) the actual time aboard the vessel, time engaged in preparing to provide the pilotage services, seasonal and weather conditions, and risks;
- (3) the reasonable expenses incurred in providing the pilotage services such as dispatch, transportation, overhead, and other associated expenses;
- (4) the financial effect of pilotage expenses on the owner of the vessel, except that this factor shall only be considered if the owner provides all financial information that the board determines is necessary to determine the financial effect;
- (5) the number of vessels and volume of pilotage services at issue in the dispute and the number of members of the pilot organization;
- (6) the effect of the determination on the income of affected pilots relative to prior years, taking into account changes in vessel tonnage and vessel traffic in the pilotage region from year-to-year;
- (7) prior determinations under this subsection; and
- (8) other factors the board considers relevant.

(d) Pending the review and approval of the proposed rate for a specific pilotage service by the board under (c) of this section, the current rate then in effect for that pilotage service remains in effect until the board approves the proposed rate. If the proposed rate approved by the board is greater than the current rate, then the master, owner, or operator of the vessel or the vessel is liable for the payment of the additional amount owed for the provision of pilotage services during the pendency of the review by the board due to retroactive application of the approved rate under (c) of this section. If the proposed rate is less than the current rate, then the pilot organization is liable to the master, owner, or operator of the vessel or the vessel for reimbursement of the amount overpaid for the provision of pilotage services during the pendency of the review by the board due to the retroactive application of the approved rate under (c) of this section.

(e) If the board finds under (c) of this section that a proposed rate is not reasonable, the pilot organization may propose a new rate for that pilotage service within 60 days after the decision of the board is issued by sending a notice of intent to adopt a rate for provision of the pilotage service to the board and to all registered agents

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and publishing the notice on at least three days during a period of 14 consecutive days in a newspaper of general circulation in the state. The notice of intent to adopt a rate must include a copy of the proposed rate and the name and mailing address of the pilot organization that intends to adopt the rate. If a timely objection to the proposed rate is not filed with the board under (c) of this section, the rate takes effect retroactive to January 1 of the same calendar year in which the initial rate proposed under (b) of this section would have taken effect if no objection had been filed. If a timely objection is filed, the provisions of (c) and (d) of this section apply to the proposed rate.

(f) The board shall provide a schedule of rates adopted under this section to agents registered under [AS 08.62.187](#).

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### [Marine Pilot Regulations \(12 AAC 56.250\)](#)

***Editor's note:*** *The rates for pilotage fees established by the Board of Marine Pilots under the authority of AS 08.62.040(a)(4) for both Southeastern and Southwestern Alaska are on file in the Office of the Lieutenant Governor and copies are available from the division of corporations, business and professional licensing, Department of Commerce, Community, and Economic Development. These rates are entitled "Pilotage Tariff and Charges."*

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**CHAPTER 6.**

[Section 1200](#)

The board shall, from time to time, review pilotage expenses and establish guidelines for the evaluation and application of these expenses regarding its recommendations for adjustments in rates.

[Pilotage Rate Recommendations Section 1203](#)

In preparing recommendations to the Legislature with relationship to pilotage rates, the board may require an independent audit or audits by a public accountant selected by the board. The audits required by the board shall cover pilotage operations for those years which the board may specify. In preparing the recommendations, the board shall also give consideration to other relevant factors, including, but not limited to, the following:

- (a) The costs to the pilots, individually or jointly, of providing pilot service as required.
- (b) A net return to the pilot sufficient to attract and hold persons capable of performing this service with safety to the public and protection to the property of persons using the service; and the relationship of that income to any changes in cost-of-living indices.
- (c) Pilotage rates charged for comparable services rendered in other ports and harbors in the United States.
- (d) The methods of determining pilotage rates in other ports and harbors in the United States.
- (e) Economic factors affecting the local shipping industry, including prospective increases or decreases in income and labor costs.
- (f) Additional factors affecting income to pilots such as the volume of shipping traffic using pilotage, numbers of pilots available to perform services, income paid for comparable services, and other factors of related nature.
- (g) Changes in, or additions to, navigational and safety equipment necessary to insure protection of persons, ships, and waterways.



## CHAPTER 5. Pilotage Rates

### Section 1190

(a) Every vessel spoken inward or outward bound shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(1) Eight dollars and eleven cents (\$8.11) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 73.01 mills per high gross registered ton as changed pursuant to law in effect on December 31, 1999. The mill rates established by this paragraph may be changed as follows:

(A) (i) On and after January 1, 2010, if the number of pilots licensed by the board is 58 or 59 pilots, the mill rate in effect on December 31, 2006, shall be decreased by an incremental amount that is proportionate to one-half of the last audited annual average net income per pilot for each pilot licensed by the board below 60 pilots.

(ii) On and after January 1, 2010, if the number of pilots licensed by the board is fewer than 58 pilots, the mill rate in effect on December 31, 2006, shall be adjusted in accordance with the method described in clause (i) as though there are 58 pilots licensed by the board.

(iii) The incremental mill rate adjustment authorized by this subparagraph shall be calculated using the data reported to the board for the number of gross registered tons handled by pilots licensed under this division during the same 12-month period as the audited annual average net income per pilot. The incremental mill rate adjustment shall become effective at the beginning of the immediately following quarter, commencing January 1, April 1, July 1, or October 1, as directed by the board.

(iv) On and after January 1, 2010, if, during any quarter described in this paragraph, the number of pilots licensed by the board is equal to or greater than 60, clauses (i) to (iii), inclusive, shall become inoperative on the first day of the immediately following quarter.

(B) There shall be an incremental rate of additional mills per high gross registered ton as is necessary and authorized by the board to recover the pilots' costs of obtaining new pilot boats and of funding design and engineering modifications for the purposes of extending the service life of existing pilot boats, excluding costs for repair or maintenance. The incremental mill rate charge authorized by this subparagraph shall be identified as a pilot boat surcharge on the pilots' invoices and separately accounted for in the accounting required by Section 1136. Net proceeds from the sale of existing pilot boats shall be used to reduce the debt on the new pilot boats and any debt associated with the modification of pilot boats under this subparagraph. The board may adjust a pilot boat surcharge to reflect any associated operational savings resulting from the modification of pilot boats under this subparagraph, including, but not limited to, reduced repair and maintenance expenses.

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(C) In addition to the incremental rate specified in subparagraph (B), the mill rate established by this subdivision may be adjusted at the direction of the board if, after a hearing conducted pursuant to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, the board determines that there has been a catastrophic cost increase to the pilots that would result in at least a 2-percent increase in the overall annual cost of providing pilot services.

(2) A minimum charge for bar pilotage shall be six hundred sixty-two dollars (\$662) for each vessel piloted.

(3) The vessel's deepest draft shall be the maximum draft attained, on a stillwater basis, at any part of the vessel during the course of such transit inward or outward.

(b) The rate specified in subdivision (a) shall apply only to a pilotage that passes through the Golden Gate to or from the high seas to or from a berth within an area bounded by the Union Pacific Railroad Bridge to the north and Hunter's Point to the south. The rate for pilotage to or from the high seas to or from a point past the Union Pacific Railroad Bridge or Hunter's Point shall include a movement fee in addition to the basic bar pilotage rate as specified by the board pursuant to Section 1191.

(c) The rate established in paragraph (1) of subdivision (a) shall be for a trip from the high seas to dock or from the dock to high seas. The rate specified in Section 1191 shall not be charged by pilots for docking and undocking vessels. This subdivision does not apply to the rates charged by inland pilots for their services.

(d) The board shall determine the number of pilots to be licensed based on the 1986 manpower study adopted by the board.

(e) Consistent with the board's May 2002 adoption of rate recommendations, the rates imposed pursuant to paragraph (1) of subdivision (a) that are in effect on December 31, 2002, shall be increased by 4 percent on January 1, 2003; those in effect on December 31, 2003, shall be increased by 4 percent on January 1, 2004; those in effect on December 31, 2004, shall be increased by 3 percent on January 1, 2005; and those in effect on December 31, 2005, shall be increased by 3 percent on January 1, 2006.

### [California Regulations on Rate Setting](#)

#### 7 CCR § 236

#### § 236. Rate Hearing Procedures.

(a) Pilotage rates are set by statute codified at Chapter 5 of Division 5 of the Harbors and Navigation Code, beginning with Section 1190. The Board's role in the setting of pilotage rates is to hold public hearings to investigate such rates and make recommendations to the Legislature. Any party directly affected by



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pilotage rates may petition the Board for such a rate hearing, as set forth in this section; however, nothing contained in this section shall preclude the Board from conducting a duly noticed rate hearing on its own motion.

(b) Within ten (10) days after receipt by the Board of a petition for a rate hearing from a party directly affected by pilotage rates, the Board shall notice a public hearing to be held not less than thirty (30) nor more than sixty (60) days from the date of the notice. Such notice shall be given to all parties directly affected by pilotage rates and to all other interested parties who have requested such notification. The purpose of the hearing is to obtain information and data relating to the issues raised in the petition or notice.

(c) The party proposing a rate adjustment shall have the burden of proving by a preponderance of the evidence that a change in the rates is justified. Ten (10) copies of all written evidence submitted in support of the petition shall be deposited with the Board at least thirty (30) days prior to the date set for the hearing. Such written evidence shall be available for public inspection during normal Board hours.

(d) Any party wishing to respond to a petition for a rate adjustment shall submit ten (10) copies of all written evidence it relies on to support its response, and shall deposit them with the Board at least ten (10) days prior to the date set for the hearing. Such evidence shall be available for public inspection during normal Board hours.

(e) Upon the filing of a petition for a rate hearing, copies of the most recent annual audited financial statements of the San Francisco Bar Pilots and of the San Francisco Bar Pilots Benevolent and Protective Association shall be deposited with the Board and made available for public inspection during normal Board hours. The Board may also require an independent audit of pilot operations by a public accountant selected by the Board. The results of any such independent audit shall be made available for public inspection during normal Board hours and shall become a part of the record.

(f) Factors to be considered by the Board in preparing its recommendation to the Legislature on pilotage rates include, but are not limited to, the following:

(1) **Costs of Providing Pilot Services.** Parties directly affected by pilotage rates are encouraged to use the Board's process for periodic review of pilotage expenses to reach agreement on whether specific expense categories should be considered a "cost of providing pilot services" within the meaning of this section. Absent a showing that there was no reasonable opportunity to do so, the failure to make use of that process may result in the Board's refusal to approve an expense category not previously approved as a cost of providing pilot services or in the Board's refusal to reverse a previous decision to approve such an expense category.

(2) **Net Return to Pilots Sufficient to Attract and Hold Qualified Pilots.** A party contending that the current rates result in a net return which is insufficient to attract or hold qualified pilots has the burden of persuading the Board of that point of view. In determining the issue, the Board may consider the level of qualifications and number of applicants meeting

minimum qualifications for its pilot trainee training program, the number and circumstances of pilots resigning before their eligibility for statutory retirement benefits, and any other evidence relevant to the issue.

(3) Cost of Living Index. In assessing the adequacy of the net return to pilots, the Board will consider, as one factor, the change in the annual average, seasonally unadjusted consumer price indices between the last rate hearing and the most recent 12-month period for which such data is available from the U. S. Department of Commerce, Bureau of Labor Statistics, for the “Western Region” and for “All Urban Consumers, San Francisco-Oakland-San Jose.”

(4) Rates Charged for Comparable Services in Other Ports. “Comparable services” means pilotage from sea to dock in ports with generally similar geographic and hydrographic parameters, vessel traffic in density and in size and type of vessels, number of vessel movements, length of transit, number of pilots, pilot work load and relative difficulty of pilotage and hazards encountered. While the Board recognizes that no port will be precisely the same in all these categories as the waters under the Board's jurisdiction, it encourages the parties to agree on a limited number of ports which are sufficiently comparable for this purpose and for which accurate pilotage rate, pilot income and/or pilot expense data is reasonably available in the public record or is otherwise verifiable.

Absent persuasive evidence to the contrary, the Board recognizes the following ports as comparable for purposes of this section: Columbia Bar/River, Houston, Tampa Bay, Sandy Hook (NY/NJ), New Orleans/Baton Rouge, St. Johns Bar (Jacksonville), Maryland (Chesapeake Bay) and Puget Sound (Seattle). Pilotage rate and pilot income and expense data for other ports shall be supported by evidence that the pilotage services for those ports are comparable as defined in this subsection.

(5) Income Paid for Comparable Services. Parties submitting evidence of pilot income and expenses in other ports shall limit such evidence to ports providing comparable services, as defined in subsection (f)(4) above and for which accurate pilotage rate, pilot income and/or pilot expense data is reasonably available in the public record or is otherwise verifiable.

Evidence of pilot income and expenses in other ports shall be accompanied by the cost of living differential between those ports and the San Francisco Bay Area for the period for which the pilot income and expense data applies if such differential information is available in the public record.

(6) Methods of Determining Rates in Other Ports. Parties wishing to offer evidence of how pilotage rates are determined in other ports should do so for those ports for which pilotage rate or pilot income and expense data is also provided.

(7) Economic Factors Affecting Local Shipping. The Board will consider such competent evidence as the parties may submit regarding economic factors affecting the local shipping industry, including prospective

- increases or decreases in income and labor costs. A party wishing to affect a rate change on the basis of such economic factors has the burden of persuading the Board that the evidence supports that party's argument.
- (8) Volume of Shipping Traffic. The Board may rely on data of vessels piloted as submitted monthly by the pilots. That data is available as a public record of the Board.
- (9) Number of Pilots Available. In preparing its recommendation on pilotage rates, the Board will consider the number of pilots actually licensed at the time of the rate hearing. Any issues regarding the adequacy of that number should be addressed in a duly noticed hearing held pursuant to Harbors and Navigation Code Sections 1170.1 and 1170.2.
- (10) Risk to Pilots. The Board recognizes the inherent risk to the personal safety of the pilots in providing pilotage services, including those risks posed by the physical characteristics of the pilotage grounds within the Board's jurisdiction. A party seeking to affect a rate change on the grounds that there have been material changes in those risks has the burden of proving such changes.
- (11) Changes in Navigational and Safety Equipment/Pilot Support Activities. The Board recognizes that, in recent years, there have been substantial changes in training requirements placed on pilots, in regulations which pilots must implement, and in the complexity and size of vessels which increases the professional demands on pilots. The Board also recognizes that pilots have provided services beyond the navigation of vessels. Such services are referred to as "pilot support activities." Changes in those pilot support activities that are necessary to providing pilot service may be considered in determining the appropriate pilotage rate. To the extent such changes have increased the costs to the pilots of providing pilot services, these costs should be addressed under subsection (f)(1) above. To the extent such changes have resulted in increased time demands, such demands should be addressed at a duly noticed hearing to determine the number of pilots under Harbors and Navigation Code Sections 1170.1 and 1170.2.
- (12) The weight to be given to each of the factors enumerated in this subsection may vary depending on prevailing circumstances and shall be left to the sound discretion of the Board.
- (g) At least seven (7) days prior to the hearing, or at such time as the President may direct, the representatives and/or counsel for the parties supporting and responding to the petition for a rate change shall meet with the President or his/her designee at the time and place directed by the President, to determine if the issues raised by the petition can be narrowed or resolved by stipulation, and to address the order of and anticipated length of the presentation of evidence; the number and identity of witnesses and the subject matter and scope of their testimony; identification and possible resolution of any evidentiary issues; and any other matter which promotes efficiency in conducting the rate hearing.

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(h) The President, or his/her designee, may issue a pre-hearing order setting forth any stipulations or limitations on the scope of the hearing or the issues to be presented as agreed to by all parties attending the pre-hearing conference.

Participation by the President or any other Board member in the pre-hearing conference shall not disqualify him or her from participation in the rate hearing.

(i) The rate hearing shall be conducted at the time and place set forth in the Notice or in any amendment thereto and shall be conducted in accordance with the Bagley-Keene Open Meeting Act (Government Code Sections 11120, et seq.). A full record shall be kept of all evidence offered at the hearing, including a verbatim transcript of all testimony, which shall be given under oath.

(j) Following the presentation of evidence in support of and in response to the petition for a rate hearing, any additional evidence requested by the Board, any evidence submitted in rebuttal, and the closing arguments of the parties, if any, the Board shall proceed with deliberation, including a review and evaluation of all the evidence received at the hearing and a determination of what pilotage rate change, if any, is warranted by the evidence. The Board's deliberation shall be conducted at a duly noticed meeting open to the public and shall be transcribed electronically or by a certified shorthand reporter, as the Board may direct.

(k) Upon completion of its deliberation and within 120 days from the filing of the petition, the Board shall submit its findings and recommendations, supported by a transcript of the proceedings, to the Secretary of the Senate and the Chief Clerk of the Assembly.

Note: Authority cited: Section 1154, Harbors and Navigation Code: Reference: Sections 1190, 1191, 1200, 1201, 1201.5, 1202 and 1203, Harbors and Navigation Code.

### **HISTORY**

1. New article 7 (section 236) and section filed 12-11-2001; operative 1-10-2002 (Register 2001, No. 50).

This database is current through 1/10/20 Register 2020, No. 2  
7 CCR § 236, 7 CA ADC § 236

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**Sec. 15-13c. Connecticut Pilot Commission. Members. Appointments. Duties.** (a) There is created within the Connecticut Port Authority, for administrative purposes only, the Connecticut Pilot Commission to assist and advise the authority on matters relating to the licensure of pilots, the safe conduct of vessels and the protection of the ports and waters of the state, including the waters of Long Island Sound.

(b) The commission shall consist of nine members, one of whom shall be the executive director of the authority or the executive director's designee and one of whom shall be an active licensed pilot in this state operating on the Connecticut side of the rotation system for the assignment of pilots. The pilot member shall be designated by a simple majority vote of pilots operating on the Connecticut side of the rotation system for the assignment of pilots. The remaining seven members shall be appointed as follows: The Governor shall appoint one member representing a maritime-related industry, which industry shall not include a recreational industry; the president pro tempore of the Senate shall appoint one member representing the public with an interest in the environment who does not have an economic interest in the subject matters of the commission; the majority leader of the Senate shall appoint one member representing the public with an interest in the environment who does not have an economic interest in the subject matters of the commission; the minority leader of the Senate shall appoint one member who shall be a retired ship's master or captain; the speaker of the House of Representatives shall appoint one member representing a maritime-related industry, which industry shall not include a recreational industry; the majority leader of the House of Representatives shall appoint one member representing a maritime-related industry from a shipping agent perspective; the minority leader of the House of Representatives shall appoint one member with an expertise in the area of admiralty law. Each member shall be a resident of the state, provided no member shall be an active licensed pilot, except the one active Connecticut licensed pilot operating in and designated by a simple majority of pilots operating on the Connecticut side of the rotation system for the assignment of pilots. Members shall receive no compensation for the performance of their duties.

(c) On or before July 1, 1992, in accordance with the provisions of subsection (b) of this section (1) the Governor, the speaker of the House of Representatives and the majority leader of the Senate shall each appoint one member who shall serve until July 1, 1996; (2) the president pro tempore of the Senate, the majority leader of the House of Representatives and the minority leader of the House of Representatives shall each appoint one member who shall serve until July 1, 1995; and (3) the minority leader of the Senate shall appoint one member who shall serve until July 1, 1994. Thereafter, members shall serve for a term of four years and any vacancies on the commission shall be filled for the remainder of the term in the same manner as the original appointment.

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(d) The Governor shall appoint the chairperson of the commission who shall not be an employee of the Connecticut Port Authority. The commission shall elect a vice-chairperson and any other officers that it deems necessary from among its membership. The powers of the commission shall be vested in and exercised by not less than five members serving on the commission. This number shall constitute a quorum and the affirmative vote of five members present at a meeting of the commission shall be necessary for any action taken by the commission.

(e) The commission shall, subject to the approval of the authority in such authority's sole discretion, set: (1) The required qualifications of pilots for eligibility for licensure, including background, training, length of service and apprenticeship; (2) examination requirements for obtaining a pilot's or other type of operating license; and (3) the appropriate number of state-licensed pilots necessary for the safe, efficient and proper operations in the ports and waters of the state, including the waters of Long Island Sound. In setting these requirements, the commission may not consider the licenses of pilots by other jurisdictions as a disqualifying factor.

(f) The commission shall advise the authority on (1) the establishment of fair and reasonable rates of pilotage, pursuant to section 15-14, including establishment of a hearing process for the setting of fair and reasonable rates of pilotage and licensure fees; (2) the policy of the state on the establishment of a rotation system for the assignment of pilots; (3) the policy of the state on the issuance of reciprocal licenses to pilots licensed in other states; (4) the enhancement of safety and protection of the marine environment during the operation of vessels and the prevention of oil spills and other marine incidents; (5) the proper equipment required on a vessel and the operation of vessels used by pilots for embarkation and disembarkation; (6) the designation of pilot boarding stations; (7) the proper safety equipment provided by vessels to enable pilots to safely board vessels; (8) the state's policy relative to matters of interstate pilotage; and (9) any other matter requested by the authority.

(g) The commission shall: (1) Assist in the preparation of examinations for pilot licensure and other operating certificates; (2) evaluate the examination results of applicants for a pilot license and make appropriate recommendations concerning such applicants' qualifications; (3) assist in the review and monitoring of the performance of pilots, including compliance with state policies, procedures and regulations; (4) review applications for reciprocal licensure and make appropriate recommendations concerning such pilots' qualifications; (5) recommend the duties of pilots for the reporting of faulty pilot boarding and disembarkation systems and of violations of any state laws; (6) review and investigate any marine incident or casualty and conduct hearings to determine the causes of any such incident; (7) investigate and make recommendations on disciplinary measures, including such measures as letters of caution, admonition or reprimand and licensure suspension or forfeiture, including disciplinary matters relative to alcohol or drug abuse; (8) retain an independent investigator to compile a comprehensive factual record of any marine incident or casualty; (9) assist in the review of complaints filed with the

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authority; and (10) assist in the preparation of any report or matter relative to pilotage.

(h) Nothing in this section shall supersede the authority of the Connecticut Port Authority with respect to licensing marine pilots as specified in section 15-13.

(P.A. 92-178, S. 1, 3; P.A. 94-188, S. 18, 30; P.A. 06-133, S. 2; P.A. 07-232, S. 4, 5; P.A. 10-159, S. 3; June Sp. Sess. P.A. 15-5, S. 23.)

