

Title 363 WAC

PILOTAGE COMMISSIONERS, BOARD OF

Chapters

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Practice and procedure—Board of pilotage commissioners.

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Pilotage rules.

Chapter 363-11 WAC

PRACTICE AND PROCEDURE—BOARD OF PILOTAGE COMMISSIONERS

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WAC 363-11-001 General rule and information. The chairperson of the board of pilotage commissioners is the secretary of transportation of the state of Washington or the secretary's designee. Information regarding the Pilotage Act, complaints and other matters coming under the provisions of the Pilotage Act and the board's rules and regulations may be obtained by contacting the chairperson or the board's secretary in person or in writing at the Office of the Board of Pilotage Commissioners, Pier 52, Seattle, Washington 98104. All public documents in the custody of the board may be obtained upon request made to the chairperson of the Board of Pilotage Commissioners, Pier 52, Seattle, Washington 98104.

Any matter filed with the chairperson and/or the secretary will be brought to the attention of the board at its next regular meeting, the date of which is the second Thursday of each month. Persons desiring to do so may also attend the board meetings, which are held at Pier 52, Seattle, Washington.

The purpose and scope of activity of the board of pilotage commissioners are set out in chapter 88.16 RCW and are as follows:

Scope: (1) Puget Sound pilotage district.

(2) Grays Harbor pilotage district.

Purpose: The purpose of the board of pilotage commissioners is to prevent the loss of human lives, loss of property and vessels and to protect the marine environment by mainte-

nance of a competent and efficient pilotage service on the state's waters. To accomplish this end the board examines proficiency of potential pilots, licenses pilots, regulates pilots, enforces the use of pilots, sets pilotage rates, receives and investigates reports of accidents involving pilots, keeps records of various matters affecting pilotage and fulfills other responsibilities enumerated in chapter 88.16 RCW.

[Recodified as § 363-11-001. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035. 80-03-081 (Order 79-6, Resolution No. 79-6), § 296-11-001, filed 3/4/80. Statutory Authority: RCW 88.16.035 and 88.16.155. 78-09-057 (Order 78-2, Resolution No. 78-2), § 296-11-001, filed 8/23/78; Order 2-68, § 296-11-001, filed 11/1/68.]

WAC 363-11-003 Index to documents. The board of pilotage commissioners finds that the preparation and maintenance of an index to documents as required by RCW 42.17.260 would be unduly burdensome. Therefore, such an index will not be maintained. This undue burden is caused by the fact that the board of pilotage commissioners is a small agency of the state of Washington operating with a limited amount of financial resources. Because of the agency's size, its records are organized in an effective and straightforward manner which renders them accessible to the general public without resort to an index as envisioned in RCW 42.17.260. All indexes which are maintained for agency use will be available for public inspection.

[Recodified as § 363-11-003. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035 and 88.16.155. 78-09-057 (Order 78-2, Resolution No. 78-2), § 296-11-003, filed 8/23/78.]

WAC 363-11-010 Appearance and practice before agency—Who may appear. No person may appear in a representative capacity before the board of pilotage commissioners or its designated hearing officer other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law.

(3) Persons otherwise qualified as possessing the requisite skill to appear and expertly represent others who have applied to the board of pilotage commissioners and have been duly authorized by the board to appear in a representative capacity before the board.

(4) A bona fide officer, partner, or full time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership, or corporation.

[Recodified as § 363-11-010. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.010, effective 3/1/60, filed 3/23/60.]

WAC 363-11-020 Appearance and practice before agency—Appearance in certain proceedings may be limited to attorneys. In all hearings involving the taking of testimony and the formulation of a record subject to review by the courts, where the board of pilotage commissioners or its designated hearing officer determines that representative

activity in such hearing requires a high degree of legal training, experience, and skill, the board or its designated hearing officer may limit those who may appear in a representative capacity to attorneys at law.

[Recodified as § 363-11-020. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.020, effective 3/1/60, filed 3/23/60.]

WAC 363-11-030 Appearance and practice before agency—Solicitation of business unethical. It shall be unethical for persons acting in a representative capacity before the board of pilotage commissioners to solicit business by circulars, advertisements or by personal communication or interviews not warranted by personal relations, provided that such representatives may publish or circulate business cards. It is equally unethical to procure business indirectly by solicitors of any kind.

[Recodified as § 363-11-030. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.030, effective 3/1/60, filed 3/23/60.]

WAC 363-11-040 Appearance and practice before agency—Standards of ethical conduct. All persons appearing in proceedings before the board of pilotage commissioners in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board.

[Recodified as § 363-11-040. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.040, effective 3/1/60, filed 3/23/60.]

WAC 363-11-050 Appearance and practice before agency—Appearance by former employee of board or member of attorney general's staff. No former employee of the board of pilotage commissioners or member of the attorney general's staff may at any time after severing his employment with the board or the attorney general appear, except with the written permission of the board, and in compliance with chapter 42.22 RCW, in a representative capacity on behalf of other parties in a formal proceeding wherein he previously took an active part as a representative of the board.

[Recodified as § 363-11-050. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.050, effective 3/1/60, filed 3/23/60.]

WAC 363-11-060 Appearance and practice before agency—Former employee as expert witness. No former employee of the board of pilotage commissioners shall at any time after severing his employment with the board appear, except with the written permission of the board, and in compliance with chapter 42.22 RCW, as an expert witness on behalf of other parties in a formal proceeding wherein he previously took an active part in the investigation as a representative of the board.

[Recodified as § 363-11-060. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.060, effective 3/1/60, filed 3/23/60.]

WAC 363-11-070 Computation of time. In computing any period of time prescribed or allowed by the board of pilotage commissioners' rules, by order of the board or by any

applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

[Recodified as § 363-11-070. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.070, effective 3/1/60, filed 3/23/60.]

WAC 363-11-080 Notice and opportunity for hearing in contested cases. In any contested case, all parties shall be served with a notice at least 20 days before the date set for the hearing. The notice shall state the time, place and issues involved, as required by RCW 34.04.090(1).

[Recodified as § 363-11-080. 97-08-042, filed 3/28/97, effective 3/28/97; Order 2-68, § 296-11-080, filed 11/1/68; Rule .08.080, effective 3/1/60, filed 3/23/60.]

WAC 363-11-090 Service of process—By whom served. The board of pilotage commissioners shall cause to be served all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served by the party filing it.

[Recodified as § 363-11-090. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.090, effective 3/1/60, filed 3/23/60.]

WAC 363-11-100 Service of process—Upon whom served. All papers served by either the board of pilotage commissioners or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceeding shall notify all other counsel then of record and all parties not represented by counsel of such fact.

[Recodified as § 363-11-100. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.100, effective 3/1/60, filed 3/23/60.]

WAC 363-11-110 Service of process—Service upon parties. The final order, and any other paper required to be served by the agency upon a party, shall be served upon such party or upon the agent designated by him or by law to receive service of such papers, and a copy shall be furnished to counsel of record.

[Recodified as § 363-11-110. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.110, effective 3/1/60, filed 3/23/60.]

WAC 363-11-120 Service of process—Method of service. Service of papers shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail; or by telegraph.

[Recodified as § 363-11-120. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.120, effective 3/1/60, filed 3/23/60.]

WAC 363-11-130 Service of process—When service complete. Service upon parties shall be regarded as com-

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plete: By mail, upon deposit in the United States mail properly stamped and addressed; by telegraph, when deposited with a telegraph company properly addressed and with charges prepaid.

[Recodified as § 363-11-130. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.130, effective 3/1/60, filed 3/23/60.]

WAC 363-11-140 Service of process—Filing with agency. Papers required to be filed with the board of pilotage commissioners shall be deemed filed upon actual receipt by the board at the place specified in its rules accompanied by proof of service upon parties required to be served.

[Recodified as § 363-11-140. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.140, effective 3/1/60, filed 3/23/60.]

WAC 363-11-150 Subpoenas—Where provided by law—Form. Every subpoena shall state the name of the state of Washington board of pilotage commissioners and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place.

[Recodified as § 363-11-150. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.150, effective 3/1/60, filed 3/23/60.]

WAC 363-11-160 Subpoenas—Issuance to parties. Upon application of counsel or other representative authorized to practice before the agency for any party to a contested case, there shall be issued to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The board of pilotage commissioners may issue subpoenas to parties not so represented upon request or upon a showing of general relevance and reasonable scope of the testimony or evidence sought.

[Recodified as § 363-11-160. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.160, effective 3/1/60, filed 3/23/60.]

WAC 363-11-170 Subpoenas—Service. Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person and by tendering him on demand, if entitled to make such demand, the fees for one day's attendance and the mileage allowed by law.

[Recodified as § 363-11-170. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.170, effective 3/1/60, filed 3/23/60.]

WAC 363-11-180 Subpoenas—Fees. Witnesses summoned before the board of pilotage commissioners shall be paid by the party at whose instance they appear the same fees and mileage that are paid to witnesses in the superior courts of the state of Washington.

[Recodified as § 363-11-180. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.180, effective 3/1/60, filed 3/23/60.]

WAC 363-11-190 Subpoenas—Proof of service. The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the board of pilotage com-

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missioners or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the board, and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

[Recodified as § 363-11-190. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.190, effective 3/1/60, filed 3/23/60.]

WAC 363-11-200 Subpoenas—Quashing. Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance, by the person to whom the subpoena is directed (and upon notice to the party to whom the subpoena was issued) the board of pilotage commissioners or its authorized member or officer may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions.

[Recodified as § 363-116-200. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.200, effective 3/1/60, filed 3/23/60.]

WAC 363-11-210 Subpoenas—Enforcement. Upon application and for good cause shown, the board of pilotage commissioners will seek judicial enforcement of subpoenas issued to parties and which have not been quashed.

[Recodified as § 363-11-210. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.210, effective 3/1/60, filed 3/23/60.]

WAC 363-11-220 Subpoenas—Geographical scope. Such attendance of witnesses and such production of evidence may be required from any place in the state of Washington, at any designated place of hearing.

[Recodified as § 363-116-220. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.220, effective 3/1/60, filed 3/23/60.]

WAC 363-11-230 Depositions and interrogatories in contested cases—Right to take. Except as may be otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding, except that leave must be obtained if notice of the taking is served by a proponent within twenty days after the filing of a complaint. The attendance of witnesses may be compelled by the use of a subpoena. Depositions shall be taken only in accordance with this rule and the rule of subpoenas.

[Recodified as § 363-11-230. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.230, effective 3/1/60, filed 3/23/60.]

WAC 363-11-240 Depositions and interrogatories in contested cases—Scope. Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, which is relevant to the subject matter involved in the proceeding.

[Recodified as § 363-11-240. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.240, effective 3/1/60, filed 3/23/60.]

WAC 363-11-250 Depositions and interrogatories in contested cases—Officer before whom taken. Within the United States or within a territory or insular possession sub-

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ject to the dominion of the United States depositions shall be taken before an officer authorized to administer oaths by the laws of the state of Washington or of the place where the examination is held; within a foreign country, depositions shall be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or a person designated by the board of pilotage commissioners or agreed upon by the parties by stipulation in writing filed with the board. Except by stipulation, no deposition shall be taken before a person who is a party or the privy of a party, or a privy of any counsel of a party, or who is financially interested in the proceeding.

[Recodified as § 363-11-250. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.250, effective 3/1/60, filed 3/23/60.]

WAC 363-11-260 Depositions and interrogatories in contested cases—Authorization. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to the board of pilotage commissioners and all parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of a party upon whom the notice is served, the hearing officer may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

[Recodified as § 363-11-260. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.260, effective 3/1/60, filed 3/23/60.]

WAC 363-11-270 Depositions and interrogatories in contested cases—Protection of parties and deponents. After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown the board of pilotage commissioners or its designated hearing officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that after being sealed, the deposition shall be opened only by order of the board, or that business secrets or secret processes, developments, or research need not be disclosed, or that the parties shall simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the board, or the board may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the board or its designated

hearing officer may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the agency. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

[Recodified as § 363-11-270. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.270, effective 3/1/60, filed 3/23/60.]

WAC 363-11-280 Depositions and interrogatories in contested cases—Oral examination and cross-examination. Examination and cross-examination shall proceed as at an oral hearing. In lieu of participating in the oral examination, any party served with notice of taking a deposition may transmit written cross interrogatories to the officer who, without first disclosing them to any person, and after the direct testimony is complete, shall propound them seriatim to the deponent and record or cause the answers to be recorded verbatim.

[Recodified as § 363-11-280. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.280, effective 3/1/60, filed 3/23/60.]

WAC 363-11-290 Depositions and interrogatories in contested cases—Recordation. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under his direction and in his presence, record the testimony by typewriter directly or by transcription from stenographic notes, wire or record recorders, which record shall separately and consecutively number each interrogatory. Objections to the notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

[Recodified as § 363-11-290. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.290, effective 3/1/60, filed 3/23/60.]

WAC 363-11-300 Depositions and interrogatories in contested cases—Signing attestation and return. When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reasons, if any, given therefore; and the deposition may then be used as fully as though signed, unless on a motion to suppress the board of pilotage commissioners holds that the reasons given for the

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refusal to sign require rejection of the deposition in whole or in part.

The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of proceeding and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the board of pilotage commissioners, or its designated hearing officer, for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

[Recodified as § 363-11-300. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.300, effective 3/1/60, filed 3/23/60.]

WAC 363-11-310 Depositions and interrogatories in contested cases—Use and effect. Subject to rulings by the hearing officer upon objections a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the hearing officer upon his own motion or the motion of any party. Except by agreement of the parties or ruling of the hearing officer, a deposition will be received only in its entirety. A party does not make a party, or the privy of a party, or any hostile witness his witness by taking his deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by him or any other party.

