

**Chapter 480-160 WAC
PILOTAGE RULES**

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WAC

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WAC 480-160-001 Purpose of chapter. (1) **Puget Sound pilotage district** - The legislature has declared that tariffs for pilotage services provided under chapter 88.16 RCW in the Puget Sound pilotage district shall be established by the commission. The purpose of these rules is to administer chapter 81.116 RCW in setting or amending pilotage tariff rates or charges for pilotage services.

(2) **Grays Harbor pilotage district** - The legislature has declared that in setting rates or charges for pilotage services provided by the Grays Harbor pilotage district under chapter 88.16 RCW, the commission will consider the recommendation of the port district. The purpose of these rules is to administer chapter 81.116 RCW in setting or amending pilotage tariff rates or charges for pilotage services.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-001, filed 5/3/19, effective 6/3/19.]

WAC 480-160-005 Application. Except for the vessels exempted under RCW 88.16.070, every vessel that operates in the waters of the Puget Sound pilotage district or Grays Harbor pilotage district must employ a pilotage service provider licensed under the provisions of RCW 88.16.090 and must pay the applicable pilotage rates and charges in accordance with the applicable tariff.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-005, filed 5/3/19, effective 6/3/19.]

WAC 480-160-010 Resolving disputes about the meaning of these rules. Any person subject to these rules may seek a commission interpretation of a rule by filing with the commission a petition for declaratory order pursuant to WAC 480-07-930 or a petition under WAC 480-07-370 requesting clarification.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-010, filed 5/3/19, effective 6/3/19.]

WAC 480-160-020 Definitions. "Commission" means the utilities and transportation commission.

"File with the commission" means filed with the commission's executive secretary pursuant to WAC 480-07-140.

"Grays Harbor pilotage district" shall have the same meaning as in RCW 88.16.050(2).

"Person with a substantial interest" means:

(a) A pilot or a group or association of pilots licensed under chapter 88.16 RCW;

(b) A vessel operator or other person using the services of a licensed pilot and paying pilotage fees and charges for such services or an organization representing vessel operators or persons; or

(c) Any other person or business entity that can show that a requested tariff change would be likely to have a substantial economic impact on its operations.

"Pilotage service provider" means a person licensed by the state to provide marine pilotage services in the Grays Harbor pilotage district or Puget Sound pilotage district.

"Pro forma adjustments" means a mechanism that gives effect for the test period to all known and measurable changes that are not offset by other factors.

"Puget Sound pilotage district" shall have the same meaning as in RCW 88.16.050(1).

"Rate design" and "rate structure" mean an arrangement or system of rates and charges that produces revenues necessary to recover the costs of service and support economic and social goals and policies.

"Rates" and "charges" mean prices for services that, when multiplied by the number of times a service is performed, determines the amount owed for the services.

"Serve" or "provide" means to deliver to commission staff and parties in a proceeding documents that are filed with the commission or documents that are not filed with the commission but are formally exchanged between parties.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-020, filed 5/3/19, effective 6/3/19.]

WAC 480-160-030 Change of address, telephone number, or email.

A pilotage service provider must notify the commission in writing of any change in the provider's physical business address, business mailing address, business telephone number, or business email. This notice must be filed at least ten days before the effective date of the change.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-030, filed 5/3/19, effective 6/3/19.]

WAC 480-160-040 Exemptions from rules in chapter 480-160 WAC.

The commission may grant an exemption from the provisions of any rule in this chapter in the same manner, consistent with the standards, and according to the procedures set forth in WAC 480-07-110.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-040, filed 5/3/19, effective 6/3/19.]

WAC 480-160-050 Records retention. (1) General provisions.

A pilotage service provider must keep all business records and reports for at least three years following the date those documents are created unless otherwise specified in these rules or unless a longer retention period is required by another governmental entity.

(2) A pilotage service provider is deemed in compliance with the requirements of this section (records retention), WAC 480-160-060 (reporting requirements), and 480-160-160 (complaints) if the information required is provided by an organization of licensed pilots or an employer on the pilotage service provider's behalf.

(3) **Customer service records.** A pilotage service provider must maintain complete and accurate customer service records for all customers the provider serves.

(a) A pilotage service provider must keep customer service records on file in the provider's general office for at least three years.

(b) Customer service records must be retained either in a searchable electronic format, or in alphabetical, service address, or service route order.

(c) Customer service records must show at least the following information:

(i) The name and service address of the customer;

(ii) The billing address of the customer, if different than the service address;

(iii) Categories and quantity of pilotage or other services provided, including extra services provided;

(iv) Information required to provide, on customer request, a detailed description of the amount billed the customer;

(v) Amounts billed;

(vi) Amounts collected; and

(vii) Any balance due.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-050, filed 5/3/19, effective 6/3/19.]

