

WSR 26-01-107

PROPOSED RULES

BOARD OF

PILOTAGE COMMISSIONERS

[Filed December 16, 2025, 11:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-18-097.

Title of Rule and Other Identifying Information: WAC 363-116-083

Written examination protest and appeal procedures, and 363-116-084
Simulator evaluation protest and appeal procedures.

Hearing Location(s): On February 19, 2026, at 11:00 a.m., at 2901
3rd Avenue, 1st Floor Agate, Seattle, WA 98121; and via Microsoft
Teams.

Date of Intended Adoption: February 19, 2026.

Submit Written Comments to: Jaimie C. Bever, 2901 3rd Avenue,
Suite 500, Seattle, WA 98121, email Jaimie.Bever@wsdot.wa.gov, begin-
ning November 24, 2025, by January 7, 2026.

Assistance for Persons with Disabilities: Contact Jolene Hamel,
phone 206-515-3904, email Jolene.Hamel@wsdot.wa.gov, by January 7,
2026.

Purpose of the Proposal and Its Anticipated Effects, Including
Any Changes in Existing Rules: In preparation for the 2026 Washington
state marine pilot exam, the board of pilotage commissioners (BPC) is
updating WAC concerning the appeal and protest process for both the
written exam and simulator evaluation to reflect updated practices de-
veloped during the 2024 exam process.

Reasons Supporting Proposal: The proposed changes will clarify
and simplify the protest and appeals process for pilot applicants, the
exam consultants, and BPC. They will also align with the current psy-
chometrically validated pilot exam process.

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 Lan-
guage, Implementation, Enforcement, and Fiscal Matters: Both the BPC
pilot exam committee (PEC) and BPC's exam psychometrician have recom-
mended these changes to accurately reflect the protest and appeal
process that corresponds to the psychometric validation of the current
pilot exam process. The changes were also reviewed by BPC's assistant
attorney general.

Name of Proponent: BPC, governmental.

Name of Agency Personnel Responsible for Drafting: Jaimie C. Bev-
er, Seattle, Washington, 206-515-3887; Implementation and Enforcement:
BPC, Seattle, Washington, 206-515-3904.

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. BPC
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 explicit-
ly and specifically dictated by statute.

Scope of exemption for rule proposal:

Is fully exempt.

December 16, 2025
Jaimie C. Bever
Executive Director

RDS-6828.2

AMENDATORY SECTION (Amending WSR 12-05-064, filed 2/15/12, effective 3/17/12)

WAC 363-116-083 Written examination protest and appeal procedures. (1) Pilot applicants who take a written examination as provided in this chapter shall provide the board with an email address to be used for notification of ~~((his/her))~~ their written examination results. ~~((Such address shall be a place at which mail is delivered. In addition, a pilot applicant may provide the board with other means of contact such as telephone numbers and/or email addresses.))~~ It will be the responsibility of the pilot applicant to ensure that the board has a current ~~((mailing address)),~~ working email address for them at all times, as outlined in the applicant agreement section of the exam application submitted to the board. ~~((The mailing address will be considered the primary means of notice by the board. If the pilot applicant cannot personally receive mail at the address provided to the board for any period of time, another person may be designated in writing and notarized to the board as having power of attorney specifically to act on the pilot applicant's behalf regarding such notice.))~~ Notice delivered to the email address provided by the pilot applicant will be considered received by the pilot applicant for the purpose of "receipt of notification of the written examination results" as provided in subsection (2) of this section.

(2) A pilot applicant who ~~((takes))~~ fails either a written examination as provided in WAC 363-116-076 or a written local knowledge examination as provided in WAC 363-116-078 that cannot be retaken may submit ~~((a written protest regarding any such examination))~~ an appeal for review by the board and/or a committee designated by the board and/or by a firm under contract with the board for development and grading of the written examination. The standard ~~((of review))~~ for reviewing the written examination ~~((protests))~~ appeals submitted by a pilot applicant is that the written examination score will not be set aside unless the pilot applicant proves that the ~~((challenged))~~ fail-ing score was the result of fraud, coercion, arbitrariness, or manifest unfairness. If it finds that reasonable cause exists to question a written examination ~~((grade))~~ score, the board may allow a pilot applicant ~~((protesting his/her))~~ appealing their individual written examination results to ~~((enter))~~ participate in the simulator evaluation. If the pilot applicant chooses to enter the simulator evaluation before the pilot applicant receives notification of the result of the review of ~~((his/her Protest))~~ their Appeal Form, the pilot applicant shall be at all times responsible for the charge to enter the simulator evaluation. No pilot applicant approved by the board for entry into the simulator evaluation shall be disqualified by the successful ~~((examination))~~ results appeal of another pilot applicant. Pilot applicants are not entitled to a review of the results of a written lo-

cal knowledge examination given pursuant to WAC 363-116-078 if the pilot applicant is eligible to retake the written examination.

