



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: July 28, 2023

TIME: 8:16 AM

WSR 23-16-074

Agency: Board of Pilotage Commissioners

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR 21-16-088 ; 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 363-116-078 Training Program

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
September 21, 2023	10:00am	2901 Third Avenue, 1 st Floor Agate Conference Room, Seattle, WA 98121 and via Teams	Contact Jaimie Bever for Teams link to join the meeting virtually or to call in.

Date of intended adoption: September 21, 2023 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Jaimie Bever, Executive Director
 Address: 2901 3rd Avenue, Suite 500, Seattle, WA 98121
 Email: BeverJ@wsdot.wa.gov
 Fax: 206-515-3906
 Other:
 By (date) August 9, 2023

Assistance for persons with disabilities:

Contact Jolene Hamel
 Phone: 206-515-3904
 Fax: 206-515-3906
 TTY:
 Email: HamelJ@wsdot.wa.gov
 Other:
 By (date) August 9, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of the proposed rule language is to decouple the training stipend from training program job requirements, to implement existing practices into the WAC language, restructure certain sections for clarity and flow, and conduct minor housekeeping in preparation for the upcoming 2024 marine pilot exam and training of the successful applicants.

Decoupling the stipend from training program requirements will be beneficial in the following ways: responds to lasting COVID complications at the USCG, Regional Exam Center (REC), National Maritime Center (NMC), and beyond; prevents trainees from entering Evaluation too early and ensures the pre-established psychometrically sound process for Evaluation; keeps trainees focused on valuable training opportunities versus taking a job just for stipend credit; increases options for training with senior and TEC pilots; creates more opportunities for tethered escort observations and trainings with adverse wind and currents, and allows trainees sooner opportunities to train and learn fundamental piloting skills at open berths; allows trainees to choose areas to focus on and better customize the Training Program to their needs based on the experiences they bring to the program; provides long-term simplification of the training matrix, which increases security for TEC and easier vetting, as wells more efficient onboarding of trainees; and fosters an equitable Training Program for candidates coming to Washington State for the first time.

The trainee will be required to show measurable progress in the Training Program, as well as meet time constraints, completing the program within the preexisting required 36-month timeframe for Puget Sound and 30-month timeframe for Grays Harbor.

Reasons supporting proposal: Allow more efficient progress through the training program, respond to federal National Maritime Center/Regional Exam Center challenges, and create better alignment with the psychometric training process and evaluation.

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?	<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:

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. The language was also reviewed by the agency's Assistant Attorney General..

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Washington State Board of Pilotage Commissioners

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Jaimie Bever	2901 3 rd Avenue, Suite 500, Seattle, WA 98121	206-515-3887
Implementation:	BPC	2901 3 rd Avenue, Suite 500, Seattle, WA 98121	206-515-3904
Enforcement:	BPC	2901 3 rd Avenue, Suite 500, Seattle, WA 98121	206-515-3904

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

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:

TTY:

Email:

Other:

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)

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) 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:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) 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"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((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: July 28, 2023

Name: Jaimie C. Bever

Title: Executive Director

Signature:



WAC 363-116-078 Pilot training program. After ~~((passing))~~ successful completion of the ~~((written))~~ pilot examination ~~((and simulator evaluation))~~ as required by RCW 88.16.090, pilot candidates pursuing a pilot license are positioned on a ranked list for the applicable pilotage district(s) and must enter and successfully complete a training program specified by the board before consideration for licensure. Pilot candidates shall be ranked for entry into the training program in accordance with RCW 88.16.090(4) and as provided below.

(1) Trainee evaluation committee. There is hereby created a trainee evaluation committee (TEC) to which members shall be appointed by the board of pilotage commissioners (board). The TEC shall include at a minimum:

(a) Three active licensed Washington state pilots who, to the extent possible, shall be from the pilotage district in which the pilot trainee seeks a license, and at least one of whom shall be a member of the board;

(b) One representative of the marine industry (who may be a board member) who holds, or has held, the minimum U.S. Coast Guard license required by RCW 88.16.090; and

(c) One other member of the board who is not a pilot.

The TEC may include such other persons as may be appointed by the board. The TEC shall be chaired by a pilot member of the board and shall meet as necessary to complete assigned tasks. In the event that the TEC cannot reach consensus with regard to any issue, it shall report both majority and minority opinions to the board. The TEC is an advisory body and shall have no policy or rule-making authority, nor shall the TEC be authorized to act on behalf of the board, conduct hearings, or take testimony or public comment.

