



PORT FREEPORT

PILOT AND PILOTAGE RULES AND PROCEDURES

Table of Contents

INTRODUCTION	1
I. APPLICABILITY	1
II. QUALIFICATIONS FOR DEPUTY BRANCH PILOT AND BRANCH PILOT	2
A. DEPUTY PILOT	2
B. BRANCH PILOT	2
III. APPLICATION REQUIREMENTS FOR DEPUTY BRANCH PILOT AND BRANCH PILOT	3
A. APPLICATION FOR CERTIFICATE AS A DEPUTY BRANCH PILOT.....	3
B. DEPUTY BRANCH PILOT APPOINTMENT AND DEPUTY BRANCH PILOT CERTIFICATES	3
C. DEPUTY BRANCH PILOT’S APPLICATION FOR BRANCH PILOT LICENSE.....	4
IV. RENEWAL OF COMMISSIONS.....	6
A. BRANCH PILOT	6
B. DEPUTY PILOT.....	7
V. BASIC OPERATING PROCEDURES	8
VI. WHEN PILOTAGE IS REQUIRED	9
VII. PILOTAGE CHARGES	10
A. PROCEDURES FOR RATE CHANGE REQUESTS AND HEARINGS	10
VIII. REPORT OF CASUALTIES	13
IX. INVESTIGATION OF COMPLAINTS	14
A. INVESTIGATION OF COMPLAINTS BY PILOT REVIEW BOARD (PRB)	14
B. PILOT BOARD HEARING AND CONSIDERATION OF PRB FINDINGS AND RECOMMENDATIONS.....	16
X. GENERAL	18
EXHIBIT A DEPUTY BRANCH PILOT APPLICATION	19
EXHIBIT B COAST GUARD RELEASE FORM.....	24
EXHIBIT C DEPUTY PILOT PROGRAM TRAINING OUTLINE.....	25
EXHIBIT D LETTER OF RECOMMENDATION.....	30
EXHIBIT E AFFIDAVIT OF LOYALTY.....	31
EXHIBIT F OATH.....	32
EXHIBIT G STATEMENT OF OFFICER	33
EXHIBIT H PROCEDURAL RULES FOR PUBLIC HEARING ON PILOTAGE RATE APPLICATION.....	34

EXHIBIT I	BASIC OPERATING PROCEDURES	38
EXHIBIT J	WAIVER FOR A VARIANCE OF THE BASIC OPERATING PROCEDURES.....	41
EXHIBIT K	PILOTAGE RATES.....	44
EXHIBIT L	NOTICE OF HEARING REGARDING FINDINGS AND RECOMMENDATIONS OF PRB	46

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - *DRAFT***

SUBJECT: INTRODUCTION AND APPLICABILITY

SECTION: I

Port Freeport Pilot and Pilotage Rules and Procedures (“Rules”) contained herein are adopted to carry out the Brazoria Pilots Licensing and Regulatory Act, Chapter 68 of the Texas Transportation Code (Vernon 2008) (the “Act”) and not to supersede specific provisions of the Act. Thus, in the event of conflict between the Rules and the Act, the Act shall control.

I. APPLICABILITY

The Rules contained herein pertain to the appointment of certain committees and regulation of vessel pilots, including all Branch Pilots and Deputy Pilots commissioned or appointed to act as such on waters in the ports of Brazoria County, Texas, including Freeport, Texas.

The Board of Pilot Commissioners (the “Pilot Board”) is composed of the Commissioners of the Port Freeport Board of Navigation and Canal Commissioners. Among other things, the Pilot Board has exclusive jurisdiction over the pilotage of vessels in Brazoria County ports, including intermediate stops and landing places for vessels on navigable streams wholly or partially located in the Board’s jurisdiction.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

**SUBJECT: QUALIFICATIONS FOR DEPUTY BRANCH PILOT
AND BRANCH PILOT**

SECTION: II

II. APPLICANTS' QUALIFICATIONS

A. Deputy Pilot

To be eligible for a certificate as a Deputy Pilot pursuant to Section 68.034 of the Act, a person must:

1. be at least twenty-five (25) years of age;
2. be a United States citizen;
3. be appointed by a Branch Pilot;
4. be in good mental and physical health;
5. have good moral character; and
6. possess the requisite skill to perform competently and safely the duties of a deputy branch pilot.

B. Branch Pilot

To be eligible for a commission as a Branch Pilot pursuant to Section 66.033 of the Act, a person must:

1. be at least twenty-five (25) and less than sixty-eight (68) years of age;
2. be a United States citizen;
3. as of the date that the commission is issued, have resided in the State of Texas for a continuous period of not less than two (2) years;
4. be licensed by the U.S. Coast Guard as a First Class Pilot of Steam and Motor Vessels, for Freeport Bar and Freeport Ship Channel, unlimited tonnage and current unlimited radar endorsement;
5. have at least two years' service as a Deputy Pilot and have successfully completed the Pilot Board's approved training program;
6. have controlled the navigation of vessels such as the person would pilot;
7. have extensive experience in the docking and undocking of vessels;
8. be in good mental and physical health;
9. have good moral character; and
10. possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a Branch Pilot.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

**SUBJECT: APPLICATION REQUIREMENTS FOR DEPUTY
BRANCH PILOT AND BRANCH PILOT**

SECTION: III

III. APPLICATION REQUIREMENTS FOR DEPUTY BRANCH PILOT AND BRANCH PILOT

A. Application for Certificate as a Deputy Branch Pilot

Any person who desires an appointment as a Deputy Pilot shall file an official application (Application for License or Certificate as a Deputy Branch Pilot), in writing, with the Pilot Board Chairperson or designee. (See Exhibit A.)

In addition to the Pilot Board-Approved Application for certificate as a Deputy Branch Pilot, the applicant must establish and provide whatever further documentation is necessary to document their eligibility to be appointed as a deputy branch pilot at the direction of the Pilot Board including evidence that the Applicant is:

1. at least 25 years of age;
2. a United States citizen;
3. in good mental and physical health;
4. has good moral character; and
5. possesses the requisite skill to perform competently and safely the duties of a deputy branch pilot.

Upon receipt of an Application for Certificate as a Deputy Branch Pilot, the Pilot Board or its designee shall determine whether an applicant is qualified, unqualified, or whether additional information is necessary to determine an applicant's qualifications. The Pilot Board or its designee shall retain all applications and records of applicants deemed to be qualified and eligible to serve as a Deputy Branch Pilot.

B. Deputy Branch Pilot Appointment and Deputy Branch Pilot Certificates

The Brazos Pilots Association shall request the applications of persons deemed by the Pilot Board to be eligible and qualified for service as a deputy branch pilot.

Upon receipt from the Pilot Board, the Brazos Pilots Association will review the applications of qualified applicants. After selecting a qualified applicant as a Deputy Branch Pilot in accordance with Section 68.038 of the Act, the Brazos Pilots Association shall return all qualified applicant applications to the Pilot Board or its designee, who shall retain such records.

Having already determined the qualifications of a deputy branch pilot selected by the Brazos Pilots Association as set forth in the preceding paragraph, the Pilot Board shall confirm that the applicant selected for appointment remains in good mental and physical health pursuant to Section 68.034(4) of the Act provided; however, that the Pilot Board shall receive a valid Merchant Mariner's Medical Certificate from the selectee's Merchant Mariner Credential

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

**SUBJECT: APPLICATION REQUIREMENTS FOR DEPUTY
BRANCH PILOT AND BRANCH PILOT**

SECTION: III

and/or the certification of fitness for duty from the last page of the Coast Guard-approved Application for Merchant Mariner Medical Certificate (Form CG-719k), drug free certification and certification that the applicant is enrolled in a random drug testing program from an independent 3rd party. Optionally, the Pilot Board may require certification from a medical doctor not more than the 15th day before the date application is filed, certifying mental and physical health necessary to perform competently and safely the duties of a pilot and applicant's body on the date of certification is free of evidence of the presence of illegal drugs or chemicals.

Upon satisfaction of the foregoing provisions, the Pilot Board may not disapprove an application of a deputy branch pilot with a written recommendation for the certification from a Branch Pilot unless the Pilot Board, after notice to the applicant, has provided the applicant a hearing on the applicant's qualifications pursuant to Section 68.036(c) of the Act.

A Branch Pilot shall not appoint the applicant to become a Deputy Branch Pilot pursuant to Section 68.038 of the Act until final confirmation by the Pilot Board; to do so subjects the Branch Pilot to forfeiture of their appointment in accordance with Section 68.038 of the Act.

Upon compliance with the Oath and Bond requirements of Section 68.039 of the Act, the Pilot Board shall recommend to the governor that a Deputy Branch Pilot Certificate be issued to the appointee that shall expire on the second anniversary of the date of issue and cannot be renewed.