History: P.A. 94-188 revised effective date of P.A. 92-178 but without affecting this section; P.A. 06-133 amended Subsec. (a) to charge commission with assisting Commissioner of Transportation, amended Subsec. (b) to change the number of members from seven to nine, to designate commissioner and an active licensed pilot as members, to specify that members appointed by president pro tempore and majority leader of the Senate cannot have economic interests in the subject matters of commission, to specify that member appointed by majority leader of the House of Representatives represent a maritime-related industry from a shipping agent perspective and to provide that ban on active licensed pilots being members does not apply to the one active licensed pilot elected to membership, amended Subsec. (d) to change number of members constituting a quorum from three to five, amended Subsec. (e) to change commission's charge from advising commissioner to "subject to the approval of the commissioner in his sole discretion, set" the listed standards and to add Subdiv. (4), designated part of Subsec. (e) as Subsec. (f) re areas in which commission shall "advise" commissioner and redesignated existing Subdivs. (4) to (12) as Subdivs. (1) to (9), redesignated existing Subsec. (f) as Subsec. (g), amending same to identify commission's duties, to eliminate requirement to act at commissioner's request, to add "including compliance with state policies, procedures and regulations" in Subdiv. (3) and to add "investigate" in Subdiv. (7), and added Subsec. (h) re commissioner's licensing authority, effective June 6, 2006; P.A. 07-232 made technical changes in Subsecs. (e) and (g), effective July 11, 2007; P.A. 10-159 amended Subsec. (b) to replace provision re reimbursement of members for necessary expenses incurred in performance of duties with provision that members receive no compensation for performance of duties, effective June 21, 2010; June Sp. Sess. P.A. 15-5 replaced references to Commissioner and Department of Transportation with references to Connecticut Port Authority and made conforming changes, effective July 1, 2016.

### **Sec. 15-14. Rates of pilotage.**

**Sec. 15-14. Rates of pilotage.** The Connecticut Port Authority shall establish the rates of pilotage for all vessels which use a licensed pilot in the ports and waters of this state including the Connecticut waters of Long Island Sound..

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#### Pilotage Rates

Pursuant to CGS 263 sec. 15-14, as amended by PA 15-5 the CPA is obligated to set pilotage rates. The CPC is charged with advising CPA on "the establishment of fair and reasonable rates of pilotage ... including establishment of a hearing process for the setting of fair and reasonable rates of pilotage." (CGS 263 Sec. 15-13c as amended). In analyzing pilotage rates. the CPC seeks to balance a desire to keep Connecticut ports competitive with a rate structure that should fairly compensate pilots, justify the substantial capital

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investment required to acquire, maintain and operate pilot boats and provide for the costs of training and safety equipment. The NY/CT MOA entitles Connecticut and New York to separately set pilotage rates for those pilots operating under their respective authority, but recognizes that it is highly desirable for the two states to maintain identical rate structures. Thus, the CPC and the NY Board which is required to seek legislative approval of certain components of pilotage rates have sought to coordinate any change in rates. With the passing of PA 15-5, approval of rate changes now is under the authority of the CPA Board of Directors. At the regular December 2017 meeting, the CPC approved a motion that the CPC should put forward a recommendation to the CPA that CT adopt the LIS pilotage rate increase approved by NY, including the increase to the minimum pilot units from 150 to 200. In addition, the pilotage rates in CT harbors should be increased by 2.5% per year for the next five years.

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**TITLE 23**

**CHAPTER 1. PILOTS**

**Subchapter 1. Board of pilot Commissioners**

**§ 102. Powers and duties.**

The Board of Pilot Commissioners shall have authority to:

- (1) Formulate rules and regulations, with appropriate notice to those affected, where such notice can reasonably be given;
- (2) Designate the application form to be used by all applicants, and to process all applications;
- (3) Designate or prepare a written examination to be taken by persons applying for licensure;
- (4) Provide for the administration of all examinations, including notice and information to applicants, proctoring and grading;
- (5) Grant licenses as a pilot in the Delaware River and Bay and its tributaries to all persons who meet the qualifications for licensure;
- (6) Receive complaints from pilots and from the public concerning the professional conduct of pilots, or concerning practices of the profession; to evaluate such complaints; and to take such action within its powers as the Board deems appropriate;
- (7) Issue subpoenas and compel the attendance of witnesses and the production of records;
- (8) Administer oaths to witnesses;
- (9) Determine whether or not a pilot shall be the subject of a disciplinary hearing, and if so, to conduct such hearing in accordance with this chapter and the Administrative Procedures Act [Chapter 101 of Title 29];
- (10) Where it has been determined after a disciplinary hearing, that penalties or sanctions should be imposed, to designate the appropriate sanction or penalty and, after time for appeal has lapsed, impose said sanction or penalty;
- (11) Maintain complete records relating to meeting minutes, applications, examinations, the administration of the apprenticeship program, rosters, changes and additions to rules and regulations, complaints, hearings, and other such matters as the Board shall determine;
- (12) Create and administer an apprenticeship program which designates minimum educational and experience requirements;
- (13) Grant an inactive license to:

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- a. A pilot with health problems documented to the Board's satisfaction; or
- b. A pilot on terminal leave, i.e., a pilot on approved time-off prior to and in contemplation of retirement.

If a pilot seeks to return to active status after being granted an inactive license pursuant to paragraph (13)a. or b. of this section, the Board shall first impose as a condition of return to active status that the pilot undertake a number of refresher trips, to be determined by the Board.

### **Subchapter IV. Pilotage Rates**

#### **§ 131 Pilotage rates.**

(a) For services rendered on and after January 1, 1990, the rates of pilotage for conducting a vessel from the Capes of the Delaware to a point on the Delaware River no further upriver than the Delair Railroad Bridge between Philadelphia, Pennsylvania and Delair, New Jersey, or from a point on the Delaware River no further upriver than the Delair Railroad Bridge between Philadelphia, Pennsylvania and Delair, New Jersey, to the Capes of the Delaware shall be, in either case, the charge resulting from the following computation:

(1) a. A charge, to be known as a unit charge, will be made for each pilotage, determined by length overall (in feet) multiplied by the extreme breadth (in feet) of the vessel, divided by 100.

b. For the purposes of this section, the following definitions shall be applied:

1. "Length overall" shall be the distance between the forward and after extremities of the vessel.
2. "Extreme breadth" shall be the maximum breadth between the outside of the shell platings of the vessel.
3. All measurements shall be in feet and in inches (United States). Inches shall be converted as follows:

1"=.1	4"=.3	7"=.6	10"=.8
2"=.2	5"=.4	8"=.7	11"=.9
3"=.3	6"=.5	9"=.8	

(2) The charges per unit shall be as follows:

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Effective January 1, 2019 \$14.47 per unit

Effective January 1, 2020 \$14.61 per unit

Effective January 1, 2021 \$14.76 per unit

Effective January 1, 2022 \$14.91 per unit

(3) There shall be a minimum charge of 200 units and a maximum unit charge as follows:

Effective January 1, 2019 1,500 units

Effective January 1, 2020 1,550 units

Effective January 1, 2021 1,550 units

Effective January 1, 2022 1,550 units

(b) Every such vessel bound to the breakwater for orders shall pay pilotage fees as follows: A sum equal to  $\frac{1}{2}$  of the inward rates of pilotage to the port of Philadelphia, and the same fees when outwardbound from the breakwater; provided, however, if the pilot bringing such ship or vessel to the breakwater be there discharged, and the ship or vessel afterward proceed to Philadelphia or any other port or place on the Delaware Bay or River, it shall make the usual signal for a pilot, and continue to make such signal till reaching Brandywine Light, and if spoken by, or offered the services of, a duly licensed Delaware pilot before reaching Brandywine Light, shall be obliged to employ such pilot and pay such pilot for services rendered as follows: On and after January 1, 1990, the rates of pilotage for conducting a vessel from the Capes of the Delaware to a point on the Delaware River no further upriver than the Delair Railroad Bridge between Philadelphia, Pennsylvania and Delair, New Jersey, or from a point on the Delaware River no further upriver than the Delair Railroad Bridge between Philadelphia, Pennsylvania and Delair, New Jersey, to the Capes of the Delaware shall be, in either case, the charge resulting from the following computation:

(1) a. A charge, to be known as a unit charge, will be made for each pilotage, determined by length overall (in feet) multiplied by the extreme breadth (in feet) of the vessel, divided by 100.

b. For the purposes of this section, the following definitions shall be applied:

1. "Length overall" shall be the distance between the forward and after extremities of the vessel.
2. "Extreme breadth" shall be the maximum breadth between the outside of the shell platings of the vessel.
3. All measurements shall be in feet and in inches (United States). Inches shall be converted as follows:

## Delaware Laws and Regulations

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Effective January 1, 2019 1,500 units

Effective January 1, 2020 1,550 units

Effective January 1, 2021 1,550 units

Effective January 1, 2022 1,550 units

(c) The Board shall establish and enforce charges for additional services, including, but not limited to, provisions for transporting charges and a credit policy, including carrying charges and attorney's fees.

16 Del. Laws, c. 449, § 18; 18 Del. Laws, c. 619, § 4; 21 Del. Laws, c. 271, § 2; Code 1915, § 971; 28 Del. Laws, c. 65; Code 1935, § 1083; 46 Del. Laws, c. 22, § 1; 23 Del. C. 1953, § 131; 50 Del. Laws, c. 89, § 1; 52 Del. Laws, c. 43; 53 Del. Laws, c. 312; 54 Del. Laws, c. 176; 56 Del. Laws, c. 27; 57 Del. Laws, c. 158, § 5; 58 Del. Laws, c. 53, § 2; 59 Del. Laws, c. 385, § 1; 60 Del. Laws, c. 614, § 1; 61 Del. Laws, c. 275, § 1; 63 Del. Laws, c. 11, §§ 1-6; 64 Del. Laws, c. 232, §§ 1-6; 66 Del. Laws, c. 9, §§ 1-4; 67 Del. Laws, c. 198, §§ 1-6; 69 Del. Laws, c. 20, §§ 20-22; 70 Del. Laws, c. 11, §§ 1, 2; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 233, §§ 1, 2; 73 Del. Laws, c. 13, § 2; 74 Del. Laws, c. 211, §§ 1-4; 76 Del. Laws, c. 5, §§ 1-4; 77 Del. Laws, c. 254, §§ 1-4; 79 Del. Laws, c. 32, §§ 1-4; 80 Del. Laws, c. 408, §§ 1-4; 82 Del. Laws, c. 119, §§ 1-4.

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**310.0015 Piloting regulation; general provisions.—**

(1) Piloting is an essential service of such paramount importance that its continued existence must be secured by the state and may not be left open to market forces.

(2) Because safety is the primary objective in the regulation of piloting by the state and because of the significant economies of scale in delivering the service, the requirement of a large capital investment in order to provide required service, and the fact that pilots are supplying services that are considered to be essential to the economy and the public welfare, it is determined that economic regulation, rather than competition in the marketplace, will better serve to protect the public health, safety, and welfare.

(3) The rate-setting process, the issuance of licenses only in numbers deemed necessary or prudent by the board, and other aspects of the economic regulation of piloting established in this chapter are intended to protect the public from the adverse effects of unrestricted competition which would result from an unlimited number of licensed pilots being allowed to market their services on the basis of lower prices rather than safety concerns. This system of regulation benefits and protects the public interest by maximizing safety, avoiding uneconomic duplication of capital expenses and facilities, and enhancing state regulatory oversight. The system seeks to provide pilots with reasonable revenues, taking into consideration the normal uncertainties of vessel traffic and port usage, sufficient to maintain reliable, stable piloting operations. Pilots have certain restrictions and obligations under this system, including, but not limited to, the following:

(a) Pilots may not refuse to provide piloting services to any person or entity that may lawfully request such services, except for justifiable concerns relating to safety, or, in the case of a vessel planning a departure, for nonpayment of pilotage.

(b) Pilots may not unilaterally determine the pilotage rates they charge. Such pilotage rates shall instead be determined by the Pilotage Rate Review Committee, in the public interest, as set forth in s. 310.151.

(c) Pilots shall maintain or secure adequate pilot boats, office facilities and equipment, dispatch systems, communication equipment and other facilities, and equipment and support services necessary for a modern, dependable piloting operation.

(d)1. The pilot or pilots in a port shall train and compensate all member deputy pilots in that port. Failure to train or compensate such deputy pilots shall constitute a ground for disciplinary action under s. 310.101. Nothing in this subsection shall be deemed to create an agency or employment relationship between a pilot or deputy pilot and the pilot or pilots in a port.

2. The pilot or pilots in a port shall establish a competency-based mentor program by which minority persons as defined in s. 288.703 may acquire the skills for the professional preparation and education competency requirements of a licensed state pilot or certificated deputy pilot. The department shall provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report each year on the number of minority persons as defined in s. 288.703 who have participated in each mentor program, who are licensed state pilots or certificated deputy pilots, and who have applied for state pilot licensure or deputy pilot certification.

(e) In any instance of a payment or transfer of funds, a request for the payment or transfer of funds, or a contractual obligation assumed in respect to the payment or transfer of funds from a licensee payor to a pilot or group of pilots, or to any legal entity or fund administered or controlled by or under common control with such pilot or group of pilots, the pilot or group of pilots shall provide to the licensee payor, at the time the payment or transfer or request for the payment or transfer is made or the obligation is assumed in respect to the payment or transfer, a detailed accounting of the specific assets, tangible or intangible, in which an interest is being directly or indirectly purchased or for which the licensee payor is being granted an interest in return for such payment or transfer of funds or such contractual obligation. This paragraph does not apply to either payments or transfers of funds if their aggregate amounts are less than \$1,000. As used in this paragraph, "licensee payor" means any current or prospective state pilot or deputy pilot.

**History.**—s. 338, ch. 94-119; s. 66, ch. 2000-356; s. 2, ch. 2010-225; s. 226, ch. 2011-142.

### **310.011 Board of Pilot Commissioners.—**

(1) A board is established within the Division of Professions of the Department of Business and Professional Regulation to be known as the Board of Pilot Commissioners. The board shall be composed of 10 members, to be appointed by the Governor, as follows: five members shall be licensed state pilots actively practicing their profession; two members shall be actively involved in a professional or business capacity in the maritime industry, marine shipping industry, or commercial passenger cruise industry; one member shall be a certified public accountant with at least 5 years of experience in financial management; and two members shall be citizens of the state. The latter three board members shall not be involved in, or have any financial interest in, the piloting profession, the maritime industry, the marine shipping industry, or the commercial passenger cruise industry. The board shall perform such duties and possess and exercise such powers relative to the protection of the waters, harbors, and ports of this state as are prescribed and conferred on it in this chapter.

(2) Each member shall be appointed for a term of 4 years. The Governor shall have power to remove members of the board from office for neglect of duty required by this chapter, for incompetency, or for unprofessional conduct. Any

vacancy which may occur in the board in consequence of death, resignation, removal from the state, or other cause shall be filled for the unexpired term by the Governor in the same manner. A majority of those serving on the board shall constitute a quorum.

(3) In appointing members to the board who are pilots, the Governor shall appoint one member from the state at large; one member from any of the following ports: Pensacola, Panama City, or Port St. Joe; one member from any of the following ports: Tampa Bay, Boca Grande, Punta Gorda, Charlotte Harbor, or Key West; one member from any of the following ports: Fernandina, Jacksonville, or Port Canaveral; and one member from any of the following ports: Ft. Pierce, Miami, Port Everglades, or Palm Beach.

**History.**—s. 2, ch. 75-201; s. 3, ch. 76-168; ss. 1, 2, ch. 76-217; s. 1, ch. 77-457; ss. 2, 3, 16, ch. 78-140; ss. 186, 187, ch. 81-259; s. 2, ch. 81-318; ss. 3, 4, ch. 83-329; ss. 2, 3, ch. 84-185; ss. 10, 11, ch. 86-280; s. 2, ch. 89-262; s. 4, ch. 91-429; s. 340, ch. 94-119; s. 33, ch. 94-218; s. 4, ch. 2010-225.

**310.151 Rates of pilotage; Pilotage Rate Review Committee.**—

(1)(a) As used in this section, the term:

1. “Committee” means the Pilotage Rate Review Committee established under this section as part of the Board of Pilot Commissioners.
2. “Board” means the Board of Pilot Commissioners.

(b) To carry out the provisions of this section, the Pilotage Rate Review Committee is established as part of the Board of Pilot Commissioners within the Department of Business and Professional Regulation. The committee shall consist of the following seven members of the board: two board members who are licensed state pilots actively practicing their profession, who shall be appointed by majority vote of the licensed state pilots serving on the board; two board members who are actively involved in a professional or business capacity in the maritime industry, marine shipping industry, or commercial passenger cruise industry; one board member who is a certified public accountant with at least 5 years of experience in financial management; and two board members who are citizens of the state.

(c) Committee members shall comply with the disclosure requirements of s. 112.3143(4) if participating in any matter that would result in special private gain or loss as described in that subsection.

(d) The committee has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of this section conferring duties upon it. The department shall provide the staff required by the committee to carry out its duties under this section.

(e) All funds received pursuant to this section shall be placed in the account of the Board of Pilot Commissioners, and the Board of Pilot Commissioners shall pay for all expenses incurred pursuant to this section.

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(2) Any pilot, group of pilots, or other person or group of persons whose substantial interests are directly affected by the rates established by the committee may apply to the committee for a change in rates. However, an application for a change in rates shall not be considered for any port for which rates have been changed by this committee in the 18 months preceding the filing of the application. All applications for changes in rates shall be made to the committee, in writing, pursuant to rules prescribed by the committee. In the case of an application for a rate change on behalf of a pilot or group of pilots, the application shall be accompanied by a consolidated financial statement, statement of profit or loss, and balance sheet prepared by a certified public accountant of the pilot or group of pilots and all relevant information, fiscal and otherwise, on the piloting activities within the affected port area, including financial information on all entities owned or partially owned by the pilot or group of pilots which provide pilot-related services in the affected port area. In the case of an application for a rate change filed on behalf of persons other than a pilot or group of pilots, information regarding the financial state of interested parties other than pilots shall be required only to the extent that such financial information is made relevant by the application or subsequent argument before the committee. The committee shall have the authority to set, by rule, a rate review application fee of up to \$1,000, which must be submitted to the committee upon the filing of the application for a rate change.

(3) The committee shall investigate and determine whether the requested rate change will result in fair, just, and reasonable rates of pilotage pursuant to rules prescribed by the committee. In addition to publication as required by law, notice of a hearing to determine rates shall be mailed to each person who has formally requested notice of any rate change in the affected port area. The notice shall advise all interested parties that they may file an answer, an additional or alternative petition, or any other applicable pleading or response, within 30 days after the date of publication of the notice, and the notice shall specify the last date by which any such pleading must be filed. The committee may, for good cause, extend the period for responses to a petition. Multiple petitions filed in this manner do not warrant separate hearings, and these petitions shall be consolidated to the extent that it shall not be necessary to hold a separate hearing on each petition. The committee shall conclude its investigation, conduct a public hearing, and determine whether to modify the existing rates of pilotage in that port within 60 days after the filing of the completed application, except that the committee may not be required to complete a hearing for more than one port within any 60-day period. Hearings shall be held in the affected port area, unless a different location is agreed upon by all parties to the proceeding.

(4)(a) The applicant shall be given written notice, either in person or by certified mail, that the committee intends to modify the pilotage rates in that port and that the applicant may, within 21 days after receipt of the notice, request a hearing pursuant to the Administrative Procedure Act. Notice of the intent to modify the pilotage rates in that port shall also be published in the Florida Administrative Register and in a newspaper of general circulation in the affected



port area and shall be mailed to any person who has formally requested notice of any rate change in the affected port area. Within 21 days after receipt or publication of notice, any person whose substantial interests will be affected by the intended committee action may request a hearing pursuant to the Administrative Procedure Act. If the committee concludes that the petitioner has raised a disputed issue of material fact, the committee shall designate a hearing, which shall be conducted by formal proceeding before an administrative law judge assigned by the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57(1), unless waived by all parties. If the committee concludes that the petitioner has not raised a disputed issue of material fact and does not designate the petition for hearing, that decision shall be considered final agency action for purposes of s. 120.68. The failure to request a hearing within 21 days after receipt or publication of notice shall constitute a waiver of any right to an administrative hearing and shall cause the order modifying the pilotage rates in that port to be entered. If an administrative hearing is requested pursuant to this subsection, notice of the time, date, and location of the hearing shall be published in the Florida Administrative Register and in a newspaper of general circulation in the affected port area and shall be mailed to the applicant and to any person who has formally requested notice of any rate change for the affected port area.

(b) In any administrative proceeding pursuant to this section, the committee's proposed rate determination shall be immediately effective and shall not be stayed during the administrative proceeding, provided that, pending rendition of the committee's final order, the pilot or pilots in the subject port deposit in an interest-bearing account all amounts received which represent the difference between the previous rates and the proposed rates. The pilot or pilots in the subject port shall keep an accurate accounting of all amounts deposited, specifying by whom or on whose behalf such amounts were paid, and shall produce such an accounting upon request of the committee. Upon rendition of the committee's final order:

1. Any amounts deposited in the interest-bearing account which are sustained by the final order shall be paid over to the pilot or pilots in the subject port, including all interest accrued on such funds; and
2. Any amounts deposited which exceed the rates sustained in the committee's final order shall be refunded, with the accrued interest, to those customers from whom the funds were collected. Any funds that are not refunded after diligent effort of the pilot or pilots to do so shall be disbursed by the pilot or pilots as the committee shall direct.

(5)(a) In determining whether the requested rate change will result in fair, just, and reasonable rates, the committee shall give primary consideration to the public interest in promoting and maintaining efficient, reliable, and safe piloting services.

(b) The committee shall also give consideration to the following factors:

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1. The public interest in having qualified pilots available to respond promptly to vessels needing their service.

2. A determination of the average net income of pilots in the port, including the value of all benefits derived from service as a pilot. For the purposes of this subparagraph, "net income of pilots" refers to total pilotage fees collected in the port, minus reasonable operating expenses, divided by the number of licensed and active state pilots within the ports.

3. Reasonable operating expenses of pilots.

4. Pilotage rates in other ports.

5. The amount of time each pilot spends on actual piloting duty and the amount of time spent on other essential support services.

6. The prevailing compensation available to individuals in other maritime services of comparable professional skill and standing as that sought in pilots, it being recognized that in order to attract to the profession of piloting, and to hold the best and most qualified individuals as pilots, the overall compensation accorded pilots should be equal to or greater than that available to such individuals in comparable maritime employment.

7. The impact rate change may have in individual pilot compensation and whether such change will lead to a shortage of licensed state pilots, certificated deputy pilots, or qualified pilot applicants.

8. Projected changes in vessel traffic.

9. Cost of retirement and medical plans.

10. Physical risks inherent in piloting.

11. Special characteristics, dangers, and risks of the particular port.

12. Any other factors the committee deems relevant in determining a just and reasonable rate.

(c) The committee may take into consideration the consumer price index or any other comparable economic indicator when fixing rates of pilotage; however, because the consumer price index or such other comparable economic indicator is primarily related to net income rather than rates, the committee shall not use it as the sole factor in fixing rates of pilotage.