[Recodified as § 363-11-310. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.310, effective 3/1/60, filed 3/23/60.]

WAC 363-11-320 Depositions and interrogatories in contested cases—Fees of officers and deponents. Deponents whose depositions are taken and the officers taking the same shall be entitled to the same fees as are paid for like services in the superior courts of the state of Washington which fees shall be paid by the party at whose instance the depositions are taken.

[Recodified as § 363-11-320. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.320, effective 3/1/60, filed 3/23/60.]

WAC 363-11-330 Depositions upon interrogatories—Submission of interrogatories. Where the deposition is taken upon written interrogatories, the party offering the testimony shall separately and consecutively number each interrogatory and file and serve them with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom they are to be taken. Within 10 days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five days thereafter, the latter may serve redirect interrogatories upon the party who served cross-interrogatories.

[Recodified as § 363-11-330. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.330, effective 3/1/60, filed 3/23/60.]

WAC 363-11-340 Depositions upon interrogatories—Interrogation. Where the interrogatories are for-

warded to an officer authorized to administer oaths as provided in WAC 296-11-250 the officer taking the same after duly swearing the deponent, shall read to him seriatim, one interrogatory at a time and cause the same and the answer thereto to be recorded before the succeeding interrogatory is asked. No one except the deponent, the officer and the court reporter or stenographer recording and transcribing it shall be present during the interrogation.

[Recodified as § 363-116-340. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.340, effective 3/1/60, filed 3/23/60.]

WAC 363-11-350 Depositions upon interrogatories—Attestation and return. The officer before whom interrogatories are verified or answered shall (1) certify under his official signature and seal that the deponent was duly sworn by him, that the interrogatories and answers are a true record of the deponent's testimony, that no one except deponent, the officer and the stenographer were present during the taking, and that neither he nor the stenographer, to his knowledge is a party, privy to a party, or interested in the event of the proceedings, and (2) promptly send by registered or certified mail the original copy of the deposition and exhibits with his attestation to the board of pilotage commissioners, or its designated hearing officer, one copy to the counsel who submitted the interrogatories and another copy to the deponent.

[Recodified as § 363-11-350. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.350, effective 3/1/60, filed 3/23/60.]

WAC 363-11-360 Depositions upon interrogatories—Provisions of deposition rule. In all other respects, depositions upon interrogatories shall be governed by the previous deposition rule.

[Recodified as § 363-11-360. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.360, effective 3/1/60, filed 3/23/60.]

WAC 363-11-370 Official notice—Matters of law. The board of pilotage commissioners or its hearing officer, upon request made before or during a hearing, will officially notice:

(1) **Federal law.** The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register;

(2) **State law.** The Constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

(3) **Governmental organization.** Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, the several states and foreign nations;

(4) **Agency organization.** The board of pilotage commissioners' organization, administration, officers, personnel, official publications, and practitioners before its bar.

[Recodified as § 363-11-370. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.370, effective 3/1/60, filed 3/23/60.]

[Title 363 WAC—p. 6]

WAC 363-11-380 Official notice—Material facts. In the absence of controverting evidence, the board of pilotage commissioners and its hearing officers, upon request made before or during a hearing, may officially notice:

(1) **Agency proceedings.** The pendency of, the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the board of pilotage commissioners;

(2) **Business customs.** General customs and practices followed in the transaction of business;

(3) **Notorious facts.** Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency;

(4) **Technical knowledge.** Matters within the technical knowledge of the board of pilotage commissioners as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction;

(5) **Request or suggestion.** Any party may request, or the hearing officer or the board of pilotage commissioners may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision;

(6) **Statement.** Where an initial or final decision of the board of pilotage commissioners rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the hearing officer of the board may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence;

(7) **Controversion.** Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert, any party may controvert such fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision;

(8) **Evaluation of evidence.** Nothing herein shall be construed to preclude the board of pilotage commissioners or its authorized agents from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

[Recodified as § 363-11-380. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.380, effective 3/1/60, filed 3/23/60.]

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WAC 363-11-390 Presumptions. Upon proof of the predicate facts specified in the following six subsections hereof without substantial dispute and by direct, clear, and convincing evidence, the board of pilotage commissioners, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances:

(1) **Continuity.** That a fact of a continuous nature, proved to exist at a particular time, continues to exist as of the date of the presumption, if the fact is one which usually exists for at least that period of time;

(2) **Identity.** That persons and objects of the same name and description are identical;

(3) **Delivery.** Except in a proceeding where the liability of the carrier for nondelivery is involved, that mail matter, communications, express or freight, properly addressed, marked, billed and delivered respectively to the post office, telegraph, cable or radio company, or authorized common carrier of property with all postage, tolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business;

(4) **Ordinary course.** That a fact exists or does not exist, upon proof of the existence or nonexistence of another fact which in the ordinary and usual course of affairs, usually and regularly co-exists with the fact presumed;

(5) **Acceptance of benefit.** That a person for whom an act is done or to whom a transfer is made has, does or will accept same where it is clearly in his own self-interest so to do;

(6) **Interference with remedy.** That evidence, with respect to a material fact which in bad faith is destroyed, eloi-gned, suppressed or withheld by a party in control thereof, would if produced, corroborate the evidence of the adversary party with respect to such fact.

[Recodified as § 363-11-390. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.390, effective 3/1/60, filed 3/23/60.]

WAC 363-11-400 Stipulations and admissions of record. The existence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:

(1) **Upon whom binding.** Such a stipulation or admission is binding upon the parties by whom it is made, their privies and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof, if made on the record at a pre-hearing conference, oral hearing, oral argument or by a writing filed and served upon all parties within five days after a copy of such stipulation or admission has been served upon them;

(2) **Withdrawal.** Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or in part by showing to the satisfaction of the hearing officer or the board of pilotage commissioners that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time

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proposed will not unjustly prejudice the rights of other parties to the proceeding.

[Recodified as § 363-11-400. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.400, effective 3/1/60, filed 3/23/60.]

WAC 363-11-410 Form and content of decisions in contested cases. Every decision and order, whether proposed, initial, or final, shall:

(1) Be correctly captioned as to name of agency and name of proceeding;

(2) Designate all parties and counsel to the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Be accompanied by appropriate numbered findings of fact and conclusions of law;

(5) Whenever practical, include the reason or reasons for the particular order or remedy afforded;

(6) Wherever practical, be referenced to specific provisions of the law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same.

[Recodified as § 363-11-410. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.410, effective 3/1/60, filed 3/23/60.]

WAC 363-11-420 Definition of issues before hearing.

In all proceedings the issues to be adjudicated shall be made initially as precise as possible, in order that hearing officers may proceed promptly to conduct the hearings on relevant and material matter only.

[Recodified as § 363-11-420. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.420, effective 3/1/60, filed 3/23/60.]

WAC 363-11-430 Prehearing conference rule—

Authorized. In any proceeding the board of pilotage commissioners or its designated hearing officer upon its or his own motion, or upon the motion of one of the parties or their qualified representatives, may in its or his discretion direct the parties or their qualified representatives to appear at a specified time and place for a conference to consider

(1) The simplification of the issues;

(2) The necessity of amendments to the pleadings;

(3) The possibility of obtaining stipulations, admissions of facts and of documents;

(4) The limitation of the number of expert witnesses;

(5) Such other matters as may aid in the disposition of the proceeding.

[Recodified as § 363-11-430. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.430, effective 3/1/60, filed 3/23/60.]

WAC 363-11-440 Prehearing conference rule—

Record of conference action. The board of pilotage commissioners or its designated hearing officer shall make an order or statement which recites the action taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order or statement shall control the subse-

quent course of the proceeding unless modified for good cause by subsequent order.

[Recodified as § 363-11-440. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.440, effective 3/1/60, filed 3/23/60.]

WAC 363-11-450 Submission of documentary evidence in advance. Where practicable the board of pilotage commissioners or its designated hearing officer may require:

(1) That all documentary evidence which is to be offered during the taking of evidence be submitted to the hearing examiner and to the other parties to the proceeding sufficiently in advance of such taking of evidence to permit study and preparation of cross-examination and rebuttal evidence;

(2) That documentary evidence not submitted in advance, as may be required by subsection (1), be not received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner;

(3) That the authenticity of all documents submitted in advance in a proceeding in which such submission is required, be deemed admitted unless written objection thereto is filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

[Recodified as § 363-11-450. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.450, effective 3/1/60, filed 3/23/60.]

WAC 363-11-460 Excerpts from documentary evidence. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the hearing examiner and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding.

[Recodified as § 363-11-460. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.460, effective 3/1/60, filed 3/23/60.]

WAC 363-11-470 Expert or opinion testimony and testimony based on economic or statistical data—Number and qualifications of witnesses. That the hearing examiner or other appropriate officer in all classes of cases where practicable make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party; and, if the interested parties cannot agree, require them to submit to him and to the other parties written statements containing the names, addresses and qualifications of their respective opinion or expert witnesses, by a date determined by him and fixed sufficiently in advance of the hearing to permit the other interested parties to investigate such qualifications.

[Recodified as § 363-11-470. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.470, effective 3/1/60, filed 3/23/60.]

[Title 363 WAC—p. 8]

WAC 363-11-480 Expert or opinion testimony and testimony based on economic or statistical data—Written sworn statements. That the hearing examiner or other appropriate officer, in all classes of cases in which it is practicable and permissible, require, and when not so permissible, make every effort to bring about by voluntary submission, that all direct opinion or expert testimony and all direct testimony based on economic or statistical data be reduced to written sworn statements, and, together with the exhibits upon which based, be submitted to him and to the other parties to the proceeding by a date determined by the hearing officer and fixed a reasonable time in advance of the hearing; and that such sworn statements be acceptable as evidence upon formal offer at the hearing, subject to objection on any ground except that such sworn statements shall not be subject to challenge because the testimony is not presented orally, and provided that witnesses making such statements shall not be subject to cross-examination unless a request is made sufficiently in advance of the hearing to insure the presence of the witnesses.

[Recodified as § 363-11-480. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.480, effective 3/1/60, filed 3/23/60.]

WAC 363-11-490 Expert or opinion testimony and testimony based on economic or statistical data—Supporting data. That the hearing examiner or other appropriate officer, in his discretion but consistent with the rights of the parties, cause the parties to make available for inspection in advance of the hearing, and for purposes of cross-examination at the hearing, the data underlying statements and exhibits submitted in accordance with WAC 296-11-480, but, wherever practicable that he restrict to a minimum the placing of such data in the record.

[Recodified as § 363-11-490. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.490, effective 3/1/60, filed 3/23/60.]

WAC 363-11-500 Expert or opinion testimony and testimony based on economic or statistical data—Effect of noncompliance with WAC 363-11-470 or 363-11-480. Whenever the manner of introduction of opinion or expert testimony or testimony based on economic or statistical data is governed by requirements fixed under the provisions of WAC 296-11-470 or 296-11-480, such testimony not submitted in accordance with the relevant requirements shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to conform to such requirements.

[Recodified as § 363-11-500. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.500, effective 3/1/60, filed 3/23/60.]

WAC 363-11-510 Continuances. Any party who desires a continuance shall, immediately upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance come to his knowledge, notify the board of pilotage commissioners or its designated hearing officer of said desire, stating in detail the reasons why such continuance is necessary. The board or its designated hearing officer, in passing upon a request for continuance, shall consider whether such request was promptly and timely made. For

good cause shown, the board or its designated hearing officer may grant such a continuance and may at any time order a continuance upon its or his own motion. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the examiner or other officer conducting the hearing may in his discretion continue the hearing and fix the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of such continued hearing.

[Recodified as § 363-11-510. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.510, effective 3/1/60, filed 3/23/60.]

WAC 363-11-520 Rules of evidence—Admissibility criteria. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the officer conducting the hearing, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. In passing upon the admissibility of evidence, the officer conducting the hearing shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the state of Washington.

[Recodified as § 363-11-520. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.520, effective 3/1/60, filed 3/23/60.]

WAC 363-11-530 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The officer conducting the hearing may, in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise grounds of such objection at the time such evidence is offered.

[Recodified as § 363-11-530. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.530, effective 3/1/60, filed 3/23/60.]

WAC 363-11-540 Petitions for rule making, amendment or repeal—Who may petition. Any interested person may petition the board of pilotage commissioners requesting the promulgation, amendment, or repeal of any rule.

[Recodified as § 363-11-540. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.540, effective 3/1/60, filed 3/23/60.]

WAC 363-11-550 Petitions for rule making, amendment or repeal—Requisites. Where the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as a suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule.

[Recodified as § 363-11-550. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.550, effective 3/1/60, filed 3/23/60.]

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WAC 363-11-560 Petitions for rule making, amendment or repeal—Agency must consider. All petitions shall be considered by the board of pilotage commissioners and the board may, in its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any rule.

[Recodified as § 363-11-560. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.560, effective 3/1/60, filed 3/23/60.]

WAC 363-11-570 Petitions for rule making, amendment or repeal—Notice of disposition. The board of pilotage commissioners shall notify the petitioning party within a reasonable time of the disposition, if any, of the petition.

[Recodified as § 363-11-570. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.570, effective 3/1/60, filed 3/23/60.]

WAC 363-11-580 Declaratory rulings. As prescribed by RCW 34.04.080, any interested person may petition the board of pilotage commissioners for a declaratory ruling. The board shall consider the petition and within a reasonable time the board shall:

- (1) Issue a nonbinding declaratory ruling; or
- (2) Notify the person that no declaratory ruling is to be issued or
- (3) Set a reasonable time and place for a hearing or the submission of written evidence upon the matter, and give reasonable notification to the person of the time and place for such hearing or submission and of the issues involved.
- (4) If a hearing is held or evidence is submitted as provided in subsection (3), the board shall within a reasonable time:
 - (a) Issue a binding declaratory rule; or
 - (b) Issue a nonbinding declaratory ruling; or
 - (c) Notify the person that no declaratory ruling is to be issued.