(2) Notification. Pilot candidates on a list as described in ~~((subsection (2) of))~~ this section ~~((7))~~ and waiting to enter a training program shall provide the board with the best address for notification to enter into a training program. In addition, a pilot candidate shall provide the board with other means of contact such as postal mailing or electronic mail (email) address, phone number, and/or fax number. The email address with a read receipt request, however, will be considered the primary means of notification by the board. It will be the responsibility of the pilot candidate to ensure the board has current contact information at all times. If a pilot candidate cannot personally receive postal or ~~((electronic mail))~~ email at the address(es) provided to the board for any period of time, another person may be designated in writing as having power of attorney specifically to act ~~((in))~~ on the pilot candidate's behalf regarding such notice. If notice for entry into a training program sent to the email address provided by the pilot candidate is not acknowledged after three attempts and within 30 calendar days or if notice sent via certified mail is returned after three attempts to deliver, that pilot candidate will be skipped and the next pilot candidate on the list will be contacted for entry into a training program. A person so skipped will ~~((remain next))~~ retain their position on the list, except that a pilot candidate who is skipped more than once under this subsection shall be moved to the bottom of the list. If a pilot candidate or ~~((his/her))~~ their designated attorney-in-fact ~~((shall))~~ does not respond within ~~((fifteen))~~ 15 calendar days of receipt of notification

to accept, refuse, or request a delayed entry into a training program, the pilot candidate shall be skipped and will retain their position on the list, except that a pilot candidate who is skipped more than once under this subsection shall be moved to the bottom of the list.

~~((2))~~ (3) Entry. At such time that the board chooses to start a pilot candidate ~~((or candidates))~~ in a training program for either pilotage district, notification shall be given as provided in subsection ~~((1) of this section. Pilot candidates shall be ranked in accordance with a point system established by the board based on overall performance on the written examination and simulator evaluation. Candidates shall be eligible to enter a training program for a pilotage district in the order of such rankings or as otherwise may be determined by the board))~~ (2) of this section. A pilot candidate who refuses entry into a program will be removed from the waiting list ~~((with no further obligation by the board to offer a position in that district's training program to such pilot candidate)).~~ However, if the pilot candidate refuses entry into a program in one district, but indicated interest in the other pilotage district on the application for the written examination, the candidate shall remain available for that other district's training program in accordance with ((his/her)) their position on that list.

(a) Delayed entry with board consent. A pilot candidate who is not able to start a training program within two months of the board's specified entry date may, with written consent of the board, delay entry into that training program. When a pilot candidate delays entry into a training program by more than two months, the board gives notice to the next pilot candidate on the list for that pilotage district to enter a training program. The pilot candidate who delays entry shall remain eligible for the next position in that district provided that the next position becomes available within the earlier of:

(i) Four years from the pilot candidate's taking the written examination; or

(ii) The date ~~((scheduled for))~~ of the next ~~((pilotage))~~ written examination for the district.

Provided, that a pilot candidate who delays entry into a pilotage district in which the candidate has previously been granted a delay under this subsection, may be moved to the bottom of the list for that district.

(b) Delayed entry without board consent. A pilot candidate not able to start in a training program within two months of the board's specified entry date and who does not obtain the board's written consent to delay entry into a training program shall no longer be eligible for that district's training program ~~((without retaking the examination provided in WAC 363-116-076 and the simulator evaluation provided in WAC 363-116-077)).~~ Nothing in this subsection prohibits a no-longer eligible pilot candidate from applying for the pilot examination at a later time, in which case the pilot candidate shall be evaluated as if they were a new applicant.

~~((3))~~ (c) Effect of accepting training program. A pilot candidate who accepts entry into a training program in a pilotage district shall not be eligible to enter into a training program in the other pilotage district and shall be removed from the list for that district.

(4) Training license. All training licenses shall be signed by the chairperson or their designee and shall have an expiration date. Training licenses shall be surrendered to the board upon completion or

termination of the training program. Prior to receiving a training license pilot candidates must:

(a) Pass a physical examination by a board-designated physician and in accordance with the requirements of WAC 363-116-120 for initial pilot candidates. A form provided by the board must be completed by the physician and submitted to the board along with a cover letter indicating the physician's findings and recommendations as to the pilot candidate's fitness to pilot. The physical examination must be taken not more than ~~((ninety))~~ 90 days before issuance of the training license. Holders of a training license will be required to pass a general physical examination annually within ~~((ninety))~~ 90 days prior to the anniversary date of that training license. Training license physical examinations will be at the expense of the pilot candidate.~~(. All training licenses shall be signed by the chairperson or his/her designee and shall have an expiration date. Training licenses shall be surrendered to the board upon completion or termination of the training program.~~

~~(4) Development.); and~~

(b) Receive a verified negative drug test from a laboratory specified by the board. Drug tests will be at the expense of the pilot candidate and will be carried out according to a process specified by the board.