(6) The committee shall fix rates of pilotage pursuant to this section based upon the following vessel characteristics:

(a) Length.

(b) Beam.

(c) Net tonnage, gross tonnage, or dead weight tonnage.

(d) Freeboard or height above the waterline.

(e) Draft or molded depth.

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(f) Any combination of the vessel characteristics listed in this subsection or any other relevant vessel characteristic or characteristics.

(7) The decisions of the committee regarding rates are not appealable to the board.

**History.**—s. 2, ch. 75-201; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 14, 16, ch. 78-140; s. 2, ch. 81-318; s. 6, ch. 83-329; ss. 2, 3, ch. 84-185; ss. 10, 11, ch. 86-280; s. 2, ch. 89-262; s. 4, ch. 91-429; s. 351, ch. 94-119; s. 65, ch. 96-410; s. 59, ch. 98-200; s. 3, ch. 2000-356; s. 5, ch. 2010-225; s. 23, ch. 2013-14.

### **Additional Factors for Assessment of Pilotage Rates.**

- Professional Regulation Trust Fund

Section [310.131](#) of Title XXII provides for the Florida Department of Business and Professional Regulation to assess a percentage, not to exceed 2%, of the gross amount of pilotage earned by licensed pilots in a year to be paid into the Professional Regulation Trust Fund. This Statute is supported by Rule [61G14-19.001](#), Florida Administrative Code, which sets the current assessment rate for pilots in the respective ports of the state at seven tenths of one percent (.7%) of the gross amount of pilotage earned by said pilots during each year

### [Florida Administrative Code](#)

#### CHAPTER 61G14-22

#### APPLICATION PROCEDURES

- 61G14-22.001 Definitions
- 61G14-22.005 Contents of Application by a Pilot
- 61G14-22.006 Contents of Application by Persons Other Than a Pilot
- 61G14-22.007 Processing of Application
- 61G14-22.010 Notice of Intended Agency Action
- 61G14-22.012 Determination of Disputed Issues of Material Fact; Formal or Informal Hearings

61G14-22.001 Definitions.

The following terms as used in these rules for rate making are defined to mean:

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(1) “Administrative hearing” means a hearing conducted under either Section 120.57(1) or (2), F.S., on intended agency action requested pursuant to Section 310.151(4), F.S.

(2) “Application” means the documentation containing facts to support a request to modify rates in a port submitted by a pilot or group of pilots or a person or group of persons whose substantial interests are directly affected by the rates of pilotage at a port as set forth in Rules 61G14-22.005 and 61G14-22.006, F.A.C.

(3) “Committee” means the Pilotage Rate Review Committee.

(4) “Department” means the Department of Business and Professional Regulation.

(5) “Pilot” means a single licensed state pilot, or group of licensed state pilots.

(6) “Public hearing” means the meeting of the Committee held pursuant to Section 310.151(3), F.S., on an application for a change in a rate of pilotage resulting in intended agency action to grant or deny the application.

(7) “Persons other than a pilot or group of pilots” means a person or persons other than a pilot whose substantial interests are directly affected by the rates established by the Committee.

(8) “Response” means a response to an application.

(9) “Staff” or “Board staff” means the employees of, or consultants to, the Department assigned to administer the Committee’s policies pursuant to Section 310.151, F.S.

*Rulemaking Authority 310.151(1)(c) FS. Law Implemented 310.151 FS. History–New 8-8-95, Amended 10-14-97, Formerly 61E13-2.001.*

61G14-22.005 Contents of Application by a Pilot.

Applications by a pilot for a change in rates of pilotage in order to be considered complete, shall include:

(1) A consolidated or combined financial statement of the pilot making application prepared in accordance with generally accepted accounting principles as defined in the Board of Accountancy Rule 61H1-20.007, F.A.C. Such financial statements shall be prepared as of the fiscal year ending closest to the date on which the rate change application is filed and shall also include the financial condition and the results of operation for the preceding fiscal year. The financial statements shall include the consolidated or combined financial condition and the results of operations of all the entities owned or partially owned by the pilot which provides pilot-related services. The consolidated or combined financial statements shall be audited by an independent certified public accountant and shall include an unqualified opinion from that certified public accountant except where the consolidated or combined revenues of the applying pilot are less than \$250,000, in which case, a compiled financial statement prepared in accordance with

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Statements on Standards for Accounting and Review Services promulgated by the American Institute of Certified Public Accountants and adopted by the Florida Board of Accountancy in Rule 61H1-20.009, F.A.C., shall be accepted. The financial statements shall include a supplemental schedule detailing all operating expenses.

(2) A schedule derived from the financial statements submitted indicating the average net income of pilots in the port area including the value of all benefits derived from service as a pilot. This schedule will also contain a comparison of the average net income using current rates to the projected average net income using the requested rates. The information for this shall be derived from the projected statements defined in subsection (8).

(3) A schedule indicating the pilotage rates in other ports if deemed relevant by the applicant.

(4) A schedule indicating the amount of time the applying pilot spends on actual piloting duty and the amount of time spent on other essential support services.

(5) A schedule of the prevailing compensation available to individuals in other maritime services of comparable professional skills, if deemed relevant by the applicant.

(6) Projected changes in vessel traffic for the next twenty-four months and the methodology used to reach the conclusions.

(7) A narrative explaining special characteristics, dangers, and risks of the particular port.

(8) Projected balances sheets, projected income statements, and projected statements of cash-flows for the next two fiscal years indicating the impact of the requested rates, projected changes in vessel traffic and projected expenses. This statement shall be prepared in accordance with the Guide for Prospective Financial Statements promulgated by the American Institute of Certified Public Accountants and adopted by the Florida Board of Accountancy in Rule 61H1-20.0094, F.A.C.

(9) The application shall specify the rate change requested.

(10) A narrative statement justifying the requested change.

(11) Fee of \$150.

(12) A statement as to how the requested rate change will result in fair, just and reasonable rates taking into consideration the public interest in promoting and maintaining efficient, reliable and safe piloting services and further taking into consideration the factors set forth in Section 310.151(5)(b), F.S.

*Rulemaking Authority 310.151(1)(c) FS. Law Implemented 310.151(2), (3) FS. History—New 8-8-95, Amended 10-14-97, Formerly 61E13-2.005.*

61G14-22.006 Contents of Application by Persons Other Than a Pilot.

Applications by persons other than a pilot or group of pilots for a change in rates

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of pilotage shall be filed on a form adopted by the Committee and, in order to be considered complete, shall include:

(1) A detailed statement setting forth the substantial interests of the applicant and how they are directly affected by the rates established by the Committee:

(2) A recitation of the rates of pilotage in effect at the port in question;

(3) A demand for the change in rates of pilotage, a detailed statement specifying the requested changed rate and a detailed statement explaining the reasons therefor;

(4) If an application for a rate decrease is filed which alleges that financial hardship is caused to the applicant as a result of existing rates of pilotage, the applicant must submit financial statements justifying any such hardship claim. The financial statements shall be audited by an independent certified public accountant and shall include an unqualified opinion from that certified public accountant. The financial statements shall be prepared as of the fiscal year ending closest to the date on which the rate change application is filed and shall also include the financial condition and the results of operations for the preceding fiscal year. The statements shall include the consolidated or combined financial condition and the results of operations of all the entities owned or partially owned by the applicant. The financial statements shall include a supplemental schedule detailing all operating expenses for the port in question. The applicant must also submit projected balance sheets, projected income statements, and projected statements of cash-flows for the next two fiscal years indicating the impact of the requested rates, projected changes in vessel traffic and projected expenses. These projections shall be prepared by a certified public accountant in accordance with the "Statements on Standards for Accountants Services on Prospective Financial Statements" published by the American Institute of CPAs and adopted by the Florida Board of Accountancy in Rule 61H1-20.0094, F.A.C.;

(5) Documentation supporting the requested change in rates;

(6) How the requested rate change will result in fair, just and reasonable rates taking into consideration the public interest in promoting and maintaining efficient, reliable and safe piloting services and further taking into consideration the factors set forth in Section 310.151(5)(b), F.S.

*Rulemaking Authority 310.151(1)(c) FS. Law Implemented 310.151 FS. History—New 8-8-95, Amended 10-14-97, Formerly 61E13-2.006.*

61G14-22.007 Processing of Application.

To insure adequate time for comment to be received from the general public as well as all persons affected by the proposed fixing or changing of pilotage rates, and to insure adequate time for the Committee to properly investigate and report on the facts supporting the change in rates, the following procedures are established.

(1) Every application to fix or change the rates of pilotage shall be submitted to the Committee with the original and seven (7) copies to expedite required

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distribution. In addition, any person other than a pilot or group of pilots filing the application shall serve by certified mail a copy of the application on a licensed state pilot or group of licensed state pilots at the port in question.

(2) An application fee of \$150 must be submitted to the Committee upon the filing of the application for a rate change.

(3) Upon receipt of the application, the staff of the Committee shall promptly review the application for facial completeness and compliance with Rule 61G14-22.005 or 61G14-22.006, F.A.C., respectively. The Committee staff shall promptly notify the applicant of any incomplete items. The time periods in the following paragraphs shall not begin to run until the application is facially complete. The application shall be deemed complete if the staff does not notify the applicant of any incompleteness within 30 days of receipt of the application. Upon a determination of facial completeness, the Committee staff shall promptly notify every person who has previously requested receipt of notice of the filing of applications for a particular port and advise them that an application has been filed for the port by whom it was filed, and how a copy of the application may be obtained.

(4) Upon determination of completeness of the application by the Committee staff, the Chair of the Committee, or the Vice Chair in the event of his or her absence shall immediately appoint an investigation committee to consist of members of the Department staff to review, investigate and certify to the Committee the information presented in the application. The investigation committee shall conclude its investigation within 20 days of the publication of the notice referenced in subsection (5) below. In the event that additional time is requested by the investigation committee, the Chair of the Committee shall, for good cause, grant a reasonable extension up to five additional business days. Good cause shall include intervening holidays, unavoidable delays in receipt of information necessary for a proper investigation, or any other reason for which such an extension would be granted in a judicial proceeding. The investigation committee shall prepare a report of the investigation which shall be filed, no later than 10 days prior to the public hearing, with the Executive Director of the Committee who shall immediately send a copy to each member of the Committee as well as to any other person requesting a copy. Any changes or additions to the original application must be sent in the form of a revised application with seven (7) copies, and must be received by the Committee Office five (5) business days prior to the completion date of the investigation. The filing of a revised application begins the application process anew requiring the Committee staff to review the revised application for completeness within 30 days as provided in subsection (3).

(5) Upon determination of completeness of the application, the Committee's Chair or the Vice Chair in the event of his or her absence shall schedule a public hearing on the application for the change in rates of pilotage. The Committee shall provide notice in the next available issue of the Florida Administrative Register and in a newspaper of general circulation in the affected port area and by mailing such notice to each person or organization which has requested advance notice of hearings relating to rates of pilotage. The notice shall state that an application for

a change in the rates of pilotage has been filed with the Committee, state the affected port, contain a brief statement summarizing the requested change in rates of pilotage and state the time, date and place of the public hearing and site visit to the port to be conducted prior to the public hearing. The notice shall also include instructions for obtaining a copy of the application and a copy of the investigation committee's report to the Committee when it becomes available. The notice shall advise all interested parties that they may file an answer, an additional or alternative application, or any other applicable pleading or response, including all documentation in support thereof submitted within 30 days after the date of publication of the notice, and the notice shall specify the last date by which any such pleading must be filed. Such publication and mailing of notice shall occur at least forty-five days prior to the hearing. The Committee, through its Chair, shall, for good cause, extend the period for responses to a petition for up to five business days. Good cause shall include intervening holidays, unavoidable delays in receipt of information necessary for a proper response, or any other reason for which such an extension would be granted in a judicial proceeding.

(6) The filing of an additional or alternative application by an interested party shall require that the application be considered for completeness, and upon such determination being made, shall be consolidated with the original pending application. The investigation and the public hearing proceeding shall not occur until that determination has been made and all pending applications are consolidated.

(7) The Committee shall conduct a visit of the port in question before the public hearing for the purpose of familiarizing itself with the port and the pilot station to assist the Committee in analyzing the application.

(8) The Committee shall conclude its investigation, conduct a public hearing, and determine whether to modify the existing rates of pilotage in that port within 60 days after the filing of the completed application, except that the Committee may not be required to complete a hearing for more than one port within any 60-day period.

(9) The public hearings shall be held in the affected port area, unless a different location is agreed upon by all parties to the proceeding.

*Rulemaking Authority 310.151(1)(c) FS. Law Implemented 310.151 FS. History—New 8-8-95, Amended 10-14-97, Formerly 61E13-2.007.*

61G14-22.010 Notice of Intended Agency Action.

The written order expressing the notice of intended agency action shall be filed with the agency clerk of the Department. The applicant shall be given written notice by service of the written order of intended agency action, by certified mail. In addition, a copy of the written order shall be mailed to each person who has previously requested copies of such orders. Notice of the intent to modify the pilotage rates in that port shall also be published in the next available Florida Administrative Register and in a newspaper of general circulation in the affected port area and shall be mailed to any person who has formally requested notice of



any rate change in the affected port area. The published notice may be in the form of a summary of the intended agency action rather than the complete written order of intended agency action.

*Rulemaking Authority 310.151(1)(c) FS. Law Implemented 310.151, 120.57 FS. History—New 8-8-95, Formerly 61E13-2.010.*

61G14-22.012 Determination of Disputed Issues of Material Fact; Formal or Informal Hearings.

Since the determination of the actual rate of pilotage to be imposed at any port is a quasi-legislative act, the resolution of any disputed issue of material fact by a hearing officer assigned by the Division of Administrative Hearings shall not result in a recommendation from the hearing officer as to the appropriate rate to be imposed at any port area in question. The hearing officer's recommendation shall only extend to resolving disputed issues of material fact which result from a party's disputing the underlying facts upon which the Board has suggested intended rates for the port area in question. (See Rule 61G14-22.010, F.A.C.).

*Rulemaking Authority 310.151(1)(c) FS. Law Implemented 310.151, 120.57 FS. History—New 8-8-95, Amended 10-14-97, Formerly 61E13-2.012*

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## Georgia Laws and Regulations

### Georgia Statutes

#### [§ 52-6-1. Composition of board; terms of commissioners](#)

The corporate authorities of Savannah, Darien, Brunswick, and St. Marys shall each have power to appoint a Board of Pilotage Commissioners (hereinafter referred to as the commissioners), consisting of seven commissioners, each appointed for a term of seven years. Terms of the commissioners shall be staggered with one term expiring each year.

Laws 1799, Cobb's 1851 Digest, p. 33; Code 1863, § 1453; Code 1868, § 1510; Code 1873, § 1504; Code 1882, § 1504; Ga. L. 1894, p. 41, §§ 1, 2; Civil Code 1895, § 1651; Civil Code 1910, § 1897; Code 1933, § 80-101; Ga. L. 1945, p. 279, § 2; Ga. L. 1997, p. 143, § 52.

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#### [§ 52-6-11. Rules and regulations; reciprocal pilotage in port of St. Marys and tributaries of St. Marys River](#)

(a) The commissioners shall prescribe rules and regulations for the government of pilots and the fees which may be charged for their services and shall, from time to time, revise and grade pilotage fees when, in their judgment, it is necessary to do so. All rules and regulations consistent with this chapter existing as of January 1, 1995, and all fees prescribed by the commissioners as of January 1, 1995, shall remain in effect until changed as provided in this chapter.

(b) The Board of Pilotage Commissioners for the City of St. Marys, having jurisdiction over areas which include boundary waters, shall be separately empowered to agree, in form, with the Florida State Board of Pilot Commissioners to establish authority for reciprocal pilotage in the port of St. Marys and the tributaries of the St. Marys River.

Ga. L. 1886, p. 38, § 3; Civil Code 1895, § 1655; Ga. L. 1901, p. 31, § 1; Civil Code 1910, § 1901; Ga. L. 1915, p. 16, § 1; Code 1933, § 80-111; Ga. L. 1945, p. 279, § 8; Ga. L. 1989, p. 451, § 1; Ga. L. 1995, p. 846, § 1.

**Pilotage act was amended in 1995.** The 1995 Session law is [Ga.L. 1995, p 846, §1.](#)

### Regulations

#### Rule 494-1-1-.19. Pilot Charges and Fees

- (1) Pilotage charges and rates shall be fixed by the Commissioners in accordance with Sections [52-6-45](#), [52-6-46](#), [52-6-47](#), [52-6-48](#) of the Georgia Code.

- (2) The pilots shall be due payment for individual pilotage charges and fees upon the departure of any vessel from the Port, except when the pilots have elected to extend credit to such vessel owner, vessel operator, principal agent or local agent. In such cases, all payments are due not later than forty-five (45) days after the vessel's arrival in port.
  - (a) Payments received later than forty-five (45) days after the vessel's inward pilotage service will be assessed the maximum permissible annual percentage rate allowed by law against any unpaid balance. The pilots shall be entitled to recover reasonable attorneys' fees if they take legal action to collect any unpaid balance. The above finance charges shall begin to accrue from the date of the vessel's inward pilotage service(s). The application of this finance charge does not prevent or preclude the pilots from placing a lien on the vessel as specified by O.C.G.A. Sec. 52-6-49.
- (3) Any agent or other non-vessel owner who makes arrangements for credit for pilotage shall be held responsible by the pilots for the amount credited if that amount is not paid within the forty-five (45) day period.
- (4) Pilotage charges are based upon the services of one pilot unit. No additional charges are authorized for other pilots or apprentices taken aboard a vessel for the purpose of training or route familiarization. However, nothing shall prohibit additional pilotage charges from being made whenever additional pilots are required to assure the safe maneuvering of the vessel. In such cases, one additional pilot unit may be charged for every additional pilot so embarked.

**Cite as Ga. Comp. R. & Regs. R. 494-1-1-19**

**Authority:** Authority O.C.G.A. Secs. 52-6-11, 52-6-45, 52-6-46, 52-6-47, 52-6-48.

**History.** Original Rule entitled "Pilot Charges and Fees" adopted. F. May 31, 1994; eff. Jun. 20, 1994.

**Amended:** F. Sept. 16, 2010; eff. Oct. 6, 2010.

[494-1-1-.29 Appeals.](#)

- (1) Any person or organization that has any complaint or other grievance with the actions of the Commissioners, or the pilots, shall submit such complaint to the Commissioner's of Pilotage in writing. The Commissioners shall thereupon take any action required by statute.

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(2) Appeals to decisions resulting from suspension and revocation proceedings shall be made in accordance with Applicable Section of the Georgia Code.

Authority O.C.G.A. Sec. 52-6-11. History. Original Rule entitled "Appeals" adopted. F. May 31, 1994; eff. Jun. 20, 1994.

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## Hawaii Laws and Regulations

### Hawaii Statutes

HRS Vol. 10

#### [§462A-11 Rates of pilotage.](#)

The director shall establish the rates of pilotage for vessels subject to this chapter as follows:

- (1) The rates of pilotage in effect on July 1, 1978, shall remain in effect until changed by the director pursuant to this chapter.
- (2) No rate shall be increased, lowered, or altered without a public hearing in accordance with chapter 91. Due notice of hearing shall be mailed at least thirty days prior to the date of hearing to the individual licensed pilots, the pilot's association, and all owners, charterers, operators, and agents of vessels who have registered with the department.
- (3) The director, in setting rates of pilotage, shall fix such amounts as will be a fair charge for the services rendered with due regard to necessary operating expenses, maintenance of, depreciation on, and return on investment for property used in the business of pilotage, and the rates and charges of pilotage at comparable ports of the United States.

#### **Hawaii Code Div. 1, T. VIII, Ch. 91**

#### [§91-9 Contested cases; notice; hearing; records.](#)

- (a) Subject to section 91-8.5, in any contested case, all parties shall be afforded an opportunity for hearing after reasonable notice.
- (b) The notice shall include a statement of:
  - (1) The date, time, place, and nature of hearing;
  - (2) The legal authority under which the hearing is to be held;
  - (3) The particular sections of the statutes and rules involved;
  - (4) An explicit statement in plain language of the issues involved and the facts alleged by the agency in support thereof; provided that if the agency is unable to state such issues and facts in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, and thereafter upon application a bill of particulars shall be furnished;
  - (5) The fact that any party may retain counsel if the party so desires and the fact that an individual may appear on the individual's own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation or trust or association may represent the corporation, trust, or association.

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(c) Opportunities shall be afforded all parties to present evidence and argument on all issues involved.

(d) Any procedure in a contested case may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(e) For the purpose of agency decisions, the record shall include:

- (1) All pleadings, motions, intermediate rulings;
- (2) Evidence received or considered, including oral testimony, exhibits, and a statement of matters officially noticed;
- (3) Offers of proof and rulings thereon;
- (4) Proposed findings and exceptions;
- (5) Report of the officer who presided at the hearing;
- (6) Staff memoranda submitted to members of the agency in connection with their consideration of the case.

(f) It shall not be necessary to transcribe the record unless requested for purposes of rehearing or court review.

(g) No matters outside the record shall be considered by the agency in making its decision except as provided herein.

Regulations (need to confirm these are the latest regs)

**HAWAII Administrative Rules,  
TITLE 16  
[CHAPTER 96](#)  
PILOTAGE**

**[SUBCHAPTER 2 PILOTAGE RATES](#)**

**§16-96-3 Pilotage rates and charges.**

§16-96-3 Pilotage rates and charges. (a) All rates, charges, policies, procedures, and practices that are made, charged, or observed by a licensed pilot shall be filed with the director in such form and manner as the director may require, and copies shall be furnished by the pilot to any person upon request. Copies of the rates, charges, rules, and practices shall also be made available at the department.

(b) No rate, charge, rule, or practice shall be made, charged, or observed by any licensed pilot except after a duly noticed public hearing and contested hearing held pursuant to chapter 91, HRS, and as further provided in subchapter 3 of this chapter. Except to the extent that the director finds that unfairness would result, the director shall establish uniform rates and charges.

(c) All rates, charges, rules, and practices that were in effect prior to the effective date of this chapter shall remain in effect until otherwise ordered by the director pursuant to this section. [Eff 8/5/82; am 12/8/86; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§462A-3, 462-11)

### **SUBCHAPTER 3 RATE CHANGES**

**§16-96-8** Petition for changes in rates and charges. (a) The director may at any time increase, lower, or alter any rate, charge, rule, or practice of pilotage after a public hearing and contested hearing pursuant to chapter 91, HRS.

