

WSR 23-22-088
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS
[Filed October 30, 2023, 9:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-01-090.

Title of Rule and Other Identifying Information: WAC 363-116-360
Exempt vessels.

Hearing Location(s): On January 18, 2024, at 10:00 a.m., at 2901 3rd Avenue, Agate Conference Room, Seattle, WA 98121; and via Microsoft Teams. Please contact Jolene Hamel at HamelJ@wsdot.wa.gov for a meeting link.

Date of Intended Adoption: January 18, 2024.

Submit Written Comments to: Jaimie Bever, Executive Director, 2901 3rd Avenue, Suite 500, Seattle, WA 98121, email BeverJ@wsdot.wa.gov, fax 206-515-3906, by January 11, 2024.

Assistance for Persons with Disabilities: Contact Jolene Hamel, phone 206-515-3904, fax 206-515-3906, email HamelJ@wsdot.wa.gov, by January 11, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to update the pilotage exemption fee schedule to better align with administrative costs of exemption processing and to conduct minor house-keeping of the language for clarity.

Reasons Supporting Proposal: The processing of vessel exemptions has changed since the last fee increase. The board of pilotage commissioners (board) requires more documentation before granting an exemption. The increase will provide additional financial support for that increased effort.

Statutory Authority for Adoption: Chapter 88.16 RCW, Pilotage Act.

Statute Being Implemented: Chapter 88.16 RCW, Pilotage Act.

Rule is not necessitated by federal law, federal or state court decision.

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: The board received a recommendation from the vessel exemption committee (VEC) favoring implementation of the proposed language.

Name of Proponent: Board of pilotage commissioners, governmental.

Name of Agency Personnel Responsible for Drafting: Jaimie C. Bever, 2901 3rd Avenue, Suite 500, Seattle, WA 98121, 206-515-3887; Implementation and Enforcement: Board of Pilotage Commissioners, 2901 3rd Avenue, Suite 500, Seattle, WA 98121, 206-515-3887.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to the adoption of these rules. The board is not a listed agency in RCW 34.05.328 (5) (a) (i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Scope of exemption for rule proposal:

Is fully exempt.

October 30, 2023

Jaimie C. Bever
Executive Director

OTS-5045.1

AMENDATORY SECTION (Amending WSR 17-14-005, filed 6/22/17, effective 7/23/17)

WAC 363-116-360 Exempt vessels. (1) Under the authority of RCW 88.16.070, application via petition may be made to the board of pilotage commissioners to seek exemption from the pilotage requirements for the operation of a limited class of small passenger vessels, which are not more than (~~one thousand three hundred~~) 1,300 gross tons (international), do not exceed (~~two hundred~~) 200 feet in length, is manned by United States-licensed deck and engine officers appropriate to the size of the vessel with merchant mariner credentials issued by the United States coast guard or Canadian deck and engine officers with Canadian-issued certificates of competency appropriate to the size of the vessel, and are operated exclusively in the waters of the Puget Sound pilotage district and lower British Columbia, or yachts, which are not more than (~~one thousand three hundred~~) 1,300 gross tons (international), and do not exceed (~~two hundred~~) 200 feet in length. For purposes of this section, any vessel carrying passengers for a fee, including yachts under charter where both the vessel and crew are provided for a fee, shall be considered a passenger vessel.

The owners or operators of the vessel for which exemption is sought must:

(a) Complete and file with the board a petition requesting an exemption at least (~~forty-eight~~) 48 hours prior to planned vessel operations where possible. Petitions filed with less than (~~forty-eight~~) 48 hours notice may be considered by the chair at the chair's discretion on a board-approved form. The form shall include a description of the vessel, the contemplated use of vessel, the proposed area of operation, the names and addresses of the vessel's owner and operator, the areas and dates of planned operations, and such other information as the board shall require.

(b) Pay the appropriate (~~initial~~) application (~~or renewal~~) fee with the submittal of the petition or upon receipt of invoice from the BPC, which is listed in subsection (5) of this section.

(2) All petitions for exemption filed with the board shall be considered at its next regularly (~~or specially~~) scheduled meeting. Consistent with the public interest, the chair may grant an interim exemption to a petitioner subject to final approval at the next board meeting, where special time or other conditions exist.

(3) Any grant of an exemption, including interim exemptions, may contain such conditions as the board, or in the case of an interim exemption, the chair, deems necessary to protect the public interest in order to prevent the loss of human life and property and to protect the marine environment of the state of Washington.

Such conditions may include: A requirement that the vessel employ the services of a pilot on its initial voyage into state pilotage waters; the vessel master attends an orientation meeting with a pilot as determined by the board; the vessel master review all written orienta-

tion materials; and/or that the master of the vessel at all times hold as a minimum, a United States government license as a master of ocean or near coastal steam or motor vessels of not more than (~~sixteen hundred~~) 1,600 gross tons or as a master of inland steam or motor vessels of not more than (~~five hundred~~) 500 gross tons, such license to include a current radar endorsement; and/or that the vessel possess specific navigational charts, publications and navigational equipment necessary to ensure safe operation.

(4) The board shall annually, or at any other time when in the public interest, review any exemptions granted to the specified class of small vessels to ensure that each exempted vessel remains in compliance with the original exemption and any conditions to the exemption. The board shall have the authority to revoke such exemption when there is not continued compliance with the requirements for exemption.

(5) Fee Schedule for Petitioners for Exemption

| | <u>(3 Months or Less</u> | <u>1-Year or Less</u> | <u>Annual Renewal</u> |
|---|--------------------------|-----------------------|-----------------------|
| <u>A. Yachts</u> | | | |
| Up to and including 50 feet LOA | \$50 | \$50 | \$50 |
| Up to and including 100 feet LOA | 700 | 1000 | 600 |
| Up to and including 200 feet LOA and 750-gt | 1000 | 1400 | 800 |
| Up to and including 200 feet LOA and 751 to 1300-gt | 1500 | 1500 | 1500 |
| <u>B. Passenger Vessels</u> | | | |
| Up to and including 100 feet LOA | 1125 | 1500 | 1000 |
| Up to and including 200 feet LOA | 1500 | 1500 | 1200)) |

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

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