[Recodified as § 363-11-580. 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.580, effective 3/1/60, filed 3/23/60.]

WAC 363-11-590 Forms. (1) Any interested person petitioning the board of pilotage commissioners for a declaratory ruling pursuant to RCW 34.04.080, shall generally adhere to the following form for such purpose.

(a) At the top of the page shall appear the wording "Before the board of pilotage commissioners, state of Washington," on the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory ruling." Opposite the foregoing caption shall appear the word "petition."

(b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner

prescribed for verification of complaints in the superior courts of this state.

(c) The original and two legible copies shall be filed with the agency. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size.

(2) Any interested person petitioning the board of pilotage commissioners requesting the promulgation, amendment or repeal of any rules shall generally adhere to the following form for such purpose.

(a) At the top of the page shall appear the wording "Before the board of pilotage commissioners, state of Washington." On the left side of the page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of rule (or rules)." Opposite the foregoing caption shall appear the word "petition."

(b) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for amendment, the new matter shall be underscored and the matter proposed to be deleted shall appear in double parentheses. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(c) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the agency. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size.

[Recodified as § 363-11-590, 97-08-042, filed 3/28/97, effective 3/28/97; Rule .08.590, effective 3/1/60, filed 3/23/60.]

Chapter 363-116 WAC

PILOTAGE RULES

WAC

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WAC 363-116-010 Time and place of meeting. The regular monthly meeting of the board of pilotage commissioners shall be on the second Thursday of each month at 9:00 a.m. at Pier 52, Seattle, Washington in the offices of the Washington state ferries unless another time and place has been designated by the chairperson at the last previous meeting. If the aforementioned day falls on a holiday, the meeting shall take place on the following Thursday at the same hour.

[Recodified as § 363-116-010, 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035 and 88.16.155, 78-09-057 (Order 78-2, Resolution No. 78-2), § 296-116-010, filed 8/23/78; Order 2-68, § 296-116-010, filed 11/1/68; § 1, effective 11/25/58.]

WAC 363-116-020 Special meeting. A special meeting of the board of pilotage commissioners may be called by the presiding officer, or by a majority of the members of the board, by delivering personally or by mail written notice to all other members of the board at least twenty-four hours before the time of such meeting as specified in the notice. The notice calling a special meeting shall state the purpose for which the meeting is called and the date, hour, and place of such meeting and all provisions of chapter 42.30 RCW shall apply.

[Recodified as § 363-116-020, 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035, 88-09-025 (Order 88-3, Resolution No. 88-3), § 296-116-020, filed 4/14/88. Statutory Authority: RCW 88.16.035 and 88.16.155, 78-09-057 (Order 78-2, Resolution No. 78-2), § 296-116-020, filed 8/23/78; Order 2-68, § 296-116-020, filed 11/1/68; § 2, effective 11/25/58.]

WAC 363-116-030 Emergency meeting. If, by reason of an emergency, there is a need for expedited action by the board to meet the emergency, the presiding officer may provide for a meeting site, and the notice requirements of chapter 42.30 RCW shall be suspended during such emergency. To the extent possible, notice of such emergency meeting will be delivered personally, by telephone, telegram, or mail to the members of the board and interested persons, and shall specify the time and place of the emergency meeting and the business to be transacted. Any action taken by the board at such emergency meeting may be reconsidered by the board at its next regular monthly meeting.

[Recodified as § 363-116-030, 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035, 88-09-026 (Order 88-4, Resolution No. 88-4), § 296-116-030, filed 4/14/88. Statutory Authority: RCW 88.16.035 and 88.16.155, 78-09-057 (Order 78-2, Resolution No. 78-2), § 296-116-030, filed 8/23/78; Order 2-68, § 296-116-030, filed 11/1/68; § 3, effective 11/25/58.]

WAC 363-116-050 Records. The board of pilotage commissioners shall keep accurate records of the minutes of the meetings, records of pilots' earnings, mileage piloted, accident reports, licenses, applications for licenses, examinations for licenses, and any and all other records deemed necessary by the board.

[Recodified as § 363-116-050. 97-08-042, filed 3/28/97, effective 3/28/97. Order 2-68, § 296-116-050, filed 11/1/68; § 5, effective 11/25/58.]

WAC 363-116-060 Personnel. The board shall employ the necessary personnel for the conduct of its business following the personnel practices and salary schedules of the Washington state ferries.

[Recodified as § 363-116-060. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035 and 88.16.155. 78-09-057 (Order 78-2, Resolution No. 78-2), § 296-116-060, filed 8/23/78; Order 2-68, § 296-116-060, filed 11/1/68; § 6, effective 11/25/58.]

WAC 363-116-070 Collection of fees. All pilots shall pay an annual license fee of two thousand five hundred dollars for every year in which they perform any pilotage services. If a licensed pilot does not perform pilotage services during a license year, his/her fee for that year shall be reduced to five hundred dollars upon application to the board. The board of pilotage commissioners shall receive all fees for licenses or for other purposes and make proper accounting of same and transmit all such funds to the pilotage account.

[Recodified as § 363-116-070. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.090 and 1995 c 175. 97-06-105, § 296-116-070, filed 3/5/97, effective 4/5/97. Statutory Authority: RCW 88.16.035. 88-14-063 (Order 88-13, Resolution No. 88-13), § 296-116-070, filed 7/1/88. Statutory Authority: RCW 88.16.090. 85-15-032 (Order 85-1, Resolution No. 85-1), § 296-116-070, filed 7/12/85; 84-11-056 (Order 84-4, Resolution No. 84-4), § 296-116-070, filed 5/18/84. Statutory Authority: RCW 88.16.035. 82-24-010 (Order 82-8, Resolution No. 82-8), § 296-116-070, filed 11/18/82; 79-11-063 (Order 79-5, Resolution No. 79-5), § 296-116-070, filed 10/18/79. Statutory Authority: RCW 88.16.035 and 88.16.155. 78-09-057 (Order 78-2, Resolution No. 78-2), § 296-116-070, filed 8/23/78; Order 2-68, § 296-116-070, filed 11/1/68; § 7, effective 11/25/58.]

WAC 363-116-075 Qualifications for pilot applicants. Under the authority of RCW 88.16.090 pilot applicants, in addition to meeting the requirements therein, must hold a first class United States endorsement without restrictions on the United States government license to pilot in the pilotage districts for which the pilot applicant desires to be licensed and meet one of the following additional requirements before taking the Washington state pilotage examination:

(1) One year of service in ocean or near coastal waters as a master of cargo, tank, or passenger vessels of 5000 gross tons or more while holding a license as a master of ocean steam or motor vessels of any gross tons or as a master of near coastal steam or motor vessels of any gross tons; or

(2) Two years of service in ocean or near coastal waters as a master of cargo, tank, or passenger vessels of 450 gross tons or more while holding a license as a master of ocean or near coastal steam or motor vessels of not more than 1600 gross tons; or

(3) Two years of service in inland waters as a master of cargo, tank, or passenger vessels of 500 gross tons or more

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while holding a license as a master of ocean, near coastal or inland steam or motor vessels of not more than 1600 gross tons; or

(4) Two years of service as a master of towing vessels of 100 gross tons or more while holding a license as a master of ocean, near coastal or inland steam or motor vessels of not more than 1600 gross tons; or

(5) Three years of service as a member of an organized professional pilots association or as a U.S. government employed pilot during which period the applicant was actively engaged in piloting. Hold as a minimum a license as a master of ocean, near coastal or inland steam or motor vessels of not more than 1600 gross tons; or

(6) Two years of service as a commanding officer of U.S. government vessels of not less than 1000 gross tons and hold a license as either a master of ocean or near coastal steam or motor vessels of any gross tons.

(7) As used in this section "cargo, tank, or passenger vessels" shall refer to vessels primarily engaged in the transportation of cargo or passengers between points.

[Recodified as § 363-116-075. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.090(2). 92-15-064, § 296-116-075, filed 7/14/92, effective 8/14/92. Statutory Authority: RCW 88.16.035(2). 90-17-094, § 296-116-075, filed 8/20/90, effective 9/20/90. Statutory Authority: RCW 88.16.090. 82-15-026 (Order 82-6, Resolution No. 82-6), § 296-116-075, filed 7/14/82.]

WAC 363-116-080 Licensing of pilots. (1) No person shall be licensed by the board unless he has applied for a pilotage license and successfully completed: (a) The pilotage examination; (b) familiarization trips required by the board; and (c) the pilotage training program, if applicable.

The majority of the entire board shall pass on the licensing of a pilot and licenses shall be signed by the chairperson. All applicants shall have and display a United States Government Masters License and a first class United States endorsement without restrictions on that license to pilot in whichever pilotage district the applicant desires a license. In addition all applicants shall have and display an endorsement to their masters license issued by the United States Coast Guard certifying competence as a radar observer.

(2) Prior to commencing familiarization trips, and the pilot training program, if applicable, an applicant must pass a written and oral examination given and graded by the board. Notice of the examination shall be published four months in advance by one paid advertisement in a major newspaper and written notice to one radio station, one television station, United Press International, and the Associated Press, as well as all pilots licensed by the board and all operators registered with the board. Applications will be accepted by the board immediately following the publication of the notice of the examination. The board may, in an emergency, call for an immediate examination on less than four months notice.

(a) The examination may be taken by all qualified applicants who:

(i) Have had a license application on file with the board for at least one month prior to the examination. (This requirement may be waived upon the showing of good cause;)

(ii) Have tendered a nonrefundable examination fee of three hundred dollars. The board may, at its discretion, refund

the examination fee for an applicant who is unable to sit for the examination.

(iii) Have had a physical examination by a physician designated by the board not more than thirty days prior to the examination to determine his physical fitness to be a pilot.

(b) The examination shall be in compliance with RCW 88.16.090 and shall consist of questions covering, but not limited to, the following subjects as they pertain to the pilotage district for which the examination is being given:

(i) Rules of the road as set forth in United States government publications;

(ii) Aids to navigation;

(iii) Courses, distances, and distance past abeam at change-of-course points, course points within channels, waterways, and navigable tributaries within the pilotage district for which the examination is being given;

(iv) Cable crossing areas;

(v) Channel and passage widths, depths and shoal areas;

(vi) Bridge signals - width, regulations, and closed periods;

(vii) Ship handling, docking and undocking problems, use of towboats and anchors, and seamanship;

(viii) Vessel traffic system regulations where applicable;

(ix) Ranges for determining compass error and measured miles;

(x) Channel ranges;

(xi) Engine and rudder order commands for United States and foreign merchant vessels and United States naval vessels;

(xii) Operation and use of marine radar, including rapid plotting techniques;

(xiii) Knowledge of tidal currents and ability to calculate currents and tides;

(xiv) Pier, wharf, or terminal locations and berth numbers; dock or pier headings, lengths, and minimum depths of water alongside;

(xv) Prohibited areas, restricted areas, and explosive anchorages;

(xvi) Use of navigational and bridge instruments;

(xvii) Anchorage locations;

(xviii) Duties of pilot;

(xix) Relationship between pilot and master;

(xx) Location and meaning of storm warning signals;

(xxi) Meaning of one and two flag signals;

(xxii) United States government public health quarantine regulations;

(xxiii) Harbor regulations;

(xxiv) Washington State Pilotage Act and rules of the board of pilotage commissioners;

(xxv) Chart knowledge, including chart symbols and abbreviations as set forth in the latest department of commerce NOS (National Ocean Survey) Chart No. 1.

(3) After passing the examination, applicants for the Puget Sound pilotage district must enter and successfully complete a training program. In this program applicants shall be required to pilot vessels under the supervision of Puget Sound pilots with more than five years experience. Upon written request by an applicant to the board, the five years' experience requirement for the supervisory pilot may be waived in certain instances. After every such assignment the

supervisory pilots shall fill out, on a form provided by the board, an evaluation of the applicant's performance. After completion of the training period, the board shall evaluate the applicant's performance in shiphandling skills on the basis of these forms and other relevant information and decide whether the applicant should be licensed. Dependent on the applicant's experience level and grade of license, applicants in this training program shall pilot under such supervision for a minimum period of four months and seventy-five assignments and a maximum period of six months and one hundred assignments.

(4) After passing the examination, applicants for the Grays Harbor pilotage district must enter and successfully complete a training program. In this program applicants shall be required to pilot vessels under the supervision of Grays Harbor pilots with more than five years' experience. Upon written request by an applicant, to the board, the five years' experience requirement for the supervisory pilot may be waived in certain instances. After every such assignment the supervisory pilots shall fill out, on a form provided by the board, an evaluation of the applicant's performance. After completion of the training period, the board shall evaluate the applicant's performance in shiphandling skills on the basis of these forms and other relevant information and decide whether the applicant should be licensed. Dependent on the applicant's experience level and grade of license, applicants in this training program shall pilot under such supervision for a minimum period of four months and twenty-five assignments and a maximum period of six months and one hundred assignments.

(5) No person shall be licensed by the board who has been convicted of an offense involving drugs or the personal consumption of alcohol in the twelve months prior to the date of application. This restriction shall not apply to license renewals.