(b) Any interested person may petition the director for a change in any rate, charge, rule, or practice by filing a petition which shall provide the following information: (1) Name of the petitioner; (2) Statement of petitioner's interest; (3) Statement of current and proposed changes; (4) Facts and circumstances giving rise to the petition, including the necessity for the proposed changes; (5) The anticipated effect or impact of the proposed change on the maritime industry, the pilotage industry, and the general public; (6) Financial statements for each of the two annual periods preceding the date of the petition under current and proposed rates and charges, including but not limited to the following: (A) Statement of gross pilotage revenues and expenses; (B) Statement of operating expenses, including maintenance, depreciation, separately stated; and (C) Statement of current and projected rate of return on investment for property used in the business of pilotage; (7) Statement of any rates and charges of pilotage at any comparable ports of the United States, including a statement describing the basis or conditions that a port may be comparable; and (8) Any other relevant information the director or department may require.

(c) The petitioner shall serve a copy of the petition on the individual licensed pilots, any pilot association, and all owners, charters, operators, and agents of vessels who have made a timely written request to the director for advance notice of any proposed change of pilotage rates or charges. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §462A-11)

**§16-96-8.2** Hearings officer. (a) Upon the filing of the petition, the director shall assign the petition to a hearings officer for further proceedings consistent with this chapter.

(b) The hearings officer shall preside over the public hearing and contested hearing and shall file with the director a recommended decision together with a summary of all the public testimonies provided at the public hearing and a separate findings of fact, conclusions of law, and a recommended order. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§26-9, 462A-11)

**§16-96-8.4** Public hearing. (a) Within thirty days of filing of the petition, the director shall cause proper notice of the petition to be published in a newspaper which is printed and issued at least twice weekly in the county affected by the proposed action. The notice shall include a statement of the proposed change in rates, charges, rules, or practice and the deadline for seeking intervention in the contested hearing as a party. Due notice of the hearing shall also be mailed at least thirty days prior to the date of hearing to the individual licensed pilots, the pilot's association, and all owners, charterers, operators, and agents of vessels who have registered with the director.

(b) The public hearing shall afford all interested persons the opportunity to submit data, views, or arguments in favor or against the proposed changes. Comments may be presented orally or in writing at the hearing or may be filed with the director within seven days subsequent to the public hearing. [Eff and comp 12/2/89; am and comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§92-14, 462A-11)

**§16-96-8.6** Contested hearing administrative procedures. Upon completion of the public hearing, the director or hearings officer shall convene a contested hearing in accordance with chapter 91, HRS, and the subchapter on hearing relief

in chapter 16-201, Hawaii Administrative Rules, which is incorporated herein by reference and made a part of this subchapter. The contested case hearing shall commence within ninety days of the completion of the public hearing if the requirements of section 16-96-8 have been met. To the extent that this subchapter may directly conflict with the subchapter on hearing relief in chapter 16-201, Hawaii Administrative Rules, or provide additional requirements, the provisions in this subchapter will prevail. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§91-9, 92-16, 26-9, 462A-11)

**§16-96-8.8** Prepared written testimony. (a) To promote an orderly hearing procedure in all contested proceedings for changes in any rate or charges, the director or hearings officer may issue a prehearing order that will establish a schedule during which the parties may file with the director in advance of the hearing the prepared written testimony of any witness providing oral testimony at the hearing. A copy of the written testimony shall be served upon all parties to the proceeding.

(b) The prepared testimony and exhibits accompanying the prepared testimony may be received in evidence without reading. Witnesses may summarize their prepared testimony during the hearing. The parties to the proceeding may during the hearing object on evidentiary grounds to the admissibility of all or part of the prepared testimony or exhibits and move to strike same.

(c) Any amendments to the prepared testimony shall be served upon all parties and filed with the director or hearings officer in accordance with the prehearing order or as the presiding officer directs. A party introducing totally new matters by revisions or supplements shall attach a sworn affidavit explaining why these matters were not submitted with the previous testimony. The presiding officer



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may, if the explanation is unreasonable, reject the amended testimony. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§26-9, 91-9, 92-16, 462A-3, 462A-11)

**§16-96-9** Investigation of rate changes. The department may conduct its own investigation into such rate change requests by either using State auditors or private certified public accountants, whose expenses shall be borne by the department. [Eff 7/30/81; am and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3)  
(Imp: HRS §462A-3)

**§16-96-9.5** Department ex officio party. The department is ex officio a party to any proceeding before the director. [Eff and comp 12/2/89; comp 8/20/90] (Auth: HRS §462A-3) (Imp: HRS §§91-4, 462A-11)

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[RS 34 §1133](#)

Board of Louisiana River Pilot Review and Oversight; creation; membership

A. The Board of Louisiana River Pilot Review and Oversight is hereby created and shall be domiciled as determined by the board and thereafter the domicile shall remain unless changed by statute.

B. The board shall be composed of eleven members appointed by the governor, all of whom shall be United States citizens, registered voters, and domiciled in Louisiana for not less than five years. Any vacancy on the board shall be filled in the same manner as the initial appointment for that seat on the board was made.

C. The governor shall appoint the members as follows:

(1) A pilot member of the Board of Examiners of Bar Pilots for the Port of New Orleans as referred to in R.S. 34:941.

(2) A pilot member of the Board of River Port Pilots Commissioners for the Port of New Orleans as referred to in R.S. 34:991.

(3) A pilot member of the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River as referred to in R.S. 34:1041.

(4) A pilot member of the Board of River Port Pilot Commissioners and Examiners as referred to in R.S. 34:1072.

(5) Two members chosen from a list of four persons nominated jointly by the Louisiana Association of Business and Industry, the Louisiana Chemical Association, the Louisiana Farm Bureau Federation, and the Louisiana Mid-Continent Oil and Gas Association.

(6) Two members chosen from a list of four persons nominated by the Louisiana Ports Association.

(7) Three former judges who served on the Louisiana Supreme Court, a Louisiana appellate court, or a Louisiana district court.

(8) Notwithstanding any prohibition contained in Part II of Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950, the commission members pursuant to Paragraphs (1) through (6) of this Subsection shall be eligible to serve on the commission and participate in transactions before the commission.

D. No members appointed as former judges pursuant to Paragraph (7) of Subsection C of this Section shall be a family member of or have a financial, business, or pecuniary relationship with any member or with any entity represented on the board or the Pilotage Fee Commission.

E. The appointments by the governor shall be subject to confirmation by the Senate. The governor shall make appointments within thirty days of the

expiration of a term of office or the occurrence of a vacancy in office. A member may be removed only for good cause shown.

F. Members shall serve terms concurrent with that of the governor and shall continue in office until their successors are qualified and appointed. Any member appointed by the governor may serve more than one consecutive term.

G. The members of the board shall serve without compensation. However, the members appointed as former judges shall be entitled to a per diem, not to exceed one hundred fifty dollars while executing their duties as board members. Additionally, the members who shall be appointed judges shall be entitled to reasonable expenses as approved by the chairman.

H. All actions taken by the board shall be in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., including the right to subpoena witnesses and documents pursuant to R.S. 49:956, to the extent that any procedure in the Administrative Procedure Act does not conflict with any provision of this Part.

Acts 2004, No. 902, §1, eff. Jan. 1, 2005.

[§1121. Pilotage Fee Commission](#); composition

A. The Pilotage Fee Commission shall exist to establish pilotage fees.

B. The commission shall be composed of eleven members and nine alternates. The governor shall appoint the members as follows:

(1) To represent the interests of the associations, the governor shall appoint four members, and four alternates thereof, which members and alternates shall be designated by the board of directors of the four pilot associations. The four pilot associations shall each nominate one member and one alternate, such associations being the Associated Branch Pilots for the Port of New Orleans, the River Port Pilots for the Port of New Orleans, the New Orleans Baton Rouge Steamship Pilots Association, and the Associated Branch Pilots for the Port of Lake Charles. In the event that one or more of the nominating entities does not participate by submitting a name or names for nomination, then those participating entities shall submit four nominees and alternates of their choosing. In the event that none of the nominating entities send names for nomination to the governor, then the governor shall appoint the four members and their alternates, all of whom shall be commissioned pilots.

(2) To represent the interests of the industry, the governor shall appoint four members and four alternates thereof, from nominees submitted to him by the New Orleans Steamship Association, the Mississippi River Maritime Association, the Lake Charles Maritime Association, and the International Freight Forwarders and Customs Brokers Association of New Orleans, Inc., the Louisiana Association of Business and Industry, the Louisiana Chemical Association, and the Louisiana Mid-Continent Oil and Gas Association. Each group shall nominate two nominees, and the seven nominating groups will select four

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nominees and four alternates to be jointly submitted to the governor. No nominee submitted pursuant to this Section shall serve on the Board of Louisiana River Pilot Review and Oversight.

(3) Three at-large members and one at-large alternate. Those members shall sign and maintain a statement of neutrality and shall not be a family member of nor have a financial, business, or pecuniary relationship with a member or with any entity represented on the commission or on the Board of Louisiana River Pilot Review and Oversight. No at-large member shall have any ex parte communication with any member of any pilot association or with any member of the nominating industry groups or any other person or entity that has an interest in any issue pending before the commission except for educational purposes and during such educational time both the pilot association members and the industry members shall be afforded an opportunity to attend, provided that at no time a quorum is present. The level of participation of the at-large alternate shall be governed by rules or regulations adopted and promulgated by the Pilotage Fee Commission.

(4) The appointees shall be residents of the state of Louisiana. Notwithstanding any prohibition contained in Part II of Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950, the pilot fee commission members and alternates appointed pursuant to Paragraphs (B)(1) and (2) shall be eligible to serve on the pilot fee commission and participate in transactions before the commission.

(5) The alternates shall serve in the event of vacancy, inability, or absence of the member.

(6) The terms of the members, and of the alternates thereto, shall run concurrently with that of the governor appointing them. However, they shall remain in office until their successors have been appointed and duly qualified. Any member appointed by the governor may serve more than one consecutive term.

(7) The appointments shall be subject to confirmation by the Senate. The governor shall make appointments within thirty days of the expiration of a term of office or the occurrence of a vacancy in office. A member may be removed only for good cause shown.

(8) At the expiration of the term of each member and of each succeeding member, the governor shall appoint a successor who shall serve for a term of four years using the selection process as provided for in Subsection B of this Section.

(9) The three at-large members of the commission and the one at-large alternate member shall each receive one hundred fifty dollars per diem while executing their duty as a commission member. Additionally, such members shall be entitled to reasonable expenses as approved by the chairman.

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(10) A member who fails to attend two consecutive quarterly meetings of the commission, without good cause shown in the minutes of the commission meetings, shall be deemed to have vacated his office as a member.

(11) Six members shall constitute a quorum.

(12) At its first meeting the commission shall determine the domicile of the commission and thereafter the domicile shall remain unless changed by statute.

(13) An alternate of a member shall serve and shall be entitled to the rights and be bound by the duties of the member when the member is unable to fulfill their duties.

C. All meetings of the commission shall be public, and, except as otherwise provided by law, all records of the commission shall be open to inspection. Notwithstanding the provisions of R.S. 44:1 et seq., upon request of a pilot association, member of industry, or any other person with a substantial interest as provided for in R.S. 34:1122(D), any records received by the pilot fee commission which are deemed by the pilot fee commission to be trade secret or proprietary shall be kept confidential and shall be exempt from public disclosure.

Acts 1968, No. 579, §1; Acts 1987, No. 202, §1, eff. June 29, 1987; Acts 1999, No. 906, §1; Acts 2004, No. 902, §1, eff. Jan. 1, 2005; Acts 2008, No. 234, §1.

NOTE: SEE ACTS 1987, NO. 202, §§2 AND 3.

### Administrative Rules

The voluminous rules of the fee commission are found in [Title 46 Part LXX of the Louisiana Administrative Code](#).

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[§89. Maine Pilotage Commission members](#)

The Maine Pilotage Commission, as established by Title 5, section 12004-A, subsection 40, consists of 7 members who are citizens of the United States and the State of Maine appointed by the Governor as follows: Three licensed pilots who are actively piloting, one member from each of the coastal zones; 2 members who are not licensed pilots but are from a maritime industry that utilizes the services of pilots; and 2 members representing the public who are not licensed pilots but have a maritime background. Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 8009. The members of the commission are entitled to compensation according to Title 5, chapter 379. [PL 2007, c. 695, Pt. B, §23 (AMD).]

SECTION HISTORY

PL 1969, c. 410, §1 (NEW). PL 1975, c. 771, §415 (AMD). PL 1983, c. 812, §288 (AMD). PL 1985, c. 389, §36 (RPR). PL 1989, c. 503, §B174 (AMD). PL 1993, c. 600, §A281 (AMD). PL 1999, c. 355, §9 (AMD). PL 2007, c. 695, Pt. B, §23 (AMD).

[Maine Pilotage Statutes, Title 38, Chapter 1, Subchapter 3](#)

MSRA 38 [§90. Duties of commission](#)

**1. Duties.** The commission shall perform the duties set forth and such other duties as may be provided by law:

- A. Make, establish and enforce such rules and regulations not inconsistent with law that are binding upon all pilots licensed by the commission, and upon all parties employing such pilots; [PL 1999, c. 355, §10 (AMD).]
- B. Make and establish rates of pilotage for those vessels that are subject to this subchapter; [PL 1999, c. 355, §10 (AMD).]
- C. Establish and determine the qualifications of any person applying for a pilot's license and conduct examinations; [PL 1969, c. 410, §1 (NEW).]
- D. Issue any pilot's license in accordance with this subchapter and initiate proceedings to suspend or revoke these licenses; [PL 1999, c. 355, §11 (AMD).]
- E. Cause the laws, rules and regulations concerning pilots and pilotage matters to be fully observed and executed; [PL 1969, c. 410, §1 (NEW).]
- F. Hear and decide complaints made in writing or initiated on its own motion against any pilot for any misbehavior, neglect of, or breach of rules or regulations that it determines material to be investigated; [PL 1999, c. 355, §12 (AMD).]
- G. Hear and decide complaints made in writing by any pilot against any charterer, owner, agent, master or seaman of a vessel for any misbehavior toward such pilot in the performance of his duty, or any breach of the rules and regulations; [PL 1969, c. 410, §1 (NEW).]
- H. [PL 1991, c. 837, Pt. A, §79 (RP).]
- I. To do all other things reasonable, necessary and expedient to insure proper and safe pilotage and to facilitate the efficient administration of this subchapter. [PL 1999, c. 355, §12 (AMD).] [PL 1999, c. 355, §§10-12 (AMD).]

SECTION HISTORY PL 1969, c. 410, §1 (NEW). PL 1977, c. 694, §747 (AMD). PL 1985, c. 389, §37 (AMD). PL 1991, c. 837, §A79 (AMD). PL 1999, c. 355, §§10-12 (AMD).

## Maine Laws and Regulations

[Maine Regulations: Pilotage Commission Rules](#) do not deal with rates, but cover normal commission regulatory issues such as licensing and discipline.

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## Maryland Laws and Regulations

### Maryland Statutes

#### [Title 11 - Pilots](#)

#### [Subtitle 5 - Employment and Compensation of Pilots](#)

#### [§ 11-502. Pilotage fees](#)

#### §11-502.

(a) The Public Service Commission shall establish pilotage fees in accordance with § 4-303 of the Public Utilities Article.

(b) (1) Regardless of whether the employment is required under § 11-501(a) of this subtitle or voluntary under § 11-501(c) of this subtitle, a vessel that employs a licensed pilot to provide pilotage shall pay the licensed pilot the full pilotage fee.

(2) Regardless of whether the vessel uses the services of the pilot for the entire pilotage, a vessel that employs a licensed pilot to provide pilotage shall pay the licensed pilot the full pilotage fee.

(c) Notwithstanding any contract between a licensed pilot who has provided pilotage for a vessel and the master, owner, charterer, or agent of the vessel or any other party, the vessel, its tackle, apparel, and furniture, and the master, owner, charterer, and agent of the vessel shall be jointly and severally liable for payment of the pilotage fee to the licensed pilot.

(d) A licensed pilot who has provided pilotage for a vessel shall have a lien for the amount of the pilotage fee due, enforceable in a court of competent jurisdiction, on the vessel and its tackle, apparel, and furniture.

(e) If a vessel fails to employ a licensed pilot to provide pilotage as required under § 11-501(a) of this subtitle, the vessel and its master, owner, charterer, and agent shall be jointly and severally liable for payment of the full pilotage fee as if a licensed pilot had been employed.

#### [Title 4 - Rate Regulation](#)

#### [Subtitle 3 - Specific Rate Regimes](#)

#### [§ 4-303. Rates for piloted vessels](#)

#### §4-303.

(a) The Commission shall establish pilotage fees and charges for pilotage services to vessels at a just and reasonable rate.

(b) The Commission shall give notice and hold a public hearing on each rate proposal as provided in this article.

(c) In determining a just and reasonable rate, the Commission shall consider:



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- (1) the draft, dimensions, and tonnage of the vessel piloted;
  - (2) the difficulty and inconvenience of the particular service and the time and skill required to render the service;
  - (3) the time required to render pilotage service at other United States ports and the fees and charges for the service;
  - (4) the public interest in maintaining efficient and reliable pilotage service; and
  - (5) other factors relevant to the determination of a just and reasonable rate.
- (d) A pilot may not demand or receive a different compensation for providing pilotage service than the rate set by the Commission under this section.
- (e) The Commission shall impose an assessment on the Association of Maryland Pilots based on assessment guidelines established for public service companies under § 2-110 of this article. The assessment imposed under this subsection may not be less than \$25,000.
- (f) All pilotage fees and charges provided by applicable law shall remain in effect until changed by the Commission.

### [§ 11-508. Required audits.](#)

- (a) Required audits.- The Association shall submit to the Board:
- (1) an annual financial audit of payments to pilots under § 11-505 of this subtitle; and
  - (2) an annual financial audit of the Maintenance and Replacement Fund under § 11-506 of this subtitle.
- (b) Record retention.- The Board shall keep copies of the financial audits received under subsection (a) of this section.

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## Massachusetts Laws and Regulations

### Massachusetts Statutes

Part 1, Title XV, Chapter 103 Sections establishing Pilot Commissioners and Pilot Rate Board:

#### [Part 1, Title XV, Chapter 103, Sec 3](#)

#### **Chapter 103: Section 3. Powers and duties of commissioners**

Section 3. The commissioners, subject to the approval of the trustees of said society, shall formulate rules and regulations for pilotage. The commissioners also, in accordance with such rules and regulations, shall grant commissions as pilots for their districts or for special locations therein, to such persons as they consider competent; provided that for district one such persons shall first be approved by said trustees. The commissioners may, upon satisfactory evidence of his misconduct, carelessness or neglect of duty, suspend any such pilot until the next meeting of said trustees and may thereafter continue such suspension until the close of the next stated meeting of said trustees, but no longer for the same offense. If said trustees decide at either of said meetings that the commission of such pilot ought to be revoked, the commissioners may revoke it at any time after said decision is rendered and before it is reversed. The commissioners shall cause the laws and regulations for pilotage within their district to be duly observed and executed, and shall receive, hear and determine complaints by and against pilots for said district.

#### [Sec. 5](#)

Section 5. Once in every three months each pilot shall render to the commissioners for his district an accurate account of all vessels piloted by him and of all money received for pilotage by him or by any person for him, and shall pay to the said commissioners four per cent of the amount thereof, except in district one, wherein each pilot or any person for him, shall pay to said commissioners two per cent of the amount thereof, and if he makes a false return of money received he shall pay to them not more than fifty dollars. The trustees of the Boston Marine Society shall fix the compensation of the commissioners and their allowance for office rent, clerk hire and incidental expenses, which shall be paid out of the amounts so paid to the commissioners, and the surplus, if any, shall be paid to said society.

#### [Sec. 31A](#)

## Massachusetts Laws and Regulations

### [Section 31A: Pilotage rate board](#)

Section 31A. (a) There shall be a pilotage rate board which shall determine the rates to be charged by pilots commissioned under this chapter to ensure the safe navigation of vessels within the waters of the commonwealth and to ensure that the most qualified individuals are retained as commissioned pilots.

(b) The board shall consist of the following members or their designees: the director of the Massachusetts Port Authority; the president of the Boston Marine Society; the president of the Boston Shipping Association; a commissioner of pilots designated by the trustees of the Boston Marine Society; the chair of the Seaport Advisory Council; the executive director of the Boston Harbor Association; and the executive director of the New Bedford Harbor Development Commission. The board shall elect a chairperson and a vice chairperson from its members.

(c) The board shall be subject to section 11A1/2 of chapter 30A.

(d) Four board members shall constitute a quorum. The board shall approve its actions by a majority vote. Board members may vote by proxy or by electronic means.

(e) The board shall establish rates for pilotage within the waters of the commonwealth based upon prevailing rates in other similar ports, the need to retain the services of the best qualified harbor pilots available and other economic conditions that may affect the quality of pilotage services in the ports.

(f) The board shall meet at least once annually in October on a date to be set by the chairperson but not later than October 15. The board may meet at other times as necessary to carry out its duties.

(g) Board members shall serve without compensation but shall be reimbursed for travel and other reasonable expenses at the rate such expenses are reimbursed to full time employees of the commonwealth. Such reimbursement shall be paid by the Boston Marine Society from funds received pursuant to section 5.

(h) Any decision of the board as to the rates for pilotage shall become effective within 60 days after the board's final decision on rates.

(i) The board shall determine how the rates for pilotage shall be made available to the maritime industry.

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## Mississippi Laws and Regulations

### Mississippi Statutes

[§ 59-1-9](#). General powers and duties of commission; commission may enter into joint venture for construction and operation of facilities under jurisdiction of commission.

It shall be the duty of the commission to keep a minute book in which shall be recorded all of their acts, orders, rules and regulations. It shall be the duty of said commission to adopt rules and regulations not inconsistent with law to govern their official acts. The commissioners are hereby empowered and authorized to act as port wardens and pilot commissioners, and to perform any and all duties pertaining to such within their respective municipalities. It shall be the duty of the commission to make and publish all needful rules and regulations to govern the harbor, docks and passes within their respective jurisdictions, and to fix and prescribe tariffs, fees, fines, penalties and forfeitures for the violations of the rules and regulations of said commission, and said commission shall have the power to fix and determine all port and terminal charges, and they may enforce the collection thereof through any court of competent jurisdiction in this state. This section shall not apply to public utilities nor to railroad terminal charges covered by or carried in approved tariffs authorized by the Interstate Commerce Commission nor to lawful railroad operation and activities.

It shall be the duty of the port commissioners within their respective jurisdictions to see that all port positions, such as harbormaster, pilots, boatmen, stevedores, surveyors, watchmen, police, ship chandlers, ship agents and such other persons performing services for the public shipping, carry out their duties in a manner that is not detrimental to the port and shall not be unduly burdensome to the public shipping.