C. Deputy Branch Pilot's Application for Branch Pilot License

A Deputy Branch Pilot holding a valid Deputy Branch Pilot Certificate may apply for a Branch Pilot License. The Pilot Board shall approve the form of the Deputy Branch Pilot's Application for Branch Pilot License. Upon receipt of a Deputy Branch Pilot's Application for a Branch Pilot License, the Pilot Board shall determine that the Deputy Branch Pilot meets all qualifications required under Section 68.033 of the act:

1. be at least 25 years of age and less than 68 years of age;
2. be a United States citizen;
3. as of the date the license is issued, have resided continuously in this state for at least two years;
4. have at least two years' service as a deputy branch pilot and have successfully completed the Pilot Board-approved training program;
5. have controlled the navigation of vessels such as the person would pilot;
6. have extensive experience in the docking and undocking of vessels;
7. be licensed under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services;
8. be in good mental and physical health;

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

**SUBJECT: APPLICATION REQUIREMENTS FOR DEPUTY
BRANCH PILOT AND BRANCH PILOT**

SECTION: III

9. have good moral character; and
10. possess the requisite skill as a navigator and pilot to perform completely and safely the duties of a branch pilot.
11. letter of recommendation from a Branch Pilot
12. three references in form of written letters

For the purposes of certification of good mental and physical health, the Pilot Board may accept a valid Merchant Mariner's Medical Certificate from the selectee's Merchant Mariner Credential and/or the certification of fitness for duty from the last page of the Coast Guard-approved Application for Merchant Mariner Medical Certificate (Form CG-719k) as qualification of a branch pilot applicant's mental and physical health. Optionally, the Board may require certification from a medical doctor not more than the 15th day before the date application is filed, certifying mental and physical health necessary to perform competently and safely the duties of a pilot and applicant's body on the date of certification is free of evidence of the presence of illegal drugs or chemicals. Pilot Board shall verify validity of the USCG License and Medical Certificate on the USCG Merchant Mariner Credential Verification Tool <http://homeport.uscg.mil/mmcv>

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

SUBJECT: RENEWAL OF COMMISSIONS

SECTION: IV

IV. RENEWAL OF COMMISSIONS

A Branch Pilot is required to renew his or her commission every four years.

A. Branch Pilot

A Branch Pilot seeking renewal of his or her commission shall present to the Pilot Board, at least ninety (90) days in advance of the expiration of their commission, the following:

1. Written letter seeking renewal of Branch Pilot's License;
2. Copy of completed Office of Governor Appointment Application;
3. Proper bond as required by state law;
4. Valid Merchant Mariner Medical Certificate. Optionally, the Pilot Board may require certification from a medical doctor not more than the 15th day before the date application is filed, certifying mental and physical health necessary to perform competently and safely the duties of a Branch Pilot;
5. Copy of current United States Coast Guard Merchant Mariner Credentials with First Class Pilotage endorsement;
6. Certificate or letter from a third party certifying the Pilot is in a random drug testing program and a certificate from a medical doctor certifying the date of the most recent drug test and the pilot's body on the date of the test was free of evidence of the presence of illegal drugs or chemicals. Optionally, the Pilot Board may require certification from a medical doctor not more than the 15th day before the date application is filed, certifying the applicant's body on the date of the certification is free of evidence of the presence of illegal drugs or chemicals; and
7. Letter from a presiding officer of the Brazos Pilots Association stating the Branch Pilot has piloted as at least 6 vessels in the past 6 months.
8. Oath of Office.

Upon receipt of the foregoing, the Pilot Board shall recommend renewal of the Branch Pilot's license to the Governor unless the Pilot Board determines there is probable cause not to renew the license.

Pilot Board shall verify that the proper application has been submitted to the Governor's Office Pilot Board or Designee shall verify validity of the USCG License and Medical Certificate on the USCG Merchant Mariner Credential Verification Tool <http://homeport.uscg.mil/mmcv>

Probable cause not to renew a license exists if the Pilot Board finds the Branch Pilot:

1. Does not possess a qualification required for a Branch Pilot by Chapter 68 of the Texas Transportation Code;
2. Has a disability that will affect the license holder's ability to serve as a pilot; or
3. Failure to comply with providing the information that is required in the application

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

SUBJECT: RENEWAL OF COMMISSIONS

SECTION: IV

If the Pilot Board determines that it has probable cause, as defined in the preceding section, not to renew a license, the Pilot Board shall notify the Branch Pilot of the Pilot Board's determination not later than the 60th day before the date that the Branch Pilot's license expires. On request, the Pilot Board shall provide a hearing after proper notice to consider whether the Pilot Board has cause not to renew the license.

If the Pilot Board finds at the conclusion of a hearing that the Pilot Board lacks probable cause for a nonrenewal of the license, the Pilot Board shall recommend that the governor renew the license.

The Pilot Board may issue a written order recommending that the governor not renew a license if:

1. The Branch Pilot does not contest the Pilot Board's decision not to renew the license upon notice not later than the 60th day before the date that the Branch Pilot's license expires; or
2. The Pilot Board, after notification and a hearing, finds that it has probable cause not to renew a Branch Pilot's license.

The denial of a renewal of a Branch Pilot's license does not prohibit the Branch Pilot from applying for a new license and being reappointed.

A. Deputy Pilot

A Deputy Pilot's certificate expires two (2) years from the date of its issuance and is not renewable.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

SUBJECT: BASIC OPERATING PROCEDURES

SECTION: V

V. BASIC OPERATING PROCEDURES

The guidelines provided in Exhibit H shall govern the routine transit of the Freeport Harbor Ship Channel. The Freeport Harbor Basic Operating Procedures are guidelines made in the interest of safety. They are not intended to limit or supersede the on-scene discretion of an individual Pilot or ship's Master as they navigate vessels in the Freeport Harbor Ship Channel. The Pilot and Master on the vessel are best situated to evaluate the specific situation confronting a vessel and determine a proper course of action. There may arise situations in which actions that depart from or conflict with these Guidelines may be necessary to address special circumstances or avoid immediate danger. The Pilot, with approval of the ship's Master, may determine a variance from the Freeport Harbor Basic Operating Procedures is appropriate without prior written request or approval.

These guidelines may be varied in emergent situations if prior arrangements are made between the vessel owner, vessel Master, and/or agent and the Branch Pilot or Deputy Pilot (jointly "Pilot"). Upon such an agreement, Port Freeport shall be notified of the waiver. The notification shall be made to the Director of Operations for Port Freeport by the Pilot.

Basic Operating Procedures for Freeport Harbor Ship Channel are provided in Exhibit H. Requests for Variance or Special Cases should be submitted utilizing the Waiver forms attached as Exhibit I. A request for variance shall be submitted to the Director of Operations for Port Freeport 24 hours in advance of needing the waiver to move a vessel.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

SUBJECT: WHEN PILOTAGE IS REQUIRED

SECTION: VI

VI. WHEN PILOTAGE IS REQUIRED

Every foreign flagged vessel engaged in trade, including vessels being moved dead, when underway on navigable waters of the Freeport Harbor Ship Channel between the Freeport Bar and the farthest inland reaches of the Freeport Harbor Ship Channel shall employ a Pilot holding a valid commission or appointment as a Branch or authorized Deputy Pilot. All U.S. vessels qualified for coastwise trade under 46 C.F.R. § 4.80, when underway on navigable waters of the Freeport Harbor Ship Channel between the Freeport Bar and the farthest inland reaches of the Freeport Harbor Ship Channel shall employ a Pilot holding a valid commission or appointment as a Branch or authorized Deputy Pilot unless such transportation is exclusively between two points within the United States and embraced within the coastwise laws.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

SUBJECT: PILOTAGE CHARGES

SECTION: VII

VII. PILOTAGE CHARGES

In carrying out its duties under Section 68.017 of the Act, the Pilot Board shall establish pilotage rates as set forth by the Act.

The rates of pilotage charged by the pilots operating under the law and these regulations shall at all times be the rates established by the Pilot Board in accordance with the Act. (See Exhibit G) A schedule of such rates shall at all times be on file with the Pilot Board Commission Chairperson or designee. No Pilot shall demand or receive any greater, lesser or different compensation for rendering pilotage service than the rates established by the Pilot Board. Any person who charges different rates shall be liable to each person charged for double the amount of pilotage.

A proposed rate change shall be posted at the building where the Pilot Board meetings are held and at the Brazoria County Courthouse for public inspection at least ten days prior to the effective date of adoption of said rate(s). Proposed rate or rule changes shall also be posted in conformance with the Section 68.021 of the Act. New rates shall not be established less than one year after the Pilot Board has previously established rates unless emergency rates are established in accordance with the Act.

Where a timely written objection to a Pilotage Rate Application is properly filed with the Pilot Board under Section 68.063 by any person demonstrating a legitimate interest in the Rate Application, a rate hearing shall be held within the time prescribed in Section 68.064 of the Act. (See Exhibit D for Rate Hearing Procedures). The Rate Hearing Procedures (Exhibit D), shall not apply to actions taken by the Pilot Board pursuant to Section 68.071 of the Act (Emergency Pilotage Rates).

A. Procedures for Rate Change Requests and Hearings

Pursuant to Sections 68.061 through 68.070 of the Act, the following procedures shall be observed when a rate-change request is being sought by one or more Pilots or an owner, agent or consignee:

Rate Change Request Application and Filing of Written Objection

1. An application for rate-change request shall be filed with each Pilot Board Commissioner.
2. The application must contain:
 - a. a brief statement of the circumstances that warrant the change; and
 - b. a certification that the applicant(s) have submitted copies of the application to all known Pilots, consignees, and associations of consignees operating in Brazoria County at the time of the application.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES**

SUBJECT: PILOTAGE CHARGES

SECTION: VIII

3. No later than ten (10) days before the date set for a Pilot Board meeting to consider the Rate Change Request or pilotage rate hearing, the Brazos Pilots shall provide the Pilot Board Chairperson a report of operations and finances for the calendar or fiscal year preceding the date of the pilotage rate change application and the subsequent period to within 60 days of the date of the application. The Pilot Board may require relevant additional information it considers necessary to determine a proper pilotage rate.
4. Any objection to the rate-increase request must be received in writing by a Pilot Board Commissioner within twenty (20) days of the applicant's request. An objection will be considered if the person or entity submitting it appears to have a legitimate interest in the application. (See Exhibit D).
5. If such an objection is filed, the Pilot Board will hold a hearing.
6. If no objection is filed, the Pilot Board will act on the rate change request at the next scheduled meeting of the Pilot Board and file a copy of its order with the County Clerk forty (40) days after the original rate-change request. The Pilot Board Commissioners shall individually vote for or against such rate-increase application in their discretion, acting in the public interest and taking into account the factors set forth in Section 68.067 of the Act.

