

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXX. River Pilots

Subpart 5. Louisiana Pilotage Fee Commission

Chapter 121. General Rules

§12101. Definitions

Administrator—the Administrator of the Louisiana Pilotage Fee Commission.

Chairman—the Chairman of the Louisiana Pilotage Fee Commission.

Commission—the Louisiana Pilotage Fee Commission.

Hearing Panel—a panel of at least three Commissioners selected by the Chairman to administer a proceeding before the Commission. A Hearing Panel shall consist of an odd number of Commissioners, including at least one at-large Commissioner who shall serve as the Presiding Commissioner of the proceeding and equal numbers of Pilot and Industry Commissioners.

Presiding Commissioner—the Chairman of the Commission or an at-large Commissioner appointed by the Chairman to serve on a Hearing Panel.

Request for Action—a filing with the Commission to review, modify, increase or decrease pilotage fees.

Statute—any provision of the Louisiana Revised Statutes, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:614 (April 2006).

§12102. Object of Rules

A. The purpose of these Rules, adopted pursuant to Louisiana Revised Statute 34:1125(A), is to provide for a simple, orderly, and efficient system of practices and procedures to establish pilotage fees before the Pilotage Fee Commission to the end that justice may be served, the public interest and welfare may be protected, and the determination of pilotage fees by the Pilotage Fee Commission may not be unduly delayed. These Rules shall be liberally construed, with a view towards the purpose for which they were adopted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:614 (April 2006).

§12103. Scope of Rules

A. These Rules shall govern the general procedure for the institution, conduct, and determination of all proceedings before the Pilotage Fee Commission. Except as otherwise

provided by Louisiana Revised Statutes 34:1121, et seq., and these Rules including §12110, the Commission adopts and incorporates the Louisiana Open Meeting Law, La. R.S. 43:4.1-12, et seq. and the Louisiana Public Records Act, La. R.S. 44:1-44 into its Rules of Practice and Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:614 (April 2006).

§12104. Election, Term of Office, Removal of Officers; Composition of Staff; Special Appointment Powers of the Chairman; Authority to Retain Hearing Master by the Chairman

A. The officers of the Commission shall be a chairman, vice-chairman, and secretary who shall be elected from among the at-large members of the Commission.

1. Officers of the Commission shall be elected by no less than six votes of the members of the Commission.

2. An election of officers of the Commission shall be conducted at the first regular meeting of the Commission that is held after the Governor of the State of Louisiana has made formal appointment of at-large members, beginning with the 2011-2015 term of office. The Administrator of the Commission shall provide members with formal notice of the election at least 30 days in advance of the regular meeting during which the elections are to be held.

3. A candidate for each office from among the at-large member(s) shall be offered by any member of the Commission, whether in person or by proxy, at the regular meeting during which the election of officers is conducted.

4. The term of office for of the Commission officers shall run concurrently with the term of office of the Governor who appointed them, or until their successors are duly elected.

5. Succession of Officers

a. Upon resignation, removal or retirement of the chairman, the vice-chairman shall assume the office of chairman.

b. Upon resignation, removal, or retirement of, or assumption of the office of chairman by the vice-chairman, the secretary shall assume the office of vice-chairman.

c. An incoming replacement at-large member appointed by the Governor shall serve as secretary. In the

event that two or more replacement at-large members are appointed simultaneously, a special election shall be held at the next regular meeting after official appointment to determine the office to be held by each new at-large member.

6. An officer of the Commission may be removed for cause upon motion of any member at a regular or special meeting of the Commission and by majority vote of the Commission, provided that the officer sought to be removed has had the opportunity to speak before the entire membership to address and rebut the grounds asserted in favor of his or her removal from office. Any officer removed by vote of the Commission shall be considered ineligible to serve as officer for the remainder of his or her present term as at-large Commissioner.

B. The Commission staff members shall include an Administrator, and such other staff personnel, including legal counsel, as the Commission may from time to time employ or retain by contract.

C. The Commission may permit one or more of the Commission staff members to also serve as staff for the Board of Louisiana River Pilot Review and Oversight.

D. The Chairman shall exercise his discretion from time to time to appoint committees and their members. On the motion of any member, the Commission may modify or rescind such appointments.

E. The Chairman shall select Commission members to serve on Hearing Panels, as needed and shall have the authority to retain a Hearing Master selected pursuant to the procedures outlined in §12107.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:614 (April 2006), amended LR 35:464 (March 2009), effective July 9, 2009.

§12105. Commission Office Location and Hours of Operations

A. The domicile of the Commission, established pursuant to R.S. 34:1121(B)(11), is East Baton Rouge Parish.

B. The offices of the Commission shall be located at (name of building and street address) in East Baton Rouge Parish until public notice of or change in location within such parish. All meetings of the Commission and its committees will take place in this office unless public notice is given of intent to hold a meeting elsewhere.

C. The offices of the Commission shall be open from 8:00 a.m. until 4:30 p.m., Monday through Friday, except official state holidays.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:614 (April 2006).

§12106. Administrator; Employment; Duties and Responsibilities

A. In accordance with R.S. 34:1122(A)(2), the Commission shall employ an Administrator whose compensation shall be fixed by the Commission.

B. The Administrator shall be the chief administrative officer of the Commission. He shall perform his duties, responsibilities and functions under the supervision and control of the Commission. The Administrator shall also direct and be responsible for all management and finance matters of the Commission. In such capacity, he shall be responsible for accounting and budget control, procurement and contract management, data processing, consulting services, property control, personnel management, establishment and oversight of a Commission website and grants management for the Commission, except as otherwise specifically provided in these rules.

C. The Administrator shall also employ, remove, assign, and promote such personnel as is necessary for the efficient administration of the Commission and the performance of its powers, duties, functions, and responsibilities. The Administrator shall exercise all powers and authority granted to him in these rules subject to the overall direction and control of the Commission. The Administrator shall perform such additional duties and functions as are assigned by the Commission.

D. For purposes of the Public Records Law, the Administrator shall be the official custodian of all records of the Commission and all filings with the Commission. The Administrator shall receive and respond to all requests for public records of the Commission.

E. The Administrator shall whenever necessary or appropriate certify copies of official documents in his custody; provide service of decisions, recommendations, orders, subpoenas, proposed rules and notices issued by the Commission, Hearing Panel and Hearing Master, and perform other duties as may be assigned by the Commission.

F. The Administrator shall assess the cost of all hearings and expenses incurred by the Commission in a proceeding equally on the pilot association and the shipping industry to which it relates in accordance with the procedures established by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:615 (April 2006).

§12107. Hearing Master Selection Process

A. The Commission may assign contested dockets or such other matter as it deems appropriate to a Hearing Master.

B. A Hearing Master shall satisfy the following qualifications:

1. licensed to practice law in the state of Louisiana;

2. a member in good standing of the Louisiana State Bar Association;

3. no previous or current representation of any entity with respect to pilotage fee issues;

4. no relationships or interests likely to affect impartiality or create an appearance of partiality and commitment to disclose such should they arise; and

5. a retired judge who previously served at the district, appellate or supreme court level and included in a list of retired judges available to serve and supplied by the Louisiana Supreme Court (*Retired Judges List*).

C. When a proceeding has been assigned to a Hearing Master, the Administrator shall provide each party to the proceeding a copy of the Retired Judges List. The parties shall meet and try to agree on a Hearing Master candidate from the Retired Judges List. If there is agreement, within 10 days of receipt of the Retired Judges List, the parties shall file a joint report to the Commission that provides the name of a Hearing Master candidate that satisfies the qualifications of Subpart B.1 upon which all parties agree.

D. If the parties are unable to agree, parties aligned with Pilot interests (*Pilots*) and parties aligned with Industry interests (*Industry*) shall exchange a list of 3 Hearing Master candidates that satisfy the qualifications of Subpart B.1 within 10 days of the receipt of the Retired Judges List. Pilots and Industry shall have the right to strike 2 names from the list of the opposing group and the remaining names on the two lists shall be submitted to the Commission in a joint report filed no later than 15 days from the receipt of the Retired Judges List.

E. The Commission shall select the candidate upon which there is agreement, or one of the candidates from the lists submitted in the joint report from Pilots and Industry, or reject all candidates and refer the selection to the at-large Commissioners.