WAC 480-160-060 Reporting requirements. (1) Annual reports.

An annual report is an end-of-the-year summary of financial activity that each pilotage service provider is required to file with the commission.

(a) Each year the commission will make available on the commission website an annual report form and instructions for completing the form.

(b) A pilotage service provider must file a complete and accurate annual report showing all requested information by May 1st of the suc-

ceeding year. Information provided in the annual report must be consistent with source documents maintained at the provider's offices.

(c) The commission may grant an extension of time to allow a pilotage service provider to file its annual report after the May 1st due date if the commission receives a request for extension before April 15th.

(d) The commission may issue penalty assessments if a provider fails to file its required annual report by May 1st or any extended due date the commission has established.

(2) **Other reports.** The commission may require a pilotage service provider to file periodic or other special reports.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-060, filed 5/3/19, effective 6/3/19.]

WAC 480-160-070 Commission compliance policy. (1) The commission encourages voluntary compliance with statutes, rules, and commission orders.

(2) The commission will enforce statutes, rules, and commission orders through:

(a) A program emphasizing education and technical assistance.

(b) A compliance program including:

(i) Investigation and resolution of complaints;

(ii) Economic compliance audits including, but not limited to, rates, charges, and billing practices; and

(iii) Cooperative agreements with other agencies to enable effective enforcement and appropriate use of resources.

(3) Where necessary to ensure compliance with statutes, rules, and commission orders, the commission will pursue administrative actions with the intent of ensuring future compliance, by the violating pilotage service provider including, but not limited to, warnings, sanctions, or penalty assessments under the provisions of chapter 81.04 RCW.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-070, filed 5/3/19, effective 6/3/19.]

WAC 480-160-080 Fees. The commission will assess fees to recover the reasonable costs the commission incurs to establish or amend the tariff rates of Grays Harbor pilotage district and Puget Sound pilotage district, respectively. The fees must be included in the respective marine pilotage tariffs and shall be appropriated from the pilotage account established in RCW 88.16.061.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-080, filed 5/3/19, effective 6/3/19.]

WAC 480-160-090 Pilots must charge only approved rates. No pilotage service provider shall charge, collect, or receive, and no person, firm, corporation, or association shall pay for pilotage or other services performed that is any greater, less, or in a different

amount, directly or indirectly, than the rates or charges approved by the commission.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-090, filed 5/3/19, effective 6/3/19.]

WAC 480-160-100 Tariffs and rates—General. (1) A tariff is a publication containing the rates and charges for pilotage services, including rules that govern how rates and charges are assessed.

(2) The commission establishes and amends the tariffs that pilotage service providers serving the Puget Sound pilotage district and Grays Harbor pilotage district must use.

(3) All regulated pilotage service providers must comply with the rates, terms, conditions, and all other requirements in the applicable tariff.

(4) Any person with a substantial interest may petition the commission to update or modify the rates, terms, or conditions contained in the applicable marine pilotage district tariff.

(5) Any proposed changes to the tariff must be provided using the electronic template the commission provides.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-100, filed 5/3/19, effective 6/3/19.]

WAC 480-160-110 Tariffs—Changes must be identified. Each change in rates, charges, terms, or conditions in a tariff must be clearly identified by including the appropriate code symbol immediately to the left of the material being changed. Symbols to indicate the type of changes are:

Code Symbol	Used to indicate:
(R)	Reductions in rates or charges
(I)	Increases in rates or charges
(C)	Changes resulting in neither increases nor decreases
(N)	New rates, terms, or conditions
(W)	Wording changes

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-110, filed 5/3/19, effective 6/3/19.]

WAC 480-160-120 Changing commission-published tariff—Puget Sound pilotage district. (1) A person with a substantial interest may petition the commission to modify the Puget Sound pilotage district tariff, and the commission may propose tariff changes on its own initiative.

(2) Persons must file their proposed changes electronically using the commission's records portal.

(3) Proposed changes must:

- (a) Be made on the appropriate page(s) of the existing tariff using the commission's tariff template.
 - (b) Identify the tariff item to be changed.
 - (c) Fully describe the proposed change.
 - (d) State clearly the reason(s) for the proposed change.
 - (e) Include any information or documents that justify the proposed change.
 - (f) Provide name, title, address, telephone number, and email address of the person or entity proposing the changes.
- (4) If the commission modifies the Puget Sound pilotage district tariff, the commission will enter an appropriate order. The order and the modified tariff will state the date on which the revised rates, terms, or conditions become effective. The commission will serve a copy of the modified tariff in electronic format on the Puget Sound pilotage service providers.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-120, filed 5/3/19, effective 6/3/19.]