Public Hearing on Objections

When a timely written objection to a Pilotage Rate Change Application is properly filed with the Pilot Board under Section 68.063 by any person demonstrating a legitimate interest in the Rate Change Application, the following procedures shall be observed:

1. If a hearing is held on any objection(s) filed, it shall be held no later than forty (40) days of the applicant's rate-change request.
2. The Pilot Board shall give notice of the hearing to each applicant, each objecting party, and any other person or entity the Pilot Board determines is legitimately interested in the proceedings. (See Exhibit D). The hearing shall be open to the public and held at a convenient place.
3. Each party who demonstrates a legitimate interest in the application is entitled to be heard, present evidence, and, to the extent the Pilot Board considers practical, to cross-examine testifying witnesses. (See Exhibit D).
4. The Pilot Board shall grant, deny, or modify the application after receipt of evidence offered by the parties and arguments and briefs as may be requested by the Pilot Board, and taking into account the factors set forth in Section 68.067 of the Act. The Pilot Board shall state the effective date of any rate change approved.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES**

SUBJECT: PILOTAGE CHARGES

SECTION: VIII

5. The Pilot Commission shall file a copy of its order with the County Clerk not later than twenty (20) days from the closing date of a hearing or, if a hearing is not held, forty (40) days after the original rate-increase request.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

SUBJECT: REPORT OF CASUALTIES

SECTION: VIII

VIII. REPORT OF CASUALTIES

Any Pilot, shall report the following to the Pilot Board's designee for marine casualty investigations:

- A. Any marine casualty requiring the submission of a written casualty report (i.e., Form CG 2692) to the United States Coast Guard in which the Pilot was involved.

The Pilot Board can institute investigations or hearings or both to consider casualties or accidents or other actions that violate the Act in accordance with Section 68.017 of the Act as deemed appropriate.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

SUBJECT: INVESTIGATION OF COMPLAINTS

SECTION: IX

IX. INVESTIGATION OF COMPLAINTS

A. Investigation of Complaints by Pilot Review Board (PRB)

In the event of a complaint against a Pilot, the Pilot Board shall assemble the Pilot Review Board (“PRB”) pursuant to Section 68.018 of the Act.

The PRB shall be comprised of two branch pilots and three members of the maritime industry who reside in Brazoria County in accordance with Section 68.018. It is the intent of this provision that the members of the PRB, to the extent possible, generally possess the industry expertise and background necessary to carry out the duties of the PRB.

Any person subject to investigation by the PRB shall have the right to advice of counsel and to be heard at a public hearing. The PRB Chairman shall advise all persons having been the subject of investigation by the PRB of the findings and recommendations of the PRB at the public hearing and advise all persons subject to investigation of their right to request reconsideration as set forth in the procedure below. The following procedures shall govern the conduct of investigations and hearing by the PRB:

1. The Involved Pilot shall have at least twenty (20) working days in which to provide to the PRB a statement in writing, and any additional information, including additional statements in writing from witnesses and others familiar with the Incident. Such information should be provided within seven (7) days prior to the hearing; however, failure to provide such information by that time does not preclude the offering of additional evidence at such hearing. If such information is provided less than seven (7) days prior to a hearing, the PRB may, at its discretion, reschedule such hearing.
2. The PRB shall provide the Involved Pilot the opportunity to present a statement and/or statements from other parties and answer questions and/or present witnesses at a hearing before the PRB. The presentation of evidence by the and Involved Pilot and any sworn testimony before the PRB shall be open to the public and transcribed by a certified court reporter. Notwithstanding the foregoing sentence, witnesses shall be excluded from hearing the testimony of other witnesses prior to giving their own testimony, but the Involved Pilot shall not be excluded from hearing the testimony of any witness, nor shall expert witnesses be excluded from the proceedings. The PRB’s deliberations shall be closed to the public.
3. Following consideration of materials gathered, or presented by the Involved Pilot, or of any oral presentations, the PRB shall announce its Proposed Findings and Recommendations in open session and shall announce the tally of the PRB vote, and shall prepare proposed findings and recommendations (“Proposed Findings and Recommendations”) to be presented to the Pilot Board. After approving its Proposed Findings and Recommendations as stated above, the PRB can review any sanctions issued to the Involved Pilot during the five (5) years prior to the incident in question

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

SUBJECT: INVESTIGATION OF COMPLAINTS

SECTION: IX

to determine if there are any recurring issues of concern. If after a vote the PRB determines that there is a recurring issue of concern, it may supplement its Proposed Recommendations and Findings to the Pilot Board to include a recommendation for additional training for the Involved Pilot.

4. Prior to presentation of the Proposed Findings and Recommendations, the vote tally and material to be considered by the Pilot Board, the PRB shall provide a copy of the Proposed Findings and Recommendations to the Involved Pilot, who shall have fourteen (14) days in which to make a Request for Reconsideration in a written document filed with the Chairman of the PRB. Such Request shall state the grounds and cite any evidence. The determination of whether to grant or deny such Request shall be solely within the discretion of a majority of the PRB members who participated in the hearing at issue.
5. The PRB members who participated in the hearing at issue shall act on any Request for Reconsideration within ten (10) days from the date it is received and, if such request is granted, conduct any further proceedings it deems appropriate. Such action may include another hearing, or a conference telephone call convened by the Chairman of the PRB. If no Request for Reconsideration is received, the PRB shall present the Proposed Findings and Recommendations to the Pilot Board within fourteen (14) working days from the date the Proposed Findings and Recommendations are provided to the Involved Pilot.
6. In the event any member of the PRB or Pilot Board member shall have a direct conflict of interest with respect to a matter being investigated, such member shall not serve on the PRB or Pilot Board for the consideration of the matter at issue. No person who is so affected shall be replaced on the PRB or Pilot Board, which will undertake such investigation without the conflicted member or members.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES**

SUBJECT: INVESTIGATION OF COMPLAINTS

SECTION: IX

B. Pilot Board Hearing and Consideration of PRB Findings and Recommendations

1. Hearing Before the Board

- a. Prior to taking action against a Pilot under Section 68.044, the Pilot Board shall provide notice and hold a public hearing. In the event that the Pilot Board receives Proposed Findings and Recommendations from the Pilot Review Board, the Pilot Board shall notify the Involved Pilot in writing of the receipt of the Proposed Findings and Recommendations and of the opportunity to appear before the Pilot Board at least twenty (20) days before the Pilot Board considers the Proposed Findings and Recommendations. The notice shall inform the Pilot of his or her right to submit materials in writing to the Pilot Board, appear with counsel before the Pilot Board, and present and examine witnesses at the Pilot Board hearing. (See Exhibit L)
- b. Should the Involved Pilot choose to contest the PRB's Proposed Findings and Recommendations, he or she shall submit to the Pilot Board his or her statement in writing, statements in writing from witnesses and others familiar with the matter, and other relevant materials that he or she intends to rely upon or introduce at the Pilot Board hearing, including materials supplementing those presented at the PRB's hearing(s) on the matter, no later than seven (7) days prior to the date of the Pilot Board's meeting. If the materials are not timely submitted, the Pilot Board may in its sole discretion, consider the late-filed materials, refrain from considering the same, or the Chairman of the Pilot Board may reschedule the Pilot Board hearing.
- c. Counsel for the Involved Pilot, or the Involved Pilot, shall be allowed an opportunity to present the evidence described above, along with any new evidence, and any written argument or oral argument on behalf of the Involved Pilot. Such proceedings shall be transcribed by a certified court reporter and open to the public.
- d. Upon consideration of the entire record provided by the PRB, evidence and argument on behalf of the Involved Pilot, and any other matters, the Pilot Board shall within forty-five (45) days of the hearing issue an order that either adopts, changes or rejects the Proposed Findings and Recommendations. The order shall include the action to be taken by the Pilot Board based on the finding and conclusions it adopts. The Proposed Findings and Recommendations of the PRB shall not be effective until adopted by the Pilot Board.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES**

SUBJECT: INVESTIGATION OF COMPLAINTS

SECTION: IX

2. Pilot Board Decision

The action taken by the Pilot Board may include, without limitation, a decision to:

- a. take no action;
- b. issue a Letter of Commendation;
- c. require that the Involved Pilot undertake additional training;
- d. issue a Letter of Caution to the Involved Pilot cautioning the Involved Pilot with regard to the Involved Pilot's actions;
- e. issue a Letter of Reprimand;
- f. suspend for up to six (6) months any Branch Pilot commission or Deputy Pilot certificate held by parties determined to be at fault in the Incident; or
- g. recommend to the Governor that the Branch Pilot commission or Deputy Pilot certificate held by the Pilot be revoked.