F. When the Hearing Master selection has been assigned to the at-large Commissioners, they shall select 3 Hearing Master candidates that satisfy the qualifications of Subpart B.1 and were not previously selected by Pilots and Industry. The candidates chosen by the at-large Commission members shall be submitted to the parties. Within 10 days, the parties shall provide the Commission with an agreed to candidate from the list provided by the at-large Commissioners, or Pilots and Industry shall exercise the right to each strike one of the names and report the name so stricken to the Commission. The at-large Commissioners shall then make the final Hearing Master selection from the remaining names.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:615 (April 2006).

§12108. Ex Parte Communications

A. An at-large member of the Commission shall not have any ex parte communication with any member of any pilot

association or with any member of the nominating industry groups or any other person or entity that has an interest in any issue pending or that may come before the Commission with respect to such issues except for educational purposes.

B. The general policy of the Commission will be to hold public hearings at which all facts pertaining to pilots, shippers, vessels, agents and related interested parties may be adduced for benefit of the entire Commission so as to minimize the need for ex parte educational presentations.

1. If an ex parte educational presentation is made:

a. adequate notice and opportunity to attend shall be afforded to both pilot association and industry Commission members;

b. adequate notice shall be provided to the non-presenting interest group and/or parties, which shall be afforded an opportunity to attend and make an educational presentation on the same topic at a later date;

c. only five or fewer Commission members may be present.

C. Ex parte communication with the Hearing Master by a Commissioner, Commission staff, any member of any pilot association, any member of the nominating industry groups or any other person or entity that has an interest in any proceeding pending before the Hearing Master regarding the issues under consideration in such proceeding is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:615 (April 2006).

§12109. Public Records; Copies Available to Public

A. All records of the Commission, except as provided in these Rules, including §12110, whether received or generated in the discharge of any of its functions shall be public records which shall be available to members of the public upon compliance with the provisions of the Public Records Law, R.S. 44:1, et seq.

B. Copies of any public records of the Commission may be purchased from the Administrator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:616 (April 2006).

§12110. Public Records; Exception for Confidential, Trade Secret and Proprietary Matters

A. A pilot association, a member of industry, or any other person with a substantial interest submitting documents to the Commission, including the submission of relevant records of entities or persons not party to a proceeding, may request that the Commission maintain such documents as confidential information and exempt from public disclosure, upon a showing that they contain trade secrets or proprietary or confidential information. Records found by the Commission to be trade secret, proprietary or

confidential shall be kept confidential and exempt from public disclosure.

B. Each request for confidentiality must allege that the document contains confidential or proprietary matters or trade secrets and shall include all of the following:

1. a statement as to whether the request for confidentiality is based upon confidential, proprietary or trade secret information;

2. a list or an index identifying each separate record or category of records and stating the legal authority under which each separate record should be determined to require confidentiality;

3. a statement of the measures taken by the requester to guard against undesired disclosure to others of each record or document;

4. a statement of the extent to which the document or record has been disclosed to others and the precautions against further disclosure taken in connection therewith;

5. a certification that the requester has personal knowledge of the pertinent facts and that all representations of facts are true and correct to the best of the requester's knowledge.

C. Each request shall be submitted with two versions of the information or records; one version to be clearly marked "confidential," and the other to be clearly marked "public."

1. The confidential version shall show all information and clearly indicate what confidential information is excised from the public version.

2. The public version shall have the confidential information excised and clearly show that confidential information has been excised.

3. Blacking out confidential portions of otherwise public records is permissible, provided that the blacked-out portions are clearly identified in both confidential and public versions.

D. Such a request submitted with respect to information filed in a docketed proceeding assigned to a Hearing Panel or Hearing Master may be made by a Motion for Protective Order and decided by the Hearing Panel or Hearing Master, subject to appeal to the Commission, pursuant to §12504. Otherwise, the Commission shall make the final decision on any such request supported by reasons.

E. A hearing shall be held to decide the request if there is an objection to the confidential treatment by a party in interest or if the Commission, Hearing Panel or Hearing Master determines that a hearing is necessary.

F. Only members of the Commission, the Hearing Panel or the Hearing Master, as the case may be, shall have access to the documents or records submitted for determination of their confidentiality, except other parties may review pursuant to a confidentiality agreement.

G. Prior to filing confidential information, a party may file a motion for a declaratory ruling that certain types of

information or specific information should be protected pursuant to this Section. Any decision on such motion shall be considered a final decision subject to appeal.

H. Individual compensation, directly or indirectly related to the performance of official pilot duties, paid to pilots commissioned in Louisiana, and contained in the business and tax records of a pilot association or other business performing pilot-related activities, shall not be considered confidential information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:616 (April 2006).

§12111. Assessment of Fees to Fund Administrative and Operational Costs

A. The ordinary and necessary operating and administrative expenses of pilotage included in pilotage fees and rates as provided by R.S. 1122(B)(1) shall include the reasonable administration and operational costs of the Commission (*Commission Operational Costs*).

B. For purposes of administrative ease, the Commission Operational Costs shall be recovered through a surcharge imposed on each vessel entering and departing from the Mississippi or Calcasieu Rivers and included in the tariffs of the Associated Branch Pilots for the Port of New Orleans (the *Bar Pilots*) and the Associated Branch Pilots for the Port of Lake Charles (*Lake Charles Pilots*). The Bar Pilots and the Lake Charles Pilots shall collect the surcharge through a line-item charge included on invoices, shall remit all surcharge collections monthly to the Commission with a collections report and shall be subject to annual audit and adjustment.

C. The surcharge shall be imposed and adjusted annually through proceedings before the Commission with full rights of participation by all parties in interest and shall be based on the number of vessels projected to enter the Mississippi and Calcasieu Rivers and on the budgeted Commission Operational Costs for the year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:616 (April 2006).

§12112. Sessions of the Pilotage Fee Commission

A. The Chairman shall call regular meetings of the Commission. At least one regular meeting of the Commission shall be called by the Chairman every quarter, at such times and places as the Commission shall designate for the purposes of public hearing, consideration of and rulings on Requests for Action, motions and other filings, and transacting all other necessary business.

B. Special meetings may be held as allowed by R.S. 34:1125(C).

C. The agenda for Commission meetings shall be posted at the Commission and on the Commission website not less than five days prior to the meeting or hearing date.

Supplements and/or modifications to the agenda shall be posted not later than twenty-four (24) hours prior to the start of a Commission meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:617 (April 2006).

§12113. Transcripts of Proceedings Before the Commission

A. The Administrator shall designate an official reporter to tape and make available for transcription a taped, verbatim record of each Commission meeting. Interested parties can obtain tapes or transcripts upon request and payment of the costs of production or transcription. The tapes and any transcripts produced shall be part of the official public records of the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:617 (April 2006).

§12114. Conduct and Decorum

A. Conduct. Every party, witness, attorney or other representative shall comport himself in all proceedings with proper dignity, courtesy and respect for the Commission, the Hearing Panel, the Hearing Master, and all other parties. Disorderly conduct will not be tolerated. Attorneys and other representatives of parties shall observe and practice the standards of ethical and professional behavior prescribed for attorneys at law by the Louisiana State Bar Association. Any party, witness, attorney or other representative may be excluded by the Commission, the Hearing Panel or Hearing Master from any meeting or hearing for such period and upon such conditions as are just for violation of this rule, or may be subject to such other just, reasonable, and lawful disciplinary action as the Commission may prescribe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:617 (April 2006).

§12115. Computation of Time

A. Computing Time. In computing any period of time prescribed or allowed by these rules, by order of the Commission, Hearing Panel or Hearing Master, or by any applicable statute, the day on which the designated period of time begins to run shall not be included. Furthermore, a designated time period shall not be deemed to expire on a Saturday, Sunday or legal holiday, but rather shall expire on the next day which is not a Saturday, Sunday nor a legal holiday.

B. Extensions. Unless otherwise provided, the time for filing any pleading, may, but shall not necessarily, be extended by order of the Chairman, Hearing Panel or Hearing Master, upon written motion duly filed with the Administrator prior to the expiration of the applicable period of time for the filing of the same, showing that there is good cause for such extension of time and that the need therefore

is not caused by the neglect, indifference or lack of diligence of the party making such motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:617 (April 2006).

