



PROPOSED RULE MAKING

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

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 30, 2023

TIME: 9:32 AM

WSR 23-22-088

Agency: Board of Pilotage Commissioners

☐ Original Notice

☐ Supplemental Notice to WSR _____

☐ Continuance of WSR _____

☒ Preproposal Statement of Inquiry was filed as WSR 23-01-090 ; 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 363-116-360 Exempt Vessels

Hearing location(s):

Date:

Time:

Location: (be specific)

Comment:

January 18, 2024

10:00am

2901 3rd Avenue, Agate
Conference Room
Seattle, WA 98121
and via MS Teams

Please contact Jolene Hamel at
HamelJ@wsdot.wa.gov for a meeting link.

Date of intended adoption: January 18, 2024 (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) January 11, 2024

Assistance for persons with disabilities:

Contact [Jolene Hamel](mailto:HamelJ@wsdot.wa.gov)

Phone: 206-515-3904

Fax: 206-515-3906

TTY:

Email: HamelJ@wsdot.wa.gov

Other:

By (date) January 11, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this rulemaking is to update the pilotage exemption fee schedule to better align with administrative costs of exemption processing and to conduct minor housekeeping of the language for clarity.

Reasons supporting proposal: The processing of vessel exemptions has changed since the last fee increase. The Board requires more documentation before granting an exemption. The increase will provide additional financial support for that increased effort.

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 Vessel Exemption Committee (VEC) favoring implementation of the proposed language.

Type of proponent: ☐ Private ☐ Public ☒ Governmental

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

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: Commissioners	Board of Pilotage	2901 3 rd Avenue, Suite 500, Seattle, WA 98121	206-515-3887
Enforcement: Commissioners	Board of Pilotage	2901 3 rd Avenue, Suite 500, Seattle, WA 98121	206-515-3887

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 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:

☐ [RCW 34.05.310](#) (4)(b)

(Internal government operations)

☒ [RCW 34.05.310](#) (4)(e)

(Dictated by statute)

☐ [RCW 34.05.310](#) (4)(c)

(Incorporation by reference)

☐ [RCW 34.05.310](#) (4)(f)

(Set or adjust fees)

☐ [RCW 34.05.310](#) (4)(d)

(Correct or clarify language)

☐ [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: October 30, 2023

Name: Jaimie C. Bever

Title: Executive Director

Signature:



WAC 363-116-360 Exempt vessels. (1) Under the authority of RCW 88.16.070, application via petition 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 ~~((one thousand three hundred))~~ 1,300 gross tons (international), do not exceed ~~((two hundred))~~ 200 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 ~~((one thousand three hundred))~~ 1,300 gross tons (international), and do not exceed ~~((two hundred))~~ 200 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))~~ 48 hours prior to planned vessel operations where possible. Petitions filed with less than ~~((forty-eight))~~ 48 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 or upon receipt of invoice from the BPC, 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; the vessel master attends an orientation meeting with a pilot as determined by the board; the vessel master review all written orientation materials; 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))~~ 1,600 gross tons or as a master of inland steam or motor vessels of not more than ~~((five hundred))~~ 500 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	700	1000	600
Up to and including 200 feet LOA and 750-gt	1000	1400	800
Up to and including 200 feet LOA and 751 to 1300-gt	1500	1500	1500
B. Passenger Vessels			
Up to and including 100 feet LOA	1125	1500	1000
Up to and including 200 feet LOA	1500	1500	1200))

	<u>1 Year or Less</u>	<u>Annual Renewal</u>
<u>A. Yachts</u>		
<u>LOA 65 feet and under</u>	<u>\$100</u>	<u>\$100</u>
<u>LOA 66-125 feet</u>	<u>1100</u>	<u>900</u>
<u>LOA 126-200 feet</u>	<u>1500</u>	<u>1400</u>
<u>B. Passenger Vessels</u>		
<u>Up to and including 200 feet LOA</u>	<u>1500</u>	<u>1500</u>

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