



PROPOSED RULE MAKING

CR-102 (December 2017)
(Implements RCW 34.05.320)
Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: January 21, 2020
TIME: 9:56 AM

WSR 20-03-149

Agency: Board of Pilotage Commissioners

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

- Preproposal Statement of Inquiry was filed as WSR 19-21-106 ; 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: |
|----------------|---------|------------------------------------------------------------------------------|----------|
| March 19, 2020 | 10:00am | 2901 3 rd Avenue, 4 th Floor Rainer Conference Room | |

Date of intended adoption: March 19, 2020 (Note: This is NOT the effective date)

Submit written comments to:

Name: Sheri Tonn, Chair
 Address: 2901 3rd Avenue, Suite 500, Seattle, WA 98121
 Email: BeverJ@wsdot.wa.gov
 Fax: (206) 515-3906
 Other:
 By (date) March 12, 2020

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) March 12, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Due to limited training opportunities in the Puget Sound Pilotage District, the Board will limit the license for first-year pilots in the Duwamish Waterway. The license restriction will prohibit first-year pilots from piloting vessels greater than 3,000 gross tons in the Duwamish Waterway. The restriction will be lifted through the license upgrade program developed by the Board's Trainee Evaluation Committee (TEC) for second year pilots.

Reasons supporting proposal: This WAC change is necessary due to the advanced level of piloting skill required to navigate the Duwamish Waterway and lack of opportunities to obtain the required number of observation, training, and evaluation trips, as required by the Board's pilot training program.

Statutory authority for adoption: Chapter 88.16 RCW

Statute being implemented: Chapter 88.16 RCW

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 the implementation of this license restriction based on a review of traffic patterns in the Duwamish Waterway.

Name of proponent: (person or organization) Board of Pilotage Commissioners Private
 Public
 Governmental

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|-----------------|---------------------------------|-----------------------------------------------------------|----------------|
| Drafting: | Jaimie C. Bever | 2901 3 rd Avenue, Suite 500, Seattle, WA 98121 | (206) 515-3887 |
| Implementation: | Jaimie C. Bever | 2901 3 rd Avenue, Suite 500, Seattle, WA 98121 | (206) 515-3887 |
| Enforcement: | Board of Pilotage Commissioners | 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 Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). 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 _____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If 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 analysis showing how costs were calculated. _____

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert 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: January 21, 2020

Name: Jaimie C. Bever

Title: Executive Director

Signature:



AMENDATORY SECTION (Amending WSR 19-06-007, filed 2/22/19, effective 3/25/19)

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 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) | <u>Prohibited in the Duwamish Waterway on vessels greater than 3,000 GT</u> |
| 2 | 32,000 GT (ITC) | 48,000 GT (ITC) | <u>No restrictions</u> |
| 3 | 40,000 GT (ITC) | 60,000 GT (ITC) | <u>No restrictions</u> |
| 4 | 50,000 GT (ITC) | 70,000 GT (ITC) | <u>No restrictions</u> |
| 5 | 65,000 GT (ITC) | 95,000 GT (ITC) | <u>No restrictions</u> |

(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 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. The supervising pilots shall complete and submit to the board an evaluation 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.

(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 days or more in any one of the five years, he/she shall notify the board and request a revised schedule of limitations.

(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 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 submitted to the board a statement attesting to the fact that he/she has completed all the required license upgrade trips and the vessel simulator courses.