Chapter 122. Parties

§12201. Classification of Parties

A. Parties to proceedings before the Pilotage Fee Commission are applicants, petitioners, respondents and intervenors. Regardless of errors in their designation of themselves in their pleadings, the Commission may align parties in accordance with their interest in the proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:617 (April 2006).

§12202. Parties in Interest

A. Any party with a substantial interest in a proceeding before the Commission may participate provided that notice of intervention, protest or support is filed with the Commission within 25 days or such other reasonable period of time directed by the Commission (but not less than 10 business days) following published notice of the filing in the official journal of the state as provided for in §12403.

1. All appearances shall be subject to a motion to strike upon a showing that the party has no substantial interest in the matter.

2. A decision by the Commission to strike a party is a final decision as to that party and the decision is appealable.

3. Unless otherwise provided by law, any public official, agency or department of the State of Louisiana or any of its political subdivisions and every civic or trade organization shall be permitted to appear in any proceeding whether as a formal intervenor or otherwise, and present any relevant and proper testimony and present any evidence bearing upon the issues involved in the particular proceeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:617 (April 2006).

§12203. Appearances Before the Commission Personally or by Representative

A. Any person may appear personally or through an attorney at law authorized to practice law before the highest court of any State. A natural person may appear in his own behalf. A corporation, partnership or association may appear and be represented by any officer, partner, member, full-time employee, or other person if authorized to so appear by the Commission. In all proceedings for the determination, establishment, interpretation or enforcement of tariffs, rates, charges or any classification, rule or regulation appertaining thereto, a party shall appear and be represented by a person

who is licensed to practice before the highest court of any state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:618 (April 2006).

Chapter 123. Pleadings

§12301. Classification of Pleadings

A. Pleadings filed before the Louisiana Pilotage Fee Commission shall be Requests for Action, petitions, notices of intervention, protest or support; answers, motions and responses, and exceptions. Regardless of any error in the designation of a pleading by the pleader, it shall be accorded its true status in the proceeding in which it is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:618 (April 2006).

§12302. Form and Content of Pleadings

A. Typewritten or Printed. All pleadings filed in any proceeding shall be typewritten. The impression shall be on one side of the paper, and lines shall be double-spaced, except that long quotations, tables or schedules of data, etc., may be single-spaced, and indented. Any papers will be accepted as typewritten if produced by an copying or duplicating process which produces a clear black image on white paper (any attached exhibits may contain color images). The paper shall be unglazed, and the printing shall be in clear type.

B. Size of Papers. All papers, except exhibits, shall not exceed a width of 8-1/2 inches and a length of 11 inches, and shall have inside margins not less than one inch wide. Whenever practical, all exhibits of a documentary character shall conform to said requirements of size and margin.

C. Signature and Address. The original copy of every pleading shall be signed in ink by the party filing the paper, or by the officer, attorney or other representative who appears for such party. Pleadings shall contain the address, telephone number, fax number and email address of the party or representative filing the paper or, if he is represented by an attorney, the name, business address, state bar number, fax number, email address and telephone number of such attorney.

D. Other Requirements. All pleadings shall contain:

- 1. the name of the party on whose behalf the pleading is filed;
- 2. a concise statement of the relevant facts relied upon by the pleader;
- 3. separately numbered paragraphs, when appropriate;
- 4. when appropriate, each statute, court decision, agency rule or regulation relied upon;
- 5. a prayer stating the type of relief, action or order desired by the pleader;

- 6. any other matter required by statute or rule;
- 7. a certificate of service, when service is required; and
- 8. where appropriate, the caption or heading should be similar in format to and shall include the following information:

PILOTAGE FEE COMMISSION

STATE OF LOUISIANA

IN THE MATTER OF	DOCKET NO.
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(Title of Pleading)

E. Request For Action.

1. In addition to the other requirements contained in the rules, if the pleading is a Request for Action that seeks an increase in rates or fees, it shall not be considered effectively filed unless it shall have appended thereto the notice for publication required by §12403, the sworn testimony, affidavits and exhibits representing applicant's case in chief and upon which the party will rely in support of its request for an increase in rates or fees and a proposed schedule of the rates or fees designed to effect the proposed increase. For the purpose of commencing the one year period in La. R.S. 34:1122 D(9), a Request for Action relative to pilotage fees shall be in proper form in accordance with the requirements set forth in these rules.

2. A Request for Action that seeks a decrease in rates or fees shall not be considered effectively filed unless it shall have appended thereto the notice for publication required by §12403, and include a statement setting forth the substantial interest of the party filing the request, a description of the rates at issue, and the basis for the proposed decrease in rates.

F. Initial Filings

1. In conjunction with its filing of a Request for Action or other initial pleading in a proceeding, each party shall designate one "contact" person who shall serve as the party's agent for receiving mailings and other communications from the Commission regarding the proceeding and other parties of record in the proceeding and shall provide the "contact" person's mailing address, telephone number, email address, and fax number.

G. File-Stamped Copies

1. Parties requesting the return of file-stamped copies of a pleading must provide the additional copies, as well as a stamped, self-addressed envelope for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:618 (April 2006).

§12303. Motions

A. Every motion relating to a pending proceeding shall, unless made during a hearing, be written, and shall set forth the relief sought and the specific reasons and grounds therefore. If based upon matters which do not appear of record, it shall be supported by affidavit. Any motion not made during a hearing shall be filed with the Administrator for consideration by the Commission, Hearing Panel or Hearing Master at the earliest practicable time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:618 (April 2006).

§12304. Amendments

A. Any pleading may be amended at any time upon motion and following approval by the Commission, the Hearing Panel or the Hearing Master, provided that a Request for Action or other pleading upon which notice has been published shall not be amended so as to broaden the scope thereof without additional notice, opportunity for response and compliance with the procedural requirements of a new filing. Additionally, amendments to Requests for Action shall, if the Commission deems necessary, be treated as a new filing and subject to the same procedural requirements regarding sworn testimony as an initial application. An intervenor may at any time adopt the amendments proposed in the amended Request for Action or other pleading.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:619 (April 2006).

§12305. Incorporation by Reference of Commission Records

A. Any pleading may adopt and incorporate, by specific reference thereto, any part of any document or entry in the official files and records of the Commission. Testimony, exhibits, and other matters of a like nature are excepted from this Rule, unless with specific approval of the Commission, Hearing Panel or the Hearing Master and this Rule shall not relieve any applicant of the necessity of alleging and providing in detail, where required, the facts supporting its request for an increase or decrease in pilot's fees and rates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:619 (April 2006).

§12306. Refiling of Requests/Petitions

A. When any Request for Action has been heard by the Commission and has been denied, the Commission will not entertain a further application from the same applicant covering identical or similar situations, until the expiration of six months from the date of such a grant or denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:619 (April 2006).

Chapter 124. Docketing and Notice

§12401. Filing of Documents

A. Any filings before the Commission shall be made with the Administrator. Filings shall be by hand delivery, mail, electronically when electronic access is available, or if less than 25 pages via facsimile transmission. Unless otherwise provided, all filings shall be deemed filed on the date received by the Administrator. Receipt of an electronic or facsimile transmission on or before the due date shall be considered timely filed, provided the original document is received within five working days of the receipt of the facsimile or electronic transmission.

B. A filing shall be deemed filed only when actually received by the Administrator in proper form and accompanied by a filing fee, if any, as set forth in the Fee Schedule adopted by this Commission. All such filings shall be in the form of an original, twelve (12) conformed hard copies and a compatible computer version on disk or CD.

C. After a matter has been docketed by the Administrator, all subsequently filed pleadings and/or documents shall be filed with the original plus one copy.

D. Filings mailed to the Administrator should be addressed as follows:

Louisiana Pilotage Fee Commission

Baton Rouge, Louisiana, _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:619 (April 2006).

