



# PROPOSED RULE MAKING

## CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: September 06, 2022

TIME: 9:50 AM

WSR 22-18-084

**Agency:** Washington State Board of Pilotage Commissioners

☐ Original Notice

☐ Supplemental Notice to WSR \_\_\_\_\_

☐ Continuance of WSR \_\_\_\_\_

☒ Preproposal Statement of Inquiry was filed as WSR 22-15-117 ; or

☐ Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or

☐ Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

☐ Proposal is exempt under RCW \_\_\_\_\_.

**Title of rule and other identifying information:** (describe subject) WAC 363-116-082 Limitations on new pilots

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
October 20, 2022	10:00am	Via MS Teams and/or Phone Conference: (206) 531-0324 ID: 928096063#	To request a video link, please call (206) 515-3887 or visit <a href="http://www.pilotage.wa.gov">www.pilotage.wa.gov</a> for call-in instructions

**Date of intended adoption:** October 20, 2022 (Note: This is **NOT** the effective date)

**Submit written comments to:**

Name: Jaimie Bever, Executive Director

Address: 2901 3<sup>rd</sup> Avenue, Suite 500, Seattle, WA 98121

Email: [BeverJ@wsdot.wa.gov](mailto:BeverJ@wsdot.wa.gov)

Fax:

Other:

By (date) October 13, 2022

**Assistance for persons with disabilities:**

Contact Jolene Hamel

Phone: (206) 515-3904

Fax:

TTY:

Email: [HamelJ@wsdot.wa.gov](mailto:HamelJ@wsdot.wa.gov)

Other:

By (date) October 13, 2022

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of this proposed rulemaking is to consider revisions to the pilot license upgrade programs in both the Puget Sound and Grays Harbor Pilotage Districts to better align with statutory rest rules and changes in vessel traffic. The Board seeks to ensure that upgrading pilots are gaining the necessary experience with larger vessels as they progress through their first five years of piloting while also maintaining best practices in fatigue mitigation and reducing stress on the pilot corps.

**Reasons supporting proposal:** The proposed revisions to the pilot upgrade program will allow for more flexibility in upgrade program design, implement statutory rest rules, provide more availability for pilots to take jobs, reduce workload on pilots, allow for cruise ship upgrades, allow pilots to upgrade in more adverse weather, increase experience practicing speed from anchor as well as docking and undocking via harbor shifts, and provides better clarity for to develop the upgrade trips and for upgrading pilots to accommodate the trip requirements while actively piloting.

**Statutory authority for adoption:** Chapter 88.16 RCW, Pilotage Act

**Statute being implemented:** Chapter 88.16 RCW, Pilotage Act

**Is rule necessary because of a:**

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** The Board received a recommendation from the Trainee Evaluation Committee (TEC) favoring implementation of the proposed language based on the benefits listed above. The TEC develops and monitors the pilot license upgrade program.

<b>Type of proponent:</b> <input type="checkbox"/> Private <input type="checkbox"/> Public <input checked="" type="checkbox"/> Governmental <b>Name of proponent:</b> (person or organization) Washington State Board of Pilotage Commissioners			
<b>Name of agency personnel responsible for:</b>			
	Name	Office Location	Phone
Drafting:	Jaimie C. Bever	2901 3 <sup>rd</sup> Avenue, Suite 500, Seattle, WA 98121	206-515-3887
Implementation: Commissioners	Board of Pilotage	2901 3 <sup>rd</sup> Avenue, Suite 500, Seattle, WA 98121	206-515-3904
Enforcement: Commissioners	Board of Pilotage	2901 3 <sup>rd</sup> Avenue, Suite 500, Seattle, WA 98121	206-515-3904
<b>Is a school district fiscal impact statement required under <a href="#">RCW 28A.305.135</a>?</b>			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, insert statement here:     <div style="margin-left: 40px;">           The public may obtain a copy of the school district fiscal impact statement by contacting:            Name:            Address:            Phone:            Fax:            TTY:            Email:            Other:         </div>			
<b>Is a cost-benefit analysis required under <a href="#">RCW 34.05.328</a>?</b>			
<input type="checkbox"/> Yes: A preliminary cost-benefit analysis may be obtained by contacting: Name: Address: Phone: Fax: TTY: Email: Other:			
<input checked="" type="checkbox"/> 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).			
<b>Regulatory Fairness Act and Small Business Economic Impact Statement</b> Note: The <a href="#">Governor's Office for Regulatory Innovation and Assistance (ORIA)</a> provides support in completing this part.			
<b>(1) Identification of exemptions:</b> This rule proposal, or portions of the proposal, <b>may be exempt</b> from requirements of the Regulatory Fairness Act (see <a href="#">chapter 19.85 RCW</a> ). For additional information on exemptions, consult the <a href="#">exemption guide published by ORIA</a> . Please check the box for any applicable exemption(s):			
<input type="checkbox"/> This rule proposal, or portions of the proposal, is exempt under <a href="#">RCW 19.85.061</a> because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted. Citation and description:			
<input type="checkbox"/> This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by <a href="#">RCW 34.05.313</a> before filing the notice of this proposed rule.			
<input type="checkbox"/> This rule proposal, or portions of the proposal, is exempt under the provisions of <a href="#">RCW 15.65.570(2)</a> because it was adopted by a referendum.			