The Involved Pilot shall be notified of the decision of the Pilot Board and shall have twenty (20) working days in which to file a Request for Rehearing. Such Request shall state the grounds and cite any evidence supporting a rehearing. A majority of those Pilot Board members who presided at the hearing at issue shall act on the Request for Rehearing within thirty (30) days of its submission, and if such request is granted, conduct any further proceedings deemed appropriate. If the Pilot Board denies the Request for Rehearing, such action is considered final and appealable to district court.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES**

SUBJECT: GENERAL

SECTION: X

X. GENERAL

Every Pilot, while acting under the authority of a certificate or state commission as Deputy Pilot or Branch Pilot, shall act with safety as the highest priority. A Pilot may refuse pilotage services in a situation where, in the Pilot's judgment, movement of the vessel constitutes a hazard to life or property. A Pilot may also refuse pilotage services when pilotage charges that are due and owing are unpaid by the person ordering the pilot services.

The Brazos Pilots generally follow the work/rest recommendations set forth by the NTSB (National Transportation Safety Board).

The Pilot Board is a political subdivision of the State of Texas and is subject to the provisions of the Texas Public Information Act, Chapter 552 of the Tex. Gov't. Code ("PIA"). If a request is made under the PIA for any Branch Pilot or Deputy Pilot records held by the Pilot Board, or Port Freeport acting on its behalf, in connection with these Rules, Port Freeport, on behalf of the Pilot Board, shall notify the Brazos Pilots of the requests, and take such other actions as required under Tex. Gov't. Code § 552.305, regarding information involving privacy or property interests of a third party. Without limiting the foregoing, if a request is made for information pertaining to pilots or Applicants that may be deemed Safety Sensitive Information ("SSI") as defined by federal law and as contemplated by Attorney General Open Records Letter OR2007-13737, Port Freeport, on behalf of the Pilot Board, shall decline to release the information for the purpose of requesting an attorney general decision, and shall notify the Presiding Officer of Brazos Pilots of the request so that the pilot(s) affected may have the opportunity to submit to the attorney general reasons why the information should be withheld. The information shall thereupon be handled by Pilot Board and Port Freeport acting on its behalf, as the attorney general determines. Records held under the Rules by the Pilot Board, or by Port Freeport on behalf of the Pilot Board, shall be subject to Port Freeport's Records Management Program.

The Brazos Pilot's Association shall provide, and the Pilot Board Chairperson shall maintain, a roster of currently active Branch Pilots and Deputy Pilots. The roster shall include each Pilot's name, address, birth date, formal education data, date of certification as Deputy Pilot, date of commissioning as Branch Pilot, Coast Guard licenses held, and date of initial and subsequent issue.

In all of their duties and actions, including the provision of any assistance in obtaining experience required for commissioning, the Brazos Pilots Association and Pilot Board shall not sanction discriminatory practices or discriminate against any Applicant or potential applicant, Branch Pilot, or Deputy Pilot on account of race, religion, sex, ethnic origin or national origin.

These Rules supersede any previously authorized Rules and shall remain in full force and effect until changed by the Pilot Board. The Pilot Board shall give at least ten days' notice of its intention to adopt a rule by posting at the building where Port Board meetings are held and at the Brazoria County Courthouse. Proposed rate or rule changes shall also be posted in conformance with the Section 68.021 of the Act. All actions and proceedings of the Pilot Board are to be in compliance with Section 68.020 of the Act regarding the Open Meetings Law. PRB members acting under these Rules are deemed to be acting in a governmental capacity, to the extent permitted by law.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

SUBJECT: DEPUTY BRANCH PILOT APPLICATION

EXHIBIT: A

PORT FREEPORT DEPUTY BRANCH PILOT APPLICATION

This application package, including the documentation described below, must be submitted for consideration as a Deputy Branch Pilot in Port Freeport. Only complete application packages will be considered.

Applicants must provide the following for consideration by the Pilot Board:

- (1) A completed, signed application;
- (2) A copy of applicant's birth certificate or other proof of age;
- (3) Proof of U.S. citizenship;
- (4) Copies of applicant's current merchant mariner credentials and endorsements (all pages);
- (5) Evidence of appropriate sea service along with a summary sheet of such sea service;
 - a. Evidence of sea service may be in the form of certificates of discharge, military records of service, or original letters from previous employers signed by appropriate officers or licensed masters, including contact information for verification.
 - b. Properly documented 12-hour days will count as 1.5 days for the purposes of total day count. Cadet time does not count towards sea service.
- (2) An original drug screen report completed within 15 calendar days of the date of application;
- (3) A written report of a medical evaluation on U.S. Coast Guard Merchant Mariner Credential Medical Evaluation Report Form (USCG form CG-719K, or its equivalent) and a certificate from a medical doctor within 15 calendar days of the application certifying "Fit for Duty" as a pilot;
- (4) Release authorizing a complete background check and release of USCG records of the applicant (see Exhibit B);
- (5) Evidence of ability to enter into faithful performance bond in the amount of \$25,000, payable to the Governor of the State of Texas; and
- (6) A signed statement that the applicant agrees to be bound by the Brazoria Pilots Licensing and Regulatory Act and the Port Freeport Pilot and Pilotage Rules and Procedures.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

SUBJECT: DEPUTY BRANCH PILOT APPLICATION

EXHIBIT: A

Name:

Current Address:

Mailing Address:

Phone Number:

Email:

Age:

Date of Birth:

SSN:

Driver License No:

CITIZENSHIP/RESIDENCY

U.S. Citizen:

Are you currently a resident in the State of Texas?

- **If not and you are selected as a Deputy Branch Pilot, do you agree to become a resident in the State of Texas at the time of appointment and continue residency for the term of appointment?**

MERCHANT MARINER CREDENTIALS

Current U.S. Coast Guard license held:

Endorsements:

Limitations:

Attach copy of credentials.

Has the U.S. Coast Guard or any other appropriate body ever taken any proceeding against your merchant mariner credentials?

If yes, please explain.

Have you ever been involved in a marine incident resulting in an investigation?

If yes, please explain.

Current Merchant Mariner Medical Certificate (Attach copy of credentials)

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES**

SUBJECT: DEPUTY BRANCH PILOT APPLICATION

EXHIBIT: A

EDUCATION

Highest level of education completed:

School Name	Location	Dates Attended	Course/Degree

Attach Official Transcript

MILITARY SERVICE

Have you served in the Armed Forces?

Branch:

Date Entered:

Date Released:

Service No:

Rank on Release:

Type of Discharge:

EMPLOYMENT HISTORY

(Use additional sheets if necessary)

Company Name:	Position Held:
Address:	Employed From/To:
Supervisor:	Supervisor's Phone or Email:

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES**

SUBJECT: DEPUTY BRANCH PILOT APPLICATION

EXHIBIT: A

Company Name:	Position Held:
Address:	Employed From/To:
Supervisor:	Supervisor's Phone or Email:
Company Name:	Position Held:
Address:	Employed From/To:
Supervisor:	Supervisor's Phone or Email:
Company Name:	Position Held:
Address:	Employed From/To:
Supervisor:	Supervisor's Phone or Email:
Company Name:	Position Held:
Address:	Employed From/To:
Supervisor:	Supervisor's Phone or Email:

CRIMINAL RECORD

Have you ever been convicted in a criminal proceeding (other than for a minor traffic violation), placed on probation, required to perform community service, or had a criminal proceeding disposed of by pre-trial diversion, deferred prosecution, deferred adjudication, or other similar proceeding?

If yes, please explain.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES**

SUBJECT: DEPUTY BRANCH PILOT APPLICATION

EXHIBIT: A

Are you currently in violation of a court order to provide child or spousal support?

If yes, please explain.

Have you ever had a marine or motor vehicle driver's license revoked, suspended, or limited in any jurisdiction?

If yes, please explain.

REFERENCES

A least three personal or professional references that have known the applicant for at least five years is required. References may not be related to the applicant. References should also be in form of written letters.

Name	Address		Phone Number	Profession

ADDITIONAL INFORMATION

I hereby submit this application and willingly submit to the following:

I understand that any misrepresentation or omission of the facts on this application will result in rejection or future disqualification.

I authorize investigation of all information contained in this application or supporting documentation and release the Port Freeport Board of Pilot Commissioners and Pilot Review and Recommendation Committee and their staff from liability in connection with their investigation.

Signature:

Date:

Print Name:

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

SUBJECT: COAST GUARD RELEASE FORM

EXHIBIT: B

COAST GUARD RELEASE FORM

I, _____, do hereby authorize Port Freeport and the Port Freeport Board of Pilot Commissioners and Pilot Review and Recommendation Committee to investigate and/or obtain my records from the United States Coast Guard, including but not limited to licenses and/or any disciplinary information contained in their files.

Applicant's Signature

Witness

SWORN TO AND SUBSCRIBED BEFORE ME this _____ day of

_____, _____

Notary Public in and for the State of _____

My commission expires _____

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES**

SUBJECT: DEPUTY PILOT PROGRAM TRAINING OUTLINE

EXHIBIT: C



**DEPUTY PILOT PROGRAM
TRAINING OUTLINE**

A Deputy Pilot is an individual that has been recommended by a majority of the Brazos Pilots Association to receive a certificate as Deputy Branch Pilot from the Board of Pilot Commissioners of Port Freeport. In the performance of Pilotage duties, the Brazos Pilots recognize the following:

1. That navigation of vessels and vessel safety is of major importance to the local marine industry, the Brazosport area, and the State of Texas.
2. To perform the duties of a pilot, an individual must have a wide range of specific knowledge and the ability to handle large vessels in confined waters.
3. The pilot's ability aboard a vessel is a key element in ensuring the safe handling of all vessels, the safety of life and property and the protection of the Brazosport Community and its environment.