§12402. Administrator; Docketing of Filings

A. Upon the filing of any pleading with the Administrator, he shall forthwith examine it to determine if it is timely and in compliance with Rule 20. If it is found to be untimely, the Administrator shall return the pleading to the person making it, with a statement of the reasons for rejecting same and requesting that it be refiled with a motion to permit a late filing. If the filing is found to be noncompliant with §12302, the Administrator shall return the filing to the person making it, along with a statement of the reasons for rejecting same. The person who filed shall thereafter have the right to file a corrected pleading. In no event shall the filing of a corrected pleading be permitted to delay any hearing unless the Commission, Hearing Panel or Hearing Master, as appropriate, determines that such delay is necessary in order to prevent injustice or to protect the public interest and welfare, and provided further that the failure of the Commission to return such pleading shall not constitute a waiver by the Commission or any proper party to object at a later time to the sufficiency or timeliness of the pleading. Any determination made under this rule shall be

subject to review by the Commission upon written request by the party affected.

B. At the time a pleading or other document which initiates a new proceeding is received by the Administrator, and found to be in compliance with §12302, it shall be filed and assigned a docket number. That docket number shall be used on all subsequent pleadings, such as interventions, answers, motions, amendments, supplements, and notices, filed in the matter.

C. The Administrator shall maintain a separate docket for each proceeding which shall be accessible through electronic means when available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:619 (April 2006).

§12403. Notice; Service

A. By Publication

1. Notice of all Requests for Action or other filings by which new proceedings are initiated before the Commission shall be published by the applicant in the official journal of the state and of East Baton Rouge Parish. Such notice shall include the name and address of the party making the filing; the name, address, email address and telephone number of his attorney or other representative, the docket number assigned by the Administrator, a concise statement of the action sought and the date by which a party who desires to participate in the proceeding must file a notice of intervention, protest or support with the Administrator as provided in §12202.

2. The Administrator shall publish weekly, or more often if necessary, on the Commission website a notice of Requests for Action or other filings by which proceedings shall have been initiated before the Louisiana Pilotage Fee Commission since the last previous publication of notice. Said notice shall include the notice to be published in the official journal of the state and in the parish in which the Commission is domiciled. The notice provided by the Administrator shall also provide that notices of intervention, protest or support shall be served upon the party who instituted the proceeding by mail, and that if no notice of intervention shall have been received by the Administrator within a twenty-five (25) day period (or such other period as referenced in §12202.A) from the date of publication in the state's official journal, the proceeding will be processed and determined upon an uncontested docket, provided that the Commission shall have the right, power and duty to inquire into the public interest in any proceeding whether contested or uncontested.

3. The Administrator shall also post on the Commission website notices of the dates of scheduled Commission meetings, Commission meeting agendas and the dates of scheduled hearings.

B. By Mail. Where service other than by publication is permitted or required under these Rules, the Administrator shall mail the same, certified or registered mail, to the last

known place of address of the person entitled to receive such notice.

C. Personal Service. All notices of which personal service may be required by statute or rules shall be addressed to the person entitled thereto, and shall set forth the names of all other parties, the nature and subject matter of the proceeding, the time and place of hearing, and any other matter required by law, and may be made by the sheriff of the parish of the party served, or by a duly authorized employee or official of the Commission, who shall make a return thereon.

D. Service of Pleadings. A copy of any pleading filed by any party in any proceeding subsequent to the institution thereof, shall be mailed or otherwise delivered (including electronic delivery) by the party filing the same to every other known party of record. If any party has appeared in the proceeding by attorney or other representative authorized under these rules to make appearances, service shall be made upon such attorney or other representative. The willful failure of any party to make such service shall be sufficient grounds for the entry of an order by the Commission, striking the pleading from the record.

E. Certificate of Service. A certificate by the party, attorney or representative who files a pleading, stating that it has been served on the other parties, shall be prima facie evidence of such service. The form of the certificate should be as follows.

I hereby certify that I have this _____ day of _____, 20____, served copies of the foregoing pleading upon all other known parties of this proceeding, by (here state the manner of service).

Signature

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:619 (April 2006).

§12404. Contested Proceedings

A. When a notice of intervention is timely filed with the Administrator after the publication of notice as provided in §12403, the Administrator shall assign such case to the contested docket and notify the parties of the time and place of the initial status conference. The Commission may assign the matter to a Hearing Panel or a Hearing Master to administer the proceeding pursuant to these rules subject to its review. At the initial status conference, the Hearing Panel or Hearing Master shall confer with the parties or their counsel and establish a procedural schedule, including a hearing date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:620 (April 2006).

§12405. Uncontested Proceedings

A. Where no notice of intervention has been timely received by the Administrator after the publication of notice as provided in §12403, the Administrator shall assign such case to the uncontested docket. All cases on the uncontested

docket shall be processed as expeditiously as practicable and placed on the agenda of the next Commission meeting for appropriate consideration. Nothing in this Rule shall relieve any party of the burden of proof imposed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:620 (April 2006).

Chapter 125. Discovery

§12501. Forms of Discovery Permitted

A. Formal discovery shall be conducted in proceedings in accordance with the Louisiana Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission .

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:620 (April 2006).

§12502. Filing of Discovery Requests and Responses

A. Discovery requests and responses shall not be filed with the Commission. Rather, the originals of the requests and responses shall be maintained by the parties, who shall serve as the official custodians of the documents, unless:

1. filing is ordered by the Commission, Hearing Panel, or the Hearing Master;
2. a party files a motion to compel discovery or a motion to strike discovery requests, in which case the moving party shall file the pertinent discovery pleadings with the motion;
3. the requests and responses are to be used or placed into evidence at any hearing in the proceeding or with regard to any motion or exception filed in the proceeding.

B. Notices of depositions shall be filed into the record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:620 (April 2006).

§12503. Service of Discovery on all Parties

A. Any party propounding or responding to discovery requests shall mail copies of the requests or written responses to all parties of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:620 (April 2006).

§12504. Motion for Protective Order

A. A motion for protective order, or other request to limit discovery, may include a request for confidentiality pursuant to §12110. In the event a protective order is issued, or discovery is otherwise limited, the Commission, Hearing Panel or Hearing Master may designate in writing as confidential that portion of the record necessary to enforce the provisions of the protective order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:621 (April 2006).

§12505. Taking of Depositions

A. The taking of depositions in any proceeding shall be governed by the La. Code of Civil Procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:621 (April 2006).

Chapter 126. Prehearing Procedures

§12601. Scheduling and Prehearing Conferences

A. Upon written notice and pursuant to La. R.S. 34:1122 (D)(3), a scheduling conference will be conducted by the Commission, Hearing Panel or Hearing Master between the parties or their attorneys or other representatives to establish a schedule for the proceeding, which may include discovery, motions, briefs, a hearing on the merits and proposed findings of fact and conclusions of law.

B. Following the scheduling conference, the Commission, Hearing Panel or Hearing Master shall serve on all parties a scheduling order which details the decisions and deadlines made at the scheduling conference.

C. Upon written notice by the Commission, Hearing Panel or Hearing Master in any proceeding, the parties or their attorneys or other representatives may be directed to meet and confer together by telephone or otherwise, before a specified time, prior to the hearing, and prior to the setting of a date for a hearing, for the purpose of formulating issues and considering:

1. the simplification of issues;
2. the possibility of making admissions of certain averments of fact or stipulations concerning the use by either or both parties of matters of public record, to the end of avoiding the unnecessary introduction of proof;
4. the simplification of procedures at the hearing;
5. the limitation, where possible, of the number of witnesses;
6. the time required for presentation;
7. such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy.

D. Action taken at the conference shall be recorded in an appropriate statement by the parties, to be filed with the Commission, Hearing Panel or Hearing Master before the date specified. No matter for which a pre-hearing conference has been ordered by the Commission, Hearing Panel or Hearing Master shall be set for hearing unless the pre-hearing statement has been timely filed, unless the failure to do so is for good cause shown in writing. Applicants and petitioners shall bear the responsibility for filing the pre-hearing statement, and the failure of any party to cooperate in the preparation of it may result in his dismissal from the proceeding. In the event of disagreement over the terms of

the pre-hearing statement, any party may file a separate statement setting forth the grounds for such disagreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:621 (April 2006).

§12602. Postponements

A. A motion for postponement shall be filed in writing prior to the date set for the hearing and shall set forth under oath the specific grounds upon which it is sought. The motion may be granted by the Commission, Hearing Panel or Hearing Master for good cause shown.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:621 (April 2006).