[Recodified as § 363-116-080. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035(2). 92-14-070, § 296-116-080, filed 6/26/92, effective 7/27/92. Statutory Authority: RCW 88.16.090(2). 90-23-080, § 296-116-080, filed 11/20/90, effective 12/21/90. Statutory Authority: RCW 88.16.090. 89-18-045 (Order 89-7, Resolution No. 89-7), § 296-116-080, filed 8/31/89, effective 10/1/89; 88-10-037 (Order 88-9, Resolution No. 88-9), § 296-116-080, filed 5/3/88. Statutory Authority: RCW 88.16.035. 86-07-010 (Order 86-2, Resolution No. 86-2), § 296-116-080, filed 3/10/86. Statutory Authority: RCW 88.16.090. 82-15-028 (Order 82-7, Resolution No. 82-7), § 296-116-080, filed 7/14/82; 81-21-019 (Order 81-4, Resolution No. 81-4), § 296-116-080, filed 10/13/81. Statutory Authority: RCW 88.16.035. 80-03-081 (Order 79-6, Resolution No. 79-6), § 296-116-080, filed 3/4/80; 79-11-063 (Order 79-5, Resolution No. 79-5), § 296-116-080, filed 10/18/79; 79-05-023 (Order 79-2, Resolution No. 79-2), § 296-116-080, filed 4/17/79; Order 75-8, § 296-116-080, filed 3/10/75; Order 73-6, § 296-116-080, filed 5/11/73; Order 2-68, § 296-116-080, filed 11/1/68; § 8, effective 11/25/58.]

WAC 363-116-081 Rest period. (1) Pilots shall observe rest period requirements as set out in RCW 88.16.103 as now or hereafter amended. For purposes of applying this rule an assignment shall begin at the pilot's dispatched departure time if the pilot is on board, regardless of when the ship actually sails. The assignment ends when the pilot leaves the vessel. Travel time shall not be included in an assignment.

[Recodified as § 363-116-081. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035. 79-05-023 (Order 79-2, Resolution

No. 79-2), § 296-116-081, filed 4/17/79; Order 73-6, § 296-116-081, filed 5/11/73.]

WAC 363-116-082 Limitations on new pilots. (1) The following limitations shall apply to a newly licensed pilot during his/her first five years of active service. Except where otherwise noted, the pilotage assignment may include docking and undocking of vessels within the tonnage limitations. For purposes of this section, the term "tanker" shall in addition to tankers include any combination of tug and tank barge, and any tonnage restrictions thereon shall be calculated by including the gross tonnage of the tug and tank barge combined. All tonnages referred to are international tonnages.

(2) Progressive lifting of tonnage limitations requires a newly licensed pilot to satisfactorily pilot vessels under the direct supervision of a five-year pilot on the familiarization/training trips listed below. This veteran pilot shall complete and submit an evaluation form for each trip a new pilot performs. All of these trips must, if practical, be completed during the last ninety days of the license year.

(3) Puget Sound pilotage district - License limitations.

(a) First year:

(i) Not authorized to pilot loaded petroleum tankers.

(ii) Not authorized to pilot any vessels in excess of 25,000 gt or 660' in length.

(iii) Not authorized to pilot any passenger vessels in excess of 5,000 gt.

(b) Second year:

(i) Not authorized to pilot loaded petroleum tankers in excess of 25,000 gt.

(ii) Not authorized to pilot any vessels in excess of 30,000 gt.

(c) Third year:

(i) Not authorized to pilot loaded petroleum tankers in excess of 32,000 gt.

(ii) Not authorized to pilot any vessels in excess of 45,000 gt.

(d) Fourth year:

(i) Not authorized to pilot loaded petroleum tankers in excess of 38,000 gt.

(ii) Not authorized to pilot any vessels in excess of 60,000 gt.

(e) Fifth year:

(i) Not authorized to pilot loaded petroleum tankers in excess of 45,000 gt.

(ii) Not authorized to pilot any vessels in excess of 75,000 gt.

(4) Puget Sound pilotage district - Familiarization/training trips.

(a) Prior to the expiration of the FIRST license year, a new pilot must make three familiarization/training trips, two of which shall involve docking loaded petroleum tankers of not more than 30,000 gt; and the third trip shall involve a waterway transit of a vessel between 25,000 and 35,000 gt.

(b) Prior to the expiration of the SECOND license year, a new pilot must make three familiarization/training trips, two of which shall involve docking loaded petroleum tankers of between 25,000 and 32,000 gt; and the third trip shall

involve the docking of a vessel between 30,000 and 45,000 gt other than a loaded petroleum tanker.

(c) Prior to the expiration of the THIRD license year, a new pilot must make three familiarization/training trips, one of which shall involve docking a loaded petroleum tanker of between 32,000 and 38,000 gt; and two trips shall involve the docking of vessels between 45,000 and 60,000 gt other than loaded petroleum tankers.

(d) Prior to the expiration of the FOURTH license year, a new pilot must make three familiarization/training trips, one of which shall involve docking a loaded petroleum tanker of between 38,000 and 45,000 gt; and two trips shall involve the docking of vessels between 60,000 and 75,000 gt other than loaded petroleum tankers.

(e) Prior to the expiration of the FIFTH license year, a new pilot must make three familiarization/training trips which shall involve two trips docking and one trip anchoring loaded petroleum tankers of 55,000 gt or larger.

(f) All of these trips must be complete trips between one port and another port, or between the pilot station and a port.

(5) Grays Harbor pilotage district - License limitations.

(a) First year:

(i) Not authorized to pilot loaded tankers carrying chemical or petroleum products.

(ii) Not authorized to pilot any vessels in excess of 17,500 gt.

(iii) Not authorized to pilot loaded or partially loaded vessels through the Chehalis River bridge.

(b) Second year:

(i) Not authorized to pilot loaded tankers carrying chemical or petroleum products in excess of 10,000 gt.

(ii) Not authorized to pilot any vessels in excess of 20,000 gt.

(c) Third year: Not authorized to pilot any vessels in excess of 22,500 gt.

(d) Fourth year: Not authorized to pilot any vessels in excess of 25,000 gt.

(e) Fifth year: Not authorized to pilot any vessels in excess of 30,000 gt.

(6) Grays Harbor pilotage district - Familiarization/training trips.

(a) Prior to the expiration of the FIRST license year, a new pilot must make ten familiarization/training trips. Eight of these trips shall be through the Chehalis River bridge on loaded or partially loaded vessels. The other trips may be elsewhere on the waterway but shall be on vessels in excess of 17,500 gt.

(b) Prior to the expiration of the SECOND license year, a new pilot must make three familiarization/training trips on vessels in excess of 20,000 gt. Two of these trips shall involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway.

(c) Prior to the expiration of the THIRD license year, a new pilot must make three familiarization/training trips on vessels in excess of 25,000 gt to or from the sea buoy. Two of these trips shall involve docking these vessels.

(d) Prior to the expiration of the FOURTH license year, a new pilot must make three familiarization/training trips on vessels in excess of 27,500 gt or on the nearest larger size

vessels available. Two of these trips shall involve docking these vessels; and one of these trips shall involve turning the vessel in the waterway.

(e) Prior to the expiration of the FIFTH license year, a new pilot must make three familiarization/training trips on vessels in excess of 32,500 gt or on the nearest larger size vessels available.

(7) 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 shall notify the board and request a revised schedule of limitations.

(8) 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.

(9) All limitations on a new 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 familiarization/training requirements and the vessel simulator courses required.

[Statutory Authority: RCW 88.16.105. 99-08-003, § 363-116-082, filed 3/25/99, effective 4/25/99; 97-14-032, § 363-116-082, filed 6/25/97, effective 7/26/97. Recodified as § 363-116-082. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035 and 88.16.105. 93-09-016, § 296-116-082, filed 4/14/93, effective 5/15/93. Statutory Authority: RCW 88.16.105. 92-24-056, § 296-116-082, filed 11/30/92, effective 12/31/92; 92-08-051, § 296-116-082, filed 3/26/92, effective 4/26/92; 89-18-063 (Order 89-6, Resolution No. 89-6), § 296-116-082, filed 9/1/89, effective 10/2/89; 89-11-060 (Order 89-5, Resolution No. 89-5), § 296-116-082, filed 5/18/89. Statutory Authority: RCW 88.16.035. 80-03-081 (Order 79-6, Resolution No. 79-6), § 296-116-082, filed 3/4/80.]

WAC 363-116-083 Examination review and appeal procedures. (1) Any candidate who takes the state examination for licensure may request a review by the board of his or her examination results. This request must be in writing and must be received by the board within fifteen days of receipt of notification of the examination results. The board will not set aside its prior determination unless the candidate proves the challenged score was the result of fraud, coercion, arbitrariness or manifest unfairness by the board. The board will not consider any challenges to examination scores unless the total revised score could result in a higher ranking to enter the training program or a passing grade on the pilotage examination.

(2) The procedure for filing a review is as follows:

(a) Contact the board office for an appointment to appear personally to review incorrect answers on the examination.

(b) The candidate will be provided a form to complete in the board office in defense of the examinee's examination answers.

(c) The candidate must state the specific reason or reasons why the candidate feels the results of the examination should be changed.

(d) The candidate will be identified only by candidate number for the purpose of this review. Letters of reference or requests for special consideration will not be read or considered by the board.

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(e) Candidates may not bring in notes or texts for use while completing the informal review form.

(f) Candidates will not be allowed to take any notes or materials from the office upon leaving.

(g) The board will schedule a closed session meeting to review the examinations and forms completed by the candidate for the purpose of informal review.

(h) The candidates will be notified in writing of the results.

(3) Any candidate who is not satisfied with the result of the examination review may request a formal hearing pursuant to RCW 88.16.100. Such hearing must be requested within thirty days of receipt of the result of the board's review of the examination results.

[Recodified as § 363-116-083. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035. 88-10-038 (Order 88-10, Resolution No. 88-10), § 296-116-083, filed 5/3/88.]

WAC 363-116-085 Association bylaws. The association of pilots for the Puget Sound pilotage district, together with the association of pilots for the Grays Harbor pilotage district, shall maintain on file with the commission a current copy of their respective association bylaws and amendments. Hereafter they shall file with the commission each new amendment adopted by their respective groups in order that the board may be kept informed of association acts and activities.

[Recodified as § 363-116-085. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035. 82-13-087 (Order 82-10-049, Resolution No. 82-10-049), § 296-116-085, filed 6/23/82; Order 76-12, § 296-116-085, filed 4/22/76.]

WAC 363-116-110 Details and requirements of annual license fee payment, physical examination report and reinstatement application. (1) Annual license fees and reports on annual physical examinations pursuant to RCW 88.16.090 shall be submitted to the board on or before the anniversary date of the license. Each pilot shall ensure that the board, at all time, possesses a copy of his/her currently valid United States government license with radar endorsement issued by the United States Coast Guard.

(2) A pilot, who retires under his/her medical disability retirement plan, may apply for reinstatement of his/her pilot's license within five years from the date of their last pilotage assignment, provided they are capable of passing a physical examination without any restrictions as to full pilotage duties. The board may, at its discretion, waive all or part of the pilotage examination. The board shall require the pilot to complete a familiarization/training program prescribed by the board after a full review of all relevant factors. The board may also prescribe license limitations such as those contained in WAC 296-116-082.

[Recodified as § 363-116-110. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.090. 93-07-076, § 296-116-110, filed 3/18/93, effective 4/18/93. Statutory Authority: RCW 88.16.035. 92-08-050, § 296-116-110, filed 3/26/92, effective 4/26/92; 80-03-081 (Order 79-6, Resolution No. 79-6), § 296-116-110, filed 3/4/80; Order 2-68, § 296-116-110, filed 11/1/68; § 11, effective 11/25/58.]

WAC 363-116-115 Sanctions for drug and alcohol offenders. (1) The board shall review the pilot's license of

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any pilot who, within the preceding twelve months, has been convicted of any offense involving drugs or the personal consumption of alcohol while on duty, including an offense of operating a vessel or vehicle while under the influence of alcohol or drugs.

(2) Where a pilot is found to have been convicted of an offense involving drugs or the personal consumption of alcohol while on duty within the prior twelve months, but who has not been convicted of an offense involving drugs or the personal consumption of alcohol in the previous five years, and after a hearing held pursuant to RCW 88.16.100(5), the board shall: Order the pilot to actively participate in and satisfactorily complete a specific program of treatment. The board may impose such other sanctions as it deems appropriate. If the pilot does not satisfactorily complete the program of treatment, the board shall suspend, revoke, or withhold the pilot's license until the treatment is completed.

(3) Where a pilot is found to have been convicted of a second or subsequent offense involving drugs or the personal consumption of alcohol while on duty within the prior twelve months, the board, after a hearing is held pursuant to RCW 88.16.100(5), shall suspend the license of the pilot for up to one year.

(4) The board shall immediately notify the United States Coast Guard that it has revoked or suspended a license pursuant to this section and the board shall also notify the United States Coast Guard when a suspended or revoked license has been reinstated.

[Recodified as § 363-116-115. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.100(4). 90-23-081, § 296-116-115, filed 11/20/90, effective 12/21/90.]

WAC 363-116-120 Job description—Physical examination—Health requirements. (1) A Washington state licensed marine pilot, under the authority of the master, directs ships into and out of harbors, estuaries, straits, sounds, rivers, lakes, and bays using a specialized knowledge of local conditions including winds, weather, tides, and current: Orders officers and helmsman by giving course and speed changes and navigates ship to avoid conflicting marine traffic, congested fishing fleets, reefs, outlying shoals and other hazards to shipping; utilizes aids to navigation, such as lighthouses and buoys. Utilizes ship's bridge equipment, including radar, fathometer, speed log, gyro, magnetic compass, whistle or horn and other navigational equipment as needed. Required to use ship's radio equipment in contacting U.S. Coast Guard vessel traffic system and other ships while ship is in transit. Directs ship's officers, crewmen, and tug boat captains as necessary, when ships are transiting bridges, narrow waterways, anchoring, docking, and undocking. Must perform duties day or night in all weather conditions, including high winds, fog, mist, rainfall, falling snow and other adverse conditions, as encountered. In order to safely perform the foregoing duties, a Washington state licensed marine pilot shall:

(a) Be physically qualified to possess a U.S. Coast Guard master's license, as required by the state of Washington.