- ☒ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
- |   |  |
|---|--|
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations) | <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)  |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |
- ☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).
- ☐ This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_\_.  
Explanation of how the above exemption(s) applies to the proposed rule:

**(2) Scope of exemptions:** *Check one.*

- ☒ The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- ☐ The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- ☐ The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

**(3) Small business economic impact statement:** *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- ☐ No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. \_\_\_\_\_
- ☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Date:** September 6, 2022

**Name:** Jaimie C. Bever

**Title:** Executive Director

**Signature:**



**WAC 363-116-082 Limitations on new pilots.** (1) The following limitations and pilot license upgrade requirements shall apply to a newly licensed pilot during ~~((his/her))~~ their first five years of active service. For purposes of this section, the term "tank vessel" shall, in addition to tank ships, include any articulated or integrated tug and tank barge combinations, and any tonnage restrictions thereon shall be calculated by including the gross tonnage of the tug and tank barge combined. For purposes of this section, the term "petroleum products" shall include crude oil, refined products, liquefied natural gas, and liquefied petroleum gas. GT (ITC) as used in this section refers to gross tonnages measured in accordance with the requirements of the 1969 International Convention on Tonnage Measurement of Ships.

(2) Puget Sound pilotage district - License limitation periods. Except for trips being made for pilot license upgrades, licenses issued in the Puget Sound pilotage district shall have the following limitations:

License Year	Maximum Size of Tank Vessels Carrying Petroleum Products as Bulk Cargo	Maximum Size of Other Vessels	Waterways
1	Piloting on vessels of any size prohibited	38,000 GT (ITC) except for passenger vessels which may only have a maximum size of 5000 GT (ITC)	Prohibited in the Duwamish Waterway on vessels greater than 3,000 GT
2	32,000 GT (ITC)	48,000 GT (ITC)	No restrictions
3	40,000 GT (ITC)	60,000 GT (ITC)	No restrictions
4	50,000 GT (ITC)	70,000 GT (ITC)	No restrictions
5	65,000 GT (ITC)	95,000 GT (ITC)	No restrictions

(3) Puget Sound pilotage district - Pilot license upgrade requirements. Progressive lifting of tonnage limitations requires a newly licensed pilot to satisfactorily pilot vessels on the trips specified in this section. The trainee evaluation committee shall recommend to the board a series of ~~((eight))~~ trips to be made by each pilot in the last ~~((one hundred twenty))~~ 180 days of each year of the license limitation periods specified in subsection (2) of this section. As to these trips, the trainee evaluation committee shall specify the size and type of the vessel; origin and destination, whether the transit is to include a docking, waterway transit or other particular maneuvering requirement, whether any tank vessel trips are to be made while in ballast or loaded and whether the trip shall be taken with training pilots, trainee evaluation committee member pilots or pilots with a specified experience level. To the extent practical, the trips shall be on vessels of at least a size that falls between the upper limit in the expiring license limitation and the upper limit in the upcoming license limitation period. All of these trips shall be complete trips between one port and another port, ~~((or))~~ between the pilot station and a port, or harbor shifts. The supervising pilots shall complete and submit to the board ~~((an evaluation))~~ a familiarization form provided by the board for each trip a new pilot performs.

(4) Grays Harbor pilotage district - License limitation periods. Pilots licensed in the Grays Harbor pilotage district shall not pilot

vessels in violation of the restrictions set forth in the table below during the indicated license year.

License Year	Maximum Size of Tank Vessels Carrying Petroleum Products as Bulk Cargo	Maximum Size of Other Vessels
1	Piloting on vessels of any size prohibited	32,000 GT (ITC) except that piloting on vessels of any size is prohibited through the Chehalis River Bridge unless vessel is in ballast and does not exceed 25,000 GT (ITC)
2	15,000 GT (ITC)	42,000 GT (ITC)
3	32,000 GT (ITC)	52,000 GT (ITC)
4	42,000 GT (ITC)	62,000 GT (ITC)
5	52,000 GT (ITC)	72,000 GT (ITC)

Notwithstanding subsection (7) of this section, upon determination that a bona fide safety concern may result from no pilot without license restrictions being available within a reasonable time to pilot a vessel requiring pilotage services, the chairperson or acting chairperson of the board, on a single trip basis, may authorize a newly licensed pilot holding a restricted license to provide pilotage services to the vessel, irrespective of the tonnage, service or location of the assigned berth of the vessel.

