

HARBORS AND NAVIGATION CODE
DIVISION 5. PILOTS FOR MONTEREY BAY AND THE BAYS OF SAN FRANCISCO, SAN PABLO, AND SUISUN [1100 - 1203]
CHAPTER 5. Pilotage Rates [1190 - 1198]

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) Ten dollars and twenty-six cents (\$10.26) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 92.43 mills per high gross registered ton.

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

(B) On and after January 1, 2022, a minimum charge for bar pilotage shall be one thousand eight hundred seventy-five dollars (\$1,875) for each vessel piloted.

(C) On and after January 1, 2023, a minimum charge for bar pilotage shall be two thousand six hundred dollars (\$2,600) 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 that transit inward or outward.

(4) On and after January 1, 2023, the foregoing bar pilotage rates shall be subject to adjustment under the provisions of Chapter 6 (commencing with Section 1201).

(5) The bar pilotage rates shall be published on the board's website.

(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 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.

1190.1.

Every vessel that uses a pilot under this division while navigating the waters of Monterey Bay shall pay the rate provided by subdivision (a) of Section 1190.

1191.

(a) The board, pursuant to Chapter 6 (commencing with Section 1201), shall adopt a schedule of pilotage rates for ship movements or special operations that do not constitute bar pilotage provided for in Section 1190. These rates must be part of a fair, just, and reasonable rate structure that generates sufficient revenue for the provision of a safe, competent, reliable, and efficient pilotage service.

(b) A vessel using pilots for ship movements or special operations that do not constitute bar pilotage shall pay the rate specified in the schedule of pilotage rates adopted by the Legislature and in effect on December 31, 2002, as modified by subdivision (c).

(c) Consistent with the board's adoption of rate recommendations in May 2002, the minimum rates imposed pursuant to this section that are in effect on December 31, 2002, shall be increased by 26 percent on January 1, 2003; those in effect on December 31, 2003, shall be increased by 26 percent on January 1, 2004; those in effect on December 31, 2004, shall be increased by 14 percent on January 1, 2005; and those in effect on December 31, 2005, shall be increased by 14 percent on January 1, 2006. On and after January 1, 2023, the pilotage rates imposed pursuant to subdivisions (b) and (c) shall be subject to adjustment under the provisions of Chapter 6 (commencing with Section 1201).

(d) The pilotage rates imposed pursuant to this section shall be published on the board's website.

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DIVISION 5. PILOTS FOR MONTEREY BAY AND THE BAYS OF SAN FRANCISCO, SAN PABLO, AND SUISUN [1100 - 1203]
CHAPTER 6. Adjustment of Pilotage Rates [1200 - 1203]

1201.

(a) Any party directly affected by pilotage rates established under this chapter may petition the board for a public hearing on a proposal for adjustment of pilotage rates.

(b) In response to the petition, the board shall hold a public hearing for the purpose of obtaining information and data relating to the issues raised in the petition. The board shall give notice of the hearing to all interested parties who have requested the notification.

(c) The hearing shall be conducted by an administrative law judge who, at the conclusion of the hearing, shall prepare a proposed decision for the board's

consideration that contains findings of fact and conclusions concerning whether any adjustment of pilotage rates is appropriate. The board shall review the proposed decision and take one of the following actions: (1) adopt the proposed decision in its entirety; (2) make technical, clarifying, or other minor changes in the proposed decision that do not affect its findings and conclusions and adopt the proposed decision in its modified form; (3) reject the proposed decision and refer it back to the administrative law judge for consideration of specified evidence or issues and submission of a new proposed decision; or (4) reject the proposed decision, with a supporting written explanation.

(d) Following its final decision, the board shall submit its decision to the Secretary of the California State Transportation Agency for approval. In reviewing the decision, the Secretary shall not review the findings of fact but shall instead be limited to assessing whether the findings of fact support the board's conclusions regarding an adjustment in rates. If the Secretary does not approve the board's decision, the Secretary shall explain in writing why the decision was not approved, and may remand the matter to the board for consideration whether to refer the board's decision back to the administrative law judge for preparation of a proposed decision that responds to the Secretary's reasons for disapproval.

(e) The board shall adopt regulations governing prehearing, hearing, and posthearing procedures for consideration of proposed adjustment of pilotage rates.

1202.

Public hearings for the purpose of investigating pilotage rates shall be conducted in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) and a full record shall be kept of all evidence offered.

1203.

(a) The Legislature recognizes that the waters, harbors, and ports of the Bays of San Francisco, San Pablo, and Suisun are vital resources for the State, and it is necessary in the interest of public health, safety, and economic well-being to establish a fair, just, and reasonable rate structure that will generate sufficient revenue for the provision of a safe, competent, reliable, and efficient pilotage service.

(b) In considering an adjustment of pilotage rates, the board shall apply the following formula: Target Net Income Per Pilot x Number of Pilots + Costs and Expenses = Revenue Requirement.

(1) In setting the revenue requirement, primary consideration shall be given to the public interest in promoting and maintaining a safe, competent, reliable, and efficient pilotage service.

(2) In determining the target net income for individual pilots, the following factors shall be considered:

(A) The professional skill and experience required of a state-licensed pilot and the difficulty, risk, and lifestyle commitment of providing piloting services, as well as associated activities in support of the pilotage operation.

(B) Evidence of compensation for comparable maritime professions, including individuals in comparable pilotage groups, at a minimum considering evidence of the compensation and benefits.

(C) Evidence of the economic and market conditions existing both locally and within the region of any pilotage group used for the purpose of comparison.

(D) Consumer Price Index and Employment Cost Index.

(E) Individual amounts paid to pilot since the last rate order, or as directed.

(F) Any other factor deemed relevant to the determination of target net income.

(3) In determining the number of pilots, the following factors shall be considered:

(A) The number of licensed pilots determined by a hearing pursuant to Sections 1170.1 and 1170.2.

(B) The number of licensed pilots at the time of the rate hearing.

(C) Any projected changes in the number of licensed pilots.

(D) Any other factor deemed relevant to the determination of the number of funded pilots.

(4) In determining costs and expenses for the pilotage service, the following factors shall be considered:

(A) All costs and expenses of providing pilotage service.

(B) Any projected changes in the costs and expenses of providing pilotage service.

(C) The amount of activity, including number of vessels, size of vessels by gross registered tonnage (GRT), length, and draft.

(D) Any recent or projected changes in the amount of activity.

(E) Producer Price Index and Employment Cost Index.

(F) Total gross and net revenue for the pilots' association since the last rate order, including sources of revenue by category.

(G) Any other factor deemed relevant to the costs and expenses of providing pilotage service.

(5) 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.