It is the intent of the Brazos Pilots Association to establish training guidelines for Deputy Pilots to use and develop their skills in a safe reasonable manner. The skill a pilot possesses is only gained from experience and the common denominator of all training programs is actual experience handling ships over the entire route under the supervision of a Branch Pilot who acts as a training officer. The Branch Pilot passes on his knowledge gained from years of experience and intervenes in case of necessity. A properly managed training program should provide for total immersion into the piloting environment. It must be an intense experience repeated to the point that the pilot in training knows the correct action required by instinct as well as by reasoning. The skill is acquired through many transits over the route in all types of ships, under varying weather conditions, during both daylight and night-time hours, and with as many different pilots as possible.

Piloting ability is based on two components: (1) Familiarity with ship types and their differing characteristics, and (2) Familiarity with the route to be transited. A pilot in training who is to become a State Regulated Pilot has to be able to handle any type of vessel that he may be assigned anywhere on the Pilotage grounds.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES**

SUBJECT: DEPUTY PILOT PROGRAM TRAINING OUTLINE

EXHIBIT: C

Training has to include experience in different hull forms – from low block coefficient high-powered container ships to high block coefficient low-powered bulk carriers. It should include difference propulsion systems and their characteristics—steam, turbine, slow speed direct reversing diesels, high speed geared diesels, diesel electric, and include different propellers, fixed right and left hand, variable and controllable pitch. It should include experience with stern and bow thrusters and the problems with large sail area ships, such as car carriers, in high wind. Experience should be gained with bridge equipment found on ships of many different nationalities. Radars, gyros, ARPA's, radio equipment, engine control systems and the way navigational information is displayed vary from ship to ship with different manufacturers and shipbuilders.

DEPUTY PILOT TRAINING PROGRAM – GUIDELINES

Upon selection, the Deputy Pilot will be designated as an apprentice and be assigned to a “sponsoring pilot” who shall generally guide and supervise the Deputy through his training. Each active Branch Pilot shall participate in educating and training the Deputy.

The first phase of training will consist of the Deputy Pilot riding with and observing the sponsoring pilot, during which time the Deputy Pilot will complete Federal Licensing requirements for First Class Pilot Unlimited Gross Tonnage from Freeport Sea Buoy to Stauffer Chemical.

Upon completion of Federal Licensing requirements, the Deputy will be assigned to each active Branch Pilot to ride and observe. Each Branch Pilot will advise and instruct the Deputy in the navigation and handling of vessels for a period of two weeks. After completing an assignment with each Branch Pilot, the Deputy Pilot will be required to complete the US Coast Guard License Exam for First Class Pilot.

AREA OF INSTRUCTION

Each Branch Pilot shall instruct and examine the apprentice during the week the apprentice is assigned to him. The instructions and examination shall cover the following areas:

1. Instruction in the international and inland regulations for the prevention of collisions at sea and such other local rules regarding the traffic control system established in the waterway;
2. Buoyage system used in this area;
3. Names and characteristics of the channel, points and shoals in the area;
4. Proper courses and distances in the area;
5. Depths of water, tidal and current effects and similar factors affecting vessels of various sizes at various drafts or load conditions;

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES**

SUBJECT: DEPUTY PILOT PROGRAM TRAINING OUTLINE

EXHIBIT: C

6. Knowledge of the seaward limits of local Pilotage area;
7. Knowledge of radio communications and availability of navigational information;
8. Anchorages adjacent to the waterway;
9. On the job experiences of maneuvering behavior of single and twin screw ships and similar factors relative to size and load condition at various points of the waterway;
10. Factors affecting ship performance such as:
 - a. Effects of wind
 - b. Effects of current
 - c. Effects of water depth
 - d. Effects of channel configuration
 - e. Hydrostatic pressure effects in the handling of the vessel
 - f. Utilization of the bank cushion and bank suction
11. Limitations in the vessel's maneuvering capabilities when navigating the narrow channel of the waterway;
12. Use, capabilities and limitation of tugs;
13. Utilization, effectiveness and limitations of radar, when navigating in restricted visibility;
14. Docking, undocking and turning around at various terminals and points in the waterway;
15. Legal requirements and duties concerning Pilotage and navigation of vessels;
16. Safe handling of the vessel with respect to docking facilities and other vessels in the area;
17. Constant vigilance to safety and protection of life and property of the ship, ship's crew, ship's cargo and equipment, the waterway, the community and its environment;
18. Relationship of the pilot with the Master and Officers of the ship and general awareness of the pilot's important task and mission;
19. Handling of vessels without power navigating with the assistance of tugs;
20. Handling of drilling rigs and barges under tow;
21. Thorough knowledge of the local conditions, circumstances and vessel traffic patterns in the waterway.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES**

SUBJECT: DEPUTY PILOT PROGRAM TRAINING OUTLINE

EXHIBIT: C

GRADING AND REPORT

Should the apprentice appear, to any Brazos Pilot, to be making below average progress, the Brazos Pilot shall file a confidential report with the Presiding Officer of the Pilots along with a copy to the sponsoring pilot. The sponsoring pilot shall immediately counsel the apprentice to determine the corrective measures necessary for the apprentice to make satisfactory progress. Should the apprentice continue to progress below average, after counseling and reasonable period of adjustment, that fact is to be reported to the Association to determine whether the apprenticeship should be continued or terminated.

COMPLETION OF THE COURSE

At such time that the sponsoring pilot has satisfied himself that the apprentice has satisfactorily completed all the requirements of the apprentice program and has the ability to handle vessels without supervision, he shall recommend to the Presiding Officer of the Association that the apprentice be recommended to the Pilot Board for designation as a Deputy Pilot. Upon the approval of the Association and the Pilot Board, the apprentice shall take a provisional status as a Pilot, known as a "Deputy Pilot".

DEPUTY PILOT PROBATION

A Deputy Pilot upon completion of the training course described herein, and who has demonstrated his ability to safely handle vessels, shall be on probation for a period not exceeding one year before he can exercise the functions of a Branch Pilot.

The Deputy Pilot, while on probation, shall be assigned to a watch rotation and shall handle vessels with the following limitations:

PHASE	LIMITATION	MOVEMENT	DAY/NIGHT
First step	Less than 400 feet LOA	Sailing	Days
Second Step	400 – 600 Feet LOA	Sailing	Days
Third Step	600 – 800 Feet LOA	Sailing	Days
Fourth Step	More than 800 Feet LOA	Sailing	Days
Fifth Step	Less than 400 Feet LOA	Arrival	Days
Sixth Step	400 – 600 Feet LOA	Arrival	Days
Seventh Step	600 – 800 Feet LOA	Arrival	Days
Eighth Step	More than 800 Feet LOA	Arrival	Days
Ninth Step	Less than 400 Feet LOA	Arrival/Sailing	Night
Tenth Step	400 – 600 Feet LOA	Arrival/Sailing	Night
Eleventh Step	600 – 800 Feet LOA	Arrival/Sailing	Night
Twelfth Step	More than 800 Feet LOA	Arrival/Sailing	Night

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES**

SUBJECT: DEPUTY PILOT PROGRAM TRAINING OUTLINE

EXHIBIT: C

The Deputy Pilot will be checked off as qualified to handle the various phases by the Brazos Pilots Association on a dock basis. It is the Deputy Pilot's obligation to ensure that he has been checked off as qualified on any job assigned.

When the Deputy Pilot requests assistance, the next Branch Pilot on turn shall be assigned to assist the Deputy Pilot.

The Brazos Pilots Association, from time to time by a majority decision, may impose such other restrictions and/or limitations or such other changes of this training program as they see fit, depending on the existing circumstances and conditions of the ship traffic flow, the channel condition and the available depths in the waterway.

Note: All changes to the training program must be submitted to the Pilot Board and the Pilot Rules and Regulations document must be updated.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES**

SUBJECT: LETTER OF RECOMMENDATION

EXHIBIT: D



[Date]

Chairman, Board of Pilot Commissioners
Port Freeport
1100 Cherry Street
Freeport, TX 77541

Re: Appointment of Captain _____ as a Branch Pilot for the ports of Brazoria County, Texas

Dear Mr. Chairman,

The Board of Pilot Commissioners previously approved and authorized the appointment of Captain _____ as a Deputy Branch Pilot for the ports of Brazoria County, Texas.

The undersigned, a licensed Branch Pilot for the ports of Brazoria County, Texas, is either: (a) the Branch Pilot who originally appointed Captain _____ as a Deputy Branch Pilot for the ports of Brazoria County, Texas; or (b) the Presiding Officer of the Brazos Pilots Association.

Pursuant to the Rules of Port Freeport, I hereby recommend the appointment of Captain _____ as a Branch Pilot for the ports of Brazoria County, Texas, and ask that his application to become a Branch Pilot for the ports of Brazoria County be approved.

Thank you for your consideration of this recommendation.

Sincerely,

Captain _____

Cc: Ms. Phyllis Saathoff, Executive Director, Port Freeport

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES – DRAFT**

SUBJECT: AFFIDAVIT OF LOYALTY

EXHIBIT: E

THE STATE OF TEXAS

COUNTY OF BRAZORIA

AFFIDAVIT OF LOYALTY

BEFORE ME, the undersigned authority, on this day personally appeared _____
who after being by me duly sworn, upon his oath deposes and says as follows:

I.

My name is _____. I am a resident of the State of Texas and the County of Brazoria, and have been for more than one year next preceding the filing of this affidavit. I am a candidate for the appointment to the office of Branch Pilot for Port Freeport, subject to the action of the Port Commission of Port Freeport, being also the Pilot Commission of said Port.