It shall be the duty of the commissioners to appoint annually a sufficient number of pilots, and all agents and factors necessary for the protection of the harbor and the advancement of public shipping, except that pilots shall be appointed for a term of four (4) years, and before any person shall be appointed a pilot, harbormaster, boatman, stevedore, surveyor, watchman, police, ship Chandler or ship agent, his qualifications for the same shall be passed upon by said port commissioners. After satisfying themselves that any applicant for the position of pilot, harbormaster, boatman, stevedore, surveyor, watchman, police, ship Chandler or ship agent is competent and well qualified to perform the duties of such position and his services are required for the protection of the harbor and the advancement of public shipping, the port commissioners shall issue a license to such applicant, provided and upon condition that such applicant shall enter into a good and sufficient bond in an amount in each case to be determined by the commissioners, the bond to be entered into not to exceed the sum of Five Thousand Dollars (\$5,000.00), said bond to be payable to the city of the port of entry, conditioned according to law for the faithful performance of his duties, and in case of breach thereof, suit may be brought thereon in the name of the city for the benefit of said port commissioners. The port commissioners shall have the

## Mississippi Laws and Regulations

right to revoke any such license for neglect of duty, incompetency, inefficiency, physical disability or for any act or acts detrimental to the interests of the port. Additional pilots may be examined and licensed when in the opinion of said port commissioners the services of same are required for the protection of the harbor and the advancement of public shipping.

In addition to the general powers and duties of a port commission, a port commission may enter into joint ventures or community alliances with private entities or other port commissions or development commissions to construct and operate any facilities under the jurisdiction of such commissions.

Codes, 1930, § 4852; 1942, § 7549; Laws, 1984, ch. 493, § 1; Laws, 2001, ch. 327, § 2, eff from and after July 1, 2001.

### [§ 59-1-39](#). Licensing of harbor masters, pilots, stevedores, etc.

Contracting stevedores shall pay a privilege license not to exceed five hundred dollars (\$500.00) per year, the amount within this limit, to be fixed and determined by the port commissioners, and the same shall be paid to the port commission or port authority to be used for port expenses and maintenance as directed by the port commissioner or port authority. Harbor masters, pilots, boatmen, stevedores, surveyors, watchmen, police, ship agents, ship chandlers and such other persons performing services for the public shipping as the port commissioners may require, shall pay annually such license or permit fee as may be prescribed and required by the port commissioners not to exceed fifty dollars (\$50.00). The fees for piloting, inward and outward, shall be so fixed as not to be unduly burdensome on shipping. The piloting fees for boarding vessels on arrival, for docking and for each shift or move thereafter shall be determined and fixed by the port commissioners as may from time to time be considered reasonable and proper under existing conditions.

It shall be unlawful for any person or persons, to act as harbor master, pilot, boatman, stevedore, surveyor, watchman, ship agent, ship chandler or in any other capacity as the port commissioners may designate, without first being duly licensed and qualified as set out in this section, or without having been issued a permit that such service is necessary for the protection of the harbor or advancement of public shipping.

It shall be unlawful for any vessel, firm or corporation to employ a harbor master, pilot, boatman, stevedore, surveyor, watchman, police, ship agent, ship chandler or any other such person until such person shall have been first duly licensed and qualified as provided in this section.

Codes, 1930, § 4854; 1942, § 7551; Laws, 1948, ch. 381, § 1; Laws, 1968, ch. 579, § 1; Laws, 1984, ch. 493, § 2, eff from and after passage (approved May 15, 1984).

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New Hampshire Statutes

[TITLE I](#)

[THE STATE AND ITS GOVERNMENT](#)

[CHAPTER 12-G](#)

[PEASE DEVELOPMENT AUTHORITY](#)

[Section 12-G:1](#)

**12-G:1 Declaration of Purpose. –**

I. The general court recognizes that the closure and redevelopment of Pease Air Force Base is a matter of great concern for the town of Newington, the city of Portsmouth, the seacoast region, and the state of New Hampshire. Therefore, the general court finds that a comprehensive study of all issues related to the closure and redevelopment of Pease Air Force Base is necessary to ensure proper planning and optimal use of the property. The study shall have as a primary concern the impact of the closure and redevelopment of Pease Air Force Base on the economies, environment, and quality of life of the affected communities, the seacoast region, and the state.

II. The general court further recognizes that the economies, environment, and quality of life of the affected communities, the seacoast region, and the state will depend on the speedy and proper redevelopment of Pease Air Force Base. Thus, it is hereby declared to be in the public interest and to be the policy of the state to foster and promote the redevelopment of Pease Air Force Base by implementing the comprehensive conversion and redevelopment plan being prepared by the former Pease Air Force Base redevelopment commission and the Pease development authority.

III. It is further declared that creation of a development authority to implement the comprehensive conversion and redevelopment plan and to promote, oversee, and integrate the development of Pease Air Force Base is in all respects for the benefit of the affected communities, the seacoast region, and the state and for the improvement of their welfare and prosperity, including the creation of employment and other business opportunities. It is also the intent of the general court that the authority be empowered to assume from the Pease Air Force Base redevelopment commission the responsibility for obtaining federal approval of the comprehensive conversion and redevelopment plan and complete any steps in the planning process that may remain incomplete as of July 1, 1990, and to create a development authority with the power, duties, and authority to implement all aspects of the comprehensive conversion and redevelopment plan subject to provisions of this chapter, including without limitation, taking title in the name of the state of New Hampshire, acting by and through the authority, to any or all of Pease Air Force Base.

IV. The general court further recognizes that integration of the functions of the former New Hampshire state port authority with the functions and duties of the Pease Development Authority will allow for faster and more coordinated development of New Hampshire ports with the conversion and redevelopment of Pease Air Force Base. Thus, it is declared to be in the public interest and the policy of the state to combine in one authority all power, authority, and

## New Hampshire Laws and Regulations

responsibility for the promotion and development of Pease Air Force Base and the ports of New Hampshire for the benefit of the seacoast region and all of the citizens of New Hampshire. It is also the intent of the general court that in the furtherance of its responsibility to promote and develop New Hampshire ports that they remain working ports with due consideration given to the commercial, recreational, and private interests associated therewith.

**Source.** 2001, 290:6, eff. July 1, 2001.

[12-G:47 Pilots.](#) – The authority, in consultation with the executive director, the division director, and the division of ports and harbors advisory council, may adopt rules prescribing the qualifications of pilots, and from time to time appoint and commission, under its hand and seal, as many pilots as it may judge necessary, and remove the same at pleasure; and it shall take from them such security, by bond or otherwise, as it may deem proper.

**Source.** 2001, 290:6. 2003, 242:16. 2008, 356:7, eff. July 11, 2008

[12-G:49-a Pilotage Fees.](#) – All vessels required to engage a pilot under RSA 12-G:49 shall pay a pilotage fee to the pilot. Pilotage fees shall be established by the authority.

**Source.** 2003, 242:16, eff. July 8, 2003.

## Regulations

### [PART Pda 311 PILOTAGE FEES](#)

#### Pda 311.01 Pilotage Fees Schedule.

(a) Vessels required under Pda 304.01 to be piloted by a pilot shall pay to the pilot each applicable pilotage fee as set forth in the schedule of pilotage fees adopted pursuant to (e) below. It shall be the responsibility of the pilot to request payment and collect payment of any pilotage fee authorized under Pda 311.

(b) At least once a year the division director shall review the schedule of pilotage fees and pilotage unit rates. At any time, the division director may prepare a proposed schedule of pilotage fees and pilotage unit rates. The proposed schedule of pilotage fees and pilotage unit rates shall be distributed to each pilot and shall be made available to the public. Hereafter in this section, references to “pilotage fees” shall include “pilotage unit rates.”

(c) Within 30 days of distribution of the proposed schedule of pilotage fees to the public under (b) above, pilots or any member of the public may submit to the division director written comments regarding the proposed schedule of pilotage fees.

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(d) Within 60 days of distribution of the proposed schedule of pilotage fees to the public under (b) above, the division director shall submit a proposed schedule of pilotage fees to the authority for review and approval, either in its original proposed form or as modified after receipt of public comment.

(e) The authority may:

- (1) Adopt the approved annual schedule of pilotage fees;
- (2) Adopt the approved annual schedule of pilotage fees in part; or
- (3) Adopt the approved annual schedule of pilotage fees in part and modify the schedule in part.

(f) The authority shall make available to the public any fee schedule adopted in whole or in part under (e) above.

(g) The pilotage fees adopted by the authority shall take effect on January 1 of the following year, or within 10 days of adoption by the authority, as specified by the authority. Once adopted, the annual schedule of pilotage fees shall be mailed to each pilot and shall be attached to any new commission that may be issued to a pilot. Pilots shall charge fees only as set forth in the approved schedule.

Source. #7870, eff 4-12-03; ss by #8148, EXEMPT, eff 8-27-04; ss by #10818, EXEMPT, eff 4-17-15

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## New Jersey Laws and Regulations

### New Jersey Statutes

#### [2009 New Jersey Code](#)

#### [TITLE 12 - COMMERCE AND NAVIGATION](#)

#### [Section 12:8](#)

#### [12:8-24.1 - Fees for maritime pilotage, use of pilotage rates](#)

32. The fees for maritime pilotage for vessels not exempted from State pilotage by this chapter or any law of the United States shall be as follows:

a. For every vessel entering or departing or underway on the pilotage waters, but not including those south of Sandy Hook, the pilotage rates shall be the same as those charged by maritime pilots licensed by the state of New York; except that, unless otherwise ordered by the commission, a change in rates by New Jersey licensed pilots shall not be effective until thirty days after the effective date of a rate change by pilots licensed by the state of New York.

b. Pilotage rates for vessels entering or departing ports and underway on waters of ports south of Sandy Hook to, and including, Atlantic City shall be established by the commission.

c. Maritime pilotage rates for intermediate or intra-harbor movement of vessels shall be established by the commission after conferring with the New York Pilotage Commission.

d. Nothing in this section shall pertain to the rates charged by docking pilots.

L.2004,c.72,s.32

### **Regulations**

#### [NJAC §16:64-1.7 Fees for maritime pilotage](#)

(a) On or before the regular monthly meeting of the Commission, the Pilots' Association shall render to the Treasurer:

1. An accounting of all fees collected for pilotage during the preceding month; and

2. A payment to the Commission of a percentage of the fees collected as required by N.J.S.A. 12:8-4.

(b) Fees for maritime pilotage are as follows:

1. For every vessel entering or departing underway on pilotage waters, but not including those south of Sandy Hook, the pilotage rates shall be the same as those charged by maritime pilots licensed by the State of New York. The Commission shall review and adopt these rates by resolution after they are signed into law in the State of New York.

2. Pilotage rates for vessels entering or departing ports and underway on waters of ports south of Sandy Hook to, and including, Atlantic City shall be the same as for vessels as established in (b)1 above.

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**3.** After conferring with the New York Pilotage Commission, it has been determined that maritime pilotage rates for intermediate or intra-harbor movement of vessels shall be the same as those charged by Maritime Pilots licensed by the State of New York.

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)2, substituted "Commission" for "Board".

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

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

Rewrote (b).

Amended by R.2008 d.362, effective December 1, 2008.

See: 40 N.J.R. 4305(a), 40 N.J.R. 6823(a).

Rewrote (b).

Amended by R.2011 d.050, effective February 7, 2011.

See: 42 N.J.R. 2012(a), 43 N.J.R. 315(b).

In the introductory paragraph of (b)3, inserted a comma following "Commission"; updated the rate charts in (b)3; and in (b)3i, substituted "\$ 2.50" for "\$ 2.00", "\$ 500.00" for "\$ 300.00" and "\$ 1,000" for "\$ 800.00

Recodified from N.J.A.C. 16:64-1.6 and amended by R.2014 d.116, effective July 21, 2014.

See: 46 N.J.R. 481(a), 46 N.J.R. 1703(a).

Section was "Fees for pilotage". In (b)3, amended the tables. Former N.J.A.C. 16:64-1.7, Failure to take a pilot; penalty, recodified to N.J.A.C. 16:64-1.8.

Amended by R.2017 d.106, effective June 5, 2017.

See: 48 N.J.R. 2422(a), 49 N.J.R. 1452(a).

Rewrote (b)3.

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**Navigation Code Article 6**

**The rates are set forth in §88(4) Pilotage at Sandy Hook, Sands Point or Execution Rocks:**

4. (a) Every foreign vessel and every American vessel under register entering or departing from the port of New York by the way of Sandy Hook or by the way of Sands Point or Execution Rocks shall be subject to pilotage fees, at the rates hereinafter specified, at the time of her entrance or departure. If such pilot at the request of the master, owner or consignee of any inbound vessel or at the request of the agent entering such vessel at the port of New York anchors or moors such vessel at any place inside of Sandy Hook or inside of Sands Point or Execution Rocks, or if such vessel be detained at quarantine, the same pilotage fees shall be payable and the pilot entitled to his discharge.

(b) The following scale of charges shall be applicable:

(1) Upon the effective date of this paragraph and thereafter:

(i) The following rate table shall be used to calculate pilotage fees by multiplying total pilotage units per vessel by the designated factor, then adding or subtracting the designated adjustment:

PILOTAGE UNITS	FACTOR	ADJUSTMENT
0 to 24.99	0	+455
25 to 49.99	0	+568
50 to 99.99	0	+710
100 to 299.99	7.65	-55
300 to 474.99	6.89	+173
475 and over	0.91	+3014

The pilotage fee charged shall be the fee calculated pursuant to the rate table in this section plus seven and one-half (7.5%) percent of the calculated fee.

(ii) On and after the date of receipt, by the board of commissioners of pilots of a joint request from the united New York Sandy Hook pilots' benevolent association and the united New Jersey Sandy Hook pilots' benevolent association, pilotage fees shall be calculated pursuant to this subparagraph. Such request shall be provided to the board of commissioners of pilots within ten days of approval by the membership of the united New York Sandy Hook pilots' benevolent association and the united New Jersey Sandy Hook pilots' benevolent association of amendments to the articles of association consistent with this subparagraph on or before December thirty-first, two thousand six.

1. (A) (i) The following rate table shall be used to calculate base pilotage tariffs:

PILOTAGE UNITS (P.U.)	TARIFF
-----------------------	--------

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0 to 24.99	\$733
25 to 49.99	\$861
50 to 99.99	\$1063
100 to 499.99	$\$(10.72 \times \text{P.U.})$
500 and up	$\$((\text{P.U.} - 500) \times 1.44) + 5360$

(ii) Effective January first, two thousand eighteen, the following rate table shall be used to calculate base pilotage tariffs:

0 to 24.99	\$740
25 to 49.99	\$870
50 to 99.99	\$1074
100 to 499.99	$\$(10.83 \times \text{P.U.})$
500 to 1649.99	$\$((\text{P.U.} - 500) \times 1.45) + 5414$
1650 and up	$\$((\text{P.U.} - 1650) \times 3.47) + 7155$

(iii) Effective January first, two thousand nineteen, the following rate table shall be used to calculate base pilotage tariffs:

0 to 24.99	\$747
25 to 49.99	\$879
50 to 99.99	\$1085
100 to 499.99	$\$(10.94 \times \text{P.U.})$
500 to 1649.99	$\$((\text{P.U.} - 500) \times 1.46) + 5468$
1650 and up	$\$((\text{P.U.} - 1650) \times 3.50) + 7227$

(iv) Effective January first, two thousand twenty, the following rate table shall be used to calculate base pilotage tariffs:

0 to 24.99	\$762
25 to 49.99	\$897
50 to 99.99	\$1107
100 to 499.99	$\$(11.16 \times \text{P.U.})$
500 to 1649.99	$\$((\text{P.U.} - 500) \times 1.49) + 5577$
1650 and up	$\$((\text{P.U.} - 1650) \times 3.57) + 7372$

(v) Effective January first, two thousand twenty-one, the following rate table shall be used to calculate base pilotage tariffs:

0 to 24.99	\$777
25 to 49.99	\$915
50 to 99.99	\$1129
100 to 499.99	$\$(11.38 \times \text{P.U.})$
500 to 1649.99	$\$((\text{P.U.} - 500) \times 1.52) + 5689$
1650 and up	$\$((\text{P.U.} - 1650) \times 3.64) + 7519$

(vi) Effective January first, two thousand twenty-two, the following rate table shall be used to calculate base pilotage tariffs:

0 to 24.99	\$800
25 to 49.99	\$942
50 to 99.99	\$1163

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100 to 499.99	$\$(11.72 \times \text{P.U.})$
500 to 1649.99	$\$((\text{P.U.} - 500) \times 1.57) + 5860$
1650 and up	$\$((\text{P.U.} - 1650) \times 3.74) + 7745$

(B) i. In addition to the base pilotage tariffs set forth in item (A) of this subclause, there is hereby established a surcharge on every foreign vessel and every American vessel under register entering or departing from the port of New York by the way of Sandy Hook or by the way of Sands Point or Execution Rocks. Such surcharge, as determined quarterly by the Sandy Hook pilot's surcharge board, shall be imposed for the exclusive purpose of the funding, on a sound actuarial basis, the retirement benefits for Sandy Hook pilots', described below, and a contribution per active Sandy Hook pilot equivalent to twelve percent of each Sandy Hook pilot's earnings from service as a Sandy Hook pilot based upon the base pilotage tariffs set forth in item (A) of this subclause to fund a future pension, in whole or in part, or any other replacement plan approved by the Sandy Hook pilots' surcharge board and established from time to time for the benefit of Sandy Hook pilots as a qualified plan under the Internal Revenue Code of 1986, as amended, as more specifically described in subclause six of this clause. The amount of the surcharge set forth herein shall not exceed the greater of thirty-five percent of the sum of the base pilotage tariffs set forth in item (A) of this subclause and the surcharge set forth in this subparagraph; or seven million nine hundred thousand dollars (\$7,900,000) in any calendar year.

### [§ 87. Board of commissioners of pilots; powers and duties](#)

#### **Navigation**

§ 87. Board of commissioners of pilots; powers and duties. 1. There shall continue to be in the city of New York, a board entitled the "board of commissioners of pilots," consisting of six persons, who shall hold their offices respectively, for two years from the time of their election, and until their successors are elected and have qualified. The governor, temporary president of the senate and the speaker of the assembly shall each appoint one commissioner. Two other of such commissioners shall be elected by the presidents and vice-presidents of the marine insurance companies of the city of New York, composing or represented in the board of underwriters of such city, at a regularly convened meeting of such board. Notice of such meeting shall be given by the secretary of the board of underwriters or some member of the board duly authorized by it and it shall state that the election of commissioners will take place. Such notice shall be given in writing at least one day before the election and shall be delivered at the office of such company. Each insurance company represented at such meeting shall be entitled to one vote, and the certificate of the secretary of such board, or of any officer acting in his stead, shall be sufficient prima facie evidence of an election. The sixth commissioner shall be appointed by the governor from among the members or the staff of the Albany

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port district commission for a term of two years and until his successor is appointed and has qualified. No person shall be elected or appointed to the board of commissioners of pilots who holds or heretofore held a pilot's license issued pursuant to this article or pursuant to any law, rule or regulation of this state or any political subdivision, board, commission or authority of this state or of any other state or pursuant to any federal law, rule or regulation. Of the six members of the board of commissioners of pilots, at least four commissioners shall have been a licensed deck officer in the United States Merchant Marine or an unrestricted line officer in the United States Naval Service or a commissioned officer in the United States Coast Guard, and commanded a navigation watch on an ocean going vessel. The remaining two commissioners shall each have a minimum of five years of experience within the maritime industry. Upon the expiration of the term of office of any commissioner or commissioners, or within thirty days prior thereto, and upon any vacancy occurring by death, resignation, removal from the state, or other cause, another election or appointment to fill such office for the term of two years shall be held by the same class of persons or authority which had previously held the election or appointment for the office so expiring or becoming vacant.

2. Each commissioner, before entering upon the duties of his office, shall take the constitutional oath of office before an officer authorized to administer oaths, which oath or affirmation shall be filed, without delay, in the office of the clerk of the county of New York.

3. The board of commissioners shall appoint and at pleasure remove a secretary and shall prescribe his duties and fix his compensation. Such secretary shall take a like oath, to be filed in like manner, as provided in subdivision two. The board shall establish an office in some convenient place in the city of New York, where the commissioners shall meet on the first Tuesday of every month, or more frequently by adjournment, or upon a notice given by any one of them, or by the secretary, as the circumstances may require.

4. The commissioners shall require the secretary in person or by deputy to be in daily attendance at their office during reasonable office hours on all ordinary business days. They shall cause the secretary to keep a proper book or books, in which all the rules and regulations, official transactions and proceedings, and whatever else may be deemed by them proper and useful and immediately pertaining to their duties or to the pilot service, shall be entered. They shall also cause the secretary to keep a register of the names and addresses of all the pilots licensed by them, with the dates of their licenses. Such books may be inspected by any person interested.

5. The decision of a majority of the commissioners shall be conclusive upon all questions arising under this article, except as otherwise provided. In case of an omission to fill any vacancy in the board of commissioners for one month, the remaining commissioners shall have and exercise all of the powers and duties of the board until the vacancy is filled.

\* 6.(a) The board of commissioners of pilots shall advise the governor and the legislature on matters pertaining to pilotage fees. The board is authorized to review all aspects relevant to the determination of pilotage fees for vessels

## New York Laws and Regulations

entering or departing from the Port of New York by way of Sandy Hook and by way of Sands Point or Execution Rocks; for vessels transiting the Hudson river between Yonkers and the dam at Troy; and for vessels transiting Long Island Sound and Block Island Sound east of a line from City Island avenue on City Island through Stepping Stones Light and entering or departing from any port on the New York state waters of Long Island Sound east of Sands Point or Execution Rocks for the purpose of making recommendations consistent with the objectives of assuring public safety, protection of property, and the protection of the environment. The board shall give due consideration to the following:

- (1) The costs and other expenses incurred by pilots in providing the required services;
  - (2) The amount sufficient to provide a net return to the pilots which will attract and hold competent persons;
  - (3) Pilotage rates for comparable services on other waters of the United States;
  - (4) The methods of establishing pilotage rates for other waters of the United States;
  - (5) Economic factors affecting the shipping industry and pilot services in the areas under the jurisdiction of the board;
  - (6) Additions or modification of equipment in pilot vessels required to adequately protect persons, property, and the environment;
  - (7) Auditors' reports pertaining to the income and expenses of pilot associations;
  - (8) The number of pilots needed to provide and maintain adequate services for the areas under the jurisdiction of the board;
  - (9) Review of the apprentice and training programs for the purpose of determining the numbers of persons needed to fill vacancies in the pilot services as they arise;
  - (10) Any other information deemed pertinent by the board.
- (b) The board of commissioners of pilots shall submit to the governor and the legislature a report containing its findings and recommendations on pilotage fees on or before March first of each year.