(b) Be capable of boarding a vessel from and leaving a vessel into a pilot boat via a Jacob's ladder and a gangway. A Jacob's ladder involves a vertical climb or descent of up to

nine meters and requires both physical energy and mental judgment.

(c) Be capable of moving to a more desirable vantage point in a timely manner, so as to avoid a close quarters situation when the physical characteristics of the ship or cargo obstruct the pilot's field of vision.

(d) Be able to meet the necessary eyesight and hearing requirements to carry out marine pilotage duties.

(e) Have mental reflexes capable of allowing decisions to be made without delay. This is imperative in all aspects of ship handling.

(f) Be capable of withstanding mental stresses which may occur with a vessel in lowered visibility, in a close quarters situation or when docking or undocking.

(g) Be capable of working efficiently and effectively at any time of the day or night, including irregular and unscheduled hours, after sufficient rest.

(h) Possess mental maturity and show mental responsibility.

(2) In order to determine the physical fitness of persons to serve as licensed pilots under the provisions of the pilotage act, all licensed pilots and applicants shall be required to pass a general physical examination annually within forty-five days prior to the date their annual state pilot license fee is due. The physical examination required of all pilots and initial applicants shall demonstrate that he/she is fully able to carry out the duties of a pilot. The examination shall assure that one's abilities as a pilot will not be impaired by eyesight, hearing or other bodily function. As part of this examination pilots and applicants shall have completed on a form provided by the board a detailed report of physical examination. Each pilot is required to report on the form any convictions of offenses involving drugs or the personal consumption of alcohol which occurred while on duty within the prior twelve months. Applicants for a license must report on the form any and all convictions of offenses involving drugs or the personal consumption of alcohol which occurred within the twelve months prior to the date of their application. This form shall be prepared by the examining physician and shall be submitted to the board along with a letter stating his/her findings/recommendations as to the ability of the pilot or applicant to safely perform the pilotage duties based on the job description for a Washington state licensed marine pilot and the standards set forth below. The examining physician should review these standards and review the job description in subsection (1) of this section before making findings/recommendations as to the medical fitness of the applicant. A medical/occupational history form will be completed and signed by the initial applicant for review of the physician prior to the initial examination. The board may in its discretion check with the appropriate authorities for any convictions of offenses involving drugs or the personal consumption of alcohol in the prior twelve months. The detailed report of physical examination is a confidential record and will not be available for public inspection. Such examination shall be obtained at the expense of the licensed pilot or applicant from a physician or physicians designated in advance by the board. The secretary of the board shall give each pilot or applicant reasonable written notice of the date when any such physical examination becomes due and shall specify the

name of the physicians then approved by the board to conduct such physical examination.

(3) Based upon the findings/recommendations of the examining physician and review by the board, the board will make the determination as to the applicant or pilot's fitness to perform the duties of a pilot. This determination will be made within ninety days after each annual physical examination.

(4) The purpose of the history and physical examination is to detect the presence of physical, mental, or organic defects of such character and extent as to affect an individual's ability to pilot a vessel safely. The examination will be made carefully and at least as complete as indicated by the form provided by the board. History of certain defects may be cause for rejection of the initial applicant or indicate the need for making certain laboratory tests or a further and more stringent examination. Defects may be recorded which do not, because of their character or degree, indicate that certification of physical fitness should be denied. However, these defects should be discussed with the applicant or pilot who should be advised to take the necessary steps to ensure correction, particularly of those which, if neglected, might lead to a condition likely to affect the ability to perform the duties of a pilot.

(5) The board has determined which physical conditions may be permanently disqualifying for initial applicants as well as which conditions may be permanently disqualifying for renewal of license. Certain conditions are not necessarily disqualifying, for renewal of licensure only, when, based on the knowledge and experience of the examining physician these conditions can be managed medically and without threat to the pilot's ability to perform the duties of a pilot. An individual may be disqualified when, in the opinion of the examining physician, there is reasonable probability that a condition can occur suddenly and without warning which would render the applicant incapable of promptly responding, both mentally and physically to emergency situations. When certain conditions exist the medical examiner may recommend either:

(a) A permanent disqualification; or

(b) A temporary disqualification until which time the condition is either corrected or medically managed.

(6) Initial applicants will be required to take a test indicating they are free of illegal substance abuse. Testing will be for the presence of cocaine, opiates, marijuana (THC), amphetamines and PCP (phencyclidine). Testing will be in accordance with the Department of Transportation (Coast Guard) guidelines outlined in the Federal Register 46 CFR 4, 5, and 16. Urine specimens are to be analyzed by a laboratory that meets DHHS regulations set forth by the National Institute of Drug Abuse (NIDA).

Chain of custody forms and instructions for collection and transport to a NIDA approved laboratory can be obtained from:

Laboratory of Pathology
Nordstrom Medical Tower
P.O. Box 14950
Seattle, WA 98114-0950
(206) 386-2872

(7) The conditions in these standards are listed according to the International Classification of Diseases (ICD). Some categories may not apply to the standards set forth and therefore may be absent in some listings. However, all categories should be taken into consideration by the examining physician.

(a) Infectious and parasitic diseases.

(b) Neoplasms.

(c) Endocrine, nutritional, metabolic, and immunity disorders.

(d) Diseases of the blood and blood forming organs.

(e) Mental disorders.

(f) Diseases of the nervous system and sense organs.

(g) Diseases of the respiratory system.

(h) Diseases of the digestive system.

(i) Diseases of the genitourinary system.

(j) Complications of pregnancy, childbirth, and the puerperium.

(k) Diseases of the skin and subcutaneous tissues.

(l) Diseases of the musculoskeletal system and connective tissues.

(m) Congenital anomalies.

(n) Certain conditions originating in the perinatal period.

(o) Symptoms, signs, and other ill defined conditions.

(p) Injury and poisonings.

(8) The guidelines for recommended visual standards are based on the necessity of a pilot to be able to safely perform the duties of a pilot, including functioning under all emergency conditions aboard the vessel. Consideration must be given to the pilot's previously demonstrated ability to perform his or her pilotage duties.

(a) The visual acuity of an applicant shall be at least 20/200 in each eye uncorrected and correctable to at least 20/40 in each eye as determined by Snellen test or its equivalent unless applicant qualifies for a waiver from the Officer in Charge, Marine Inspection, or the Commandant, U.S. Coast Guard.

(b) The initial applicant should have normal color vision per pseudo isochromatic plates, Ishihara or Keystone test. If the initial applicant fails this test, the Farnsworth or Williams Lantern tests or their equivalent may be used to determine the initial applicant's ability to distinguish primary colors.

(c) Loss of vision in one eye may not be disqualifying if one eye passes the test required for the better eye of the applicant with binocular vision and the applicant has had sufficient time to develop and demonstrate adequate judgment of distances.

(d) Applicants who wear corrective lenses and meet the qualifications in (a) of this subsection are medically fit to carry out pilotage duties only while wearing their corrective lenses and if they have with them, while on duty, a spare pair of correcting lenses that provide at least the same visual acuity.

(9) Baseline audiograms shall be performed on all entry level applicants. All licensed pilots will be tested annually, with the first audiogram considered baseline. Each ear will be tested separately using properly calibrated equipment which meets ANSI (American National Standards Institute) standards criteria for background noise in audiometric rooms. Testing should not be performed unless the applicant has

been free of work noise or intense noise for a period of at least fourteen hours prior to testing. Should the applicant have a current condition which can cause a temporary hearing loss, such as cold, the applicant should be rescheduled for testing in two weeks, or until such condition is resolved. Testing will be performed by a licensed audiologist, otolaryngologist, physician with sufficient training in conducting and interpreting audiograms, or a technician who is currently certified by the Council for Accreditation in Occupational Hearing Conservation (CAOHC).

(a) A baseline audiogram is required on all initial applicants. The first audiogram performed on a currently licensed pilot shall be considered the baseline audiogram.

(b) Applicants having hearing threshold levels that do not exceed 40 dB at frequencies of 500, 1000, 2000, 3000 Hz in either ear are considered to have normal hearing for communication purposes.

(c) Annual audiograms will be performed thereafter for the purposes of comparison to baseline. A significant threshold shift is defined as a change averaging more than 10 dB from baseline in the frequencies of 500, 1000, 2000, and 3000 Hz and requires further evaluation by a physician, otolaryngologist, or audiologist and preventive action taken on the part of the pilot.

(d) Mechanical acoustical devices (hearing aids) are not disqualifying but should not be worn in areas of high background noise levels in order to prevent further deterioration of his/her hearing.

(e) An applicant must minimally be able to hear an average conversational voice in a quiet room while standing with his/her back turned at a distance of eight feet.

(10) Below is a list of conditions which can be absolutely disqualifying for initial licensure as a maritime pilot. The list of causes for disqualification is not all inclusive or intended to be complete, but represents the types of conditions that would interfere with the safe performance of pilotage duties. This guide is not intended to replace the physician's professional judgment. Rather, it calls for the physician and the board to closely examine whether the applicant can safely perform the tasks outlined in the job description of a Washington state licensed marine pilot. The examining physician should also be aware that a second opinion concerning the diagnosis may be sought in cases of unfavorable determinations. A condition should only be considered disqualifying while such condition persists. Following corrective medical action the applicant should be encouraged to apply for reentry.

Conditions Which Can Be Absolutely Disqualifying For Initial Licensure

1. Infectious and parasitic diseases - Any communicable disease in its communicable or carrier stage.

2. Neoplasms - Malignant diseases of all kinds in any location.

3. Endocrine, nutritional, metabolic, and immunity disorders - Diabetes requiring insulin or hypoglycemic drugs; cirrhosis of the liver; alcohol abuse (unless abstinence for two years).

4. Diseases of the blood and blood forming organs - Hemophilia; acute or chronic significant anemias.

5. Mental disorders - Severe personality disorders; use of illegal drugs; dementia of Alzheimer's type, senility, psychosis.

6. Diseases of the nervous system and sense organs - Epilepsy or any convulsive disorder resulting in an altered state of consciousness, regardless of control; disturbance of balance; multiple sclerosis; Meniere's syndrome.

7. Diseases of the circulatory system - Multiple myocardial infarctions or cardiac class II or IV (NYHA); hypotension with syncopal episodes; varicose veins if associated with edema, skin ulceration or residual scars. Recurrent thromboembolic conditions.

8. Diseases of the respiratory system - Active pulmonary tuberculosis Class IV respiratory impairment; permanent tracheostomy.

9. Diseases of the genitourinary system - Chronic renal failure; permanent ureterostomy.

10. Complications of pregnancy, childbirth, and the puerperium - Pregnancy is not in itself disqualifying, if, in the opinion of the examining physician and the applicant's obstetrician determine that the pilotage duties can be safely carried out without risk to the mother or fetus and without risk to the safety of the vessel, crew, and property.

11. Diseases of the skin and subcutaneous tissues - There are no absolute exclusions listed for diseases of the skin unless, in the opinion of the examining physician, a condition exists that would interfere with the performance of pilotage duties.

12. Diseases of the musculoskeletal system and connective tissues - Lupus erythematosus, disseminated; amputation of any portion of a limb, resection of a joint, artificial joint or absence of the toes which would preclude the ability to run, walk, balance oneself, grasp and climb ladder rungs; chronic low back pain that is disabling to the degree of interfering with job requirements.

13. Congenital anomalies - Any existing condition that, in the opinion of the examining physician, would interfere with the safe performance of pilotage duties.

14. Symptoms, signs, and other ill defined conditions - Serious degree of stuttering or speech impediment sufficient to interfere with communication; alcoholism; drug addiction, other than tobacco or caffeine.

15. Injury or poisonings - May be temporarily disqualifying until condition resolved without disabling sequelae.

(11) Below is a list of conditions which can be absolutely disqualifying for relicensure as a maritime pilot. The list of causes for disqualification is not all inclusive or intended to be complete, but represent the types of conditions that would interfere with the safe performance of pilotage duties. This guide is not intended to replace the physician's professional judgment. Rather, it calls for the physician and the board to closely examine whether the applicant can continue to safely perform the tasks outlined in the job description of a Washington state licensed marine pilot. The examining physician should also be aware that a second opinion concerning diagnosis may be sought in cases of unfavorable determinations.

Conditions Which Can Be Absolutely Disqualifying For Relicensure

1. Neoplasms - Malignancies with metastases.
2. Endocrine, nutritional, metabolic, and immunity disorders - Cirrhosis of the liver with hepatic failure.
3. Diseases of the blood and blood forming organs - Hemophilia; acute leukemia.
4. Mental disorders - Severe personality disorders; senility; dementia of Alzheimer's type psychosis.
5. Diseases of the nervous system and sense organs - Disturbance of balance, permanent and untreatable Meniere's syndrome.
6. Diseases of the circulatory system - Multiple myocardial infarctions or cardiac Class III or IV (NYHA); hypotension with syncopal episodes; varicose veins if associated with edema, skin ulceration or residual scars. Recurrent thromboembolic conditions.
7. Diseases of the respiratory system - Active pulmonary tuberculosis; Class IV respiratory impairment.
8. Diseases of the genitourinary system - Chronic renal failure; permanent ureterostomy.
9. Complications of pregnancy, childbirth, and puerperium - Pregnancy is not in itself disqualifying, if, in the opinion of the examining physician and the applicant's obstetrician determine that the pilotage duties can be safely carried out without risk to the mother or fetus and without risk to the safety of the vessel, crew and property.
10. Diseases of the skin and subcutaneous tissues - There are no absolute exclusions for diseases of the skin unless, in the opinion of the examining physician, a condition exists that would interfere with the performance of pilotage duties.
11. Diseases of the musculoskeletal and connective system - Lupus erythematosus, disseminated; amputation of any portion of a limb, resection of a joint, artificial joint or absence of the toes which would preclude the ability to run, walk, balance oneself, grasp, and climb ladder rungs. Chronic low back pain that is disabling to the degree of interfering with job requirements.
12. Symptoms, signs, and other ill defined conditions - Serious degree of stuttering or speech impediment sufficient to interfere with communication; alcoholism; drug addiction, other than tobacco or caffeine. Current need to use methadone, antabuse, antidepressants, antianxiety drugs.
13. Injury or poisonings - May be temporarily disqualifying until condition resolved without disabling sequelae.

