



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: **BOARD OF PILOTAGE COMMISSIONERS**

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 17-02-080 ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____ ; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).	<input type="checkbox"/> Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject)

WAC 363-116-360: Exempt Vessels

Hearing location(s):

2901 Third Avenue
1st Floor, Agate Conference Room
Seattle, WA 98121

Date: June 15, 2017 Time: 10:00 a.m.

Date of intended adoption: June 15, 2017

(Note: This is NOT the effective date)

Submit written comments to:

Name: **Sheri J. Tonn, Chair**
Address: **2901 Third Avenue, Suite 500**
Seattle, WA 98121

e-mail LarsonP@wsdot.wa.gov
fax **(206) 515-3906** by (date) June 8, 2017

Assistance for persons with disabilities: Contact

Shawna Erickson by June 12, 2017

TTY () _____ or **(206) 515-3647**

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

- The proposed changes to this rule regarding tonnage limitations and license requirements for petitioners on foreign flagged yachts and small passenger vessels applying for pilotage exemptions is necessary due to the passage of Substitute Senate Bill 5262 which amended RCW 88.16.070 and becomes effective July 23, 2017. The new rule will reflect the increase in the tonnage limitation for yachts from 750 to 1,300 gross tons (international) and for small passenger vessels from 500 to 1,300 gross tons (international) and require that small passenger vessels be manned by US-licensed deck and engine officers appropriate to the size of the vessel with merchant mariner credentials issued by the United States Coast Guard or Canadian deck and engine officers with Canadian-issued certificates of competency appropriate to the size of a vessel.
- The Fee Schedule for Petitioners has also been modified.
- Consideration may be given to a proposed requirement that all yachts 1,000 gt and over which are new to the area and/or with a master who is new to the area, take a pilot on their initial entry transit.

Reasons supporting proposal:

It is the intent of the Board to align the language of the rule with that of the statute.

Statutory authority for adoption:

Chapter 88.16 RCW

Statute being implemented:

Chapter 88.16 RCW

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: **April 28, 2017**

TIME: **3:00 PM**

WSR 17-10-048

DATE April 28, 2017

NAME Peggy Larson

SIGNATURE

TITLE Executive Director

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

The proposed modifications to this rule are intended to accommodate not only larger yachts and passenger vessels, but all yachts and passenger vessels transiting Washington State pilotage waters who meet the vessel exemption criteria.

Name of proponent: (person or organization)

Board of Pilotage Commissioners

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Board of Pilotage Commissioners	2901 Third Avenue, Seattle, WA 98121	(206) 515-3904
Implementation. Board of Pilotage Commissioners	2901 Third Avenue, Seattle, WA 98121	(206) 515-3904
Enforcement..... Board of Pilotage Commissioners	2901 Third Avenue, Seattle, WA 98121	(206) 515-3904

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

The application of the proposed modifications is clear in the description of the proposal and its anticipated effects as well as the attached proposed language.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain:

RCW 34.05.328 does not apply to the adoption of these rules. The Washington State Board of Pilotage Commissioners is not a listed agency in RCW 34.05.328(5)(a)(i).

WAC 363-116-360 Exempt vessels. (1) Under the authority of RCW 88.16.070, application may be made to the board of pilotage commissioners to seek exemption from the pilotage requirements for the operation of a limited class of small passenger vessels, which are not more than ~~((five))~~ one thousand three hundred gross tons (international), do not exceed two hundred feet in length, is manned by United States-licensed deck and engine officers appropriate to the size of the vessel with merchant mariner credentials issued by the United States coast guard or Canadian deck and engine officers with Canadian-issued certificates of competency appropriate to the size of the vessel, and are operated exclusively in the waters of the Puget Sound pilotage district and lower British Columbia, or yachts, which are not more than ~~((seven))~~ one thousand three hundred ~~((fifty))~~ gross tons (international), and do not exceed two hundred feet in length. For purposes of this section, any vessel carrying passengers for a fee, including yachts under charter where both the vessel and crew are provided for a fee, shall be considered a passenger vessel.

The owners or operators of the vessel for which exemption is sought must:

(a) Complete and file with the board a petition requesting an exemption at least forty-eight hours prior to planned vessel operations where possible. Petitions filed with less than forty-eight hours notice may be considered by the chair at the chair's discretion on a board-approved form. The form shall include a description of the vessel, the contemplated use of vessel, the proposed area of operation, the names and addresses of the vessel's owner and operator, the areas and dates of planned operations, and such other information as the board shall require.

(b) Pay the appropriate initial application or renewal fee with the submittal of the petition, which is listed in subsection (5) of this section.

(2) All petitions for exemption filed with the board shall be considered at its next regularly or specially scheduled meeting. Consistent with the public interest, the chair may grant an interim exemption to a petitioner subject to final approval at the next board meeting, where special time or other conditions exist.

(3) Any grant of an exemption, including interim exemptions, may contain such conditions as the board, or in the case of an interim exemption, the chair, deems necessary to protect the public interest in order to prevent the loss of human life and property and to protect the marine environment of the state of Washington.

Such conditions may include: A requirement that the vessel employ the services of a pilot on its initial voyage into state pilotage waters; and/or that the master of the vessel at all times hold as a minimum, a United States government license as a master of ocean or near coastal steam or motor vessels of not more than sixteen hundred gross tons or as a master of inland steam or motor vessels of not more than five hundred gross tons, such license to include a current radar endorsement; and/or that the vessel possess specific navigational charts, publications and navigational equipment necessary to ensure safe operation.

(4) The board shall annually, or at any other time when in the public interest, review any exemptions granted to the specified class

of small vessels to ensure that each exempted vessel remains in compliance with the original exemption and any conditions to the exemption. The board shall have the authority to revoke such exemption when there is not continued compliance with the requirements for exemption.

(5) Fee Schedule for Petitioners for Exemption

	3 Months or Less	1 Year or Less	Annual Renewal
A. Yachts			
Up to and including 50 feet LOA	\$50	\$50	\$50
Up to and including 100 feet LOA	450 to 700	750 to 1000	300 to 600
Up to and including 200 feet LOA and 750 gt	750 to 1000	1125 to 1400	450 to 800
<u>Up to and including 200 feet LOA and 751 to 1300 gt</u>	<u>1500</u>	<u>1500</u>	<u>1500</u>
B. Passenger Vessels			
Up to and including 100 feet LOA	1125	1500	600 to 1000
Up to and including 200 feet LOA	1500	1500	750 to 1200

(6) Petitions for annual renewals must be submitted within one year of the expiration of the previous exemption.