[Excerpt from Board of Commissioners of Pilots webpage](#) describing the New York rate setting system:

#### PILOTAGE RATES

Rates for regulated vessels are determined by the Legislature for vessels arriving at or departing from the Port of New York/New Jersey, the Long Island Sound/Block Island Sound and the Hudson River. The Board retains authority to establish intermediate rates for other services, as well as to review and recommend surcharges for:

- Sandy Hook Capital Construction Fund: Implemented in 1999, reviewed/adjusted annually;
- Sandy Hook Pension Fund: Implemented in 1995, reviewed/adjusted quarterly;
- Hudson River Pension Surcharge: Implemented in 2015, rate for first sixty months set by legislation;
- Hudson River Pilot Station and Communications Fee: Implemented in 1998, reviewed/adjusted annually;
- Long Island Sound/Block Island Sound pilot boat fuel surcharge: Implemented in 2006, adjusted quarterly.

State pilotage revenues for vessels in international trade, arriving from or departing for sea, are earned from statutory pilotage fees paid by vessels according to terms and tariffs established by the Legislature under authority of the New York State Navigation Law and by the Board, as described above. No subsidies are received, or are any tax revenues used, by New York State licensed pilots. Pilotage fees are established by the Legislature for entry into and departure from the ports, and by the Board for supplemental services such as docking, undocking and intra-port movements. In 1999, the Legislature enacted variable rate surcharges which provide for the cost recovery of certain investments in durable capital equipment, such as pilot boats and electronic navigation equipment in the Port of New York/New Jersey and for the recovery of certain operating cost expenditures for pilot boats, pilot stations and communications equipment on the Hudson River. In 2000, the Legislature began to authorize multi-year general tariff increases for vessels bound to and from sea in the Port of New York/New Jersey and the Hudson River. Rates for supplemental pilotage services are established by the Board under authority of the New York State Navigation Law.

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[2010 North Carolina Code Chapter 76A Navigation and Pilotage Commissions.](#)

[§ 76A-17. Pilotage rates.](#)

The Commission shall set charges for pilotage services on a published tariff basis to be reviewed and revised annually as necessary. The initial publication of rates and subsequent revisions shall be preceded by public notice at least 30 days prior to publication. The rates may be based on the method chosen by the Commission and may be varied on a geographic or other basis which the Commission deems appropriate. In establishing pilotage rates the Commission shall consider but not be limited to factors such as vessels' lengths, vessels' drafts, general design of vessels, distances for which pilotage services are to be provided, nature of waters to be traversed and the rates for comparable pilotage services in other ports. (1981, c. 910, s. 1.)

Regulations:

[04 NCAC 15 .0127 PILOTAGE RATES](#) ship talk (a) Requests for rate revisions shall be submitted in writing to the secretary of the commission before February 1 of the year in which the rate revision is requested. (b) Proposed rate revisions shall be considered by the commission at the first regular meeting after March 1 of the year in which the rate revision is requested. (c) The public shall be notified of any rate revision and its effective date by the following methods: (1) publication in at least two Wilmington area newspapers; (2) posting at the State Ports Authority Building of the N.C. State Ports Authority at Wilmington; and (3) written notification to the N.C. Shipping Association. (d) Rate revisions shall be effective July 1 of the year in which the rate is revised by the commission. History Note: Authority G.S. 76A-1; 76A-17; Eff. December 1, 1985; Readopted Eff. December 1, 2018

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### Oregon Statutes

#### **2011 ORS Vol 17 Chapter 776**

##### **[§ 776.105](#)**

(1) The Oregon Board of Maritime Pilots is established within the Public Utility Commission of Oregon, and shall consist of nine members appointed by the Governor for terms of four years. The appointments of members of the board are subject to confirmation by the Senate in the manner prescribed in ORS **171.562 (Procedures for confirmation)** and **171.565 (Vote required for confirmation)**.

##### **[§ 776.115 \(5\)](#)**

##### **[Powers and Duties of Board](#)**

(5) (a) Fix, at reasonable and just rates, pilotage fees, extra fees for vessels in distress, fees for extraordinary pilotage services, fees for a licensee or trainee being carried to sea unwillingly and reimbursement for the return to station or for the detention of a licensee or trainee, except that pilotage fees shall not be less inbound or outbound on vessels, propelled in whole or in part by their own power, than the following:

(A) Between Astoria and Portland or Vancouver, \$2.50 per foot draft and 2 cents per net ton;

(B) Between Astoria or Knappton and the sea, \$3 per foot draft and 2 cents per net ton;

(C) Between Yaquina Bay and the sea, \$3 per foot draft and 2 cents per ton; and

(D) Between Coos Bay and the sea, \$2.50 per foot draft and 2 cents per ton.

(b) In fixing fees pursuant to paragraph (a) of this subsection, the board shall give due regard to the following factors:

(A) The length and net tonnage of the vessels to be piloted.

(B) The difficulty and inconvenience of the particular service and the skill required to render it.

(C) The supply of and demand for pilotage services.

(D) The public interest in maintaining efficient, economical and reliable pilotage service.

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(E) Other factors relevant to the determination of reasonable and just rates.

### [§ 776.129 Administrative law judge for rate hearings](#)

- (1) When the Oregon Board of Maritime Pilots establishes rates described in ORS [776.115 \(Powers and duties of board\)](#) (5), the board shall contract with and compensate the Public Utility Commission of Oregon for the use of administrative law judges assigned by the commission to conduct the rate proceeding. Notwithstanding ORS [183.413 \(Notice to parties before hearing of rights and procedure\)](#) to [183.470 \(Orders in contested cases\)](#), an administrative law judge shall conduct the proceeding in compliance with procedures adopted by the board by rule. The administrative law judge and the board may receive and consider recommendations made by the Oregon Business Development Department and the Port of Portland.
- (2) The board may defray the costs and expenses of the hearing by assessing, in its final order, all or a portion of the costs and expenses of the hearing to a party to the hearing. [1987 c.775 §2; 1989 c.171 §85; 1989 c.293 §1; 1993 c.741 §112a; 1993 c.796 §6; 1999 c.849 §§178,179; 2003 c.75 §63; 2003 c.619 §2; 2007 c.288 §17]

## Regulations

### [Oregon Board of Maritime Pilots - Chapter 856](#)

Division 30

#### RATEMAKING PROCEDURES

##### [856-030-0000](#)

##### **Rate-making — Substantive Elements**

The Board shall for each pilotage ground, establish a rate structure that provides for efficient, economical, and competent pilotage services and fair compensation for pilotage services and expenses:

- (1) In determining the number of pilot positions needed and fair compensation for services and expenses, the Board shall consider:
  - (a) The amount of activity, including number of vessels, number of pilot assignments, size of vessels by gross registered tonnage (GRT), length, and draft;
  - (b) Any change in the amount of activity since the last rate order;
  - (c) The public interest in prompt and efficient service;

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(d) The professional skills and experience required of a pilot and the difficulty and inconvenience of providing the service, including time necessary to perform the service;

(e) Evidence of compensation for comparable maritime professions, including other state regulated pilotage associations;

(f) Evidence of the economic and market conditions existing both locally and within the region of any pilotage association used for the purpose of comparison;

(g) Total gross and net income for the pilots' group since the last rate order, or as directed by the Board, including sources of income by tariff category; and

(h) Individual amounts paid to pilots since the last rate order, or as directed by the Board, which may be shown as both gross and adjusted gross income, as reported for tax purposes.

(2) For the purposes of subsection (1)(e) above, the Board shall at a minimum consider evidence of the compensation and benefits provided to pilots in pilotage associations serving Puget Sound and San Francisco.

(3) In determining compensation for expenses the Board shall consider evidence of appropriate expenses related to the provision of pilotage services as shown by records of the pilots' group, and verified by an independent audit.

(4) In receiving evidence on any financial or economic issue, the Board or its hearings officer may require parties to submit independently audited or other financial records in order to hold all parties to a comparable standard of proof.

**Statutory/Other Authority:** ORS 776

**Statutes/Other Implemented:** ORS 776.115

**History:**

BMP 1-2012, f. & cert. ef. 5-29-12

BMP 3-2003, f. & cert. ef. 5-23-03

MP 3-1988, f. & cert. ef. 11-9-88

MP 2-1983, f. & ef. 12-15-83

**[856-030-0001](#)**

**Capital Improvement Planning**

(1) A pilot organization that intends to seek funding through pilotage rates at the next available ratemaking opportunity for reimbursement of the cost of a proposed major capital improvement is encouraged to notify the Board as soon as practicable. A "major capital improvement" is a change in an asset used for or in support of transportation, offices, accommodations, computing or

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communications that, if funded, would require an increase in revenue produced by rates of five (5) percent or more in the next rate case.

(2) If a pilot organization notifies the Board of a proposed major capital improvement, the Board shall make time on its agenda for one or more of its regularly scheduled meetings for the presentation of information by the pilot organization and discussion of the proposed major capital improvement. The Board may, in addition, appoint a subcommittee of its members to meet with the organization of pilots and other interested parties to evaluate the proposed major capital improvement.

(3) A pilot organization choosing not to utilize the opportunity for Board planning participation provided by this section shall, when filing its pre-petition notice as required by section 856-030-0005, explain its reasons for not doing so.

(4) Major capital improvement expenses shall be submitted to the process provided by this section unless the proponent shows that compliance was prevented by reasons beyond its control and which the proponent could not have reasonably anticipated, or other circumstances make exclusion of the request for major capital improvement funding unjust.

**Statutory/Other Authority:** ORS 776

**Statutes/Other Implemented:** ORS 776.115

**History:**

BMP 3-2003, f. & cert. ef. 5-23-03

### **856-030-0002**

#### **Pre-Petition Notice and Dispute Resolution Process**

(1) Any party intending to request a change in pilotage rates must, at least 90 days prior to petitioning the Board, file a notice of intent to petition with the Board, with a copy served on each pilot association, any association representing the interests of vessel owners or operators and any other party that participated in the most recent past rate proceedings. The notice shall contain an explanation of the proposed change, including a description of each new cost item not previously approved by the Board in a rate proceeding, any increase in a cost item previously approved by the Board where the increase is greater than five (5) percent over the amount expended during the prior calendar year, and any requested change in pilot compensation and benefits.

(2) Within 20 days after receipt of the first-filed notice of intent to petition, any other pilot association, any association representing the interests of vessel owners or operators, any other party that participated in the most recent past rate proceedings, shall file their response to the notice, including a description of any intended opposition, or notice of intent to petition for a change on another pilotage ground.

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(3) Upon receipt of a notice of intent to petition pursuant to paragraph (1) above, the Board's members representing the public shall be formed as a rate subcommittee.

(4) The Board's rate subcommittee shall, within 45 days of the first filing of a notice of intent to petition, hold a meeting with the party filing the notice and with all respondents thereto. The purpose of the meeting shall be to clarify the issues and begin exploration of possible means of narrowing and simplifying the issues. The rate subcommittee shall encourage the interested parties to utilize mediation or other alternative dispute resolution processes to narrow and simplify issues as much as possible.

(5) Prior to filing of a petition, the rate subcommittee may convene or participate in such additional meetings with interested parties as it deems in the best interests of the Board and the public. The rate subcommittee may, if requested by the interested parties, participate in any mediation or other alternative dispute resolution process that is arranged by the interested parties.

(6) The Board may, in its discretion, waive any or all of the provisions of this rule.

**Statutory/Other Authority:** ORS 776 & 183

**Statutes/Other Implemented:** ORS 776.115, 776.183 & 183.415

**History:**

BMP 5-2008, f. & cert. ef. 4-28-08

BMP 3-2003, f. & cert. ef. 5-23-03

**856-030-0010**

**Rate-making — Petitions, Filing and Response**

When the Board is petitioned to act under ORS 776.115(5), the following procedure shall be followed:

(1) An interested person may petition the Board requesting a hearing. The petition is deemed filed when received by the Board at its office. Before the petition can be accepted as filed, the person must deposit \$1,000 with the Board to defray the expenses of the hearing. Deposits are also required with petitions filed for other pilotage grounds as provided in subsection (3)(a) of this rule.

(2) The petition must be in writing, signed by petitioner or petitioner's agent and containing a detailed statement of:

(a) The action requested of the Board, with a detailed listing of all cost items and any requested changes in compensation and benefits;

(b) Enough detailed facts to show petitioner's interest in the factors shown in ORS 776.115(5)(b) and in OAR 856-030-0000 if applicable;

## Oregon Laws and Regulations

(c) The extent to which the parties have been able to narrow or simplify issues pursuant to OAR 856-030-0003 prior to the petition being filed.

(d) The name and address of petitioner and of any other persons petitioner knows who may be interested in the proceeding; and a statement as to whether a copy of the petition has been served upon them.

(3) Upon receipt of the petition, the Board will mail a true copy of the petition and a copy of any applicable rules of practice to all parties named in the petition unless they have been previously served by petitioner. The Board will include in its mailing those who the Board believes have interest in the proceeding, including pilots' groups and owner/operator associations on all pilotage grounds. The mailing will be by certified or registered mail and will be deemed served on the date of mailing to the last known address of the person being served:

(a) The Board will advise all parties that they have 30 days to file with the Board and the petitioner a petition for another ground, a counter-petition or answer, or other applicable pleading or response. For good cause shown, the Board may extend the time for filing responses for a period not to exceed an additional 20 days. If representatives of pilotage grounds other than those of petitioner wish a rate change, they must file a petition or answer within the time period set by this;

(b) The responses filed by interested parties, whether counter-petitions or responses, must address the factors in ORS 776.115(5)(b) and in OAR 856-030-0000 and all related issues raised in the petition.

(4)(a) Within 45 days of the filing of a petition under this rule, the Board shall appoint a hearings officer and delegate to the hearings officer its powers to subpoena, swear witnesses and otherwise conduct a contested case hearing as required under ORS Chapters 183 and 776;

(b) The hearings officer will set the hearing for a date and time most convenient to the parties concerned, but not later than 90 days after the filing of the petition.

(5) Pre-hearing Conferences, Exhibits and Testimony:

(a) In order to make a more effective use of hearing time in formal proceedings and to expedite the orderly conduct and disposition of the proceedings, the hearings officer shall arrange for conferences between the parties to consider:

(A) Simplifying and clarifying the issues and eliminating irrelevant or immaterial issues;

(B) Obtaining stipulations as to facts, authenticity of documents, admissibility of evidence, and other matters;

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(C) Such other aids to the orderly conduct and disposition of the proceeding as may be possible.

(b) Conferences may be called before the hearing, or the hearing may be recessed for a conference. The presiding officer shall state on the record the results of such a conference;

(c) Exhibits and testimony. The hearings officer shall require the parties to file proposed written testimony and exhibits with the Board before the date set for hearing, reserving rights of cross-examination. Any objections to the pre-filed testimony and exhibits shall be resolved prior to the hearing.

(6) Intervention. Any person with a material interest may by written petition seek permission to intervene in any proceeding before the Board. The petition shall contain:

(a) The name and address of the party intervening and the party's attorney, if any;

(b) Sufficient facts to show clearly the interest of the proposed intervention and how any action taken by the Board will affect that interest;

(c) The position of the party in the proceeding. Intervention shall not broaden the issues in the proceeding nor shall intervention delay the hearing or unfairly prejudice the other parties.

(7) Notwithstanding the provisions of this section, the Board shall, absent emergency circumstances, refuse to accept any petition to change pilotage rates for any pilotage ground if less than 16 months have elapsed since the effective date of the last rate order for that or any other pilotage ground. The burden shall be on a petitioner wishing to shorten this period to demonstrate emergency circumstances affecting the public interest. In the event the Board determines there are emergency circumstances affecting the public interest that require an immediate rate proceeding, the Board shall issue an order setting forth its justifications for accepting the petition. The order shall be mailed to the petitioner and to other persons upon whom a copy of the petition was served.

**Statutory/Other Authority:** ORS 776

**Statutes/Other Implemented:** ORS 183.413 - 183.470 & 776.115

**History:**

[BMP 9-2019, amend filed 09/09/2019, effective 09/09/2019](#)

[BMP 1-2019, minor correction filed 01/23/2019, effective 01/23/2019](#)

BMP 3-2003, f. & cert. ef. 5-23-03

PC 6, f. 6-2-72, ef. 6-15-72; MP 2-1983, f. & ef. 12-15-83; MP 2-1984, f. & ef.

10-4-84; Renumbered from 856-020-0115; MP 3-1988, f. & cert. ef. 11-9-88;

MP 1-1996, f. & cert. ef. 5-9-96



**856-030-0015**

**Conduct of the Hearing**

(1) The hearing shall be conducted in accordance with ORS 183.425 to 183.464 and the Attorney General's Model Rules.

(2) If the hearings officer believes that additional evidence or written argument is necessary to complete the record, the officer may allow additional time for the presentation of further evidence on specific issues designated by the officer or for submission of written arguments. No further evidence or argument shall be received without notice to all parties or later than 10 days after the oral hearing. Any party presenting such evidence or argument shall provide copies to all parties.

(3) The hearings officer shall submit the officer's proposed order to the Board and to all parties within 30 days after the close of the hearing.

**Statutory/Other Authority:** ORS 776

**Statutes/Other Implemented:** ORS 183.425 & 776.115

**History:**

BMP 3-2003, f. & cert. ef. 5-23-03

PC 6, f. 6-2-72, ef. 6-15-72; PC 9, f. & ef. 11-12-76; MP 2-1983, f. & ef. 12-15-83; MP 2-1984, f. & ef. 10-4-84; Renumbered from 856-020-0120; MP 1-1996, f. & cert. ef. 5-9-96

**856-030-0020**

**Proposed Orders**

(1) In any case heard under division 030, Ratemaking Procedures, the hearings officer shall prepare and serve on all members of the Board, and on all parties to the hearing, a proposed order which includes recommended findings of fact and conclusions of law.

(2) The parties affected by the order shall have 15 days from the date of the proposed order to present their objections or alternative proposed orders to the Board.

**Statutory/Other Authority:** ORS 776

**Statutes/Other Implemented:** ORS 183.464 & 776.115

**History:**

BMP 3-2003, f. & cert. ef. 5-23-03

PC 6, f. 6-2-72, ef. 6-15-72; MP 2-1983, f. & ef. 12-15-83; MP 2-1984, f. & ef. 10-4-84; Renumbered from 856-020-0125; MP 3-1988, f. & cert. ef. 11-9-88

**856-030-0025**

**Final Orders**

## Oregon Laws and Regulations

(1) Every final order entered in a proceeding under division 30, Ratemaking Procedures, shall be in writing and shall be accompanied by findings of fact and conclusions of law, and by a citation of the statutes under which the order may be appealed.

(2) The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the order.

(3) The Board shall adopt the final order at its next or second meeting after the time for response has run. On a proceeding held under OAR 856-030-0010, the final order shall be adopted within 240 days of the date of the filing of a valid petition and deposit of the required sum of money, and shall be effective on the date adopted or the second anniversary date of the previous rate order, whichever is later.

(4) The Board shall determine the costs of the proceedings and assess such costs equitably among the parties involved as part of the final order.

**Statutory/Other Authority:** ORS 776

**Statutes/Other Implemented:** ORS 183.470 & 776.115

**History:**

MP 2-1984, f. & ef. 10-4-84, Renumbered from 856-020-0130

MP 2-1983, f. & ef. 12-15-83

PC 6, f. 6-2-72, ef. 6-15-72

### **856-030-0030**

#### **Notification of Orders**

The Board shall deliver or mail a copy of the final order and accompanying findings and conclusions to each party to the proceeding or, if applicable, to a party's attorney of record.

**Statutory/Other Authority:** ORS 776

**Statutes/Other Implemented:** ORS 183.470

**History:**

MP 2-1984, f. & ef. 10-4-84, Renumbered from 856-020-0135

MP 2-1983, f. & ef. 12-15-83

PC 6, f. 6-2-72, ef. 6-15-72

### **856-030-0033**

#### **Board Initiated Rate Proceedings**

For Board rate proceedings initiated on the Board's own motion, the following shall apply:

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(1) No proceeding shall be commenced unless at least seven voting members of the Board agree to do so.

(2) Only single-issue proceedings shall be considered or commenced.

(3) The following procedures shall be followed:

(a) The pre-petition notice and dispute resolution process shall not apply.

(b) Upon Board decision to commence a rate proceeding, the Board shall provide notice of the change proposed, by certified or registered mail, to all parties to any rate order being affected, and to any other persons the Board believes have interest in the proceedings. The notice is deemed served on the date of mailing to the last known address of the person being served.

(c) The notice shall:

(A) Provide that all parties served have 30 days from the date of service to request a hearing, or provide an answer, other applicable pleading, or response. A request for hearing, an answer, pleading or other response shall be deemed filed on the day it is received at the Board's offices. Weekend days are included in calculating these 30 days, but state holidays are not. However, if the 30th day falls on a weekend day, the first day that state offices are open following that weekend is the 30th day.

(B) Include the action proposed by the Board, with a detailed listing of all cost items and any requested changes in pilot compensation or a current rate order.

(C) Include a statement that any natural persons addressed in the notice who are active duty service members have a right to stay proceedings under the federal Service members Civil Relief Act and may contact the Oregon State Bar or the Oregon Military Department for more information. The statement must include the toll-free telephone numbers for the Oregon State Bar, the contact information for the Oregon Military Department and the Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website.

(d) If no hearing is requested within 30 days of service of the notice, the Board may issue a final order upon default. If an answer, pleading, or other response is filed within 30 days but no request for hearing is filed within 30 days, no hearing shall be held. However, if no hearing is requested within 30 days, but an answer, pleading or other response is filed within those 30 days, the Board shall, at a minimum, consider and address the issues raised in the answer, pleading, or response in its final order. The Board may also issue an amended notice in reply to an answer, pleading, or other response timely received.

(e) No untimely request for a hearing shall be considered.

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(f) If a hearing is requested, the Board request for an Administrative Law Judge from the Public Utility Commission shall be submitted within 60 days of the hearing request.

(g) The hearing shall be conducted in accordance with 856-030-0015.

(h) No later than 14 days after the proposed order is issued, any party who would be adversely affected if the Board were to adopt the proposed order as a final order may file written exceptions to the Proposed Order with the Board. Written exceptions may include arguments about the hearing officer's findings of fact based on the record, the hearing officer's legal analysis, and the hearing officer's conclusions and recommendations. No new facts or evidence may be introduced, and the Board will not consider any new facts or evidence.

(i) Every final order entered shall be in writing and shall be accompanied by findings of fact and conclusions of law, and by a citation of the statutes under which the order may be appealed.

(j) The findings of fact in every final order shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the order.