§12603. Consolidations and Joint Hearings

A. A motion for consolidation of two proceedings, if made prior to hearing, shall be in writing, signed by the movant, his attorney or representative, and filed with the Administrator prior to the date set for hearing. No two or more proceedings shall be consolidated or heard jointly without the affirmative consent of all parties to all of such proceedings, and by consent of the Commission, unless the Commission shall find that the two or more proceedings, involve common questions of law and fact, and shall further find that separate hearings would result in unwarranted expense or delay or substantial injustice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:621 (April 2006).

Chapter 127. Hearings

§12701. Place and Nature of Hearings

A. All official hearings conducted in any proceeding shall be open to the public, unless the Commission, Hearing Panel or the Hearing Master decides that a closed hearing is necessary to protect information that is exempt from public disclosure under the Public Records Act, La. R.S. 44:1 et seq. and/or §12110. A hearing shall remain closed only for the period of time necessary to consider the confidential information. All hearings shall be held in Baton Rouge, Louisiana, unless the Commission shall designate another place of hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:621 (April 2006).

§12702. Order of Procedure

A. The Commission, Hearing Panel or Hearing Master shall direct all parties to enter their appearances on the record. In all proceedings, the petitioner or applicant shall open. Where several proceedings are heard on a consolidated record, the Commission, Hearing Panel or Hearing Master shall designate who shall open and close and at what stage

intervenors shall be permitted to offer evidence. After all parties have completed the presentation of their evidence and before the issuance of an Order or final recommendation, the Presiding Commissioner or Hearing Master may call upon any party for further material or relevant evidence upon any issue, which, in the discretion of the Presiding Commissioner or Hearing Master, may be presented at further public hearing after notice to all parties of record and with the opportunity for all parties to respond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:621 (April 2006).

§12703. Recording of Hearings; Copies; Transcripts

A. Consistent with the protections provided in these Rules for confidential information, the Administrator shall make or cause to be made an official recording of each hearing. Copies of hearing tapes shall be available for purchase by anyone from the Administrator.

B. Consistent with the protections provided in these Rules for confidential information, a verbatim transcript of an evidentiary hearing shall be made when requested by a party. Requests for a transcript shall be in writing and submitted to the Administrator. The Administrator will furnish an estimate of the transcription costs to the requester. The estimated costs must be paid before the recording is transcribed. Actual costs must then be paid in full before delivery of the transcript.

C. As portions of the proceeding are being transcribed, the original copy of the transcript thereof shall be filed into the record.

D. Copies of records in hearings may be purchased from the Administrator.

E. Proposed corrections to the transcript of a hearing may be offered within ten days after public notice of the transcript being filed, with service of such proposed corrections on all parties. Proposed changes shall indicate the specific word changes and the name and address of the party making the proposal. If the suggested corrections are not objected to, the Commission, Hearing Panel or Hearing Master may direct the corrections to be made and the manner of making them. In the event the parties disagree on proposed corrections, the matter may be heard by the Commission, Hearing Panel or Hearing Master which shall then determine the manner in which the transcript shall be changed, if at all.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:622 (April 2006).

§12704. Formal Exceptions

A. Formal exceptions to rulings of the Commission, Hearing Panel or Hearing Master issued during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall make known to

the Commission, Hearing Panel or Hearing Master the action which he desires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:622 (April 2006).

§12705. Briefs

A. Briefs shall be filed only when requested or permitted by the Commission, Hearing Panel or Hearing Master. They shall conform to the rules herein provided for form of pleadings. The points involved shall be concisely stated, the evidence in support of each point shall be briefly summarized, and the argument and authorities shall be organized and directed to each point in a concise and logical manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:622 (April 2006).

Chapter 128. Evidence

§12801. Admissibility in General

A. Any evidence which would be admissible under the general statutes of the State of Louisiana, or under the rules of evidence governing proceedings in matters not involving a trial by jury in the Courts of the State of Louisiana, shall be admissible before the Louisiana Pilotage Fee Commission. Other evidence may be admitted by the Commission, Hearing Panel or the Hearing Master if it is at all probative and relevant, provided the substantive rights of all parties are protected. The rules of evidence shall be applied liberally in any proceeding to the end that all needful and proper evidence shall be conveniently, inexpensively and speedily heard while preserving the substantive rights of the parties to the proceeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:622 (April 2006).

§12802. Prepared Testimony

A. In all proceedings, and after service of copies upon all parties of record at such time as may be designated by the Presiding Commissioner or Hearing Master, the prepared testimony of a witness upon direct examination, either in narrative or question and answer form, may be incorporated in the record as if read, or received as an exhibit, upon the witness' being sworn and identifying the same as being true and correct. Such witness shall be subject to cross examination and the prepared testimony shall be subject to a motion to strike in whole or in parts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:622 (April 2006).

§12803. Limitations on Number of Witnesses

A. The Commission, Hearing Panel or Hearing Master shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:622 (April 2006).

§12804. Exhibits

A. Form. Exhibits of documentary character shall be of such size as not to unduly to encumber the files and records of the Commission. Wherever practicable, the sheets of each exhibit shall be not more than eight and one-half inches by eleven inches in size and numbered, and there shall be a brief statement on the first sheet of the exhibit of what the exhibit purports to show. Exhibits shall be limited to facts material and relevant to the issues in a particular proceeding.

B. Tender and Service. The original of each exhibit offered shall be tendered to the Commission, Hearing Panel or Hearing Master identification and one copy to each other party of record or his attorney or representative.

C. Excluded Exhibits. In the event an exhibit has been identified, objected to and excluded, the Presiding Commissioner or Hearing Master shall determine whether or not the party offering the exhibit withdraws the offer, and if so, permit the return of the exhibit to him. If the excluded exhibit is not withdrawn, it shall be given an exhibit number for identification, shall be endorsed by the Presiding Commissioner or Hearing Master with a ruling, and shall be included in the record, for the purpose only of preserving the exception.

D. After Hearing. Unless specifically directed by the Commission, no exhibit will be permitted to be filed in any proceeding after the conclusion of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:622 (April 2006).

§12805. Offer of Proof

A. When testimony is excluded by ruling of the Commission, Hearing Panel or Hearing Master, the party offering such evidence may be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review by the Commission or on appeal. The Commission, Hearing Panel or Hearing Master may ask such questions of the witness as necessary to satisfy himself that the witness would testify as represented in the offer of proof. An alleged error in sustaining an objection to questions asked on cross-examination may be preserved without making an offer of proof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:623 (April 2006).

§12806. Evidence in Uncontested Proceedings

A. In any uncontested proceeding, the Commission, Hearing Panel or Hearing Master, as appropriate, shall receive, without regard to the legal rules of admissibility, any evidence of a form and character which would ordinarily be relied upon by a prudent person in an ordinary business transaction, including, without limitation, affidavits, documents and other forms of hearsay testimony deemed by him to be reliable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:623 (April 2006).

§12807. Subpoenas

A. Subpoenas for the attendance of witnesses from any place in the State of Louisiana, or for the production of books, papers, accounts or documents at a hearing in a pending proceeding, may be issued by the Commission upon its own motion, or upon the written motion of a party showing that there is good cause for the issuance of same.

B. Motions for subpoenas to compel the production of books, papers, accounts or documents shall be verified and shall specify as nearly as may be possible, the books, papers, accounts or documents desired and the material and relevant facts to be proved by them. No such subpoena shall be issued unless the Commission, Hearing Panel or Hearing Master shall determine that the matter sought is relevant material and necessary and that the production of such books, papers, accounts or documents will not result in unnecessary harassment, imposition, or undue inconvenience or expense to the party to be required to produce the same. No subpoena shall issue for material alleged to be of a trade secret, proprietary or confidential nature unless it be shown after hearing of arguments on the same that no other alternative, such as a protective order, will accomplish a result consistent with the interests of all parties and the public.

C. Any party requesting the issuance of subpoenas, must identify, in writing, each individual to be served or the agent for service of process for each entity to be served, as well as an accurate address for service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:623 (April 2006).