WAC 480-160-130 Changing commission-published tariffs—Grays Harbor pilotage district.

- (1) When the Grays Harbor pilotage district files a notice of its recommended pilotage service tariff with the commission, it must include:
- (a) The district pilotage budget;
 - (b) The prior year pilotage financial statement; and
 - (c) Official notice of the public hearing held on the proposed tariff.
- (2) If a person with a substantial interest petitions the commission to modify the Grays Harbor pilotage district tariff, the person must submit all of the following:
- (a) The name of the petitioner;
 - (b) A description of why the existing tariff is not fair, just, reasonable, and sufficient;
 - (c) A description of each proposed change and a brief statement of the reason for the change;
 - (d) The dollar and percentage amounts that revenue generated under the tariff will change if the commission approves the filing;
 - (e) The percentage amount that rates will change if approved by the commission;
 - (f) A contact person's name, mailing address, telephone number, and email address;
 - (g) An electronic copy of the proposed tariff; and
 - (h) Information demonstrating the petition was submitted to and subsequently rejected by the Port of Grays Harbor.
- (3) If the commission modifies the Grays Harbor pilotage district tariff, the commission will enter an appropriate order. The order and the modified tariff will state the date on which the revised rates, terms, or conditions become effective. The commission will serve a copy of the modified tariff electronically on the Grays Harbor pilotage service providers.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-130, filed 5/3/19, effective 6/3/19.]

WAC 480-160-140 Tariffs—Approval. The commission's receipt of a filing to modify tariff rates, terms, or conditions does not mean that the proposed modifications are immediately effective or that the commission approves those revisions. Petitioners may not implement any proposed tariff modifications until the commission approves them or until the modified tariff becomes effective by operation of law.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-140, filed 5/3/19, effective 6/3/19.]

WAC 480-160-150 Tariffs—Suspension by the commission. (1) Upon receiving a complaint or protest concerning rates or charges, or on its own initiative, the commission may suspend tariff rates, terms, or conditions as provided in RCW 81.04.130.

(2) The commission will not take action to suspend a tariff, or any part of a tariff, based on a complaint or protest concerning rates or charges unless the complaint or protest is filed in compliance with the commission's rules of practice and procedure in chapter 480-07 WAC.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-150, filed 5/3/19, effective 6/3/19.]

WAC 480-160-160 Complaints—Rates and charges. (1) **Pilotage service provider responsibility.**

(a) **Complaints from customers.** When a pilotage service provider receives a complaint from a customer or an applicant concerning rates or charges, it must:

(i) Acknowledge the complaint;
(ii) Investigate the matter promptly;
(iii) Report the results of the investigation to the complainant;
(iv) Take corrective action, if warranted, as soon as appropriate under the circumstances;

(v) Inform the complainant that the pilotage service provider's initial decision may be appealed to a higher level representative of the pilotage service provider, if any;

(vi) Inform the complainant, if still dissatisfied after speaking with the higher level representative, of the commission's availability for review of the complaint; and

(vii) Provide the complainant with the commission's mail and email addresses and toll free telephone number.

(b) **Complaint referred by commission.** When commission consumer protection staff refers an informal complaint regarding rates or charges to the pilotage service provider, the pilotage service provider must:

(i) Investigate and report the results to the commission consumer protection staff within two business days (the commission consumer protection staff may grant an extension of time for responding to the complaint if requested and warranted);

(ii) Keep the commission consumer protection staff informed of progress toward the solution; and

(iii) Inform the commission consumer protection staff of the final result.

(c) **Complaint record.** A pilotage service provider must keep a record of all complaints against it concerning rates or charges for at least one year. The record of complaints must be made readily available for commission review. The record must contain:

- (i) The complainant's name and address;
- (ii) Date and nature of the complaint;
- (iii) Action taken; and
- (iv) Final result.

(2) **Complaints to commission.** Applicants, customers, or their representatives may file with the commission either:

(a) An informal complaint against the pilotage service provider under the provisions of WAC 480-07-910; or

(b) A formal complaint against the pilotage service provider under the provisions of WAC 480-07-370.

[Statutory Authority: RCW 80.01.040, 80.04.160, 81.116.020, and 81.116.900. WSR 19-11-012 (Docket TP-180402, General Order R-596), § 480-160-160, filed 5/3/19, effective 6/3/19.]