(k) The Board shall adopt the final order as soon as practicable.

(l) The Board shall determine the costs of the proceedings and assess such costs equitably among the parties involved, except for the Board, in any contested case hearing, as part of the final order.

**Statutory/Other Authority:** ORS 776.115

**History:**

[BMP 8-2019, adopt filed 09/09/2019, effective 09/09/2019](#)

[BMP 7-2019, temporary adopt filed 07/19/2019, effective 07/19/2019 through 01/14/2020](#)

### [The current tariff contains five automatic adjustments:](#)

AUTOMATIC ADJUSTMENTS. There are five automatic rate adjustment mechanisms:

- Inflation: Board Orders 09-02, 10-01 and 10-02 continue an annual automatic rate adjustment that started September 1993, to reflect changes in the Consumer Price Index (CPI). This adjustment will continue to apply to most tariff items each September as long as this tariff remains in effect. The annual adjustment for 2018 was changed to reflect the deletion of the Portland-Salem area index. The Western Region index will be used instead (Board Order 18-01).

## Oregon Laws and Regulations

- **Fare-box Benefit Expenses:** Board Order 10-01 continues an annual automatic rate adjustment applicable to the Columbia-Willamette River pilotage ground, to reflect changes in fare-box benefit expenses from deaths or retirements. The adjustment is made pursuant to the formulae prescribed by the order. Each adjustment occurs immediately after the corresponding CPI adjustment. This adjustment does not apply to the surcharges and pension assessments listed in items 1, 9, 10, 11, 14, 15, and 16 of Section 3, or the surcharges in Section 2. The pension assessments are subject to the automatic CPI adjustment.
- **Fuel Pass-Through Cost:** Board Order 10-02 continues adjustment mechanism applicable to aviation fuel for the helicopter and diesel fuel for the pilot boats. The adjustments will be made on a quarterly basis on actual fuel expenses during the prior quarter.
- **Number of Pilots/TGI:** Board Order 14-01 continues a quarterly adjustment mechanism for the Columbia River Bar pilotage ground, whereby the number of pilots funded by the tariff and the target gross income will be adjusted quarterly (but not lower than 17.07 FTE) based on changes in vessel transits, billable vessels, average vessel draft and average vessel gross registered tons.
- **Traffic-Related Increases:** Board Orders 10-01 and 10-02 implement a sliding scale for adjusting tariff rates when vessel transit projections exceed certain levels.

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**Current Pennsylvania Pilotage Rates**

Section 1. Sections 3.1, 3.2 and 3.3(1) of the act of May 11, 1889 (P.L.188, No.210), entitled "A further supplement to an act, entitled 'An act to establish a board of wardens for the Port of Philadelphia, and for the regulation of pilots and pilotage, and for other purposes,' approved March twenty-ninth, one thousand eight hundred and three, and for regulating the rates of pilotage and number of pilots," are amended to read:

Section 3.1. For services rendered on and after January 1, 1990, retroactively, the rates of pilotage for conducting a vessel from the Capes of the Delaware to a place on the Delaware River or Bay no further upriver than the Delair Railroad Bridge between Philadelphia, Pennsylvania, and Delair, New Jersey, or from a place on the river Delaware no further upriver than the Delair Railroad Bridge between Philadelphia, Pennsylvania, and Delair, New Jersey, to the Capes of the Delaware, in either case, shall be computed as follows:

(a) A charge, to be known as a unit charge, will be made for each pilotage, determined by length overall (in feet) multiplied by the extreme breadth (in feet) of the vessel, divided by one hundred.

(a.1) For the purposes of this act, the following definitions shall be applied:

"Extreme breadth" shall be the maximum breadth between the outside of the shell platings of the vessel.

"Length overall" shall be the distance between the forward and after extremities of the vessel.

"Measurements" shall be in feet and inches (United States).

Inches shall be converted as follows:

1" = .1	4" = .3	7" = .6	10" = .8
2" = .2	5" = .4	8" = .7	11" = .9
3" = .3	6" = .5	9" = .8	

(b) The charges per unit shall be as follows:

[(v) Effective January 1, 2016	\$14.05 per unit
(vi) Effective January 1, 2017	\$14.05 per unit
(vii) Effective January 1, 2018	\$14.19 per unit]
(viii) Effective January 1, 2019	\$14.47 per unit
<b>(ix) Effective January 1, 2020</b>	<b>\$14.61 per unit</b>
<b>(x) Effective January 1, 2021</b>	<b>\$14.76 per unit</b>
<b>(xi) Effective January 1, 2022</b>	<b>\$14.91 per unit</b>

(c) There shall be a minimum charge of two hundred units and a maximum unit charge as follows:

[(v) Effective January 1, 2016	1,400 units
(vi) Effective January 1, 2017.....	1,450 units
(vii) Effective January 1, 2018.....	1,500 units]
(viii) Effective January 1, 2019.....	1,500 units

<b>(ix) Effective January 1, 2020</b>	<b>1,550 units</b>
<b>(x) Effective January 1, 2021</b>	<b>1,550 units</b>
<b>(xi) Effective January 1, 2022</b>	<b>1,550 units</b>

Section 3.2. That every ship or vessel bound to the Delaware breakwater for orders shall be obliged to receive a pilot, provided she is spoken or a pilot offers his services, outside of a straight line drawn from Cape Henlopen Light to Cape May Light, and every ship or vessel bound to the breakwater for orders shall pay pilotage fees as follows: A sum equal to half the pilotage to the Port of Philadelphia, and she shall be obliged to take a pilot and pay the same pilotage fees when outward bound, from the breakwater, and if such ship or vessel, without discharging her pilot, proceed to the Port of Philadelphia or any other port or place on the bay or river Delaware, only one full pilotage fee as fixed by section 3.1 of this act, for the entire service, in addition to the fee for detention: Provided, however, That if the pilot bringing such ship or vessel to the breakwater be there discharged, and the ship or vessel afterward proceed to Philadelphia or any other port or place on the bay or river Delaware, she shall make the usual signal for a pilot and continue to make such signal till reaching Brandywine Light, and if spoken by, or offered the services of, a duly licensed Pennsylvania pilot before reaching Brandywine Light, shall be obliged to employ such pilot and pay him for services rendered on and after the effective date of this act, a charge computed as follows:

(a) A charge, to be known as a unit charge, will be made for each pilotage, determined by length overall (in feet) multiplied by the extreme breadth (in feet) of the vessel, divided by one hundred.

(a.1) For the purposes of this act, the following definitions shall be applied:

"Extreme breadth" shall be the maximum breadth between the outside of the shell platings of the vessel.

"Length overall" shall be the distance between the forward and after extremities of the vessel.

"Measurements" shall be in feet and inches (United States).

Inches shall be converted as follows:

1" = .1	4" = .3	7" = .6	10" = .8
2" = .2	5" = .4	8" = .7	11" = .9
3" = .3	6" = .5	9" = .8	

(b) The charges per unit shall be as follows:

[(v) Effective January 1, 2016	\$14.05 per unit
(vi) Effective January 1, 2017	\$14.05 per unit
(vii) Effective January 1, 2018	\$14.19 per unit]
(viii) Effective January 1, 2019	\$14.47 per unit
<b>(ix) Effective January 1, 2020</b>	<b>\$14.61 per unit</b>
<b>(x) Effective January 1, 2021</b>	<b>\$14.76 per unit</b>
<b>(xi) Effective January 1, 2022</b>	<b>\$14.91 per unit</b>

(c) There shall be a minimum charge of two hundred units and a maximum unit charge as follows:

[(v) Effective January 1, 2016	1,400 units
(vi) Effective January 1, 2017	1,450 units

## Pennsylvania Laws

(vii) Effective January 1, 2018	1,500 units]
(viii) Effective January 1, 2019	1,500 units
<b>(ix) Effective January 1, 2020</b>	<b>1,550 units</b>
<b>(x) Effective January 1, 2021</b>	<b>1,550 units</b>
<b>(xi) Effective January 1, 2022</b>	<b>1,550 units</b>

Section 3.3. The following charges are hereby authorized for the services stated:

(1) Ship communication charge:

Vessels transiting the Delaware River [\$235.00] **\$265.00**

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[CHAPTER 46-9](#)

[§ 46-9-5. Pilotage commission.](#)

(a) There is hereby created a state pilotage commission within the department of environmental management independent of the department and the director, consisting of four (4) members, two (2) of whom shall be appointed by the governor. Of the members appointed by the governor, one shall be a licensed pilot with five (5) years active service on the waters of this state, and one shall represent the public. The associate director of the bureau of natural resources within the department of environmental management, or his or her designee, and the director of the department of environmental management, or his or her designee, shall serve as ex officio members of the commission. Each appointed member of the commission shall serve for a term of three (3) years and until his or her successor shall be appointed and qualified. In the month of February, the governor shall appoint a member to hold office until the first day of March in the third year of his or her appointment, and until his or her successor shall be appointed and qualified to succeed the member whose term shall next expire.

Gubernatorial appointments made under this section after the effective date of this act [April 20, 2006] shall be subject to the advice and consent of the senate.

(b) Any vacancy which may occur in the commission shall be filled by the governor as in the case of an original appointment for the remainder of the unexpired term. Any member shall be eligible to succeed himself or herself.

(c) Newly appointed and qualified public members and designees of ex-officio members shall, within six (6) months of their qualification or designation, attend a training course that shall be developed with commission approval and conducted by the chair of the commission and shall include instruction in the following areas: the provisions of chapters 46-9, 42-46, 36-14 and 38-2 and the commission's rules and regulations. The director of the department of administration shall, within ninety (90) days of the effective date of this act [April 20, 2006], prepare and disseminate training materials relating to the provisions of chapters 42-46, 36-14 and 38-2.

(d) Members of the commission shall be removable by the governor pursuant to § 36-1-7 of the general laws and for cause only, and removal solely for partisan or personal reason unrelated to capacity or fitness for the office shall be unlawful.

History of Section.

(P.L. 1981, ch. 388, § 2; P.L. 2005, ch. 117, art. 21, § 32; P.L. 2006, ch. 24, § 1; P.L. 2006, ch. 33, § 1.)

**§ 46-9-6. Duties of commission.**

The commission shall perform the duties and have the powers set forth in this section as well as other duties and powers as may be provided by law:

- (1) To make, establish, and enforce rules and regulations, not inconsistent with law, which shall be binding and effectual upon all pilots licensed by the commission, all vessels subject to this chapter, and all parties employing the pilots; and, from time to time, revise or amend the rules and regulations as may be necessary to enable the commission to carry into effect and enforce the provisions of this chapter; the rules and regulations shall include, but not be limited to, those rules and regulations necessary to enable the commission to respond to emergencies or catastrophic conditions as may occur, whether environmental or otherwise. The rules and regulations shall formalize and detail the authority of the commission over individual bay pilots in relation to other state, federal, and municipal agencies, and any other public safety programs;
- (2) To make and establish rates of pilotage for vessels that are subject to the provisions of this chapter;
- (3) To establish and determine the qualifications of any person applying for a pilot's license and conduct examination;
- (4) To issue, suspend, or revoke any pilot's license in accordance with the provisions of this chapter;
- (5) To take any action that is necessary to cause the laws, rules, and regulations concerning pilots and pilotage matters to be fully observed and executed;
- (6) To hear and decide complaints made in writing against any pilot, pilot's agent or employee, or person subject to the provisions of this chapter for any misbehavior or neglect of or breach of rules or regulations of the commission which it shall deem material to be investigated;
- (7) To hear and decide complaints made in writing by any pilot against any charterer, owner, agent, master, or sailor of a vessel for any misbehavior toward that pilot in the performance of the pilot's duty, or for any breach of the rules and regulations;
- (8) To have the power and authority to take testimony and evidence and administer oaths and compel the attendance of witnesses and issue and serve witness subpoenas and subpoenas duces tecum at any hearings that it may conduct; provided, further, that the commission shall conduct at least one public hearing annually, duly advertised, to hear and receive complaints and comments from individual pilots, associations, or other public or private agencies with regard to any matters that may properly come within the jurisdiction of the commission;

## Rhode Island Laws and Regulations

(9) To make an annual report to the director of the department of environmental management for the preceding calendar year, together with the amounts of pilotage collected by the pilots and the amounts paid to the state. The report shall also include but not be limited to:

(i) A review and synopsis of commission activities and administrative proceedings;

(ii) A fiscal report and recommendations on fee collections;

(iii) A synopsis of hearings, complaints, suspensions, or other legal matters related to the authority of the commission;

(iv) A review of goals established and findings and recommendations on commission activity.

(10) To establish criteria for the training, experience, ability, knowledge, aptitude, skill, and professional qualifications of pilots and establish and determine the training, experience, ability, knowledge, aptitude, skill, and professional qualifications requirements necessary to make any person eligible to apply for a pilot's license and to conduct examinations, and, in this connection, to appoint a special board of state licensed pilots to supervise the training and instructions of those persons seeking eligibility to apply for a pilot's license, and to certify their experience, competency, ability, knowledge, skill, aptitude, education, and training in accordance with criteria established by the commission and in accordance with the rules and regulations of the commission;

(11) To require an applicant for a license or a licensed pilot to submit proof of the applicant's mental or physical capability to serve or continue to serve;

(12) To institute proceedings in the appropriate courts in this state to restrain and enjoin actions when any violation of this chapter or rule promulgated thereunder has occurred or is threatened by any person;

(13) To require holders of licenses or certificates, and applicants for licenses or certificates, to submit pertinent information under oath necessary to determine their qualifications or to enforce the provisions of this chapter;

(14) To regulate the station and operation of any pilot boat within the waters of the state used for the purpose of boarding or disembarking any pilot and to designate the areas in which the vessels shall be boarded or left by the pilots; and

(15) To require the reporting of all maritime accidents pursuant to the regulations of the commission.

## Rhode Island Laws and Regulations

(16) Within ninety (90) days after the end of each fiscal year, the commission shall approve and submit an annual report to the governor, the speaker of the house of representatives, the president of the senate, and the secretary of state, of its activities during that fiscal year. The report shall provide: an operating statement summarizing meetings or hearings held, meeting minutes if requested, subjects addressed, decisions rendered, rules or regulations promulgated, studies conducted, policies and plans developed, approved, or modified, and programs administered or initiated; a consolidated financial statement of all funds received and expended including the source of the funds, a listing of any staff supported by these funds, and a summary of any clerical, administrative or technical support received; a summary of performance during the previous fiscal year including accomplishments, shortcomings and remedies; a synopsis of hearings, complaints, suspensions, or other legal matters related to the authority of the commission; a summary of any training courses held pursuant to subsection 46-9-5(d); a briefing on anticipated activities in the upcoming fiscal year; and findings and recommendations for improvements. The report shall be posted electronically on the general assembly and the secretary of state's websites as prescribed in § 42-20-8.2 of the Rhode Island general laws. The director of the department of administration shall be responsible for the enforcement of this provision.

### History of Section.

(P.L. 1981, ch. 388, § 2; P.L. 2006, ch. 24, § 1; P.L. 2006, ch. 33, § 1.)

## [Rhode Island Pilotage Commission Rules and Regulations](#)

### 15.12-Pilotage Units - Definitions

A. "Pilotage Units" as used in this Rule shall be determined by multiplying the overall length of the vessel by the extreme breadth by the depth to the uppermost continuous deck and dividing the total by ten thousand, as expressed by the following formula: Overall Length X Extreme Breadth X Depth To Uppermost continuous Deck = Pilotage Units.. Pilots shall first round off any fraction of an inch to the nearest inch and change the feet and inches to feet and decimal part, using the scale below:

1 Inches = Feet Inches = Feet

1 .083 7 .583

2 .167 8 .667

3 .250 9 .750

4 .333 10 .833

5 .417 11 .917

6 .500 12 1.000

In cases where vessel's particulars are listed in meters, we recommend that the use of the constant 35.314665 in the conversion, as below: LOA X Ex. Breadth X Depth X Constant Pilotage Units In Meters in Meters in Meters 35.214665 = 10,000 (1 Meter - 3.2808399 EXACT) (3.28083993 = 35.314665) In both cases,

the number of pilotage units should be rounded off to the nearest hundredth or two decimal points.

B. Definitions: • "Overall Length" is the distance between the forward and after extremities of the vessel.

- "Extreme Breadth" is the maximum breadth to the outside of the shell plating of the vessel.
- "Depth" is the vertical distance at amidships from the top of the keel plate to the uppermost continuous deck, fore and aft, and which extends to the sides of the vessel. The continuity of the deck shall not be considered to be affected by the existence of tonnage openings, engine spaces, or a step in the deck.
- All measurements shall be in feet and inches (U.S.).
- The State Pilotage Commission shall be the sole arbiter with respect to a question concerning these definitions. The decision by the Commission shall be final.
- The measurements of overall length, extreme breadth, and depth as previously defined, shall be made available to the pilot by the master or his agent for the computation of pilotage fees. Failure to provide the measurements so required shall subject the vessel to the maximum pilotage charge.

15.13 Rates of Pilotage Fees which shall be paid to state licensed pilots in Rhode Island Waters (Narragansett & Mount Hope Bays & Tributaries Pilotage

rates per pilot unit: 12/1/2003 - 5/31/2005..... \$ 9.56

06/1/2005 - 5/31/2006 .....\$ 9.94

06/1/2006 - 5/31/2007 .....\$10.24

06/1/2007 – 12/31/2008 .....\$10.55

01/1/2009 – 12/31/2009.....\$10.97

01/1/2010 – 12/31/2010. . . . . \$11.41

01/1/2011 – 12/31/2011. . . . . \$11.75

01/1/2013 - 12/31/2013 .. . . . \$12.10

01/1/2014- 12/31/2014 . . . . . \$12.34

01/1/2015- 12/31/2015 . . . . . \$12.59

Period beginning 01/1/2016 .....\$12.84

Period beginning 01/1/2017 .....\$13.10

Period beginning 01/1/2018 .....\$13.23

Period beginning 01/1/2019 .....\$13.49

1. All vessels shall pay the yearly pilotage rate per pilotage unit with a minimum of one hundred fifty (150) units and not to exceed a maximum of five hundred (500) units. Pilotage units shall be determined by multiplying the overall length of the vessel by the extreme breadth by the depth to the uppermost continuous deck and dividing the total by ten thousand, as expressed by the following formula:

## Rhode Island Laws and Regulations

Overall length x extreme breadth x depth to uppermost continuous deck 10,000 = Pilotage Units = Pilotage Units

All measurements shall be in feet and inches (U.S.)

2. The foregoing rates apply to all pilotage between Rhode Island Ports except between:

a. Melville and Tiverton - fee shall be 75% of foregoing rates.

b. Vessels bound to Rhode Island Ports and stopping at Newport/Jamestown for anchorage for the purpose of lightering cargoes to the draft requirements at the discharge berth. The fee for the movement of said vessel from seas to the discharge berth shall be 100% of the rate. 50 of 91

c. Vessels bound to Massachusetts District Four Ports and stopping at Newport/Jamestown anchorage for the purpose of lightering cargo to the draft requirements at the discharge berth. The fee for the movement of said vessel from sea to the Massachusetts District Four line shall be 100% of the rate.

d. Cruise ships bound for Goat Island anchorage shall be charged a fee of 85% of the foregoing rates.

3. Any vessel that meets the following standards has been determined by the Commission not to pose a threat to the environment and as such shall receive a special exemption from the provisions of R.I. Gen. Laws Chapters 46-9 and 46-9.1 and the rules and regulations promulgated pursuant thereto: a. Any vessel that is less than 200' LOA which is not engaged in commercial operations.

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[South Carolina Pilotage Statutes.](#)

**SECTION 54-15-20.** South Carolina Commissioners of Pilotage for the Upper Coastal Area; appointment of members; terms; vacancies.

(A) The South Carolina Commissioners of Pilotage for the Upper Coastal Area must be appointed by the Governor, upon the recommendation of a majority of the Legislative Delegation of Georgetown County and shall serve for three years and until their successors are appointed and qualify. Vacancies must be filled in the manner of the original appointment for the unexpired term.

(B) The South Carolina Commissioners of Pilotage for the Upper Coastal Area shall consist of eight persons appointed as provided by this chapter, one of whom is the Chairman of the South Carolina State Ports Authority or a board member designated by the chairman, ex officio, one of whom is the President of the International Longshoremen's Association Local or his designee, ex officio, and one of whom is a pilot licensed for the Port of Georgetown under Section 54-15-90, appointed by the Governor upon the recommendation of the licensed pilots. The remaining five members are appointed by the Governor upon the recommendation of the Georgetown County Legislative Delegation. The terms of office of the commissioners are for three years and until their successors are appointed except for the members first appointed. The member representative of the pilots licensed under Section 54-15-90 shall serve a three-year term. In the event of a vacancy, however caused, a successor must be appointed in the manner of the original appointment to fill the unexpired term. The above appointments must be made as each term of the present commissioners expires.

HISTORY: 1962 Code Section 56-1402; 1952 Code Section 56-1402; 1942 Code Section 6683; 1932 Code Section 6683; Civ. C. '22 Section 3581; Civ. C. '12 Section 2471; Civ. C. '02 Section 1617; G. S. 1260, 1286; R. S. 1358; 1873 (15) 440; 1880 (17) 455; 1881 (17) 607; 1883 (18) 303; 1888 (20) 61; 1897 (22) 417; 1923 (33) 153; 1933 (38) 60; 1956 (49) 1794; 1958 (50) 1624; 1963 (53) 491; 1988 Act No. 536, Section 2; 2006 Act No. 237, Section 1, eff March 17, 2006; 2013 Act No. 38, Section 1, eff June 7, 2013.

Effect of Amendment

The 2006 amendment rewrote this section.

The 2013 amendment designated paragraphs (A) and (B); substituted "eight" for "six" and inserted "and" preceding "one of whom" in the first sentence of paragraph (B); substituted "five" for "three" and deleted "from lists of nominations for the offices submitted to the delegation from the Chamber of Commerce and the Propeller Club of the Port of Georgetown" following "Delegation" in the second sentence of paragraph (B); and substituted "for" for "of" following "except" and deleted ", one shall serve for one year, one shall serve for two years, and one shall serve for three years" following "appointed" in the third sentence of paragraph (B).