(12) Some conditions may develop during the course of employment that would be absolutely disqualifying for initial licensure. In evaluating the impact of such a condition on an existing pilot, the examining physician and the board should take into consideration the pilot's past experience, effectiveness of performance and predictability of his/her performance. The board may waive certain duties of a pilot as outlined in the job description contained in subsection (1) of this section. The list of conditions requiring in-depth evaluation is not all inclusive or intended to be complete, but represent the types of conditions that might interfere with the safe performance of pilotage duties. The examining physician should also be aware that a second opinion concerning the diagnosis may be sought in cases of unfavorable determinations.

Conditions Requiring In-depth Evaluation

1. Neoplasms - Malignancies of any kind.
2. Endocrine, nutritional, metabolic, and immunity disorders - Diabetes requiring hypoglycemic drugs; cirrhosis of the liver.
3. Diseases of the blood and blood forming organs - Chronic leukemia.
4. Mental disorders - Anxiety reactions; depression.
5. Diseases of the nervous system and sense organs - Disturbance of balance; multiple sclerosis; epilepsy or any convulsive disorder resulting in an altered state of consciousness.
6. Diseases of the circulatory system - Uncontrolled hypertension; varicose veins; pacemaker, demand.
7. Diseases of the respiratory system - Respiratory impairment; permanent tracheostomy.
8. Diseases of the digestive system - Permanent colostomy; permanent ileostomy.
9. Complications of pregnancy, childbirth, and the puerperium - Pregnancy.
10. Diseases of the skin and subcutaneous tissues - Any skin disorders that, in the opinion of the examining physician, may interfere with the performance of pilotage duties.
11. Diseases of the musculoskeletal system and connective tissues - Lupus erythematosus, disseminated; artificial joints; chronic low back pain.
12. Injury or poisonings - May be temporarily disqualifying until condition resolved without disabling sequelae.
13. A pilot may be temporarily relieved of pilotage duties until such time as a disqualifying condition is resolved or medically managed and with frequent evaluation by the examining physician or specialist. In this case, the board, after consulting with the physician, will determine the frequency of medical examinations. A condition should only be considered disqualifying while such a condition persists. Following corrective medical action, the individual may be removed from temporary disqualification. Provided that, if a temporary disqualifying condition continues for longer than two years from the time the pilot is initially relieved of pilotage duties, the board, in its discretion and after a full review of all relevant factors, may make a determination that the condition is permanently disqualifying.

[Recodified as § 363-116-120. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.090(6) and 88.16.100(4). 90-24-019, § 296-116-120, filed 11/28/90, effective 12/29/90. Statutory Authority: RCW 88.16.090(6). 90-13-065, § 296-116-120, filed 6/18/90, effective 7/19/90. Statutory Authority: RCW 88.16.090. 88-09-027 (Order 88-5, Resolution No. 88-5), § 296-116-120, filed 4/14/88; 85-15-033 (Order 85-2, Resolution No. 85-2), § 296-116-120, filed 7/12/85. Statutory Authority: RCW 88.16.035 and 88.16.090(6). 80-16-005 (Resolution No. 79-5), § 296-116-120, filed 10/23/80. Statutory Authority: RCW 88.16.035. 79-11-063 (Order 79-5, Resolution No. 79-5), § 296-116-120, filed 10/18/79; Order 73-6, § 296-116-120, filed 5/11/73; Order 2-68, § 296-116-120, filed 11/1/68; § 12, effective 11/25/58.]

WAC 363-116-140 Limitations.

[Recodified as § 363-116-140. 97-08-042, filed 3/28/97, effective 3/28/97; Order 2-68, § 296-116-140, filed 11/1/68.]

WAC 363-116-150 Registration of operators. All ship owners, operators and agents of owners and operators whose

vessels are subject to the pilotage act must register with the board and keep the board advised of any change of name or address.

[Recodified as § 363-116-150. 97-08-042, filed 3/28/97, effective 3/28/97; Order 2-68, § 296-116-150, filed 11/1/68; § 15, effective 11/25/58.]

WAC 363-116-170 Pilotage station. Port Angeles is hereby declared the location of the pilotage station for Puget Sound and adjacent inland waters and tariffs shall be assessed accordingly. Boundary pilotage shall apply on ships going to and coming from all British Columbia ports.

[Recodified as § 363-116-170. 97-08-042, filed 3/28/97, effective 3/28/97; Order 2-68, § 296-116-170, filed 11/1/68; § 17, effective 11/25/58.]

WAC 363-116-175 Tariff proposals. The board of pilotage commissioners has been charged with certain statutory duties by RCW 88.16.035. To assist the board in its responsibilities to provide for the maintenance of efficient and competent pilotage services and to annually fix the pilotage tariffs for pilotage services to be performed on the waters covered by chapter 88.16 RCW, it shall be the policy that licensed pilots, ship operators, and interested members of the public may jointly or separately present tariff proposals to the board for its consideration. To that end, individual Washington state licensed pilots, independent ship owners or operators, members of the public and/or agents, committees or organizations representing said persons or corporations are authorized to meet, discuss, and prepare joint or separate tariff proposals for board consideration. They may appear before the board to support or oppose any such proposal, or part thereof, but the final determination, adoption and active supervision of the rates, charges, expense items, and classifications to be contained in said pilotage tariffs and the rules, regulations, or procedures to implement said annual tariffs shall be made by the board.

[Recodified as § 363-116-175. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035. 87-19-100 (Order 87-1, Resolution No. 87-1), § 296-116-175, filed 9/17/87.]

WAC 363-116-185 Tariffs, and pilotage rates for the Grays Harbor pilotage district. Effective 0001 hours on 8-1-00 through 2400 hours 7-31-01.

CLASSIFICATION OF PILOTAGE SERVICE RATE

Piloting of vessels in the inland waters and tributaries of Grays Harbor:

Each vessel shall be charged according to its draft and tonnage. The draft charges shall be \$70.43 per meter (or \$21.43 per foot) and the tonnage charge shall be \$0.2246 per net registered ton. The minimum net registered tonnage charge is \$785.90. The charge for an extra vessel (in case of tow) is \$449.11.

Boarding fee:

Per each boarding/deboarding from a boat \$338.84

(2001 Ed.)

Harbor shifts:

For each shift from dock to dock, dock to anchorage, anchorage to dock, or anchorage to anchorage \$563.37
Delays per hour \$134.34
Cancellation charge (pilot only) \$224.54
Cancellation charge (pilot boat only) \$673.64

Travel allowance:

Transportation fee per assignment \$55.00
Pilot when traveling to an outlying port to join a vessel or returning through an outlying port from a vessel which has been piloted to sea shall be paid \$785.93 for each day or fraction thereof, and the travel expense incurred \$785.93

Bridge transit:

Charge for each bridge transited \$246.62
Additional surcharge for each bridge transited for vessels in excess of 27.5 meters in beam. \$682.80

Miscellaneous:

The balance of amounts due for pilotage rates not paid within 30 days of invoice will be assessed at 1 1/2% per month late charge.

[Statutory Authority: RCW 88.16.035. 00-13-097, § 363-116-185, filed 6/21/00, effective 8/1/00; 99-16-027, § 363-116-185, filed 7/27/99, effective 8/1/99; 98-19-036, § 363-116-185, filed 9/11/98, effective 9/15/98; 97-15-120, § 363-116-185, filed 7/23/97, effective 8/1/97. Recodified as § 363-116-185. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035. 96-14-062, § 296-116-185, filed 6/28/96, effective 8/1/96; 95-13-054, § 296-116-185, filed 6/16/95, effective 8/1/95; 94-05-006, § 296-116-185, filed 2/3/94, effective 3/6/94; 93-13-055, § 296-116-185, filed 6/16/93, effective 7/17/93; 93-03-080, § 296-116-185, filed 1/19/93, effective 2/19/93; 92-14-069, § 296-116-185, filed 6/26/92, effective 7/27/92; 91-08-008, § 296-116-185, filed 3/26/91, effective 4/26/91; 90-09-013, § 296-116-185, filed 4/6/90, effective 5/7/90; 89-08-042 (Order 89-3, Resolution No. 89-3), § 296-116-185, filed 3/31/89; 88-05-043 (Order 88-2, Resolution No. 88-2), § 296-116-185, filed 2/17/88, effective 3/21/88. Statutory Authority: RCW 88.16.035(4). 87-01-081 (Orders 86-9 and 86-10, Resolution Nos. 86-9 and 86-10), § 296-116-185, filed 12/19/86; 85-02-048 (Order 84-5, Resolution No. 84-5), § 296-116-185, filed 12/31/84; 83-15-012 (Order 83-3, Resolution No. 83-3), § 296-116-185, filed 7/12/83; 82-08-016 (Order 82-1, Resolution No. 82-1), § 296-116-185, filed 3/29/82; 81-07-009 (Order 81-1, Resolution No. 81-1), § 296-116-185, filed 3/6/81; 80-03-081 (Order 79-6, Resolution No. 79-6), § 296-116-185, filed 3/4/80; Order 2-68, § 296-116-185, filed 11/1/68.]

WAC 363-116-200 Duties of pilots. (1) In any case where a vessel in the charge of a state licensed pilot is involved in an incident or near-miss occurrence, the said pilot shall make a report to the board in the following required manner:

(a) Pilots report of incident. A state licensed pilot involved in an incident shall notify the board by telephoning or radioing the Marine Exchange of Puget Sound as soon as the situation is stabilized or within one hour of reaching shore. The pilot shall also complete the board required *Pilot's Report of Incident* form and file it with the board as soon as

possible after the incident, but in no event more than ten days afterwards. An incident includes an actual or apparent collision, allision or grounding, as well as a navigational occurrence which results in actual or apparent personal injury or property damage or environmental damage.

(b) Pilot's report of marine safety occurrence. A state licensed pilot involved in a near-miss occurrence shall complete the board required *Pilot's Report of Marine Safety Occurrence* form and file it with the board as soon as possible after the near-miss occurrence, but in no event more than ten days afterwards. A near-miss occurrence is where a pilot successfully takes action of a nonroutine nature to avoid a collision with another vessel, structure or aid to navigation, to avoid a grounding of the vessel or to avoid causing damages to the environment. Information relating to near-miss occurrences provided by a pilot on this form shall not be used for imposing any sanctions or penalties against said pilot. A state licensed pilot may also use this form on a voluntary basis for reporting out of the ordinary occurrences or concerns for navigational safety encountered or observed during the course of piloting a vessel.

(c) Completion of these forms does not replace or relieve a pilot from any other reporting requirements under federal, state or local law. If circumstances permit, a pilot will notify the vessel master of his/her intent to file a report of incident or marine safety occurrence with the board. The board shall forward a copy of any form received to the respective shipper or its board representative. The board of pilotage commissioners may, with or without a complaint being made against a pilot, investigate the matter reported upon.

(2) Pilots will report to the pilot office and to the aids to navigation officer of the U.S. Coast Guard, all changes in lights, range lights, buoys, and any dangers to navigation that my come to their knowledge.

(3) Any pilot who shall fail, neglect or refuse to make a report to the board of pilotage commissioners as required by the pilotage laws of the state, or by these rules and regulations, for a period of ten days after the date when the said report is required to be made, shall be subject to having his license suspended at the discretion of the board, and if he fails to report for a period of thirty days the board may, at its discretion, revoke his license.

(4) Pilots when so notified in writing shall report in person to the board, at any meeting specified in such notice.

(5) Any pilot summoned to testify before the pilotage board shall appear in accordance with such summons and shall make answer, under oath, to any question put to him which deals with any matter connected with the pilot service, or of the pilotage waters over which he is licensed to act. He shall be entitled to have his attorney or advisor present during any such appearance and testimony.

(6) Any pilot who shall absent himself from his pilotage duties or district for a period of sixty days without permission of the board of pilotage commissioners shall be liable to suspension or to the forfeiture of his license.

(7) A pilot on boarding a ship, if required by the master thereof, shall exhibit his license, or photostatic copy thereof.

(8) When a pilot licensed under this act is employed on an enrolled ship, the same rules and regulations shall apply as pertain to registered ships.

(9) Any state licensed pilot assigned to pilot a vessel entering, leaving, or shifting berths under its own power in any of the waters subject to the provisions of chapter 88.16 RCW shall before assuming pilotage obligations for such vessel obtain assurance from the master that the vessel meets all requirements for safe navigation and maneuvering. In addition, the pilot shall obtain assurance that the ship's officers will maintain navigation procedures by all navigational aids available to insure that the vessel's position is known at all times. If the pilot in his professional judgment considers the vessel to be incapable of safe navigation and maneuvering due to performance limitations, he shall refuse to assume the obligations of pilotage for such vessel until such limitations have been corrected and shall promptly notify the pilot's control station and the chairman of the board of pilotage commissioners of such action.

