

MEMORANDUM OF AGREEMENT
BETWEEN THE
UNITED STATES COAST GUARD, THE STATE OF CALIFORNIA,
AND CERTAIN CALIFORNIA PORTS
CONCERNING REQUIREMENTS FOR PILOTS
ON VESSELS ENGAGED IN FOREIGN TRADE

WHEREAS, Congress, in Chapter 85 of Title 46, U.S. Code, has empowered the various states with comprehensive authority to regulate pilots; and,

WHEREAS, Congress in the Ports and Waterways Safety Act of 1972 [33 USC 1221-1224] finds and declares that navigation and vessel safety and protection of the marine environment are of major national importance; and,

WHEREAS, Congress, in Part E of Title 46, U.S. Code, has authorized the Coast Guard to license and regulate pilots; and,

WHEREAS, the State of California, through its tidelands grants, state-approved charters of various cities, and the California Harbors and Navigation Code, has delegated to various Cities, Harbor Commissions, Pilot Commissions, and Port Districts listed herein, authority to permit the Ports to provide for and supervise pilots and oversee the pilotage of seagoing vessels within their jurisdiction; and,

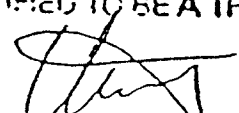
WHEREAS, the State of California, through the Harbors and Navigation Code, has created the State Board of Pilot Commissioners for San Francisco, San Pablo, and Suisun Bay and granted it exclusive authority to license, provide for, supervise, or otherwise regulate pilots and oversee the pilotage of seagoing vessels within its jurisdiction; and,

WHEREAS, the State of California has enacted the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act of 1990 to protect the waters of the state from oil pollution and to augment State authority for the prevention and response to spills in waters under the jurisdiction of the State; and,

WHEREAS, the Coast Guard exercises federal authority under the Ports and Waterways Safety Act [33 USC 1221-1224], the Oil Pollution Act of 1990, and other federal laws with respect to oil pollution prevention and marine environmental protection in waters subject to the jurisdiction of the United States;

NOW, THEREFORE, the Parties agree, to the extent permitted by law, and as consistent with their respective policies and available

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resources, to coordinate their efforts in implementing and exercising their respective statutory and regulatory authority related to pilotage.

I

PARTIES

The Parties to this Memorandum of Agreement ["Agreement"] are the United States Coast Guard ["Coast Guard"], the State of California ["State"], and the Cities of Long Beach and Los Angeles, acting through their respective Boards of Harbor Commissioners ["Port of Long Beach and Port of Los Angeles"], San Diego, Port Hueneme, and Humboldt Bay ["Ports"].

II

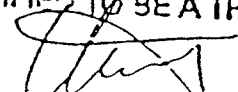
INTENT AND PURPOSE OF AGREEMENT

This Agreement utilizes existing authority to create an improved system of pilotage. It is the intent of the Coast Guard and the State to improve the safety of vessel navigation and port and environmental safety by establishing local pilotage systems which ensure the use of federally licensed pilots with local knowledge on vessels over 300 gross tons not on enrollment while navigating state pilot waters at the Ports subject to this Agreement, which systems share responsibility between the Coast Guard, the State, and the Ports designated hereinafter, acting as the State's duly authorized local authorities.

This Agreement allocates responsibilities in the following areas: initial competency and qualification of pilots, standards for maintaining proficiency and professional growth, and enforcement. This Agreement also describes a Local Pilotage Advisory Council which will provide recommendations for the implementation and improvement of the pilotage system in each Port.

For the purpose of this Agreement, the Coast Guard, the State, and the Ports define the term "supervise" as used in this Agreement to include the following:

- a. The State will not issue a pilot license but will accept and require the federal license as a condition of employment;
- b. Apprenticeship, professional growth, and oversight programs will be established by the Ports;
- c. The State will review programs for consistency;
- d. The Ports will maintain control of pilots; and
- e. Vessels being navigated in state pilotage waters shall have a pilot on board as required by local port requirements or tariffs.



III

INITIAL COMPETENCY AND QUALIFICATIONS

The standards for initial competency and qualification will include a requirement for a federal pilot license, a period of apprenticeship, and other minimum requirements as deemed necessary by the State.

a. Federal Pilot License:

The Ports, on behalf of the State, will accept and require a federal pilot license issued by the Coast Guard as a condition of employment. The Coast Guard will maintain requirements and administrative controls for comprehensive drug testing, physical and medical standards, and National Driver Register checks as part of administering its federal pilot license.

b. Apprenticeship Program:

The Ports, on behalf of the State, are responsible for establishing apprenticeship programs for respective areas of jurisdiction. Written standards will be developed by the Local Pilotage Advisory Council, with input from pilot associations or pilot companies. Final approval of the apprenticeship program will be vested with the Port. The apprenticeship program will consist of written standards describing how apprentices shall acquire additional training, the minimum period of apprenticeship or target number of round trips required for various types and tonnages of vessels, the methods for evaluating and providing feedback to apprentices, and the minimum qualifying standards for completion of apprenticeship phase of development.

c. Additional Requirements:

The Ports, on behalf of the State, may establish and enforce through local requirements or tariffs any other prerequisites for initial competency and qualifications as deemed necessary, after considering input from the Local Pilotage Advisory Council, pilot associations, and pilot companies. The requirements or tariffs may establish standards which are more stringent prerequisites than those for a federal license, including physical and medical standards, criminal and National Driver Register checks, and requirements for drug and alcohol testing.

IV

STANDARDS FOR MAINTAINING PROFICIENCY AND PROFESSIONAL GROWTH

The Ports, on behalf of the State, are responsible for establishing standards to maintain proficiency and professional growth.