II.

If appointed to the office of Branch Pilot for Port Freeport, I will support and defend the Constitution and Laws of the United States of America and the State of Texas. I believe in, approve of, and if appointed, will support and defend our representative form of Government and will resist any effort or movement from any source which seeks to subvert or destroy the same of any part thereof.

WITNESS MY HAND this ____ day of _____, _____.

(Applicant Name)

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority, by the said _____ this the ____ day of _____, _____, to certify which witness my hand and official seal.

Notary Public in and for
the County of Brazoria

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES – DRAFT**

SUBJECT: OATH

EXHIBIT: F

Form #2204 Rev. 10/2011

**Submit to:
SECRETARY OF STATE
Government Filings Section
P O Box 12887
Austin, TX 78711-2887
512-463-6334**

Filing Fee: None



OATH OF OFFICE

**This space reserved for office
use**

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS,
I, _____, do solemnly swear (or affirm), that I will faithfully
execute the duties of the office of _____ of
the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws
of the United States and of this State, so help me God.

Signature of Officer

.....
State of _____)
County of _____)

Sworn to and subscribed before me
this _____ day of _____, 20__.

(seal)

Signature of Notary Public or Other Officer
Administering Oath

Printed or Typed Name

Print

Reset

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

SUBJECT: STATEMENT OF OFFICER

EXHIBIT: G

Form #2201 Rev. 10/2011

This space reserved for office use

**Submit to:
SECRETARY OF STATE
Government Filings Section
P O Box 12887
Austin, TX 78711-2887
512-463-6334
512-463-5569 - Fax
Filing Fee: None**



STATEMENT OF OFFICER

Statement

I, _____, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

Position to Which Elected/Appointed: _____

City and/or County: _____

Execution

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated therein are true.

Date: _____

Signature of Officer

Revised 10/2011

Print

Reset

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

**SUBJECT: PROCEDURAL RULES FOR PUBLIC HEARING ON EXHIBIT: H
PILOTAGE RATE APPLICATION**

**PROCEDURAL RULES FOR PUBLIC HEARINGS CONCERNING CONTESTED
PILOTAGE RATE APPLICATIONS BEFORE THE BOARD OF PILOT
COMMISSIONERS FOR BRAZORIA COUNTY PORTS**

In the event that the Board receives a timely written objection to a Pilotage Rate Application ("Rate Application") filed under Section 68.063 of the Brazoria County Pilots Licensing and Regulatory Act ("the Act") from any person who demonstrates a legitimate interest (the "Objecting Party") in the application, these procedural rules shall apply to the public hearing required by Section 68.064 of the Act.

In order to demonstrate a legitimate interest in a Rate Application proceeding as required by Section 68.064 of the Act, the objecting person or entity must have timely filed a written objection to the Rate Application and must provide a brief summary including adequate information to the Pilot Board Commissioners for Brazoria County Ports (the "Pilot Board") in order for legitimacy to be determined.

1. The Rate Hearing will commence on _____, at 9:00 a.m. local time at 1100 Cherry Street, Freeport, Texas, before the Port Freeport Pilot Board. The Pilot Board's duly designated Presiding Officer of the Hearing ("Presiding Officer") will be the Chairman of the Pilot Board.
2. At the commencement of the Rate Hearing the Chairman of the Board of Pilot Commissioners for Brazoria County Ports ("Chairman") will call the Rate Hearing to order, briefly describe the matters to be heard before the Pilot Board and ask for appearances from the parties. At this time, the Board shall make a determination on whether each objecting party has timely filed its objection and has demonstrated a legitimate interest in the Rate Application as required by Section 68.064 of the Act.
3. The Presiding Officer will state that the procedures included as Exhibit H of the Pilotage Rules and Procedures adopted by the Pilot Board _____, 20__ will apply to the public hearing to ensure that all participants will have a fair opportunity to present to the Pilot Board their respective positions on the Rate Application pending before the Pilot Board, along with supporting materials, testimony and/or evidence and to ensure that the Rate Hearing will proceed in an orderly and expeditious manner, consistent with due process, applicable law and with the public interest.
4. After the Presiding Officer calls the Rate Hearing to order and before Applicant opens its case, Port Staff shall submit relevant information to the Pilot Board related to the Rate Application being considered.
5. An Applicant shall have a total of ____ hours to present opening and closing statements, evidence and/or testimony in support of its position on the Rate Application, unless the Pilot Board finds good cause to extend such time.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

SUBJECT: STATEMENT OF OFFICER

EXHIBIT: G

6. The Objecting Parties collectively shall have a total of _____ () hours to present opening and closing statements, evidence and/or testimony in support of their respective positions on the Rate Application, unless the Pilot Board finds good cause to extend such time.
7. Applicant shall have the right to make the first opening statement and the last closing statement.
8. A duly licensed court reporter will transcribe the proceedings and will certify the official record of the proceedings; the Pilot Board will maintain the official transcript of the proceedings, along with exhibits that will be made part of the record; pursuant to Section 68.069 of the Act, the Pilot Board may assess the actual costs the board considers fair and just for reporting and stenographic services necessarily incurred in connection with the hearing against one or more of the Applicants and/or Objecting Parties.
9. All testimony will be under oath, with all witnesses sworn by the Chairman or duly licensed court reporter.
10. All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their own affairs shall be admissible in the hearing, whether or not such evidence would be admissible in a court of law in Texas; however, irrelevant, immaterial, harassing, abusive or unduly repetitive evidence shall be excluded. The Chairman will rule on any objections raised by the parties at the hearing and may confer with counsel for a recommendation with respect to any such objections.
11. Counsel for the respective Parties will have the right to cross-examine all testifying fact and expert witnesses, who are timely designated under paragraph thirteen (13) below, and who are called to testify by the opposing party; time expended in cross-examination by a party will be subtracted from that party's allocated hours to present evidence and/or testimony.
12. The Commissioners of the Pilot Board shall have the right to ask questions of any witness who may be called to testify by the Parties; the time consumed by the Commissioners' questions and the witness' answers will not count against the time allocated to the party who called the witness.
13. On or before time, (CDT), _____, 20__, counsel for the Parties shall exchange: (i) their respective witness and exhibit lists and a copy of each exhibit for the Rate Hearing; and (ii) copies of all demonstrative exhibits or materials, including, but not limited to Power Point presentations, that they intend to use during the Rate Hearing, with copies of the foregoing items in (i) and (ii) above to counsel for the Pilot Board; to be considered timely filed, the respective witness and exhibit lists, exhibits and demonstrative materials of the Parties must be served upon the respective counsel for the Parties and for the Pilot Board on or before time, (CDT), _____, 20__. To the extent that the respective witness lists include any designated expert witnesses, the designation must include a copy of a current CV for each

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

**SUBJECT: PROCEDURAL RULES FOR PUBLIC HEARING ON EXHIBIT: H
PILOTAGE RATE APPLICATION**

designated expert witness and a copy of each expert witness' report in a form that generally complies with what is required in civil actions in Texas state courts; persons not listed in said witness lists and expert witnesses whose designations do not include current CVs and the expert's report(s) shall not be permitted to testify at the Rate Hearing as experts; exhibits not included in said exhibit list nor timely filed shall not be admitted into evidence at the Rate Hearing, without first obtaining leave from the Chairman. The Parties shall not be permitted to use during the Rate Hearing any demonstrative materials that are not timely filed.

14. On or before *time*, (CDT) _____, 20__, counsel for the respective Parties shall exchange, with copies provided to counsel for the Pilot Board, any written objections they may have to any of the persons or exhibits listed in the witness and exhibit lists for the Rate Hearing submitted by the opposing party pursuant to paragraph twelve (12) above; to be considered timely filed, the respective written objections of the Parties must be served upon the respective counsel for the Parties and for the Pilot Board on or before 10:00 a.m., (CDT) _____, 20__. The Chairman will rule on any said objections prior to the presentation of any evidence on the first day of the Rate Hearing.
15. If requested by the Pilot Board, Port Staff shall submit to the Pilot Board, with copies provided to counsel for the respective Parties and to counsel for the Pilot Board, any requested information relevant to the Rate Application.
16. No rebuttal testimony or evidence will be allowed during the Rate Hearing.
17. After the Parties have concluded their respective presentations of their evidence on the Rate Application, counsel for the Parties may present final summations to the Pilot Board, to the extent that the respective Parties have not exhausted the time allocated to each of them above.
18. At the conclusion of the final summations by counsel for the Parties, the Pilot Board will proceed to publicly deliberate the Rate Application. Thereafter, the Pilot Board shall grant, deny, or modify the Rate Application.
19. Pursuant to Texas Transportation Code section 68.067, in acting on the Rate Application, the Pilot Board shall consider:
 - a. Characteristics of vessels to be piloted;
 - b. Costs to pilots to provide the required pilot services;
 - c. 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;
 - d. 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;

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

SUBJECT: STATEMENT OF OFFICER

EXHIBIT: G

- e. The relationship between the pilotage rates in Brazoria County ports and the rates applicable in other ports of this state;
 - f. The average number of hours spent by a pilot performing:
 - (1) Pilot services on board vessels;
 - (2) All pilot services; and
 - g. 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.
20. The decision of the Pilot Board granting, denying or modifying the Rate Application will be included in one final order approved by the Pilot Board, which will state the effective date of any rate change. The Pilot Board shall file the final order with the county clerk not later than the 20th day after the closing date of a hearing held as provided by Section 68.064(b) of the Act.