(5) Development. As soon as practical after receiving notification of eligibility for entry into a training program as set forth in this section, the pilot candidate shall provide a completed experience questionnaire to the trainee evaluation committee (TEC) ~~((, a committee))~~ created per subsection ~~((+11))~~ (1) of this section. ~~((The training program consists of three phases: Observation trips, training trips, and evaluation trips, and such other forms of learning and instruction that may be designated.))~~ The TEC shall recommend a training program for adoption by the board. After adoption by the board, ~~((it))~~ the training program will be presented to the pilot candidate. If the pilot candidate agrees in writing to the training program, the board shall issue a training license to the pilot candidate, which ~~((license))~~ shall authorize the pilot candidate to take such actions as are contained in the training program. If the pilot candidate does not agree to the terms of a training program, in writing, within ~~((fifteen))~~ 15 business days of it being received by certified mail return receipt, or by email read receipt requested, that pilot candidate shall no longer be eligible for entry into that pilotage district's training program and the board may give notice to the next available pilot candidate that ~~((he/she is))~~ they are eligible for entry into a training program pursuant to the terms in subsections ~~((+1))~~ (2) and ~~((+2))~~ (3) of this section.

~~((+5) Initial assigned route.)~~

(6) Length of training program. For the Puget Sound district, the length of the program shall not exceed 36 months.

For the Grays Harbor district, the length of the program shall not exceed 30 months.

(7) Familiarization program in the Puget Sound pilotage district.

(a) The TEC shall assign ~~((an initial route))~~ familiarization observations to each trainee at the beginning of ~~((his/her))~~ their training program between ~~((a))~~ commonly navigated ports or terminals and the seaward boundary of the pilotage district.

(b) Unless an extension of time is granted by the board, within eight months of the beginning of the training program if the trainee is continuously on stipend, plus an additional month for every month a

trainee is off stipend (up to a maximum of ~~((fifteen))~~ 15 months), the trainee must:

(i) Possess a first class pilotage endorsement without tonnage or other restrictions on their United States Coast Guard license to pilot on six federal pilotage chartlets.

(ii) Take ~~((and pass with a minimum score of eighty percent))~~ all conning and familiarization quizzes provided by the board ~~((applicable to the initial assigned route as described))~~ as outlined in subsection ~~((+8))~~ (9) of this section and pass with a minimum score of 80 percent; and

(iii) Take all local knowledge examination(s) provided by the board and pass with a minimum score of 85 percent.

(8) Specification of requirements. To the extent possible, a training program shall provide a wide variety of assigned requirements consisting of observation, training, and evaluation. A training program may contain deadlines for achieving full or partial completion of certain necessary actions. Where relevant, it may specify such factors as route, weather conditions, day or night, stern or bow first, draft, size of ship, and any other relevant factors. The board may designate specific shipboard requirements that shall be accomplished with supervising pilots or with the pilot members of the TEC or with pilots designated by the TEC. The total number of requirements in a training program shall be established by the board based on the recommendation of the TEC. The TEC shall design a training program and assign requirements based on factors including, but not limited to, the availability of vessels and timelines for pilot trainees to complete the program. The board will ensure that during a training program, the pilot trainee will get significant review by supervising pilots and the pilot members of the TEC or with pilots designated by the TEC. The TEC, at the discretion of the board, may assign or specify training program requirements among multiple pilot trainees. Generally, the pilot trainee who entered their training program earlier has the right of first refusal of training program requirements provided that the TEC may, with approval by the board, allocate or assign training requirements differently as follows:

(a) When it is necessary to equalize training opportunities; or

(b) When it is necessary to spread hard-to-get requirements among pilot trainees so that as many trainees as possible complete requirements on time.

(9) Local knowledge conning and familiarization quizzes and local knowledge exams.

(a) A training program shall provide opportunities for the education of pilot trainees and shall provide for testing of pilot trainees on the local knowledge necessary to become a pilot. It shall be the responsibility of the pilot trainee to obtain the local knowledge necessary to be licensed as a pilot in the pilotage district for which they are applying.