These standards, at a minimum, will include periodic evaluations to verify that each pilot is maintaining the required level of proficiency. The standards may vary based upon a variety of factors including: frequency of piloting, type, tonnage, design or other vessel characteristics of vessels to be piloted, and other factors that may impact the safety of piloting vessels. Standards will be established by each Port.

V

ENFORCEMENT

The Coast Guard is responsible for investigating and enforcing federal regulations pertaining to a federal pilot license. In enforcing federal regulations, the Coast Guard may take appropriate administrative action, including the initiation of suspension and revocation proceedings. The Coast Guard will investigate marine casualties and require post casualty drug and alcohol testing in accordance with applicable federal regulations. Appropriate cases may be forwarded to the United States Attorney for possible criminal prosecution.

The Ports, on behalf of the State, will enforce the requirements or tariffs pertaining to the apprenticeship program, the standards for maintaining proficiency and professional growth and additional requirements developed pursuant to paragraph III.c above.

The parties agree to cooperate and share information related to the above enforcement efforts.

VI

LOCAL PILOTAGE ADVISORY COUNCIL

The purpose of the Local Pilotage Advisory Council is to review local pilotage and assess the risks associated with safe piloting of vessels. This includes evaluating and reviewing policies and procedures, making recommendations to establish, modify or improve pilotage requirements or tariffs in each Port. If a pilotage route serves more than one Port, a Local Pilotage Advisory Council may be established for each Port, or one Council may serve both Ports.

a. Representation:

1. The Ports, on behalf of the State, are responsible for establishing a Local Pilotage Advisory Council for each Port that meets regularly. The Executive Director shall appoint members of the Advisory Council from the following groups: local pilot groups, port authority, shipping industry. The preferred representation from each of these elements is as follows:

a. A representative of the local port authority appointed by the Executive Director for the Port,

b. A representative from the management of the local pilot group who is a qualified pilot, preferably the chief pilot,

c. A representative of the shipping industry. Industry representation should preferably be from a vessel operating company which reflects the predominant nature of the port's business. If any Port handles a significant number of both tankers, and dry cargo vessels, then a representative of each shall be appointed.

2. The Local Pilotage Advisory Council shall meet on a regular basis. The Council is encouraged to invite the Coast Guard Captain of the Port/Officer in Charge, Marine Inspection, and/or the Administrator of the Office of Oil Spill Prevention and Response to participate in meetings on an "ex officio" basis.

b. Periodic Review and Report:

The Ports, on behalf of the State, will require periodic written reports including the findings of reviews and appropriate recommendations. Periodic review of the local system of pilotage will provide the opportunity to address local procedures and in particular, human factors problems which may affect the risk of accident or the personal safety of the pilot. Consideration of pilot human factors impact due to inadequate or faulty equipment and recommendations for immediate or other action to minimize these risks is desired. Reports will be submitted to the local port authority annually for the first three years and then every third year thereafter.

VII

CONDITIONS AND TERMS OF AGREEMENT

a. This Agreement shall be effective as to each Port, as of the date it is signed by the Coast Guard, the State and such Ports, and shall remain in effect until terminated by any of said Parties, by giving the other Parties written notice to terminate as to such Port, in which event it shall terminate on the date immediately following the thirtieth day of such notice. This Agreement may be amended with the mutual consent of the Parties in writing.

b. In no event shall this Agreement be interpreted to conflict with specific operating policies and procedures published by any of the Parties without the express written consent of an appropriate senior official of the party so affected.

c. Nothing herein is intended to conflict with current Coast Guard or State directives. If the terms of this Agreement are inconsistent with existing directives of the Parties entering into this Agreement, those portions of this Agreement that are determined to be inconsistent shall be invalid, but all remaining terms and conditions shall remain in full force and effect.

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d. The State shall enact legislation to regulate and license pilots in any port to which this Agreement is applicable and which does not implement a program in accordance with this Agreement within twelve (12) months after the effective date hereof.

e. No action based upon this Agreement may be brought against the United States of the State of California by any person.


Effective Date: 26 FEB 1997

FOR THE UNITED STATES COAST GUARD:



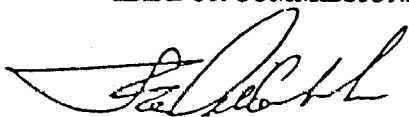
JAMES C. CARD
Rear Admiral, U. S. Coast Guard
Assistant Commandant for
Marine Safety and
Environmental Protection

FOR THE STATE OF CALIFORNIA:



PETE WILSON
Governor
State of California

CITY OF LONG BEACH, A MUNICIPAL CORPORATION, ACTING BY AND THROUGH ITS BOARD OF HARBOR COMMISSIONERS:




S. R. DILLENBECK
Executive Director

FOR THE CITY OF LOS ANGELES, BY ITS BOARD OF HARBOR COMMISSIONERS:



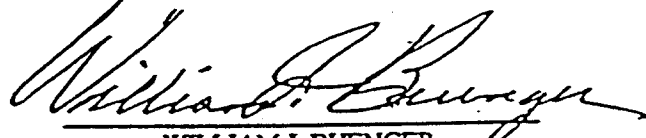
LARRY A. KELLER
Executive Director

FOR THE PORT OF SAN DIEGO:




For LAWRENCE M. KILLEEN
Executive Director
San Diego Unified Port District

FOR THE PORT OF HUENEME:



WILLIAM J. BUENGER
Executive Director
Oxnard Harbor District

FOR THE PORT OF HUMBOLDT BAY:



DAVID FULL
Chief Executive Officer
Humboldt Bay Harbor Recreation
and Conservation District

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