[Recodified as § 363-116-200, 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: Chapter 88.16 RCW, 97-06-106, § 296-116-200, filed 3/5/97, effective 4/5/97; Order 73-6, § 296-116-200, filed 5/11/73; Order 2-68, § 296-116-200, filed 11/1/68; § 20, effective 11/25/58.]

WAC 363-116-205 Vessel certification. (1) Upon boarding a vessel in the Puget Sound pilotage district or Grays Harbor pilotage district, a pilot shall request on the form provided in WAC 296-116-2051 that the master of the vessel certify that: (a) The engine room is properly staffed, able to maneuver, and all related equipment is in good order; (b) there are no defects listed against the ship by the United States Coast Guard which would prevent it from sailing; (c) the vessel is not leaking oil; (d) the vessel is experiencing no propulsion or maneuvering difficulties.

If the master is unable to certify that all of the above conditions are met, he shall be asked to certify that the United States Coast Guard captain of the port has been notified of said deficiencies and has authorized the vessel to proceed.

If the master is unable or unwilling to certify that either of the above are the case, the pilot shall not offer pilotage services to said vessel. Instead, the pilot shall disembark from the vessel as soon as practicable, immediately inform the captain of the port of the conditions and circumstances by the best possible means and forward a written report to the board of pilotage commissioners no later than 24 hours after disembarking from the vessel. Any Washington licensed pilot who offers pilotage services to a vessel on which the master has failed to make a certification required by this section shall be subject to the penalties provided in RCW 88.16.100 and 88.16.150.

(2) Upon boarding vessels in either the Puget Sound pilotage district or the Grays Harbor pilotage district, the pilot shall also request to see the vessel's SOLAS certificate, and the Federal Maritime Commission certificate of financial responsibility.

The pilot shall also inspect the following of the ship's equipment and conditions and indicate their suitability:

VHF radio, channels 13, 14; radar; gyrocompass; rudder angle indicator; whistle; wheelhouse staffed by an officer and helmsman, one of whom speaks English; local, up-to-date charts; and wheelhouse to engine room communications.

(3) The form appearing in WAC 296-116-2051 shall be used by pilots and masters in complying with the above requirements.

(4) Forms completed by masters and pilots which indicate that the vessel is in compliance and nondeficient shall be forwarded to the offices of the board of pilotage commissioners where they will be retained for a period of at least six months. Forms indicating a vessel not in compliance or deficient and forms upon which either the master or the pilot have failed to make the required certification shall be forwarded to the board of pilotage commissioners and retained for a period of at least twelve months.

[Recodified as § 363-116-205. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035. 82-13-087 (Order 82-10-049, Resolution No. 82-10-049), § 296-116-205, filed 6/23/82; 79-11-063 (Order 79-5, Resolution No. 79-5), § 296-116-205, filed 10/18/79. Statutory Authority: RCW 88.16.035 and 88.16.155. 78-09-057 (Order 78-2, Resolution No. 78-2), § 296-116-205, filed 8/23/78.]

WAC 363-116-2051 Vessel certification form.

Washington State Board of Pilotage Commissioners

Date:

Vessel Name:

Flag:

MASTER'S CERTIFICATION

I,, Master of this vessel, certify the following information:

Table with 3 columns: Question, Yes, No. Contains 5 certification questions regarding engine room, Coast Guard regulations, international agreements, oil leaks, and propulsion difficulties.

I have notified the United States Coast Guard Captain of the Port of any deficiencies noted above and he has authorized the vessel to proceed. Any such deficiencies will be corrected before the time the vessel is scheduled to leave the waters of Washington state.

Master's Signature

PILOT'S REPORT

I,, a pilot licensed by the state of Washington, certify that upon boarding the above-named vessel on this date I requested to see the following certificates:

Table with 4 columns: CERTIFICATE, ACCEPTABLE, NOT READILY AVAILABLE, UNACCEPTABLE. Includes SOLAS Certificate.

(2001 Ed.)

FMC Certificate of Financial Responsibility (checkboxes) and Pilot's Signature line.

DEAD SHIP MOVEMENT

I,, owner, master, or agent's representative of this vessel, certify the following information:

Table with 3 columns: Question, Yes, No. Contains 4 questions regarding oil leaks, lights, hull fittings, and seaworthiness.

Owner, Master, or Agent's Representative

[Recodified as § 363-116-2051. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.155(7). 92-08-052, § 296-116-2051, filed 3/26/92, effective 4/26/92. Statutory Authority: RCW 88.16.035 and 88.16.155. 83-16-032 (Order 83-4, Resolution No. 83-4), § 296-116-2051, filed 7/28/83. Statutory Authority: RCW 88.16.155. 79-11-097 (Order 79-6, Resolution No. 79-6), § 296-116-2051, filed 10/29/79. Statutory Authority: RCW 88.16.035 and 88.16.155. 78-09-057 (Order 78-2, Resolution No. 78-2), § 296-116-2051, filed 8/23/78.]

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours July 1, 2000, through 2400 hours June 30, 2001.

Table with 2 columns: CLASSIFICATION, RATE. Lists various charges like Boarding fee, Harbor shift, Dead ship, and Dead ship towing charge with corresponding rates.

Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.

Waterway and bridge charges: Ships up to 90' beam: A charge of \$189.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound

required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of \$90.00 per bridge.

Ships 90' beam and/or over:

A charge of \$255.00 shall be in addition to bridge fees for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of \$179.00 per bridge.

(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

Two or three pilots required:

In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

| | |
|---|------------------|
| Compass adjustment | \$254.00 |
| Radio direction finder calibration | \$254.00 |
| Launching vessels | \$382.00 |
| Trial trips, 6 hours or less (Minimum \$714.00) | \$119.00 per hr. |
| Trial trips, over 6 hours (two pilots) | \$238.00 per hr. |
| Shilshole Bay – Salmon Bay | \$149.00 |
| Salmon Bay – Lake Union | \$116.00 |
| Lake Union – Lake Washington (plus LOA zone from Webster Point) | \$149.00 |
| Cancellation charge | LOA Zone I |

Cancellation charge—Port Angeles (when a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for pilot or when a pilot order is cancelled less than twelve hours prior to the original ETA.) LOA Zone II

Docking delay after anchoring: \$119.00 per hr.

Applicable harbor shift rate to apply, plus \$119.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$119.00 for every hour or fraction thereof.

Sailing delay: \$119.00 per hour

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$119.00 for every hour or fraction thereof. The assessment of the standby fee shall not exceed a period of twelve hours in any twenty-four hour period.

Slowdown: \$119.00 per hour

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of \$119.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Tonnage charges:

0 to 20,000 gross tons:
Additional charge to LOA zone mileage of \$0.0060 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:
Additional charge to LOA zone mileage of \$0.0616 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:
In excess of 50,000 gross tons, the charge shall be \$0.0737 per gross ton.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Delayed arrival-Port Angeles: \$119.00 per hour

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of \$119.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Transportation to vessels on Puget Sound:

| | |
|-------------------------------|-----------|
| March Point or Anacortes | \$ 144.00 |
| Bangor | 84.00 |
| Bellingham | 158.00 |
| Bremerton | 44.00 |
| Cherry Point | 175.00 |
| Dupont | 85.00 |
| Edmonds | 27.00 |
| Everett | 52.00 |
| Ferndale | 173.00 |
| Manchester | 66.00 |
| Mukilteo | 52.00 |
| Olympia | 108.00 |
| Point Wells | 27.00 |
| Port Gamble | 77.00 |
| Port Townsend (Indian Island) | 109.00 |
| Seattle | 15.00 |
| Semiahmoo (Blaine) | 196.00 |
| Tacoma | 56.00 |
| Tacoma Smelter | 66.00 |

- Winslow 42.00
- (a) Intraharbor transportation for the Port Angeles port area -transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.
 - (b) Interport shifts: Transportation paid to and from both points.
 - (c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is cancelled on or before scheduled reporting time, transportation paid one way only.
 - (d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.
 - (e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$1.80 per mile. Delinquent payment charge: 1 1/2% per month after 45 days from first billing.
- Delinquent payment charge: 1 1/2% per month after 45 days from first billing.
- Nonuse of pilots: Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage fees on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

LOA rate schedule

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

| LOA | ZONE I Intra Harbor | ZONE II 0-30 Miles | ZONE III 31-50 Miles | ZONE IV 51-75 Miles | ZONE V 76-100 Miles | ZONE VI 101 Miles & Over |
|-----------|------------------------|-----------------------|-------------------------|------------------------|------------------------|-----------------------------|
| Up to 449 | 179 | 279 | 484 | 725 | 979 | 1272 |
| 450 - 459 | 185 | 285 | 487 | 736 | 995 | 1278 |
| 460 - 469 | 188 | 289 | 494 | 748 | 1009 | 1284 |
| 470 - 479 | 194 | 297 | 501 | 763 | 1012 | 1287 |
| 480 - 489 | 199 | 303 | 503 | 778 | 1018 | 1293 |
| 490 - 499 | 202 | 307 | 510 | 792 | 1030 | 1298 |
| 500 - 509 | 213 | 312 | 518 | 801 | 1037 | 1307 |
| 510 - 519 | 215 | 318 | 523 | 813 | 1049 | 1311 |
| 520 - 529 | 218 | 329 | 531 | 817 | 1058 | 1324 |
| 530 - 539 | 225 | 334 | 538 | 826 | 1075 | 1337 |
| 540 - 549 | 228 | 339 | 550 | 835 | 1093 | 1349 |
| 550 - 559 | 233 | 350 | 554 | 848 | 1100 | 1363 |
| 560 - 569 | 242 | 364 | 564 | 855 | 1111 | 1376 |
| 570 - 579 | 247 | 368 | 568 | 859 | 1123 | 1385 |
| 580 - 589 | 258 | 375 | 580 | 866 | 1130 | 1399 |
| 590 - 599 | 270 | 382 | 584 | 870 | 1146 | 1415 |
| 600 - 609 | 279 | 393 | 591 | 872 | 1160 | 1422 |
| 610 - 619 | 296 | 398 | 603 | 877 | 1172 | 1434 |
| 620 - 629 | 308 | 403 | 609 | 887 | 1185 | 1452 |
| 630 - 639 | 323 | 410 | 616 | 889 | 1195 | 1464 |

| LOA | ZONE I Intra Harbor | ZONE II 0-30 Miles | ZONE III 31-50 Miles | ZONE IV 51-75 Miles | ZONE V 76-100 Miles | ZONE VI 101 Miles & Over |
|-------------|------------------------|-----------------------|-------------------------|------------------------|------------------------|-----------------------------|
| 640 - 649 | 336 | 420 | 623 | 892 | 1206 | 1476 |
| 650 - 659 | 360 | 427 | 633 | 899 | 1221 | 1491 |
| 660 - 669 | 367 | 431 | 639 | 903 | 1233 | 1502 |
| 670 - 679 | 380 | 443 | 645 | 919 | 1248 | 1511 |
| 680 - 689 | 386 | 452 | 654 | 929 | 1259 | 1527 |
| 690 - 699 | 398 | 459 | 663 | 945 | 1272 | 1557 |
| 700 - 719 | 416 | 474 | 676 | 955 | 1297 | 1575 |
| 720 - 739 | 441 | 487 | 693 | 969 | 1324 | 1603 |
| 740 - 759 | 459 | 510 | 707 | 979 | 1349 | 1630 |
| 760 - 779 | 477 | 528 | 723 | 995 | 1376 | 1653 |
| 780 - 799 | 501 | 551 | 736 | 1009 | 1399 | 1682 |
| 800 - 819 | 521 | 568 | 751 | 1014 | 1422 | 1707 |
| 820 - 839 | 538 | 587 | 769 | 1030 | 1452 | 1727 |
| 840 - 859 | 561 | 612 | 782 | 1041 | 1475 | 1757 |
| 860 - 879 | 582 | 633 | 797 | 1069 | 1502 | 1782 |
| 880 - 899 | 603 | 652 | 813 | 1095 | 1527 | 1808 |
| 900 - 919 | 621 | 672 | 827 | 1121 | 1557 | 1834 |
| 920 - 939 | 640 | 693 | 848 | 1146 | 1574 | 1858 |
| 940 - 959 | 663 | 712 | 860 | 1172 | 1603 | 1882 |
| 960 - 979 | 679 | 733 | 874 | 1195 | 1630 | 1910 |
| 980 - 999 | 703 | 751 | 890 | 1221 | 1653 | 1933 |
| 1000 - 1019 | 744 | 799 | 931 | 1285 | 1731 | 2017 |
| 1020 - 1039 | 766 | 823 | 959 | 1324 | 1783 | 2078 |
| 1040 - 1059 | 789 | 848 | 988 | 1363 | 1836 | 2140 |
| 1060 - 1079 | 813 | 873 | 1017 | 1404 | 1892 | 2204 |
| 1080 - 1099 | 837 | 899 | 1048 | 1446 | 1948 | 2270 |
| 1100 - 1119 | 862 | 926 | 1079 | 1490 | 2007 | 2338 |
| 1120 - 1139 | 888 | 954 | 1112 | 1534 | 2067 | 2408 |
| 1140 - 1159 | 915 | 983 | 1145 | 1580 | 2129 | 2481 |
| 1160 - 1179 | 942 | 1012 | 1179 | 1628 | 2193 | 2555 |
| 1180 - 1199 | 971 | 1043 | 1215 | 1677 | 2259 | 2632 |
| 1200 - 1219 | 1000 | 1074 | 1251 | 1727 | 2326 | 2711 |
| 1220 - 1239 | 1030 | 1106 | 1289 | 1779 | 2396 | 2792 |
| 1240 - 1259 | 1061 | 1139 | 1327 | 1832 | 2468 | 2876 |
| 1260 - 1279 | 1093 | 1173 | 1367 | 1887 | 2542 | 2962 |
| 1280 - 1299 | 1125 | 1209 | 1408 | 1944 | 2618 | 3051 |
| 1300 - 1319 | 1159 | 1245 | 1450 | 2002 | 2697 | 3142 |
| 1320 - 1339 | 1194 | 1282 | 1494 | 2062 | 2778 | 3237 |
| 1340 - 1359 | 1230 | 1321 | 1539 | 2124 | 2861 | 3334 |
| 1360 - 1379 | 1267 | 1360 | 1585 | 2188 | 2947 | 3434 |
| 1380 - 1399 | 1305 | 1401 | 1633 | 2253 | 3035 | 3537 |
| 1400 - 1419 | 1344 | 1443 | 1681 | 2321 | 3126 | 3643 |
| 1420 - 1439 | 1384 | 1486 | 1732 | 2390 | 3220 | 3752 |
| 1440 - 1459 | 1426 | 1531 | 1784 | 2462 | 3317 | 3865 |
| 1460 - 1479 | 1468 | 1577 | 1837 | 2536 | 3416 | 3981 |
| 1480 - 1499 | 1512 | 1624 | 1893 | 2612 | 3519 | 4100 |
| 1500 & Over | 1558 | 1673 | 1949 | 2691 | 3624 | 4223 |