(b) After a trainee has successfully passed a conning or familiarization quiz on a main channel route or a port and approach, they will be eligible to take the conn on that route or approach unless it is a U.S. flag vessel and the required federal pilotage endorsement has not been obtained. These quizzes may be repeated as necessary provided that they may not be taken more than once in any seven-day period, and further provided that they must be successfully passed within the time period specified in subsection (7)(b) of this ~~((subsection))~~ section; and

~~((ii) Take and pass with a minimum score of eighty-five percent the local knowledge examination(s) provided by the board applicable to the initial assigned route as described in subsection (8) of this section. These examinations can be repeated as necessary provided that they may not be taken more than once in any seven-day period, and further provided that they must be successfully passed before the expiration date time period specified in (b) of this subsection; and~~

~~(iii) Possess a first class pilotage endorsement without tonnage or other restrictions on his/her United States Coast Guard license to pilot on the initial assigned route.~~

~~(6) Specification of trips. To the extent possible, a training program shall provide a wide variety of assigned requirements in three phases: Observation, training, and evaluation trips. A training program may contain deadlines for achieving full or partial completion of certain necessary actions. Where relevant, it may specify such factors as route, sequence of trips, weather conditions, day or night, stern or bow first, draft, size of ship and any other relevant factors. The board may designate specific trips or specific numbers of trips that shall be made with training pilots or with the pilot members of the TEC or with pilots designated by the TEC. In the Puget Sound pilotage district, pilot trainees shall complete a minimum of one hundred fifty trips. The board shall set from time to time the minimum number of trips for pilot trainees in the Grays Harbor pilotage district. The total number of trips in a training program shall be established by the board based on the recommendation of the TEC. The board will ensure that during a training program the pilot trainee will get significant review by supervising pilots and the pilot members of the TEC or with pilots designated by the TEC.~~

~~(7) Length of training program. For the Puget Sound district the length of the program shall not exceed thirty-six months. For the Grays Harbor district the length of the program will be determined at the time the training program is written.~~

~~(8) Local knowledge conning quizzes and local knowledge exams. A training program shall provide opportunities for the education of pilot trainees and shall provide for testing of pilot trainees on the local knowledge necessary to become a pilot. It shall be the responsibility of the pilot trainee to obtain the local knowledge necessary to be licensed as a pilot in the pilotage district for which he/she is applying.)~~ (c) Each conning and familiarization quiz will be organized by main channel routes, ports, and approaches. A conning or familiarization quiz is not intended to replace a local knowledge exam as specified in subsection ~~((5)(b)(ii))~~ (7)(b)(iii) of this section, but there will be some overlap of subject matter. ((A)) In order for a pilot trainee to progress into the training section of the training program, the pilot trainee shall pass all familiarization quizzes and/or all associated conning quizzes for all routes, ports, and/or approaches for which the pilot trainee (shall pass a conning quiz or quizzes related to the route or harbor area to move from the observation phase to the training phase of his/her training program for that route or harbor area. After a trainee has successfully passed a conning quiz on a main channel route or a port and approach, he/she will be eligible to take) will have the conn (on that route or approach unless it is a U.S. flag vessel and the required federal pilotage endorsement has not been obtained. The local knowledge exam for the initial route must be completed within eight months of the training start date if the trainee is taking the stipend. For each month the trainee is off stipend, an additional month is added up to a maximum of fif-

~~teen months to successfully pass the appropriate local knowledge exam. The final local knowledge exam must be completed before consideration for licensing and must be successfully passed before the expiration date of the training program. The conning) during any section of the training program.~~

~~(d) The conning and familiarization quizzes and local knowledge exams will be administered at the ~~((offices of))~~ location and by the method prescribed by the board of pilotage commissioners. ~~((Eighty percent is the passing grade for conning quizzes, and eighty-five percent is required for the local knowledge exams.))~~ If a trainee fails a conning or familiarization quiz or local knowledge exam, it may be re-taken after seven days, but must be passed within the timing deadlines discussed above.~~

~~(e) The local knowledge required of a pilot trainee and the local knowledge familiarization quiz, conning quizzes, and examination(s) may include the following subjects as they pertain to the pilotage district for which the pilot trainee seeks a license:~~