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES - DRAFT**

**SUBJECT: FREEPORT HARBOR BASIC OPERATING
PROCEDURES**

EXHIBIT: I

*Basic Operating Procedures
Effective January 01, 2012*

I. VESSEL DIMENSIONS

- A. Maximum Length - 820 ft. (LOA)
- B. Maximum Beam - 145 ft.
- C. Maximum Depth of Channel - 45 ft.
 - 1. Recommended Operating Draft - 42' fresh water-based on available tide and current soundings (Recommended Draft may be reduced for silting or shoaling based on current soundings).
 - 2. Draft recommendation is for navigable channel only.
 - 3. 36'00 draft available at Brazos Harbor and BASF channels.
 - 4. Old River Channel above Phillips Terminal is 15 feet deep.
- D. SPECIAL SERVICES/OPERATIONS will be handled on a "per job" basis with a one-time waiver the Basic Operating Procedures. These vessels will be billed under "Special Services" and will be by "Specific Agreement" prior to the move:
 - 1. Oversize (LOA >820' or beam >145') or unusual types of floating equipment such as drilling rigs and operations in the sink hole
 - 2. Vessels with draft in excess of 42' FW or current Recommended Operating draft
 - 3. Shifting vessels without power and vessels leaving the ship channel
 - 4. Dow A14 dock vessels with a beam >125'
 - 5. Dow A13 all vessels

II. DAYLIGHT RESTRICTED VESSELS

The term "Daylight restricted" means vessel must start movement:

- 1. One hour (60 minutes) before sunset for vessels going to berths below Phillips Bend
- 2. One & one-half hours (90 minutes) before sunset for vessels going to berths above Phillips Bend

The following vessels are daylight restricted:

- A. Inbound Vessels Restricted to Daylight Movements:
 - 1. Vessels over 750' LOA
 - 2. Vessels having a beam in excess of 107'
 - 3. Vessels of 700' LOA and over with draft in excess of 36'06"
 - 4. Dow A-13 Dock all vessels
 - 5. Dow A-14 Dock:
 - a. Vessels greater than 600' LOA
 - b. Vessels greater than 100' Beam
 - c. No vessel will be moved with an obstruction 85' or greater at Dow A-8 dock
 - d. Vessels with beam 125' or greater (see Special Services/Operations above)
 - 6. Vessels judged unsafe for handling after dark will be limited to daylight hours
 - 7. Inbound operations will be suspended during times when weather conditions do not permit safe navigation
- B. Outbound Vessels Restricted to Daylight Movements:
 - 1. Dow A-13 Dock all vessels
 - 2. Dow A-14 Dock:
 - a. Vessels greater than 600' LOA
 - b. Vessels greater than 100' Beam

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- c. No vessel will be moved with an obstruction 85' or greater at Dow A-8 dock.
- d. Vessels with beam 125' or great (see Special Services/Operations above)
- 3. Conoco Phillips Terminal and all docks above Phillips Bend:
Vessels greater than 750' LOA will require two pilots and will be handled on a "per job" basis with a one-time waiver to the Basic Operating Procedures. These vessels will be billed under "Special Services" and will be by "Specific Agreement" prior to sailing
- 4. Seaway terminal:
Vessels over 750' (LOA), 125' (beam) and have a draft greater than 36' will require two pilots and will be handled on a "per job" basis with a one-time waiver to the Basic Operating Procedures. These vessels will be billed under "Special Services" and will be by "Specific Agreement" prior to sailing.
- 5. Outbound operations will be suspended during times when weather conditions do not permit safe navigation

III. TUG ASSISTANCE RECOMMENDATIONS

Terms/Definitions:

- A. House tugs refers to two tugs, where one is a tractor tug with a bollard pull greater than 55 ton, and the other is a conventional tug with a bollard pull greater than 50 ton.
- B. 3rd tug refers to a guest tug from Houston/Galveston, conventional screws and flanking rudders with a bollard pull greater than 50 ton or unless otherwise recommended.

Recommendations for vessel movements:

- A. Dow A-14:
 - 1. Inbound:
 - a. Over 615 feet LOA - Two house tugs plus an additional 3rd Tug
 - b. Less than 615 feet LOA - Two house tugs
 - c. Beam >125 feet will be handled on a "per job" basis with a one-time waiver to the Basic Operating Procedures. These vessels will be billed under "Special Services" and will be by "Specific Agreement" prior to movement.
 - 2. Outbound:
 - a. Over 700' LOA- Two house tugs and an additional 3rd tug.
 - b. Less than 700' LOA - Two house tugs
 - c. Beam >125 feet will be handled on a "per job" basis with a one-time waiver to the Basic Operating Procedures. These vessels will be billed under "Special Services" and will be by "Specific Agreement" prior to movement.
- B. Dow A-13:
 - 1. Handled on a "per job" basis – at the pilots discretion
- C. Seaway Dock #2 and #3:
 - 1. Vessels sailing with a draft >36' will require a 3rd tug and will be handled on a "per job" basis with a one-time waiver to the Basic Operating Procedures. These vessels will be billed under "Special Services" and will be by "Specific Agreement" prior to sailing.
- D. Freeport LNG: By agreement prior to move

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EXHIBIT: I

- IV. ORDERING PILOTS, DETENTIONS, CANCELLATIONS, CHANGING ORDERS AND HOLDING TIMES:
- A. Ordering Pilots:
 - 1. Inbounds: Minimum 2 hour notice required (3 hours preferred) for arriving movements.
 - 2. Outbounds: Minimum 2 hour notice required for sailing movements.
 - 3. Shifts: Minimum 2 hour notice required for shift movements.
 - B. Detention charges shall be billed for every hour after the first ½ hour, excluding weather from the time of pilot order when:
 - 1. A vessel is not ready to move at the ordered time. After 1/2 hour the pilot may cancel the job.
 - 2. A vessel is not ready to move at the ordered time and another ship is waiting to move, the pilot may immediately leave the delayed vessel and proceed to the vessel which is waiting. A cancellation charge shall be applied to the vessel that was not ready to sail.
 - 3. A vessel is not at the pilot station for pilot boarding at the ordered time
 - C. Cancellation of Vessel Movement or Changes to Pilot Orders:
 - 1. Inbound Vessels canceling or changing pilot order times:
 - a. With less than 2 hours notice, one (1) cancellation charge.
 - b. If vessel is not available at the time of order the charge is two (2) cancellation charges
 - 2. Outbound and Shifting Vessels canceling or changing pilot ordering times:
 - a. With less than 1 hour notice, one (1) cancellation charge.
 - b. If vessel is not available at the time of order the charge is two (2) cancellation charges
 - D. Holding Charge shall be billed for every hour after the first ½ hour when:
 - 1. A vessel requests a pilot to hold the vessel alongside a dock or bank.
 - 2. A vessel requests a pilot stand by while a compass is calibrated, navigational or mechanical equipment is being repaired.
 - 3. A pilot is unable to disembark a vessel within 45 minutes of first line

As approved by the Pilot Commissioners of Port Freeport, December 8, 2011

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES – DRAFT**

**SUBJECT: WAIVER FOR A VARIANCE OF THE BASIC
OPERATING PROCEDURES**

EXHIBIT J

Excessive Draft

Port Freeport
Attn: Director of Operations Fax: 979-233-
1287

DATE _____

Ref: VESSEL NAME _____

Port Freeport Director of Operations:

We are requesting a one-time waiver to the Basic Operating Procedures for the above referenced vessel to transit Freeport Ship Channel.

The following are vessel specifications:

Dead Weight: _____
Gross Weight: _____
Net Weight: _____
LOA: _____
LBP: _____
Ex. Beam: _____
Fresh Water Draft: _____
Estimated date/time of Arrival: _____

We appreciate your consideration of this request.

Agent Signature

Company Name _____

Phone/Fax #'s _____

Cc: Brazos Pilots Association (Fax 979-233-7071)

www.brazospilots.com

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES – DRAFT**

**SUBJECT: WAIVER FOR A VARIANCE OF THE BASIC
OPERATING PROCEDURES**

EXHIBIT J

NITE: Inbound

Port Freeport
Attn: Director of Operations
Fax: 979-233-1287

DATE

Ref: VESSEL NAME
ETA Date/Time:

Port Freeport Director of Operations:

We are requesting a one-time waiver to the Basic Operating Procedures for the above mentioned vessel to transit Freeport Ship Channel during night conditions INBOUND TO _____ (dock) .

The following are vessel specifications:

Dead Weight: _____
Gross Weight: _____
Net Weight: _____
LOA: _____
LBP: _____
Ex. Beam: _____
Fresh Water Draft: _____

We appreciate your consideration of this request.

Signature

Agent Name _____

Agency/Contact Information _____

Cc: Brazos Pilots Association (Fax 979-233-7071)

www.brazospilots.com

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES – DRAFT**

**SUBJECT: WAIVER FOR A VARIANCE OF THE BASIC
OPERATING PROCEDURES**

EXHIBIT J

NITE: In or Shift/Sail

Port Freeport
Attn: Director of Operations
Fax: 979-233-1287

DATE _____

Ref:
VESSEL NAME: _____
ETA: _____
DOCK: _____

Port Freeport Director of Operations:

We are requesting a one-time waiver to the Basic Operating Procedures for the above referenced vessel to transit Freeport Ship Channel during night conditions shifting from _____ (dock) to _____ (dock) or sailing during night conditions from _____ (dock).