[Statutory Authority: RCW 88.16.035. 00-11-119, § 363-116-300, filed 5/22/00, effective 7/1/00; 99-12-027, § 363-116-300, filed 5/25/99, effective 7/1/99; 98-12-008, § 363-116-300, filed 5/22/98, effective 7/1/98; 97-12-017, § 363-116-300, filed 5/28/97, effective 7/1/97. Recodified as § 363-116-300. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035. 96-12-017, § 296-116-300, filed 5/29/96, effective 7/1/96; 95-12-018, § 296-116-300, filed 5/30/95, effective 7/1/95; 94-12-044, § 296-116-300, filed 5/27/94, effective 7/1/94; 93-12-133, § 296-116-300,

filed 6/2/93, effective 7/3/93; 92-14-007, § 296-116-300, filed 6/19/92, effective 7/20/92; 91-11-074, § 296-116-300, filed 5/20/91, effective 6/20/91; 90-20-116, § 296-116-300, filed 10/2/90, effective 11/2/90; 90-08-095, § 296-116-300, filed 4/4/90, effective 5/5/90; 89-08-041 (Order 89-2, Resolution No. 89-2), § 296-116-300, filed 3/31/89. Statutory Authority: RCW 88.16.050. 88-05-039 (Order 88-1, Resolution No. 88-1), § 296-116-300, filed 2/16/88, effective 3/18/88. Statutory Authority: RCW 88.16.035(4). 87-01-081 (Orders 86-9 and 86-10, Resolution Nos. 86-9 and 86-10), § 296-116-300, filed 12/19/86; 86-19-066 (Order 86-6, Resolution No. 86-6), § 296-116-300, filed 9/16/86; 86-02-035 (Order 86-1, Resolution No. 86-1), § 296-116-300, filed 12/30/85; 85-02-048 (Order 84-5, Resolution No. 84-5), § 296-116-300, filed 12/31/84; 84-04-006 (Order 84-1, Resolution No. 84-1), § 296-116-300, filed 1/20/84; 83-17-055 (Order 83-6, Resolution No. 83-6), § 296-116-300, filed 8/17/83; 82-13-065 (Order 82-4, Resolution No. 82-4), § 296-116-300, filed 6/16/82. Statutory Authority: RCW 88.16.035. 81-12-017 (Order 81-2, Resolution No. 81-2), § 296-116-300, filed 5/29/81; 80-06-084 (Order 80-1, Resolution No. 80-1), § 296-116-300, filed 5/28/80. Statutory Authority: RCW 88.16.035(4). 79-07-033 (Order 79-4, Resolution No. 79-4), § 296-116-300, filed 6/19/79. Statutory Authority: Chapter 88.16 RCW and 1977 ex. sess. c 337, §§ 1 and 4. 78-02-008 (Order 78-1), § 296-116-300, filed 1/6/78, effective 2/10/78; Order 77-18, § 296-116-300, filed 9/20/77, effective 11/1/77; Order 76-24, § 296-116-300, filed 7/22/76; Order 75-3, § 296-116-300, filed 2/10/75; Order 74-2, § 296-116-300, filed 1/8/74; Order 73-8, § 296-116-300, filed 6/20/73 and Emergency Order 73-10, filed 7/19/73, effective 8/14/73; Order 70-7, § 296-116-300, filed 7/16/70; 7/25/67; 2/18/64; 10/29/62; 12/28/60; 3/23/60.]

WAC 363-116-315 Retirement disbursements. Pilot associations having retirement plans, the expense of which is reimbursed through board established tariffs, shall make such payments to retired pilots as are required by the benefits and enforcement provisions of those plans.

[Recodified as § 363-116-315. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035. 91-06-033, § 296-116-315, filed 2/26/91, effective 3/29/91.]

WAC 363-116-35001 Exemption from provisions of WAC 197-10-800. The board of pilotage commissioners of the state of Washington has reviewed its authorized activities and found substantially all of them to be exempt from the provisions of chapter 197-10 WAC, with the exception of authority supplied by the 1975 legislature to the commission respecting additional tug shaft horsepower equivalencies which is a part of the "tug escort" 1975 amendments by chapter 125, Laws of 1975 1st ex. sess.

There is presently no intent to exercise this authority. Additionally, said act is currently under constitutional challenge. Thus, the commission indicates its intent that if, and when, any authority should be exercised pursuant to this provision, it would do so consistent with the guidelines contained within chapter 197-10 WAC insofar as practicable. (The referenced chapter being the regulations developed by the council on environmental policy.)

[Recodified as § 363-116-35001. 97-08-042, filed 3/28/97, effective 3/28/97; Order 76-14, § 296-116-350 (codified as WAC 296-116-35001), filed 5/6/76.]

WAC 363-116-360 Exempt vessels. (1) Under the authority of RCW 88.16.070, application may be made to the board of pilotage commissioners to seek exemption from the pilotage requirements for the operation of a limited class of small passenger vessels or yachts, which are not more than five hundred gross tons (international), do not exceed two hundred feet in length, and are operated exclusively in the waters of the Puget Sound pilotage district and lower British

Columbia. 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 sixty days prior to planned vessel operations in the Puget Sound pilotage district where possible. Petitions filed with less than sixty days notice may be considered by the chair at the chair's discretion.

(b) The petition requesting exemption shall be on a board-approved form which 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 dates of planned operations, and such other information as the board shall require on its petition form.

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

(2) All petitions for exemption filed with the board shall be reviewed by the chair, who shall make a recommendation to the board to 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. Any grant of an interim exemption may contain such conditions as 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 Puget Sound waters or that the master of the vessel at all times hold as a minimum, a United States government license as a master of ocean or near coastal steam or motor vessels of not more than sixteen hundred gross tons or as a master of inland steam or motor vessels of not more than five hundred gross tons, such license to include a current radar endorsement.

(3) The recommendation of the chair shall be considered at the next regular or specially scheduled meeting of the board. Interested parties shall receive notice and opportunity for hearing at that time, provided that the party notifies the board at least five days in advance of the meeting of its desire for hearing.

(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 100 feet LOA | \$ 300 | \$ 500 | \$ 200 |
| Up to 200 feet LOA | 500 | 750 | 300 |

B. Passenger Vessels

| | | | |
|--------------------|------|------|-----|
| Up to 100 feet LOA | 750 | 1000 | 400 |
| Up to 200 feet LOA | 1250 | 1500 | 500 |

[Statutory Authority: RCW 88.16.070 and 1995 c 174, 97-12-018, § 363-116-360, filed 5/28/97, effective 6/28/97. Recodified as § 363-116-360. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.070. 93-07-077, § 296-116-360, filed 3/18/93, effective 4/18/93; 90-20-039, § 296-116-360, filed 9/25/90, effective 10/26/90; 88-09-015 (Order 88-6, Resolution No. 88-6), § 296-116-360, filed 4/13/88.]

WAC 363-116-370 System of specified disciplinary or corrective actions. When a pilot has received multiple disciplinary actions pursuant to RCW 88.16.100 (1) and/or (2) within any two-year period, the board shall evaluate the pilot and prepare and personally serve upon him a notice advising of the board's intended action, the specific ground therefore, and the right to request a hearing pursuant to RCW 88.16.100(4) to challenge the board's action. Such intended action may include the temporary suspension of the pilot from duties until such pilot has satisfactorily completed subsection (1) or (2) of this section:

- (1) An approved course-of-study which may include navigation training and testing; or
- (2) Any remedial activity or treatment designated by the board to assure fitness and competence for full pilotage duties.

In ordering such disciplinary action, the board shall take into account both the causes of the previous disciplinary actions and the pilot's previous record.

Failure to enter into such corrective action within thirty days of the board's action may be cause for revocation of the pilot's license.

In the event of a temporary license suspension, license reinstatement and resumption of pilotage duties shall not be authorized until the board has reviewed completed activity and formally extended approval. Such approval shall not be unreasonably withheld by the board and shall be reviewed and acted upon within five days of the completion of the activity.

[Recodified as § 363-116-370. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.100. 88-14-062 (Order 88-14, Resolution No. 88-14), § 296-116-370, filed 7/1/88.]

WAC 363-116-400 Procedure for request by steamship company or agent that certain pilots not be assigned to certain vessels for specific safety reasons. When a steamship company or agent believes a particular pilot should not be assigned to pilot that company's vessels for specific safety reasons, a detailed written request, limited to specific safety concerns, may be submitted to the board. In order to be considered, the request must be submitted within ten days of the alleged act or omission causing their specific safety concern.

The board shall investigate the request and shall conduct a hearing at a regularly scheduled board meeting not more than sixty days following receipt of the request and notification of interested persons. The pilot shall be notified in writing and provided with documentation in accordance with WAC 296-11-450. The board shall notify the steamship com-

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pany or agent and pilot in writing of its subsequent decision and reasons therefore.

In the event that the request is approved, the board shall give the affected pilot a specific list of vessels for which that pilot shall not provide pilotage services as well as the length of time covering such restriction.

[Recodified as § 363-116-400. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035. 88-09-016 (Order 88-7, Resolution No. 88-7), § 296-116-400, filed 4/13/88.]

WAC 363-116-410 Definition of Grays Harbor pilotage district. The Grays Harbor pilotage district shall have an outer boundary line between Grays Harbor and Willapa Harbor and the high seas which shall be seaward of a line from Point Brown rear range light to Grays Harbor entrance lighted whistle buoy number three, (latitude N 46-55.00, longitude 124-14.42 W), thence to Grays Harbor entrance lighted whistle buoy number two (latitude N 46-52.43, longitude 124-12.35 W), thence to Grays Harbor light and from the Willapa Bay light to the Willapa Bay approach lighted whistle buoy "W" (latitude N 46-41.50, longitude 124-10.46 W), thence to the charted northernmost position of Leadbetter Point.

[Recodified as § 363-116-410. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.050. 88-09-017 (Order 88-8, Resolution No. 88-8), § 296-116-410, filed 4/13/88.]

WAC 363-116-420 Summary/temporary license suspension. Summary/temporary suspension of a pilot's license may be made by the chairperson or vice-chairperson of the board of pilotage commissioners when:

- (1) A pilot has been involved in any vessel accident where there has been major property damage, loss of life, or loss of a vessel; or
- (2) Where there is a reasonable cause to believe that a pilot has diminished capacity or is under the influence of drugs, alcohol, or other substances; and
- (3) Such an accident or physical or mental impairment would significantly diminish that pilot's ability to carry out pilotage duties and that the public health, safety, and welfare requires such emergency action. Notification of this suspension shall be made directly to the pilot and the appropriate pilot's association.

Within seventy-two hours an emergency board meeting will be held to determine whether to continue such suspension. In the event the suspension is continued pending proceedings for revocation or other action, an order shall be immediately prepared and notice shall be personally served upon the pilot advising of the board's action.

These further proceedings shall be promptly instituted in the office of administrative hearings.

All final decisions of the administrative law judge shall be subject to review by the superior court of the state of Washington for Thurston County or by the superior court of the county in which the pilot maintains his residence or principal place of business, to which court any case with all the papers and proceedings therein shall be immediately certified by the administrative law judge if requested to do so by any party to the proceedings at any time within thirty days after

the date of such final decision. No appeal may be taken after the expiration of thirty days after the date of final decision.

[Recodified as § 363-116-420. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.100. 88-10-040 (Order 88-12, Resolution No. 88-12), § 296-116-420, filed 5/3/88.]

WAC 363-116-500 Tug escort requirements for oil tankers. (1) RCW 88.16.190(2) requires the escort of a tug or tugs for all oil tankers 40,000 DWT or greater when not in ballast. For purposes of that provision only, deadweight tonnage shall be the maximum summer deadweight tonnage that was assigned to the vessel at the time of construction as reported in **Lloyd's Register of Ships**. Unless the vessel was structurally altered and remeasured to less than 40,000 DWT, this original deadweight tonnage shall be used for purposes of determining if the vessel requires the appropriate tug escort.

(2) It shall be a violation of this regulation to provide pilotage services to an oil tanker not in compliance with this rule when the pilot has actual knowledge of the noncompliance.

(3) Oil tankers found to be in violation of the provisions of this regulation shall be subject to the provisions of RCW 88.16.150.

(4) The deadweight tonnage provision of this rule is to be used solely for determining the required use of a tug escort.

[Recodified as § 363-116-500. 97-08-042, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.190(2). 94-07-079, § 296-116-500, filed 3/16/94, effective 4/16/94.]