

**BOARD OF PILOT COMMISSIONERS FOR THE BAYS OF
SAN FRANCISCO, SAN PABLO, AND SUISUN**

REVISED EXPRESS TERMS

March 5, 2026

Title 7. Harbors and Navigation
Division 2. State Board of Pilot Commissioners for the Bays of
San Francisco, San Pablo, and Suisun

Additions are shown in single underline. Deletions are shown in single strikethrough.

Amend Section 236 of Title 7, California Code of Regulations and to read as follows:

§ 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 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.~~

~~(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.

(a) Nothing contained in this article shall preclude the Board from initiating a duly noticed hearing to adopt or modify the pilotage tariff on its own motion.

(b) Until such time as the pilotage rates are adjusted pursuant to Chapter 6, the pilotage rates codified in Chapter 5 of Division 5 of the Harbors and Navigation Code shall remain in effect.

Note: Authority cited: Sections 1153 and 1250, Harbors and Navigation Code. Reference: Sections 1190, 1250, 1254, and 1265, Harbors and Navigation Code.

Adopt Sections 236.5 through 236.9 of Title 7, California Code of Regulations and to read as follows:

§ 236.5. Adoption and Publication of Pilotage Rates.

In accordance with Chapter 6 of Division 5 of the Harbors and Navigation Code, the following sections further describe the procedures, responsibilities, and obligations of the Board and Executive Director of the Board when considering the adoption and publication of any change in the pilotage tariff.

Note: Authority cited: Sections 1154 and 1250, Harbors and Navigation Code. Reference: Section 1250, Harbors and Navigation Code.

§ 236.6. Duties of the Executive Director.

The Executive Director of the Board shall do all of the following upon receipt of a notice of intent to petition the Board to adopt or modify the pilotage tariff:

(a) Upon the receipt of a notice of intent to petition, the Executive Director shall follow the notification requirements set forth in Harbors and Navigation Code Section 1261, including:

(1) Schedule an item for the next regular Board meeting to provide notice to the public and interested stakeholders and publish the notice of intent to petition into the record.

(2) Notify the Office of Administrative Hearings of the notice of intent to petition and request assignment of an administrative law judge to administer a hearing on the petition.

(3) Notify the petitioner of any stakeholder who has requested to participate in prepetition meetings in the timeframe established by Harbors and Navigations Code Section 1262, subdivision (a).

(b) The Executive Director shall receive any petition submitted with the Board by any person with a substantial interest in the pilotage tariff subject to all of the following:

(1) Upon receipt of a petition, the Executive Director shall confirm that the filing is consistent with all of the following pre-filing requirements of Sections 1260, 1262, and 1266 of the Harbors and Navigation Code, including:

(A) The petition was submitted at least 90 days subsequent to the reading of the notice of intent to petition at a duly noticed meeting of the Board, or the provision of service of a copy of the notice of intent to petition, whichever is earlier.

(B) The petitioner has provided a notice of proposed meeting schedule to all interested stakeholders within 20 days of publication of the notice of intent to petition at a duly noticed meeting of the Board.

(C) The petitioner has confirmed that it has held at least one meeting with all interested stakeholders.

(2) Upon confirmation that a received petition has met its pre-filing requirements, the Executive Director shall confirm that the petition includes all of the contents required by Section 1267, subdivision (a) of the Harbors and Navigation Code.

(3) Upon confirmation that a received petition includes all **the contents required by Section 1267**, the Executive Director shall follow the scheduling and notification requirements set forth in Harbors and Navigation Code Section 1268:

(4) (A) If the Executive Director determines that the petitioner has failed to meet the pre-filing requirements **of Section 1262**, or that the petition does not include all **of the contents required by Section 1267**, the Executive Director shall return the submission to the petitioner and notify the petitioner in writing of all deficiencies identified in the petition.

(B) A petition is only deemed filed once the Executive Director has confirmed the petition meets the pre-filing requirements **of Section 1262** and notifies the stakeholders, starting the 20-day period within which a stakeholder may file a written request to intervene in a petition proceeding under section 1269.

(c) (1) During any hearing before an administrative law judge on a petition, the Executive Director shall be in attendance.

(2) In the event that an administrative law judge issues a bench interrogatory or a discovery request to, or requests any other consultation with, the Executive Director during the course of a petition hearing or posthearing, the Executive Director shall respond directly to the administrative law judge. However, all parties have the right to respond to posthearing bench interrogatories and discovery requests, regardless of to which party the interrogatories or discovery requests are directed.

(d) Upon receipt of a tentative order and tariff from an administrative law judge, the Executive Director shall do all of the following:

(1) Publish notice of the tentative order and tariff on the Board's website, including findings, publication date, and effective date of the tariff.

(2) Advise board members and the public of their right to request **agendizing** the tentative order and tariff within 10 calendar days of the notice of the tentative order and tariff.

(e) (1) If no request to agendize is received by the Executive Director within 10 calendar days of the notice order and tariff, **the tentative order and tariff are final as a matter of law**, and the Executive Director shall:

(A) Publish the final order and tariff inclusive of findings on the publication date specified by the tentative order and tariff on the Board's website.

(B) Submit the final tariff to the Office of Administrative Law for publication in the California Regulatory Notice Register.

(2) If a request to agendize is received by the Executive Director within 10 calendar days of the notice order and tariff, the Executive Director shall:

(A) Agendize the tentative order and tariff for the next regular Board meeting.

(B) Notice the hearing pursuant to Section 1278(b) of the Harbors and Navigation Code.

(C) Summarize and present the tentative order and tariff during the public hearing at the next regular Board meeting.