- ~~((a)) (i) Area geography;~~
- ~~((b)) (ii) Waterway configurations including channel depths, widths and other characteristics;~~
- ~~((c)) (iii) Hydrology and hydraulics of large ships in shallow water and narrow channels;~~
- ~~((d)) (iv) Tides and currents;~~
- ~~((e)) (v) Winds and weather;~~
- ~~((f)) (vi) Local aids to navigation;~~
- ~~((g)) (vii) Bottom composition;~~
- ~~((h)) (viii) Local docks, berths and other marine facilities including length, least depths and other characteristics;~~
- ~~((i)) (ix) Mooring line procedures;~~
- ~~((j)) (x) Local traffic operations e.g., fishing, recreational, dredging, military and regattas;~~
- ~~((k)) (xi) Vessel traffic system;~~
- ~~((l)) (xii) Marine VHF usage and phraseology, including bridge-to-bridge communications regulations;~~
- ~~((m)) (xiii) Air draft and keel clearances;~~
- ~~((n)) (xiv) Submerged cable and pipeline areas;~~
- ~~((o)) (xv) Overhead cable areas and clearances;~~
- ~~((p)) (xvi) Bridge transit knowledge - Signals, channel width, regulations, and closed periods;~~
- ~~((q)) (xvii) Lock characteristics, rules and regulations;~~
- ~~((r)) (xviii) Commonly used anchorage areas;~~
- ~~((s)) (xix) Danger zone and restricted area regulations;~~
- ~~((t)) (xx) Regulated navigation areas;~~
- ~~((u)) (xxi) Naval operation area regulations;~~
- ~~((v)) (xxii) Local ship assist and escort tug characteristics;~~
- ~~((w)) (xxiii) Tanker escort rules - State and federal;~~
- ~~((x)) (xxiv) Use of anchors and knowledge of ground tackle;~~
- ~~((y)) (xxv) Applicable federal and state marine and environmental safety law requirements;~~
- ~~((z)) (xxvi) Marine security and safety zone concerns;~~
- ~~((aa)) (xxvii) Harbor safety plan and harbor regulations;~~
- ~~((bb)) (xxviii) Chapters 88.16 RCW and 363-116 WAC, and other relevant state and federal regulations in effect on the date the examination notice is published pursuant to WAC 363-116-076; ~~(and~~~~
- ~~((cc)) (xxix) Courses in degrees true and distances in nautical miles and tenths of miles between points of land, navigational buoys and fixed geographical reference points, and the distance off points~~

of land for such courses as determined by parallel indexing along pilotage routes;

(xxx) Pilot transfer arrangements;

(xxxi) Rest rules; and

(xxxii) Other pertinent information the board deems necessary.

(f) The TEC will define areas that are considered to be hard-to-get, which may differ for trainees depending on vessel traffic while in the training program. It is the pilot trainee's responsibility to make all available hard-to-get shipboard requirements, as defined and assigned by the TEC.

~~((9))~~ (10) Rest. It is the responsibility of the pilot trainee to obtain adequate rest. Pilot trainees shall observe the rest rules for pilots in place by federal or state law or regulation and rules established in the applicable pilotage district in which they will train, ~~((e))~~ in addition to any other rest requirements contained in a training program.

~~((10))~~ (11) Stipend.

(a) At the initial meeting with the TEC the pilot trainee shall indicate whether ~~((he/she wishes))~~ they wish to receive a stipend during their training program. ~~((In the Puget Sound pilotage district,))~~ As a condition of receiving such stipend, pilot trainees will agree to forego ~~((during their training program))~~ other full- or part-time employment ~~((which prevents them from devoting themselves on a full-time basis to the completion of their training program. With the consent of the TEC,))~~ during their training program.

(b) Pilot trainees may elect to change from a stipend to nonstipend status, and vice versa, during their training program ~~((provided that)).~~ Any such change request ~~((is))~~ must be provided to the board in writing ~~((from))~~ by the trainee. If ~~((the))~~ a pilot trainee ~~((intends))~~ requests to change to a nonstipend status as provided, such change shall be effective for a minimum nonstipend status of at least for an entire calendar month commencing at the beginning of a month. The requirement for designated hard-to-get requirements is waived during the time the pilot trainee is authorized to be in nonstipend status ~~((more than four)).~~

If the trainee does not complete any shipboard training program requirement as defined in subsection (17)(f) of this section within three consecutive months, ((his/her)) their particular training program may be constructed to provide recency and/or a change in seniority placement prior to resuming the training program.

(c) In the Puget Sound pilotage district, the stipend paid to pilot trainees shall be a maximum of ~~((six thousand dollars))~~ \$8,000 per month (or such other amount as may be set by the board from time to time), shall be contingent upon the ~~((board's))~~ utilities and transportation commission's setting of a ~~((training))~~ tariff surcharge in the tariffs levied pursuant to ~~((WAC 363-116-300))~~ chapter 81.116 RCW sufficient to cover the expense of the stipend, and shall be paid from a pilot training account as directed by the board. In the Grays Harbor pilotage district, the stipend paid to pilot trainees, if a pilot trainee chooses to take stipend, shall be determined by the board and shall be contingent upon the board's receipt of funds, from any party collecting the tariff or providing funds, sufficient to cover the expense of the stipend and shall be paid from a pilot training account as directed by the board.