(5) Grays Harbor pilotage district - Pilot license upgrade requirements - Progressive lifting of tonnage limitations requires a newly licensed pilot to satisfactorily pilot vessels on the trips specified in this section. The trainee evaluation committee shall recommend to the board a series of trips to be made by each pilot in the last 180 days of each year of the license limitation periods specified in subsection (4) of this section. As to these trips, the trainee evaluation committee shall specify the size and type of the vessel; origin and destination, whether the transit is to include a docking, waterway transit or other particular maneuvering requirement, whether any tank vessel trips are to be made while in ballast or loaded and whether the trip shall be taken with training pilots, trainee evaluation committee member pilots or pilots with a specified experience level. To the extent practical, the trips shall be on vessels of at least a size that falls between the upper limit in the expiring license limitation and the upper limit in the upcoming license limitation period. All of these trips shall be complete trips between one port and another port, between the pilot station and a port, or harbor shifts. The supervising pilots shall complete and submit to the board a familiarization form provided by the board for each trip a new pilot performs.

~~((a) Prior to the expiration of the first license year, a new pilot must make five license upgrade trips. Three of these trips shall be through the Chehalis River Bridge on loaded or partially loaded vessels. The other trips shall be on vessels in excess of 32,000 GT (ITC) and involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway.~~

~~(b) Prior to the expiration of the second license year, a new pilot must make two license upgrade trips on tank vessels in excess of 15,000 GT (ITC) and two trips on other vessels in excess of 42,000 GT (ITC). Two of these trips shall involve docking and passage to or from the sea buoy; and two of these trips shall involve turning the vessel in the waterway. Upon satisfactory completion of the two upgrade trips upon tank vessels and completion of the second license year, the pilot will be authorized to pilot tank vessels in accordance with the limitations specified in subsection (4) of this section. Upon satisfactory completion of the two upgrade trips upon other vessels in excess of 42,000 GT (ITC) and completion of the second license year, the pilot will be authorized to pilot vessels in accordance with the limitations specified in subsection (4) of this section.~~

~~(c) Prior to the expiration of the third license year, a new pilot must make two license upgrade trips on tank vessels in excess of 32,000 GT (ITC) and two trips on other vessels in excess of 52,000 GT (ITC). Two of these trips shall involve docking and passage to or from the sea buoy; and two of these trips shall involve turning the vessel in the waterway.~~

~~(d) Prior to the expiration of the fourth license year, a new pilot must make two license upgrade trips on tank vessels in excess of 42,000 GT (ITC) and two trips on other vessels in excess of 62,000 GT (ITC).~~

~~(e) Prior to the expiration of the fifth license year, a new pilot must make two license upgrade trips on tank vessels in excess of 52,000 GT (ITC) and two trips on other vessels in excess of 72,000 GT (ITC).~~

~~(f))~~ If vessels are not available in the Grays Harbor pilotage district to allow a pilot to comply with ~~((a) through (e) of))~~ this subsection in a timely manner, the board may designate substitute trips in the Puget Sound pilotage district as allowed by law and in so doing may specify the size of the vessel and any other characteristics of the trips that the board deems appropriate. Such designation shall be considered a modification of the pilot's state license to authorize the specified trips in the Puget Sound pilotage district.

(6) The initial license shall contain the limitations contained above and list the date of commencement and expiration of such periods. If a newly licensed pilot is unable to pilot for ~~((forty-five))~~ 45 days or more in any one of the five years~~((, he/she shall notify the board and request a revised schedule of limitations))~~ the trainee evaluation committee may put a hold on the upgrade program. Upon the newly licensed pilot's return to the program, the trainee evaluation committee may prescribe an extension.

(7) Except as provided in subsection (4) of this section, no pilot shall be dispatched to, or accept an assignment on, any vessel which exceeds the limitations of ~~((his/her))~~ their license. On vessels in which there is more than one pilot assigned, the license limitations shall apply only to the pilot in charge.

(8) All limitations on a pilot's license shall be lifted at the beginning of the sixth year of piloting provided ~~((he/she has))~~ they have submitted to the board a statement attesting to the fact that ~~((he/she))~~ the pilot has completed all the required license upgrade trips and the vessel simulator courses.

(9) Whenever the governor issues a proclamation declaring a state of emergency, the board may determine whether there is a threat to trainees, pilots, vessel crews, or members of the public. Notwithstanding the other provisions of this chapter, the board, at its dis-

cretion, may suspend or adjust the pilot training program during the  
pendency of a state of emergency lawfully declared by the governor.