**SECTION 54-15-40.** South Carolina Commissioners for the Lower Coastal Area; members; terms; vacancies.

There is created the South Carolina Commissioners of Pilotage for the Lower Coastal Area composed of eight members, one of whom is the Chairman of the South Carolina State Ports Authority, ex officio, or a board member designated by the chairman, one of whom is the president of the International Longshoremen's Association Local 1422 or his designee, ex officio, and one of whom is a pilot licensed under Sections 54-15-90, 54-15-120, and 54-15-130, and one of whom is recommended by the Beaufort County Legislative Delegation from its maritime community and one by the Jasper County Legislative Delegation from its maritime community to be appointed by the Governor. The remaining members are appointed by the Governor upon the recommendation of the Charleston County Legislative Delegation from lists of nominations for the offices submitted to the delegation by the Greater Charleston Chamber of Commerce, the Maritime Association of the Port of Charleston, and the Propeller Club of the Port of Charleston. The terms of office of the commissioners are for three years and until their successors are appointed and qualified, except that of the members first appointed, one shall serve for one year, one shall serve for two years, and one shall serve for three years. The member representative of the pilots licensed under Sections 54-15-120 and 54-15-130 has a three-year term. In the event of a vacancy, however caused, a successor must be appointed in the manner of the original appointment for the unexpired term. The above appointments must be made as each term of the present commissioners expires.

HISTORY: 1962 Code Section 56-1404; 1952 Code Section 56-1404; 1942 Code Section 6683; 1932 Code Section 6683; Civ. C. '22 Section 3581; Civ. C. '12 Section 2471; Civ. C. '02 Section 1617; G. S. 1260, 1286; R. S. 1358; 1873 (15) 440; 1880 (17) 455; 1881 (17) 607; 1883 (18) 303; 1888 (20) 61; 1897 (22) 417; 1923 (33) 153; 1933 (38) 60; 1957 (50) 32; 1958 (50) 1624; 1985 Act No. 194, Section 2; 1994 Act No. 283, Section 1, eff January 27, 1994; 2006 Act No. 237, Section 1, eff March 17, 2006.

Editor's Note

1985 Act No. 194, Section 1, eff June 21, 1985, reauthorized the existence of the Commissioners of Pilotage for the Port of Charleston for six years.

Effect of Amendment

The 1994 amendment in the first sentence, increased the membership of the Commissioners of Pilotage from "five" to "six"; and added following the word "ex officio" the words ", one of whom is the president of the International Longshoremen's Association Local 1442 or his designee, ex officio,".

The 2006 amendment rewrote the first sentence.

**SECTION 54-15-140.** Promulgation of regulations. The South Carolina Commissioners of Pilotage for the Upper and Lower Coastal Areas shall promulgate regulations in accordance with the Administrative Procedures Act for the administration of pilotage within the ports of their respective areas.



## South Carolina Laws and Regulations

The regulations must include, but are not limited to:

- (1) the selection, training, and licensure of apprentice pilots;
- (2) the licensure and registration of pilots;
- (3) license and registration fees;
- (4) safe vessel movement;
- (5) reports of marine casualties and other dangerous situations;
- (6) discipline, including investigations and the suspension and revocation of pilot licenses;
- (7) pilotage charges and fees;
- (8) specific pilotage routes;
- (9) other matters affecting the safe and efficient administration of pilotage.

HISTORY: 1962 Code Section 56-1414; 1952 Code Section 56-1415; 1942 Code Section 6711; 1932 Code Section 6711; Civ. C. '22 Section 3609; Civ. C. '12 Section 2499; Civ. C. '02 Section 1643; G. S. 1282; R. S. 1383; 1878 (16) 423; 1958 (50) 1624; 1991 Act No. 56, Section 9; 2006 Act No. 237, Section 1, eff March 17, 2006.

### Effect of Amendment

The 2006 amendment, in the first sentence of the introductory paragraph, substituted "South Carolina Commissioners of Pilotage for the Upper and Lower Coastal Areas" for "Commissioners of Pilotage for the port to which they belong" and "the ports of their respective areas" for "that port"; and in item (8), "specific pilotage routes" for "geographic areas of commissioners' jurisdiction".

### [SECTION 54-15-290. Rates and fees; publication thereof.](#)

All rates and fees for all pilotage services for each port shall be fixed by the Commissioners of Pilotage for the port and the South Carolina Commissioners of Pilotage shall require the pilots to have printed and made available to all interested parties a published schedule of rates and fees.

HISTORY: 1962 Code Section 56-1429; 1952 Code Sections 56-1434 to 56-1436; 1942 Code Sections 6702, 6709; 1932 Code Sections 6702, 6709; Civ. C. '22, Sections 3600, 3607; Civ. C. '12 Sections 2490, 2497; Civ. C. '02 Sections

## South Carolina Laws and Regulations

1634, 1641; G. S. 1273, 1280; R. S. 1374, 1381; 1878 (16) 419, 422; 1894 (22) 800; 1958 (50) 1624; 2006 Act No. 237, Section 1, eff March 17, 2006.

### Effect of Amendment

The 2006 amendment substituted South Carolina Commissioners of Pilotage" for "Commissioners". You go for bike ride

### Regulations for Lower Coastal Commission:

136–045. Pilot Charges and Fees. A. Pilotage charges and rates shall be promulgated by the Commissioners in accordance with the applicable sections of the 1976 Code.

B. The pilots shall be due payment for individual pilotage charges and fees upon the departure of any vessel from the Port, except when the pilots have elected to extend credit to such vessel owner, vessel operator, principal agent or local agent. In such cases, all payments are due not later than forty-five (45) days after the vessel's arrival in port.

C. Any agent or other non-vessel owner who makes arrangements for credit for pilotage shall be held responsible by the pilots for the amount credited if that amount is not paid within the forty-five (45) day period.

D. Pilotage charges are based upon the services of one pilot unit. No additional charges are authorized for other pilots or apprentices taken aboard a vessel for the purpose of training or route familiarization. However, nothing shall prohibit additional pilotage charges from being made whenever additional pilots are required to assure the safe maneuvering of the vessel. In such cases, one additional pilot unit may be charged for every additional pilot so embarked. HISTORY: Added by State Register Volume 16, Issue No. 7, eff July 24, 1992. Amended by State Register Volume 32, Issue No. 5, eff May 23, 2008.

### Regulations for Upper Coastal Commission:

**136–745. Pilot Charges and Fees.** A. Pilotage charges and rates shall be promulgated by the Commissioners in accordance with the applicable sections of the 1976 Code. B. The pilots shall be due payment for individual pilotage charges and fees upon the departure of any vessel from the Port, except when the pilots have elected to extend credit to such vessel owner, vessel operator, principal agent or local agent. In such cases, all payments are due not later than forty-five (45) days after the vessel's arrival in port. C. Any agent or other non-vessel owner who makes arrangements for credit for pilotage shall be held responsible by the pilots for the amount credited if that amount is not paid within the forty-five (45) day period. D. Pilotage charges are based upon the services of one pilot unit. No additional charges are authorized for other pilots or

apprentices taken aboard a vessel for the purpose of training or route familiarization. However, nothing shall prohibit additional pilotage charges from being made whenever additional pilots are required to assure the safe maneuvering of the vessel. In such cases, one additional pilot unit may be charged for every additional pilot so embarked. HISTORY: Added by State Register Volume 18, Issue No. 6, eff June 24, 1994. Amended by State Register Volume 32, Issue No. 5, eff May 23, 2008.

**Minutes from Lower Coastal Meeting:**

At the: [April 16, 2019 meeting](#) of the Lower coastal commissioners the following entry in the minutes

In February the Pilots submitted a request for the annual COLA for CY2018/1.9%, single zone and multi zone shifts and the new 2019 rate card. The rate request was put on the agenda for March to be discussed. Mrs. Milligan ran an ad in the Post and Courier from March 14-March 17 for public response. Motion: Commissioner Hay moved to accept the COLA for CY2018/1.9% and zone shift increases and Commissioner Britt seconded the motion. The motion passed. Motion: Commissioner Hay moved to accept the new 2019 Pilot Rate card and Commissioner Britt seconded it. The motion passed. The new rates will go into effect on July 1, 2019.

136–745. Pilot Charges and Fees. A. Pilotage charges and rates shall be promulgated by the Commissioners in accordance with the applicable sections of the 1976 Code. B. The pilots shall be due payment for individual pilotage charges and fees upon the departure of any vessel from the Port, except when the pilots have elected to extend credit to such vessel owner, vessel operator, principal agent or local agent. In such cases, all payments are due not later than forty-five (45) days after the vessel's arrival in port. C. Any agent or other non-vessel owner who makes arrangements for credit for pilotage shall be held responsible by the pilots for the amount credited if that amount is not paid within the forty-five (45) day period. D. Pilotage charges are based upon the services of one pilot unit. No additional charges are authorized for other pilots or apprentices taken aboard a vessel for the purpose of training or route familiarization. However, nothing shall prohibit additional pilotage charges from being made whenever additional pilots are required to assure the safe maneuvering of the vessel. In such cases, one additional pilot unit may be charged for every additional pilot so embarked. HISTORY: Added by State Register Volume 18, Issue No. 6, eff June 24, 1994. Amended by State Register Volume 32, Issue No. 5, eff May 23, 2008.

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Texas Statutes

**General**

**Sec. 64.002.** PILOTAGE RATE. The rate of pilotage that may be adopted under Sections 63.004 and 63.021 on a class of vessel may not, in a port of this state, exceed \$6.50 for each foot of water that the vessel draws when piloted. This section does not apply to the rate of pilotage established under:

- (1) Section 69.001 for:
  - (A) the public ports of Orange, Port Arthur, and Beaumont; and
  - (B) privately owned docks or terminals in Orange County or Jefferson County;
- (2) Chapter 62; or
- (3) Chapters 66-68.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**Houston Provisions**

**Sec. 66.064.** FACTORS FOR BOARD CONSIDERATION. In establishing pilotage rates, the board shall consider factors relevant to determining reasonable and just pilotage rates, including:

- (1) characteristics of vessels to be piloted;
- (2) the average number of hours spent by a pilot performing:
  - (A) pilot services on board vessels; and
  - (B) all pilot services;
- (3) costs to pilots to provide the required pilot services;
- (4) the public interest in maintaining safe, efficient, and reliable pilot services;
- (5) the average wages of masters of United States flag vessels that navigate in the board's jurisdiction and for which the pilotage rate is to be established;
- (6) economic factors affecting the shipping industry in the area in which the port is located; and
- (7) an adequate and reasonable compensation for the pilots and a fair return on the equipment and vessels that the pilots employ in connection with their duties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**Galveston**

**Sec. 67.066.** FACTORS FOR BOARD CONSIDERATION. In acting on a pilotage rate change application, the board shall consider:

- (1) characteristics of vessels to be piloted;
- (2) the average number of hours spent by a pilot in performing pilot services;
- (3) costs to pilots to provide the required pilot services;
- (4) the effect, including economic factors affecting the shipping industry in the area, that the granting, refusal, or modification of the application would have on Galveston County ports and the persons residing in the board's jurisdiction;
- (5) an adequate and reasonable compensation for the pilots and a fair return on the equipment and vessels that the pilots employ in connection with pilot duties; and

## Texas Laws and Regulations

(6) the relationship between the pilotage rates in Galveston County ports and the rates applicable in other ports of this state and in competitive ports in other states.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

### **Brazoria County**

[Sec. 68.067.](#) FACTORS FOR BOARD CONSIDERATION. In acting on a pilotage rate change application, the board shall consider:

- (1) characteristics of vessels to be piloted;
- (2) costs to pilots to provide the required pilot services;
- (3) the effect, including economic factors affecting the shipping industry in the area, that the granting, refusal, or modification of the application would have on Brazoria County ports and the persons residing in the board's jurisdiction;
- (4) an adequate and reasonable compensation for the pilots and a fair return on the equipment and vessels that the pilots employ in connection with pilot duties;
- (5) the relationship between the pilotage rates in Brazoria County ports and the rates applicable in other ports of this state;
- (6) the average number of hours spent by a pilot performing:
  - (A) pilot services on board vessels; and
  - (B) all pilot services; and
- (7) the average wages of masters of United States flag vessels that navigate in the board's jurisdiction and for which the pilotage rate is to be established.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

### **Jefferson and Orange County**

[Sec. 69.064.](#) FACTORS FOR BOARD CONSIDERATION. In acting on a pilotage rate change application, the board shall consider:

- (1) characteristics of vessels to be piloted;
- (2) the public interest in maintaining safe, efficient, and reliable pilot services;
- (3) the average number of hours spent by a pilot in performing all pilot services and pilot services onboard vessels;
- (4) costs to pilots to provide the required pilot services;
- (5) economic factors affecting the shipping industry in the area in which the port is located;
- (6) the average wages of masters of United States flag vessels;
- (7) an adequate and reasonable compensation for the pilots and a fair return on the equipment and vessels that the pilots employ in connection with pilot duties; and
- (8) the relationship between pilotage rates in Jefferson or Orange County ports and the rates applicable in other ports of this state and in competitive ports in other states bordering the Gulf of Mexico.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

### **Ports of Corpus Christi**

[Sec. 70.066](#). FACTORS FOR BOARD CONSIDERATION. In acting on a pilotage rate change application, the board shall consider:

- (1) characteristics of vessels to be piloted including but not limited to the size of the vessel and the degree of difficulty to maneuver;
- (2) costs to pilots to provide the required pilot services;
- (3) the effect, including economic factors affecting the shipping industry in the area, that the granting, refusal, or modification of the application would have on the Port of Corpus Christi and the persons residing in the board's jurisdiction;
- (4) an adequate and reasonable compensation for the pilots and a fair return on the equipment and vessels that the pilots employ in connection with pilot duties; and
- (5) the relationship between the pilotage rates in the Port of Corpus Christi and the rates applicable in other ports of this state and in competitive ports in other states.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

[Administrative Rules for Port of Houston](#)

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## Virginia Laws and Regulations

### Virginia Statutes

#### [§ 54.1-901. Appointment and removal of members; quorum; clerk.](#)

The Board for Branch Pilots shall consist of nine members to be appointed as follows: the Circuit Court of the City of Hampton shall appoint three persons, only one of whom shall be a branch pilot, and the Circuit Court of the City of Norfolk shall appoint four persons, only two of whom shall be branch pilots, and the Circuit Court of the City of Portsmouth shall appoint two persons, only one of whom shall be a branch pilot. The court which appointed a member may remove him for incapacity, neglect of duty or misconduct and may fill the vacancy.

Four members of the Board shall constitute a quorum. The Board shall appoint a clerk, who shall keep a record of the Board's proceedings.

Code 1950, §§ 54-527, 54-528, 54-530, 54-531; 1978, c. 834; 1988, c. 765.

#### [§ 54.1-918. State Corporation Commission to prescribe and enforce rates of pilotage and other charges.](#)

The State Corporation Commission shall prescribe and enforce the rates of pilotage and other charges to be observed in the business of pilotage, but before the Commission fixes or prescribes rates or charges it shall give ten days' notice of the time and place of a hearing by publication in a newspaper of general circulation in each of the Cities of Norfolk, Portsmouth and Newport News. For the purpose of determining the fair basis of such rates and charges, the Commission shall, for the two years next preceding, have access to the books and records of the individual pilots who have no organized association, and of any association of pilots who have an organized association whose rates are to be fixed by the Commission, and shall have the same powers given by law in fixing rates and charges of transportation companies.

The Commission shall fix amounts that will be a fair charge for the service rendered. The Commission shall have due regard for necessary operating expenses, maintenance of, depreciation on, and return on investment in properties used and useful in the business of pilotage, and the rates and charges of pilotage at comparable and competing ports of the United States.

When such rates and charges have been fixed and prescribed by the Commission, they shall be the legal rates and charges of pilotage in Virginia, and shall be enforced as provided by law, and the Commission shall have the power to change or alter rates or charges after notice and hearing as provided in this section.

Code 1950, § 54-562; 1988, c. 765; 1992, c. 10.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

[§ 54.1-919](#). Appeal from action of Commission.

From any action of the State Corporation Commission under § [54.1-918](#), an appeal may be taken by the individual pilots, company or association affected, or by any other person, firm or corporation aggrieved by such action, in the manner prescribed in Article IX, Section 4 of the Constitution of Virginia.

[§ 12.1-39](#). Appeals generally.

The Commonwealth, any party in interest, or any party aggrieved by any final finding, decision settling the substantive law, order, or judgment of the Commission shall have, of right, an appeal to the Supreme Court irrespective of the amount involved; provided, however, that the petition for such appeal shall be filed with the Clerk of the Supreme Court within 120 days from the final judgment or finding of the State Corporation Commission; and provided further that an appeal bond is filed pursuant to § [8.01-676.1](#).

No other court of the Commonwealth shall have jurisdiction to review, reverse, correct, or annul any action of the Commission or to enjoin or restrain it in the performance of its official duties; provided, however, that the writs of mandamus and prohibition shall lie from the Supreme Court to the Commission.

The Commission shall, whenever an appeal is taken therefrom, file in the record of the case a statement of the reasons upon which the action appealed from was based.

Code 1950, § 12-63; 1971, Ex. Sess., c. 157; 1977, c. 624; 2017, c. [651](#).

## Regulations

### **Part II - Commencement of Formal Proceedings Before the State Corporation Commission**

#### **5 VAC 5-20-80. Regulatory Proceedings**

A. Application. Except where otherwise provided by statute, rule or commission order, a person or entity seeking to engage in an industry or business subject to the commission's regulatory authority, or to make changes in any previously authorized service, rate, facility, or other aspect of such industry or business that, by statute or rule, must be approved by the commission, shall file an application requesting authority to do so. The application shall contain (i) a specific statement of the action sought; (ii) a statement of the facts that the



applicant is prepared to prove that would warrant the action sought; (iii) a statement of the legal basis for such action; and (iv) any other information required by law or regulation. Any person or entity filing an application shall be a party to that proceeding.

B. Participation as a respondent. A notice of participation as a respondent is the proper initial response to an application. A notice of participation shall be filed within the time prescribed by the commission and shall contain (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any person or entity filing a notice of participation as a respondent shall be a party to that proceeding.

C. Public witnesses. Any person or entity not participating in a matter pursuant to subsection A or B of this section may make known their position in any regulatory proceeding by filing written comments in advance of the hearing if provided for by commission order or by attending the hearing, noting an appearance in the manner prescribed by the commission, and giving oral testimony. Public witnesses may not otherwise participate in the proceeding, be included in the service list, or be considered a party to the proceeding.

D. Commission staff. The commission staff may appear and participate in any proceeding in order to see that pertinent issues on behalf of the general public interest are clearly presented to the commission. The staff may, inter alia, conduct investigations and discovery, evaluate the issues raised, testify and offer exhibits, file briefs and make argument, and be subject to cross-examination when testifying. Neither the commission staff collectively nor any individual member of the commission staff shall be considered a party to the case for any purpose by virtue of participation in a proceeding. ]

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**RCW [88.16.010](#)**

**Board of pilotage commissioners—Created—Chairperson—Members—Terms—Qualifications—Vacancies—Quorum.**

(1) The board of pilotage commissioners of the state of Washington is hereby created and shall consist of the assistant secretary of marine operations of the department of transportation of the state of Washington, or the assistant secretary's designee who shall be an employee of the marine division, who shall be chairperson, the director of the department of ecology, or the director's designee, and seven members appointed by the governor and confirmed by the senate. Each of the appointed commissioners shall be appointed for a term of four years from the date of the member's commission. No person shall be eligible for appointment to the board unless that person is at the time of appointment eighteen years of age or over and a citizen of the United States and of the state of Washington. Two of the appointed commissioners shall be pilots licensed under this chapter and actively engaged in piloting upon the waters covered by this chapter for at least three years immediately preceding the time of appointment and while serving on the board. One pilot shall be from the Puget Sound pilotage district and the other pilot shall be from either the Grays Harbor pilotage district or the Puget Sound pilotage district. Two of the appointed commissioners shall be actively engaged in the ownership, operation, or management of deep sea cargo and/or passenger-carrying vessels for at least three years immediately preceding the time of appointment and while serving on the board. One of the shipping commissioners shall be a representative of American and one of foreign shipping. One of the commissioners shall be a representative from a recognized environmental organization concerned with marine waters. The remaining commissioners shall be persons interested in and concerned with pilotage, maritime safety, and marine affairs, with broad experience related to the maritime industry exclusive of experience as either a state licensed pilot or as a shipping representative.

(2) Any vacancy in an appointed position on the board shall be filled by the governor for the remainder of the unfilled term, subject to confirmation by the senate.

(3) Five members of the board shall constitute a quorum. At least one pilot, one shipping representative, and one public member must be present at every meeting. All commissioners and the chairperson shall have a vote.  
[ [2008 c 128 § 1](#); [2003 c 58 § 1](#); [2001 c 36 § 4](#); [1991 c 200 § 1001](#); [1987 c 485 § 1](#); [1979 ex.s. c 207 § 1](#); [1977 ex.s. c 337 § 2](#); [1977 ex.s. c 151 § 73](#); [1971 ex.s. c 292 § 58](#); [1935 c 18 § 1](#); RRS § 9871-1. Prior: [1888 p 175 § 1](#).]

**RCW [88.16.055](#)**

**Utilities and transportation commission to establish pilotage tariffs for pilotage services—Extra compensation, consideration of pilot retirement**

**expenses incurred in prior year—Submission of statutory changes—  
Report.**

(1) The utilities and transportation commission shall under RCW [81.116.010](#) through [81.116.060](#) periodically, but not more frequently than annually, establish the pilotage tariffs for pilotage services provided under this chapter: PROVIDED, That the utilities and transportation commission may establish extra compensation for extra services to vessels in distress, for awaiting vessels, for all vessels in direct transit to or from a Canadian port where Puget Sound pilotage is required for a portion of the voyage, or for being carried to sea on vessels against the will of the pilot, and for such other services as may be determined by the commission: PROVIDED FURTHER, That as an element of the Puget Sound pilotage district tariff, the utilities and transportation commission may consider pilot retirement expenses incurred in the prior year in the Puget Sound pilotage district. However, under no circumstances shall the state be obligated to fund or pay for any portion of retirement payments for pilots or retired pilots.

(2) By December 1, 2018, the utilities and transportation commission shall submit to the transportation committees of the legislature any additional statutory changes necessary to implement chapter 107, Laws of 2018.

(3) By July 1, 2020, the utilities and transportation commission shall provide a report to the governor and the transportation committees of the legislature regarding matters pertaining to establishing tariffs under this section that includes a comparison of the process and outcomes in relation to the recommendations made in the January 2018 joint transportation committee Washington state pilotage final report and recommendations.

[ [2018 c 107 § 1.](#)]

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## About Walter S. Tabler

Mr. Tabler has been involved in pilotage matters for over 40 years. He started with service as an Assistant Attorney General for the State of Washington representing the Washington State Board of Pilotage Commissioners. After leaving government, Mr. Tabler represented pilots in various proceedings between 1980 and 1992 when he started representing the Puget Sound Pilots. From 2003 to 2015 he was Executive Director and General Counsel for Puget Sound Pilots. Over the years, Mr. Tabler has attended and spoken at numerous regional and national pilot association meetings. Since 2015 he has had a pilotage consulting practice.