(d) Determinations as to stipend entitlement will be made on a full calendar month basis and documentation ~~((of trips))~~ will be submitted to the board by the ~~((third))~~ first day of the following month.

~~((Proration of))~~ The stipend payable under this subsection shall be
~~((allowed at the rate of two hundred dollars per day (or such other amount as may be set by the board from time to time), under the following circumstances:~~

~~(i))~~ prorated on a daily basis for the first and last months of
a training program (unless the training program starts on the first or ends on the last day of a month.) ~~((; or~~

~~(ii)~~ For a pilot trainee who is deemed unfit for duty by a board-designated physician during a training month.

~~(b)~~ In the Puget Sound pilotage district a minimum of twelve trips are required each month for eligibility to receive the minimum stipend amount as set by the board, or eighteen trips to receive the maximum stipend amount as set by the board. A trainee may make more than eighteen trips in a calendar month, but no further stipend will be earned for doing so. In the Grays Harbor pilotage district the minimum number of trips each month for eligibility to receive the stipend is seventy percent or such number or percentage of trips that may be set by the board of the total number of vessel movements occurring in this district during that month. Only trips required by the training program can be used to satisfy these minimums. Trips will be documented at the end of each month.

~~(c)~~ The TEC will define areas that are considered to be hard-to-get, which many differ for trainees depending on their date of entry. It is the pilot trainee's responsibility to make all available hard-to-get trips, as defined and assigned by the TEC. The board may elect not to pay the stipend if the missing trips were available to the pilot trainee but not taken.

~~(d)~~ The TEC, with approval by the board may allocate, assign or specify training program trips among multiple pilot trainees. Generally, the pilot trainee who entered his/her training program earlier has the right of first refusal of training program trips provided that the TEC may, with approval by the board, allocate or assign training trips differently as follows:

~~(i)~~ When it is necessary to accommodate any pilot trainee's initial route;

~~(ii)~~ When it is necessary to spread hard-to-get trips among pilot trainees so that as many as possible complete required trips on time. If a pilot trainee is deprived of a hard-to-get trip by the TEC, that trip will not be considered "available" under (c) of this subsection. However, the pilot trainee will still be required to complete the minimum number of trips for the month in order to receive a stipend, and the minimum number of trips as required to complete his/her training program;

~~(e)~~ If a pilot trainee elects to engage in any full-or part-time employment, the terms and conditions of such employment must be submitted to the TEC for prior determination by the board of whether such employment complies with the intent of this section prohibiting employment that "prevents (pilot trainees) from devoting themselves on a full-time basis to the completion of the training program."

~~(f)~~ If a pilot trainee requests to change to a nonstipend status as provided in this section such change shall be effective for a minimum nonstipend period of thirty days beginning at the beginning of a month, provided that before any change takes effect, a request is made to the TEC in writing. The requirement for designated hard-to-get trips is waived during the time the pilot trainee is authorized to be in nonstipend status.

~~(g))~~ (e) Any approved pilot association or other organization collecting the pilotage tariff levied by ~~((WAC 363-116-185 or 363-116-300))~~ the utilities and transportation commission shall transfer the pilot training surcharge receipts to the board at least once a month or otherwise dispose of such funds as directed by the board. In the Grays Harbor pilotage district, if there is no separate training surcharge in the tariff or other arrangement, any organization collecting the pilotage tariff levied by ~~((WAC 363-116-185))~~ the utilities and transportation commission shall transfer sufficient funds to pay the stipend to the board at least once a month or otherwise dispose of such funds as directed by the board. The board may set different training stipends for different pilotage districts. Receipts from the training surcharge shall not belong to the pilot providing the service to the ship that generated the surcharge or to the pilot association or other organization collecting the surcharge receipts, but shall be disposed of as directed by the board. Pilot associations or other organizations collecting surcharge receipts shall provide an accounting of such funds to the board on a monthly basis or at such other intervals as may be requested by the board. Any audited financial statements filed by pilot associations or other organizations collecting pilotage tariffs shall include an accounting of the collection and disposition of these surcharges. The board shall direct the disposition of all funds in the account.