The following are vessel specifications:

Dead Weight: _____
Gross Weight: _____
Net Weight: _____
LOA: _____
LBP: _____
Ex. Beam: _____
Fresh Water Draft: _____

We appreciate your consideration of this request.

Agent Signature

Company Name _____

Phone/Fax #'s _____

Cc: Brazos Pilots Association (Fax 979-233-7071)

www.brazospilots.com

**PORT FREEPORT
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**SUBJECT: WAIVER FOR A VARIANCE OF THE BASIC
OPERATING PROCEDURES**

EXHIBIT J

Oversized

Port Freeport
Attn: Director of Operations
Fax: 979-233-1287
Ref: Name of vessel
Dock _____ ETA _____ ETB _____

Port Freeport Director of Operations:
We are requesting a one-time waiver to the Basic Operating Procedures for the above referenced vessel to call on _____ dock. Following are the specifications:

Vessel Particulars:

Year built: _____
Displacement Tonnage at Arrival Draft: _____
Arrival FW Draft: _____
LOA: _____ LBP: _____ Beam: _____
Air draft: _____

Engine:

Horsepower: _____
Propulsion: _____
Maneuverable
Tactical diameter: _____(NM)
___ Single Screw ___ Twin Screw (check one)

<u>Engine order</u>	<u>Speed (knots)</u>	<u>Revolutions</u>
Dead slow ahead	_____	_____
Slow ahead	_____	_____
Half ahead	_____	_____
Full ahead	_____	_____

Distance from waterline to manifold: Loaded: _____ Empty: _____

We appreciate your consideration of this request.

Signature
Agent Name _____

Agency/Contact Information _____

Cc: Brazos Pilots Association (Fax 979-233-7071)
Revised 10/15; 04/09; 02/09; 12/08; 11/08; 03/08

www.brazospilots.com

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES – DRAFT**

SUBJECT: PILOTAGE RATES

EXHIBIT: K

**PILOTAGE RATES OF BRAZOS PILOTS
EFFECTIVE JANUARY 08, 2016**

DRAFT FOOTAGE ALL VESSELS TO OR FROM SEA, PER DRAFT FOOT.....\$ 30.92
MINIMUM PER MOVEMENT.....\$1028.56

UNITS CHARGE UNITS ARE DETERMINED BY THE FORMULA:
LOA X EXTREME BEAM DIVIDED BY 100 = UNITS

UNITS	COSTS	UNITS	COSTS	UNITS	COSTS
100 – 124	0.24	775 – 799	1.28	1450 – 1474	2.28
125 – 149	0.26	800 – 824	1.30	1475 – 1499	2.33
150 – 174	0.30	825 – 849	1.35	1500 – 1524	2.36
175 – 199	0.33	850 – 874	1.38	1525 – 1549	2.41
200 – 224	0.37	875 – 899	1.42	1550 – 1574	2.46
225 – 249	0.40	900 – 924	1.44	1575 – 1599	2.50
250 – 274	0.43	925 – 949	1.49	1600 – 1624	2.53
275 – 299	0.50	950 – 974	1.55	1625 – 1649	2.58
300 – 324	0.54	975 – 999	1.58	1650 – 1674	2.62
325 – 349	0.60	1000 – 1024	1.59	1675 – 1699	2.65
350 – 374	0.62	1025 – 1049	1.64	1700 – 1724	2.71
375 – 399	0.68	1050 – 1074	1.68	1725 – 1749	2.75
400 – 424	0.70	1075 – 1099	1.71	1750 – 1774	2.80
425 – 449	0.74	1100 – 1124	1.77	1775 – 1799	2.84
450 – 474	0.76	1125 – 1149	1.80	1800 – 1824	2.91
475 – 499	0.80	1150 – 1174	1.81	1825 – 1849	2.96
500 – 524	0.82	1175 – 1199	1.85	1850 – 1874	3.00
525 – 549	0.88	1200 – 1224	1.90	1875 – 1899	3.07
550 – 574	0.93	1225 – 1249	1.94	1900 – 1927	3.11
575 – 599	0.95	1250 – 1274	1.96	1925 – 1949	3.16
600 – 624	1.00	1275 – 1299	2.00	1950 – 1974	3.20
625 – 649	1.04	1300 – 1324	2.04	1975 – 1999	3.25
650 – 674	1.07	1325 – 1349	2.08	2000 – 2024	3.30
675 – 699	1.12	1350 – 1374	2.11	2025 – 2049	3.36
700 – 724	1.14	1375 – 1399	2.15	2050 – 2074	3.39
725 – 749	1.21	1400 – 1424	2.20	2075 – 2099	3.46
750 – 774	1.25	1425 – 1449	2.23		

Training and Education Charge
Per movement \$ 15.76

Shifting Vessel With Power Charge Draft & Unit Charge

Shifting Vessel Without Power Charge
2 Pilots required and full pilotage for each pilot Draft & Unit Charge x 2

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES – DRAFT**

SUBJECT: PILOTAGE RATES

EXHIBIT: K

Detention Charge

OUTBOUND, SHIFTING or ARRIVAL per hour or fraction thereof after the first half hour from the time of Pilot order, excluding weather: \$ 406.34

1. If a vessel is not ready to move at the ordered time.
2. If a vessel is not ready to move at the ordered time and another vessel is waiting to move, the pilot may immediately leave the delayed vessel and proceed to the vessel which is waiting. A cancellation charge shall be applied to the vessel that wasn't ready to sail.
3. If a vessel is not at the pilot station for pilot boating at the ordered time.

Cancellation/Changes to Pilot Order Charge

INBOUNDS: A cancellation charge will be billed when an inbound vessel cancels or changes a pilot order time without proper notice. If an order is cancelled or changed: \$ 406.34

1. With less than 2 hour notice the charge is one (1) cancellation fee.
2. At time of order the charge is two (2) cancellation fees.

OUTBOUNDS/SHIFTS: A cancellation charge will be billed when an outbound or shifting vessel cancels or changes pilot order time without proper notice. If an order is cancelled or changed: \$ 406.34

1. With less than 1 hour notice, the charge is (1) cancellation fee.
2. At the time of order the charge is two (2) cancellation fees.

Holding Charge

1. If a vessel requests a pilot to hold the vessel alongside a dock or bank. \$ 525.31
2. If a vessel requests a pilot stand by while a compass is calibrated, navigational or mechanical equipment is being repaired.
3. If a pilot is unable to disembark a vessel within 45 minutes of first line.

Pilot Carried to Sea Charge

Charged per day pilot is not available to perform his duties. Plus any expenses and first class transportation home \$1103.81

Special Services/Operations

These services include vessels with parameters outside of the Basic Operating Procedures, unusual types of floating equipment such as drilling rigs and operations in the sink hole, or moving/shifting vessels without power and vessels leaving the ship channel. Pilotage fees shall be set by specific agreement prior to ordering pilot.

Payment for Service

The agent is considered as acting for the consignee and /or for the operators of the vessel, and shall be responsible for all pilot fees.

PAYMENT IS DUE AND PAYABLE FOR ALL SERVICES UPON RECEIPT OF INVOICE. ANY INVOICE NOT PAID WITHIN THIRTY (30) DAYS IS CONSIDERED IN PAST DUE

**PORT FREEPORT
PILOT AND PILOTAGE RULES AND PROCEDURES – DRAFT**

**SUBJECT: NOTICE OF HEARING REGARDING FINDINGS
AND RECOMMENDATION OF PRB**

EXHIBIT: L

RE: Notice of Hearing Before the Board of Pilot Commissioners to Hear Evidence Regarding Proposed Findings and Recommendations in the Matter Involving Captain _____.

The Pilot Board has received Proposed Findings and Recommendations from the Pilot Review Board, regarding the marine casualty involving the vessel piloted by Captain _____, (the “Involved Pilot”). Prior to taking action on the Proposed Findings and Recommendations under Section 68.044 of the Texas Transportation Code, the Pilot Board of Commissioners will hold a public hearing to consider the Proposed Findings and Recommendations, and hear any additional evidence presented. The hearing has been scheduled for _____, 2017 at _____ a.m. at _____.

Should the Involved Pilot choose to contest the PRB’s Proposed Findings and Recommendations, he or she shall submit to the Pilot Board his or her statement in writing, statements in writing from witnesses and others familiar with the matter, and other relevant materials that he or she intends to rely upon or introduce at the Pilot Board hearing, including materials supplementing those presented at the PRB’s hearing(s) on the matter, no later than seven (7) days prior to the date of the Pilot Board’s hearing. If the materials are not timely submitted, the Pilot Board may in its sole discretion, consider late-filed materials, refrain from considering same, or the Chairman of the Pilot Board may reschedule the Pilot Board hearing.

Counsel for the Involved Pilot, or the Involved Pilot, shall be allowed an opportunity to present the evidence described above, along with any new evidence, and any written argument or oral argument on behalf of the Involved Pilot. Such proceedings shall be transcribed by a certified court reporter and open to the public.

Upon consideration of the entire record provided by the PRB, evidence and argument on behalf of the Involved Pilot, if any, and any other matters, the Pilot Board shall within forty-five (45) days of the hearing issue an order that either adopts, changes or rejects the Proposed Findings and Recommendations. The order shall include the action to be taken by the Pilot Board based on the finding(s) and conclusion(s) it adopts. The Proposed Findings and Recommendations of the PRB shall not be effective until adopted by the Pilot Board.

Sincerely,

Chairman Port Freeport Pilot Board