Chapter 129. Hearing Panels and Hearing Master

§12901. Hearing Panel and Hearing Master Authority

A. Except as otherwise provided, hearings will be conducted by the Commission, Hearing Panel or Hearing Master. The Hearing Panel and Hearing Master shall have authority to:

1. administer oaths and hold hearings;

2. issue subpoenas for the attendance of witnesses at depositions and hearings;

3. issue subpoenas for the production of documents and other evidence at deposition and hearings.;

4. enforce subpoenas whenever any person summoned neglects or refuses to obey such summons, or to produce documents or other evidence, or to give testimony, as required;

5. schedule status conferences and prehearing conferences for the purpose of defining issues, setting hearing dates and prehearing deadlines, and for addressing such matters as the Hearing Master deems appropriate;

6. schedule and regulate the course of hearings, maintain decorum, and exclude from hearings any person engaging in contemptuous conduct or otherwise disrupting the proceedings;

7. grant filing extensions and hearing continuances;

8. compel discovery and impose sanctions for failure to comply with discovery rules and orders;

9. rule upon amendments to pleadings;

10. examine witnesses;

11. fix fees and mileage of witnesses;

12. make evidentiary rulings, including the qualification of expert witnesses;

13. accept testimony and exhibits into evidence;

14. take official notice of (a) proceedings, determinations, order, or other actions before or by the Commission, (b) judicially cognizable facts not subject to reasonable dispute that are generally known within the jurisdiction of the Commission or capable of accurate and ready determination by resort to sources whose accurate cannot reasonably be questioned, and (c) generally recognized technical or scientific facts within the Commission's specialized knowledge. Parties shall be provided reasonable notice either before or during the hearing of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed;

15. direct the presentation or submission into the record of evidence or testimony not otherwise presented or submitted by any party to the proceeding, subject to objection by any party;

16. require the filing of memoranda of law and the presentation of oral argument with respect to any question of law or application of law to facts upon which a ruling is required;

17. require the filing of proposed findings of fact and conclusions of law;

18. receive offers of proof;

19. prepare final recommendations;

20. render interlocutory rulings upon all motions, exceptions, and other preliminary matters filed by the parties;

21. recess any hearing from day to day.

B. If a member of the Hearing Panel or the Hearing Master dies, becomes disabled or withdraws or is removed from employment of the case at any time before the final decision thereof, the Commission may appoint another Hearing Panel member or Hearing Master, who may perform any function remaining to be performed without the necessity of repeating any proceedings theretofore had in the case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:623 (April 2006).

§12902. Commission Review of Interlocutory Rulings by the Hearing Panel or Hearing Master

A. Every ruling by the Hearing Panel or Hearing Master shall be subject to review by the Commission upon its own motion. The Commission may also, upon its own motion, assert its original and primary jurisdiction and consider any question or issue pending before a Hearing Panel or the Hearing Master, including withdrawing the entire matter from the Hearing Panel or Hearing Master at any stage of the proceeding prior to the issuance of the required final recommendation.

B. Any party may apply for immediate review of an interlocutory ruling, which may be obtained only upon a showing of irreparable injury, as defined in Louisiana jurisprudence. The procedure for such a request is as follows.

1. Within ten (10) days of the issuance of the interlocutory ruling, a party may file a motion for immediate review of the ruling. The motion must be accompanied by a legal memorandum which specifies the alleged errors in the ruling, with supporting legal authority, and sets out the grounds and authority for the moving party's claim that the interlocutory ruling will result in irreparable injury.

2. Any party opposing the motion for immediate review shall have ten (10) days from the date on which the motion was filed to file an opposition memorandum.

3. At the conclusion of the deadline for filing opposition memoranda, the Hearing Panel or Hearing Master shall forward to the Commissioners the motion for immediate review, any memoranda filed in support of or in opposition to the motion, a copy or transcript of the interlocutory ruling being questioned, and any written comment offered by the Hearing Panel or Hearing Master, and shall forward the motion for immediate review to the Administrator for placement on the Commission meeting agenda.

4. Pending a ruling by the Commissioners on the motion for immediate review, the Hearing Panel or Hearing

Master, may, upon motion, grant a stay of the interlocutory ruling upon a finding of good cause. The mere filing of a motion for immediate review shall not stay the interlocutory ruling and shall not interrupt, delay, or in any manner interfere with the proceedings in the docketed matter.

5. The Hearing Panel or Hearing Master may treat the filing of the motion for immediate review as a motion for reconsideration of the interlocutory ruling and may withdraw or modify the interlocutory ruling in response to the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:624 (April 2006).

§12903. Procedure for Review of Hearing Panel or Hearing Master Recommendations Regarding Final Determinations

A. Except as is provided in Subpart B, C, and D of this Rule, the preparation and review procedure for a recommendation from the Hearing Panel or Hearing Master regarding a final determination in a proceeding is as follows.

1. At the conclusion of the taking of any evidence and testimony on the matter to be decided and after consideration of the evidence and testimony and any pertinent authority, the Hearing Panel or Hearing Master shall prepare a written proposed recommendation of final determination. Unless the nature of the proceeding necessitates a different format and substance, the proposed recommendation shall contain a summary of the allegations or application, pertinent legal authority and factual background, a review of the procedural history of the matter, findings of fact, conclusions of law and the recommended determination. The proposed recommendation shall be filed into the record, with copies contemporaneously mailed to all parties of record.

2. Within fifteen (15) days of the filing of the proposed recommendation, any party may file into the record an exception to the proposed recommendation. The exception shall be in the form of a legal memorandum, and shall contain a statement of errors, pertinent legal authority, and references to the record in the proceeding, as appropriate. The exception shall not make reference to evidence of any kind which is not already a part of the record, except that a party may argue as to evidence tendered but excluded (offers of proof).

3. If no party timely files an exception to the proposed recommendation, the recommendation shall become a final recommendation and shall be immediately forwarded to the Commissioners for consideration and for vote.

4. If an exception to the proposed recommendation is timely filed, any party wishing to oppose the exception shall have fifteen (15) days from the filing of the exception in which to file an opposition memoranda into the record. The opposition memoranda shall address the statement of errors contained in the exception and shall include pertinent legal authority and references to the record in the proceeding, as appropriate. The opposition memoranda shall not include references to evidence of any kind which is not already a

part of the record, except that a party may argue as to evidence tendered but excluded (offers of proof).

5. At the conclusion of the time period for filing opposition memoranda to timely filed exceptions, no further briefing shall be allowed, except with the consent of the Hearing Panel or Hearing Master or by vote of the Commission.

6. After reviewing any timely filed exception and opposition memoranda, the Hearing Panel or Hearing Master shall prepare a final recommendation. The final recommendation shall contain the elements described in Subpart A.1 of this Section.

7. At the time the final recommendation is filed into the record, copies of the final recommendation shall be forwarded to the Commissioners and mailed to all parties of record. Copies of the final recommendation shall also be forwarded to the Administrator for placement on the Commission meeting agenda for vote by the Commissioners.

8. Within five (5) working days of the issuance of the final recommendation, any party may request the opportunity to present oral argument at the Commission meeting. The request shall be in writing and shall be filed directly with the Administrator. The requesting party shall also mail a copy of the request to each Commissioner and to each party of record and shall file a copy of the request in the record of the proceeding. The request shall state the reasons why oral argument should be permitted and shall be considered a request on behalf of all parties to the proceeding. The Administrator shall place the request for oral argument on the Commission meeting agenda along with the final recommendation and shall notify the parties of its placement on the agenda. The request for oral argument shall be granted only upon a majority vote of the Commission at the Commission meeting, in response to a timely filed, written request. In granting a request for oral argument, the Commission may direct either that argument be presented during the course of that Commission meeting or at a subsequent Commission meeting. A party may waive its opportunity to present oral argument, either expressly or through its failure to appear and participate in the oral argument. Nothing in this subpart shall be construed as precluding any Commissioner from soliciting information, positions or recommendations or asking questions of any party appearing at a Commission meeting, regardless of whether a request for oral argument has been filed.

9. In the event the Commission votes to grant the request for oral argument, each opposing party (unless otherwise specified in the Commission vote) shall be allotted a maximum of 10 minutes. In addition, when several parties are aligned on the same side, those parties shall be allowed a total of ten (10) minutes to be allotted among themselves.

10. In the event the Commission affirms the final recommendation of the Hearing Panel or Hearing Master, the recommendation shall be incorporated into the Order issued by the Commission.

B. Upon motion to the Hearing Panel or Hearing Master and upon a showing of good cause, or upon stipulation of all parties to the proceeding, the Hearing Panel or Hearing Master may extend or shorten the deadlines for the procedures described in Subpart A of this Rule or, otherwise, may, extend, abbreviate or omit portions of those procedures.