~~((11) Trainee evaluation committee. There is hereby created a trainee evaluation committee (TEC) to which members shall be appointed by the board. The TEC shall include at a minimum: Three active licensed Washington state pilots, who, to the extent possible, shall be from the pilotage district in which the pilot trainee seeks a license and at least one of whom shall be a member of the board; one representative of the marine industry (who may be a board member) who holds, or has held, the minimum U.S. Coast Guard license required by RCW 88.16.090; and one other member of the board who is not a pilot. The TEC may include such other persons as may be appointed by the board. The TEC shall be chaired by a pilot member of the board and shall meet as necessary to complete the tasks accorded it. In the event that the TEC cannot reach consensus with regard to any issue it shall report both majority and minority opinions to))~~ With the exception of observation, all trainees shall be under the supervision of a supervising pilot whenever performing a shipboard training requirement as part of a training program under this section. All supervising pilots shall hold a valid Washington state pilotage license and shall follow all applicable state and federal laws and regulations, as well as the directives of the board.

(12) Supervising pilots. The board shall designate as supervising pilots those pilots who are willing to undergo such specialized training as the board may require and provide. Supervising pilots shall receive such training from the board to better enable them to give guidance and training to pilot trainees and to properly evaluate the performance of pilot trainees. The board shall keep a list of supervising pilots available for public inspection at all times. All pilot members of the TEC shall also be supervising pilots.

(a) Volunteer status. Supervising pilots shall be considered as nonemployee volunteers and shall not be entitled to wages or remuneration for their activities in support of the training program, except that supervising pilots may, at the board's discretion, receive reimbursement for actual expenses incurred. Supervising pilots may choose whether to accept any pilot trainees on a given assignment. In no

event shall supervising pilots be deemed as, or hold themselves out as employees or representatives of the board or the state.

(b) Role of supervising pilots and pilot trainees. The responsibilities of supervising pilots and pilot trainees shall vary by section of the training program as follows:

(i) During observation, the pilot shall have control of the vessel at all times during any shipboard training requirement. The pilot trainee may observe and interact with the pilot.

(ii) During training, the supervising pilot shall allow the pilot trainee to perform some or all of the tasks required of a pilot under this chapter and chapter 88.16 RCW. The supervising pilot may interact with and coach the pilot trainee by providing guidance and advice. The supervising pilot may, at their discretion, demonstrate certain tasks for the pilot trainee.

(iii) During evaluation, the trainee shall perform all tasks without any guidance or interaction from the supervising pilot, except that a supervising pilot may intervene as provided in subsection (17)(c) of this section. The supervising pilot shall be responsible for evaluating the performance of the pilot trainee in order to determine if they can pilot a vessel safely and independently and perform other tasks required of a pilot.

(c) Responsibilities and expectations. Supervising pilots, as well as licensed pilots performing shipboard observation training requirements with pilot trainees, shall abide by this chapter, chapter 88.16 RCW, and all other applicable state or federal laws or regulations, as well as the directives of the board. Supervising or licensed pilots shall use those procedures and/or forms prescribed by the board for evaluating pilot trainees.

(13) (~~(Training program trip)~~) Shipboard reports. After each shipboard training program (~~(trip)~~) requirement, the licensed or supervising pilot shall complete a (~~(training program trip)~~) shipboard report form (~~(TPTR)~~) provided by the board. (~~(Training program trip)~~) Shipboard report forms prepared by licensed pilots who are supervising pilots (~~(shall)~~) may be used by the TEC and the board for assessing a pilot trainee's progress, providing guidance to the pilot trainee, and for making alterations to a training program. (~~(Licensed pilots who are not supervising pilots may only have trainees on board for observation trips. All trip report forms)~~) All training and evaluation shipboard reports shall be delivered or mailed by the licensed or supervising pilot to a location as determined by the board. They shall not be given to the pilot trainee. The licensed or supervising pilot may show the contents of the form to the pilot trainee, but the pilot trainee has no right to see the form until it is filed with the board. Observation shipboard reports may be sent directly to the board by the pilot trainee. The TEC shall review these (~~(training program trip report)~~) shipboard reports forms from time to time, and the chairperson of the TEC shall report the progress of all pilot trainees at each meeting of the board. If it deems it necessary, the TEC may recommend, and the board may make, changes from time to time in the training program requirements applicable to a pilot trainee, including the number of (~~(trips)~~) assignments in a training program.