(3) If the Board accepts the tentative order and tariff or takes no action pursuant to paragraph (1), (2), or (5) of subdivision (d) of Section 1278-of the Harbors and Navigation Code, the tentative order and tariff are deemed to be final as a matter of law, and the Executive Director shall:

(A) Publish the final order and tariff inclusive of findings on the publication date specified by the tentative order and tariff or on an alternative date as set by the board.

(B) Submit the final tariff to the Office of Administrative Law for publication in the California Regulatory Notice Register with an effective date of 30 days after the board hearing.

(4) If the Board rejects the tentative order pursuant to Section 1278(d)(3) of the Harbors and Navigation Code, the petition is deemed rejected as a matter of law, and the Executive Director shall:

(A) Publish a rejection of the order and tariff on the Board's website inclusive of the documentation of the basis for rejection.

(B) Submit a formal notice of rejection to the Office of Administrative Law for publication in the California Regulatory Notice Register.

(5) If the Board chooses to rerefer the tentative order to the administrative law judge pursuant to Section 1278(d)(4) of the Harbors and Navigation Code, the Executive Director shall provide all copies of all hearing materials to the administrative law judge for the purpose of administering an additional hearing on the petition pursuant to Section 1279,

(f) Upon receipt of a reviewed tentative order and tariff from an administrative law judge following a rereferral, the Executive Director shall follow the steps of subdivision (d) of this Section, as applicable.

Note: Authority cited: Sections 1154 and 1250, Harbors and Navigation Code. Reference: Sections 1260, 1261, 1262, 1266, 1267, 1268, 1269, and 1278, Harbors and Navigation Code.

§ 236.7. Ex Parte Communications.

Except as otherwise permitted with respect to the Executive Director's responses to bench requests or as part of a noticed public meeting, members of the Board and Board staff shall not engage in ex parte communications regarding the pilotage tariff, pilotage rates, or issues that are the subject of a pilotage tariff petition with any party, stakeholder, member of the public, or other Board member during the period beginning with the request by the Executive Director for assignment of an administrative law judge until the time that any potential for a related Board hearing on the petition has concluded.

Note: Authority cited: Sections 1154, 1250, and 1274, Harbors and Navigation Code. Reference: Section 1274, Harbors and Navigation Code.

§ 236.8. Objections to Standing.

(a) Any objection to the standing of a party to bring a pilotage tariff petition or counterpetition under Harbors and Navigation Code Section 1265, or to intervene with respect to a petition pursuant to Section 1269, shall be heard and adjudicated by the administrative law judge at the initial petition management conference under Section 1271, subdivision (a).

(b) For the purpose of determining standing to bring a petition or counterpetition for, or to intervene in, a pilotage tariff proceeding, the following shall apply:

(1) "Direct financial interest in the rates and tariffs charged for pilotage services" shall be presumed to include either any vessel owner or operator which is a payor of a rate or tariff charged for the receipt of pilotage services, or any Board-licensed active pilot or organization of Board-licensed active pilots which is a payee of a rate or tariff charged for the provision of pilotage services.

(2) "Indirect financial interest in the rates and tariffs charged for pilotage services" shall be presumed to include any organization which is representative of those with a direct financial interest in the rates and tariffs charged for pilotage services.

(3) It is a rebuttable presumption that any person who has neither a direct nor an indirect financial interest in the rates and tariffs charged for pilotage services, as set forth in Harbors and Navigation Code Section 1256 and this section, is not a stakeholder pursuant to Harbors and Navigation Code Section 1256, subdivision (f).

(c) Any objection to a petitioner's claim of its "substantial interest in the pilotage tariff" by an intervenor shall be made in the proposed intervenor's written request to intervene pursuant to Harbors and Navigation Code Section 1269. Any objection raised subsequent to filing of the written request to intervene is untimely.

Note: Authority cited: Sections 1154 and 1250, Harbors and Navigation Code. Reference: 1265 and 1269, Harbors and Navigation Code.

§ 236.9. Hearing Initiated by Board Action

(a) If the Board schedules an item to consider initiating a duly noticed hearing to adopt or modify the pilotage tariff under this article on its own motion, then the notice of the item shall be considered a notice of intent to petition under Harbors and Navigation Code Section 1260.

(b) In such an instance whereby, the Board publishes a notice of an item to initiate a duly noticed hearing to adopt or modify the pilotage tariff under this article on its own motion, then the Board shall not convene a prepetition meeting, pursuant to Harbors and Navigation Code Section 1262, subdivision (h).

(c) For purposes of Harbors and Navigation Code Section 1265, subdivision (b), Section 1266, subdivision (d), and Section 1267, in the situation described in subsections (a) and (b) of this section 236.9, the Board shall be considered a “petitioner” and submit a “petition.”

(d) For purposes of Harbors and Navigation Code Sections 1271, 1272, and 1273, in the situation described in subsections (a) and (b) of this section 236.9, the Board shall be considered a “party.”

(e) Nothing in this section relieves the Executive Director of any procedural obligations as described in this Article, except with regard to any obligations related to Harbors and Navigation Code Section 1262.

(f) Nothing in this section relieves any member of the Board or Board staff from the restrictions on engaging in ex parte communications during the period beginning with the request by the Executive Director for assignment of an administrative law judge as described in this Article and pursuant to Harbors and Navigation Code Section 1274.

Note: Authority cited: Sections 1154 and 1250, Harbors and Navigation Code. Reference: Sections 1260, 1262, 1265, 1266, 1267, 1271, 1272, 1273, and 1274, Harbors and Navigation Code.