C. To the extent the Commission has delegated to the Commission staff the handling of certain uncontested matters, the procedures within Subpart A of this Rule shall not apply.

D. Except at the discretion of the Hearing Panel or Hearing Master, the procedures contained within subpart A of this Rule shall not apply to a motion to dismiss jointly filed by all parties of record, a motion to dismiss with prejudice filed by the party who instituted the proceeding, or a motion to dismiss without prejudice filed by a party who instituted the proceeding but prior to the filing of any other party's filing of a responsive pleading. Upon the filing of such a motion to dismiss, the Hearing Panel or Hearing Master may forego all recommendation procedures and prepare an appropriate order of dismissal for issuance by the Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:624 (April 2006).

§12904. Stipulated Settlement Agreements

A. Applicability. This rule applies to the stipulated settlement of all issues by all parties, or any set of issues categorized for separate hearing, in any proceeding before the Commission, the Hearing Panel or the Hearing Master. In scheduling hearings, priority shall be given to any proposed stipulated settlement. A minimum of ten (10) days notice of the hearing must be sent to all parties in the proceeding, unless there is pressing public need for expedited hearing.

B. Uncontested Proposed Stipulated Settlements. When all parties to a proceeding reach an agreement as to all issues in the form of a Proposed Stipulated Settlement signed by all parties or their representatives (*Uncontested Stipulated Settlement*), the following procedures shall be followed.

1. Filing. Upon the filing of an Uncontested Stipulated Settlement, executed by all parties, any previously established procedural schedule may be continued without date by the Commission, the Hearing Panel or the Hearing Master.

2. Timing of Filing. Parties may file an Uncontested Stipulated Settlement at any time after the deadline has passed for filing interventions.

3. Hearings. In all cases, except as provided in Part B.6, or I, a hearing before the Commission shall be held on the Uncontested Stipulated Settlement by the Commission, Hearing Panel or the Hearing Master upon the parties' filing of the following supporting documentation:

a. copies of any documents, sworn supporting testimony in affidavit form, financial analysis, and exhibits which support the Uncontested Stipulated Settlement; and

b. A joint motion for the scheduling of a stipulation hearing.

4. Procedure at the Stipulation Hearing. At the hearing, the parties shall call the witnesses whose testimony was filed with the Uncontested Stipulated Settlement, and shall introduce into evidence the signed Uncontested Stipulated Settlement, as well as the supporting documentation. Affidavits, in lieu of live testimony, may be submitted.

5. Post-Hearing Report. Within ten (10) days of the hearing date, the Hearing Panel or the Hearing Master shall forward to all Commissioners, a report of the evidence and testimony supporting the Uncontested Stipulated Settlement and a copy of the Uncontested Stipulated Settlement. As soon as possible after the report is issued, the Commission shall issue an Order accepting and implementing the Uncontested Stipulated Settlement in whole or in part, or rejecting the Uncontested Stipulated Settlement in whole or in part. If the matter is initially heard by the full Commission, as soon as possible after the conclusion of the hearing, the Commission shall issue an Order accepting and implementing the Uncontested Stipulated Settlement in whole or in part, or rejecting the Uncontested Stipulated Settlement in whole or in part.

6. Consideration Without Hearing. The Commission, for reason of public need, may dispense with the requirement of a stipulation hearing and consider an Uncontested Stipulated Settlement based upon the filed documentation at a regular or special Commission Meeting.

C. Uncontested Proposed Partial Stipulated Settlements. When all parties to a proceeding reach agreement with regard to some, but not all, issues in the form of a Proposed Partial Stipulated Settlement signed by all parties or their representatives (an *Uncontested Proposed Partial Stipulated Settlement*), all provisions of this Rule that apply to Uncontested Proposed Stipulated Settlements shall apply except that the previously established procedural schedule referred to at Section B.1. above shall not be continued without date as to the remaining issues. A hearing on the merits shall be heard at the time and in accordance with a new procedural schedule to be set by the Hearing Panel or the Hearing Master.

D. Contested Proposed Stipulated Settlements. When two or more non-aligned parties, but not all parties, reach agreement with regard to all issues (the *Agreeing Parties*) in the form of a Proposed Stipulated Settlement signed by the Agreeing Parties or their representatives (a *Contested Stipulated Settlement*), the Agreeing Parties may initiate a process culminating in the Commissioners' consideration of their proposal as follows.

1. Initiation of the Process. Any two or more Agreeing Parties in a contested proceeding before the Commission

may file a Contested Stipulated Settlement and request a hearing (*Request*).

2. Contents of Request. The Request shall consist of the following:

a. a joint motion by the Agreeing Parties requesting a Stipulation Hearing;

b. the Stipulated Settlement, signed by all Agreeing Parties, attesting to their agreement with its terms;

c. copies of any document, testimony in affidavit form, financial analysis, or exhibit which supports the Stipulated Settlement, together with a statement of how the proposed settlement is in the public interest;

d. citations to law or jurisprudence which support the Stipulated Settlement; and

e. if the proceeding is a rate proceeding, a proposed tariff form incorporating the Stipulated Settlement.

3. Time for Filing Request. The Request may be filed at any time after the time frame permitted in the procedural schedule for general discovery has ended, but no later than 15 days prior to the hearing on the merits except upon a showing of good cause.

4. Service of Request. The Request (in full) shall be served, concurrently with its filing with the Administrator.

5. Effect of Filed Request on Existing Procedural Schedule. Upon the timely filing of a Request, the Hearing Panel or Hearing Master may continue without date the previously established procedural schedule.

6. Evaluation of Confidential Information. Parties to the proceeding shall have an opportunity to review confidential documents involved in the settlement. If the documents are not included with the Request, they shall be made available for immediate review subject to a confidentiality agreement. Upon a showing of good cause, the Hearing Panel or Hearing Master may extend the time period for filing comments to allow for the examination of confidential documents.

7. Contents of Comments. Comments contesting a proposed Stipulated Settlement or any portion of it shall consist of:

a. a specific listing of each element of the Stipulated Settlement which is being contested, together with the commenting party's reasons for contesting those elements;

b. copies of any document, testimony in affidavit form, financial analysis, or exhibit which supports the commenting party's position; and

c. citations to law or jurisprudence that support the commenting party's position.

8. Time for Filing Comments

a. Comments must be filed with the Administrative Hearings Division within 30 days of the filing of the Request.

b. The comments (in full) shall be served, concurrently with their filing with the Administrator, on all parties of record.

9. Waiver. The failure to file timely comments shall constitute a waiver of all objections to the Stipulated Settlement.

10. Rebuttal Comments

a. The Agreeing Parties may file rebuttal comments to timely filed comments contesting the Stipulated Settlement.

b. Such rebuttal comments shall be filed with the Administrator within 7 days of the deadline for filing comments. This time period may be extended or shortened by the Hearing Panel or Hearing Master upon a showing of good cause.

c. The rebuttal comments (in full) shall be served, concurrently with its filing with the Administrator, upon all parties of record.

d. Rebuttal comments shall consist of:

i. copies of any document, testimony in affidavit form, financial analysis, or exhibit which rebuts the timely filed comments by other parties; and

ii. citations to law or jurisprudence that rebut the timely filed comments by other parties.

11. Procedure When No Contesting Comments are Filed. When no comments contesting the proposed Contested Stipulated Settlement are filed within the time frame for doing so, it shall become an Uncontested Stipulated Settlement and the hearing procedures provided for in Part B shall apply.

E. Stipulation Hearings. In scheduling hearings, the Hearing Panel or Hearing Master charged with the hearing shall give priority to any proposed stipulated settlement. A minimum of 10 days notice of the hearing must be sent to all parties in the proceeding, unless there is a pressing public need for expedited hearing.

1. Uncontested Proposed Stipulated Settlements. When no comments contesting the proposed Contested Stipulated Settlement are filed within the time frame for doing so, it shall become an Uncontested Stipulated Settlement and the same hearing procedures shall apply as provided at Section B herein.