(14) Termination of and removal from a training program. A pilot trainee's program may be immediately terminated and the trainee removed from a training program by the board if it finds any of the following:

(a) Failure to maintain the minimum federal license required by RCW 88.16.090 for the duration of the training program;

(b) Conviction of an offense involving drugs ~~((or))~~, involving the personal consumption of alcohol, or involving sexual abuse or sexual harassment;

(c) Failure to devote full time to training ~~((in the Puget Sound pilotage district))~~ while receiving a stipend;

(d) The pilot trainee is not physically fit to pilot, as determined by a board-designated physician;

(e) Failure to ~~((make satisfactory))~~ meet the required progress timelines as determined by the board toward ((timely)) completion of the program ((or timely meeting of interim performance requirements in a training program));

(f) Inadequate performance on examinations or other actions required by a training program;

(g) Failure to complete the ~~((initial route requirements))~~ familiarization program as specified in subsection ((+5)) (7) of this section within the time periods specified;

(h) Inadequate, unsafe, or inconsistent performance in a training program and/or on training program ~~((trips))~~ requirement(s) as determined by the supervising pilots, the TEC, and/or the board; ((or))

(i) Upon the fourth intervention during evaluation; or

(j) Violation of a training program requirement, state or federal law((7)) or regulation, or directive of the board.

(15) Completion of a training program shall include the requirements that the pilot trainee:

(a) Successfully complete all requirements set forth in the training program including any addendum(s) to the program;

(b) Possess a valid first class pilotage endorsement without tonnage or other restrictions on ~~((his/her))~~ their United States government license to pilot in all of the waters of the pilotage district in which the pilot candidate seeks a license; and

(c) Complete portable piloting unit (PPU) training as defined by the TEC.

(16) Unanticipated events.

(a) Whenever a local or state government or agency, or the federal government, declares a state of emergency, or if the board determines that there is immediate need to act for the preservation of public health, safety, or general welfare and that there is a threat to trainees, pilots, vessel crews, or members of the public, then notwithstanding the other provisions of this chapter, the board, at its discretion, may suspend or adjust the pilot training program.

(b) The TEC may further consider additional nonshipboard pilot training including, but not limited to, distance learning.

(c) The TEC, with approval by the board, may alter stipend requirements, maximum duration of the training program, or other parts of the training program where, in the board's sole discretion, such alterations are required in order to accommodate such circumstances that render a trainee unable to timely complete any requirement of the training program, and that could not have been reasonably foreseen at the beginning of the training program.

(17) Definitions. The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Chartlet" means a geographic examination subarea as defined by the U.S. Coast Guard for federal first class pilotage within a Washington state pilotage district. Successful completion of a chartlet shall be defined as the endorsement of an individual's master mariner credential for a route within an individual chartlet area. The completion of this requirement may include, but is not limited to,

chart sketches, route descriptions, light lists, or any other examination requirements of the U.S. Coast Guard. A qualifying chartlet for this section shall be one within the pilotage district for which a pilot trainee is currently training.

(b) "Examination process" or "pilot examination" means the written examination, simulator evaluation, and any other requirements as determined by the board to evaluate and rank potential applicants for entry into a training program, under RCW 88.16.090.

(c) "Intervention" means when a supervising pilot chooses to interject (including, but not limited to, providing verbal advice or suggestions, or taking control of the vessel from the pilot trainee) during a shipboard requirement in the evaluation section of the training program:

(i) In order to avoid, in the sole opinion of the pilot, an incident as defined in WAC 363-116-200 including, but not limited to, an actual or apparent collision, allision, or grounding; and/or

(ii) In order to avoid, in the sole opinion of the pilot, a navigational or marine safety occurrence which may result in actual or apparent personal injury or property damage or environmental damage as defined in WAC 363-116-200.

(iii) Exception. An intervention shall not be deemed to have occurred, notwithstanding a supervising pilot assuming control of the vessel for the reasons described in (c)(i) and (ii) of this subsection, where, in the discretion of the supervising pilot and the TEC, the pilot trainee was not at fault for the circumstances requiring the supervising pilot to assume control. A pilot trainee is not at fault where a newly licensed pilot of reasonable skill could not have foreseen or prevented the circumstances requiring the supervising pilot to assume control, such as in the event of an unforeseeable environmental hazard or a mechanical failure. The supervising pilot's action shall be verbalized to the pilot trainee and the bridge team, and noted in the comments section of the shipboard reports.

(d) "Newly licensed" means first year of licensure.

(e) "Requirement" means all items listed in the pilot trainee's training program requirements document and agreement.

(f) "Shipboard" means training program requirements that shall be completed on a vessel.