2. Contested Proposed Stipulated Settlements. When comments contesting the proposed Contested Stipulated Settlement are filed within the time frame for doing so, the following procedures shall apply.

a. Contested Stipulated Settlement Hearings. A hearing shall be held on all Contested Stipulated Settlements within fifteen (15) days of receiving comments. At the hearing, all parties shall introduce into evidence the testimony and documentation (including the Stipulated Settlement) previously filed into the record, and nothing more. The witnesses who provided the previously filed

testimony in affidavit form shall be present at the hearing, where their direct testimony shall be limited to the testimony previously provided in affidavit form. The witnesses shall be subject to cross-examination by the other parties, followed by re-direct examination by the sponsoring parties. Parties to the proceeding who failed to file timely comments contesting the Stipulated Settlement shall not be allowed to present witnesses or evidence or cross-examine witnesses.

b. Within ten (10) days of the hearing, the Hearing Panel or Hearing Master shall issue a recommendation to the Commissioners with regard to the Stipulated Settlement.

F. Discovery/Admissibility of Settlement Discussions, Admissions, or Concessions. Discovery shall not be permitted during the Stipulated Settlement process, except by permission of the Commission, Hearing Panel or the Hearing Master upon a showing of good cause. Settlement discussions, admissions or concessions are not subject to discovery and are not admissible in evidence, except by agreement of all parties.

G. Non-Approval Of Proposed Stipulated Settlement. In the event the Commission does not approve a Stipulated Settlement, the Commission, Hearing Panel or the Hearing Master shall schedule a status conference to establish a new procedural schedule which includes a hearing on the merits.

H. Burden of Proof with Regard to Proposed Stipulated Settlements. The parties proposing a stipulated settlement shall have the burden of proving that the stipulated settlement is reasonable in light of the record, consistent with the law, and not contrary to the public interest.

I. Exception

1. Notwithstanding any of the above provisions in this Rule, the Commission may, on its own motion, vote to waive any and/or all of the requirements of this Section and ratify and/or approve a stipulated settlement if it finds it to be in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:625 (April 2006).

Chapter 130. Abandonment

§30001. Abandonment after One Year

A. Unless otherwise ordered by the Commission, a docketed proceeding instituted before the Commission is deemed abandoned when the parties fail to take any step in its prosecution or defense for a period of one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:627 (April 2006).

Chapter 131. Rulemaking

§13101. Proposal and Promulgation of Rules

A. The procedure for the proposed adoption, amendment, or repeal of any rule or regulation shall be in accordance with the Sections in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:627 (April 2006).

§13102. Definitions

A. *Rule*—each statement, guide, or requirement of the Commission for conduct or action, exclusive of those regulating only the internal management and organization of the Commission and its staff, which has the effect of implementing or interpreting substantive law or policy.

B. *Rulemaking*—the process employed by the Commission for the formulation of a rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:627 (April 2006).

§13103. Public Information; Adoption of Rules; Availability of Rules and Orders

A. The Commission shall make available for public inspection all rules, preambles, responses to comments, and submissions and all other written statements of policy or interpretations formulated, adopted, or used by the Commission in the discharge of its functions. All Commission rules shall be posted on the Commission website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:627 (April 2006).

§13104. Procedure for Adoption of Rules

A. Prior to the adoption, amendment, or repeal of any rule, the Commission shall provide notice of its intended action and a copy of the proposed rules at least 60 days prior to taking action on the rule. The notice shall include:

1. a statement of either the terms or substance of the intended action or a description of the subjects and issues involved;

2. the name of the person within the Commission who has the responsibility for responding to inquiries about the intended action;

3. the time when, the place where, and the manner in which interested persons may present their views thereon;

4. a statement that the intended action complies with the statutory law administered by the Commission, including a citation of the enabling legislation; and

5. a statement indicating whether the Commission has prepared a preamble which explains the basis and rationale

for the intended action, summarizes the information and data supporting the intended action, and provides information concerning how the preamble may be obtained.

B. The notice shall be published at least once in the Louisiana Register and shall be submitted with a full text of the proposed rule to the Louisiana Register at least 60 days prior to the date the Commission will take action on the rule. Upon publication of the notice, copies of the full text of the proposed rule shall be available from the Commission upon written request.

C. Notice of the intent of the Commission to adopt, amend, or repeal any rule and the proposed rule shall also be posted at the Commission office and on the Commission website at the time the proposed rule change is submitted to the Louisiana Register.

D. For the purpose of timely notice as required by this Paragraph, the date of notice shall be deemed to be the date of publication of the issue of the Louisiana Register in which the notice appears, such publication date to be the publication date as stated on the outside cover or the first page of said issue.

E. All interested persons shall be afforded a reasonable opportunity to submit data, views, comments, or arguments, orally or in writing. In case of substantive rules, opportunity for oral presentation or argument must be granted if requested within twenty days after publication of the rule as provided in this Subsection, by twenty-five persons, by a governmental subdivision or agency, or by an association having not less than twenty-five members.

F. The Commission shall issue an order which includes the final rules, as well as a brief response to comments and submissions describing the principal reasons for and against adoption of any amendments or changes suggested in the written or oral comments and submissions. In addition to the response to comments, the Commission may prepare a preamble explaining the basis and rationale for the rule, identifying the data and evidence upon which the rule is based, and responding to comments and submissions.

G. The final rules shall be submitted to the Louisiana Register for publication and posted at the Commission offices and on the Commission website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:627 (April 2006).

§13105. Initiation of Rulemaking by Petition

A. An interested person may petition the Commission requesting the adoption, amendment, or repeal of a rule.

B. Within sixty days after submission of a petition, the Commission shall either deny the petition in writing, stating reasons for the denial, or shall initiate rule making proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:628 (April 2006).

§13106. Filing; Taking Effect of Future Rules

A. The Commission shall file a certified copy of its rules with the Department of the State Register. No rule shall be effective, nor may it be enforced, unless it has been properly filed with the Department of the State Register. The inadvertent failure to mail notice and statements to persons making request for such mail notice shall not invalidate any rule adopted hereunder.

B. Each rule hereafter adopted shall be effective upon its publication in the Louisiana Register. Said publication shall be subsequent to the act of adoption.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:628 (April 2006).

Chapter 132. Orders

§13201. Form, Content and Service of Orders

A. All orders of the Commission shall be in writing and shall be signed by at least six (6) Commissioners or by the Administrator on behalf of the Commission when so authorized. The written order of the Commission shall be issued as soon as possible after the Commission's decision. Abstentions shall be regarded as total nonparticipation by the abstaining Commissioner or Commissioners, except where an abstention deadlocks the participatory vote, in which case an abstention shall be taken as a denial of the relief sought. All orders shall incorporate findings of fact as the record justifies and conclusions of law. A copy of each order shall be served forthwith upon all parties to the proceeding by the Administrator. All orders shall go into effect ten (10) days after mailing thereof, unless otherwise provided, or unless a motion for rehearing is filed timely.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:628 (April 2006).

§13202. Preparation of the Order

A. Once a final decision is rendered by the Commission, the Commission shall instruct the prevailing party to prepare a draft order. The prevailing party shall circulate the draft order to the other parties for comment. If no objections are

received within ten days, the Commission shall issue the final order. If any objections are received with respect to the draft order, the Commission shall ask for comments on the disputed language and decide the issue as it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:628 (April 2006).

§13203. Reserved.

§13204. Rehearing

A. When the Commission concludes that substantial errors of procedure or the exclusion of evidence have so affected the record as to render it impracticable to determine the case justly and fairly upon the record provided by the Commission, Hearing Panel or Hearing Master, it may order a rehearing on its own motion. The Commission may also order a rehearing on motion of any party provided said motion is received within ten (10) days of the mailing of the order or ruling complained of. The ruling or order complained of shall be suspended with the filing of an appropriate motion to rehear until the motion to rehear is denied; provided that, any order or ruling of the Commission which specifically sets a date for the effectiveness of such shall not be suspended by the filing of a motion to rehear. The granting of a motion or setting of a matter for rehearing shall suspend the operation of the rule or order in question unless otherwise provided by the Commission. Where no motion to rehear is timely filed, orders shall become effective ten (10) days after issuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:628 (April 2006).

§13205. Voting

A. The Chairman shall decide the order in which the votes of Commission members are cast and, at his discretion, may vote last.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:967 and Pilotage Fee Commission §13106.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Pilotage Fee Commission, LR 32:629 (April 2006).