(3) The procedure for submitting ~~((a protest))~~ an appeal regarding the written examination or a written local knowledge examination that cannot be retaken is as follows:

(a) The pilot applicant must submit ~~((a protest in writing to the person administering such examination on the day that the pilot applicant takes such examination and before the pilot applicant leaves the examination room;~~

~~(b) On the day of such examination the pilot applicant will be provided a *Protest Form* by the person(s) administering such examination at the time that documents for taking such written examination are given to the pilot applicant;~~

~~(c) In defense of his/her written examination answers and in support of the pilot applicant's reasons for protesting a question or questions, the pilot applicant must write on the *Protest Form* the reason(s) why he/she protests a question or questions, what the pilot applicant claims is the correct answer to the protested question(s), and if a protested question(s) involves mathematical calculations provide the calculations that the pilot applicant claims are correct;)~~ an appeal form via email to the exam administrator. This form must be submitted within 24 hours of the posting of applicant ID numbers and related pass/fail decisions on the board website (<http://pilotage.wa.gov>) and subsequent email notifications to applicants of their results. The appeal form will be distributed to applicants as a link within the results email;

(b) The appeals process will be detailed in the written exam guidelines that will be sent to applicants once they are approved to sit for the written exam;

(c) If the reason is specific to the content of a question or questions, the pilot applicant must provide their perceived issue, their perceived correct answer, and any mathematical calculations needed to provide that the question was flawed;

(d) If ~~((there are protests))~~ the appeal is regarding improprieties including, but not limited to, the administration and proctoring of the examination, these assertions must be documented in writing on the appeal form with sufficient detail naming times, people, places, protested activities, and witnesses to permit the board to conduct an investigation;

(e) The pilot applicant will be identified only by number or letter for the purpose of review of the ~~((Protest))~~ Appeal Form ~~((†~~

~~(f) The pilot applicant shall submit his/her *Protest Form* at the same time that he/she submits the answer sheet for such written examination to the examination administrator).~~

(4) The procedure for review of the ~~((Protest))~~ Appeal Form submitted by the pilot applicant is as follows:

(a) The board, and/or a committee designated by it, and/or a firm under contract with the board for development and grading of the written examination will review the written examination and ~~((Protest))~~ Appeal Form completed by the pilot applicant, and evidence submitted, and any related examination content; and

(b) After completion of such review the pilot applicant will be provided with written notification of the decision regarding review of the ~~((Protest))~~ Appeal Form ~~((submitted by the pilot applicant))~~ via email. The ~~((written))~~ emailed notification will show any ~~((adjusted credits and scores for any answers that have been changed))~~ score adjustments for the pilot applicant that was made following such review.

(5) A pilot applicant who is not satisfied with the result of such review of ~~((his/her Protest))~~ their individual Appeal Form may request an adjudicative hearing pursuant to RCW 88.16.090 and governed by the provisions of chapter 34.05 RCW ~~((to appeal his/her written examination results))~~. Such hearing must be requested within ~~((thirty))~~ 30 calendar days of receipt of the result of the review of the ~~((Protest))~~ Appeal Form by ~~((sending a written))~~ emailing a request for an adjudicative hearing to the board of pilotage commissioners' office (PilotageInfo@wsdot.wa.gov). The grounds ~~((and issues))~~ for the adjudicative hearing and any further ~~((appeal))~~ challenge shall be limited to the following:

(a) Was the ~~((administrative protest))~~ appeal procedure set forth in subsections (2) through (4) of this section followed?;

(b) Was the examination conducted in accordance with accepted psychometric and industrial/organizational psychology principles as determined by an expert in these fields of study?;

(c) Was the examination "job related" as determined by an expert in these fields of study?; and

(d) Was the examination, scoring, and appeal process validated by an expert in these fields of study?

AMENDATORY SECTION (Amending WSR 12-05-064, filed 2/15/12, effective 3/17/12)

WAC 363-116-084 Simulator evaluation review and appeal procedures. (1) Pilot applicants who take a simulator evaluation as provided in this chapter shall provide the board with an email address to be used for notification of ~~((his/her))~~ their individual simulator evaluation results. ~~((Such address shall be a place at which mail is delivered. In addition, a pilot applicant may provide the board with other means of contact such as telephone numbers and/or email addresses.))~~ It will be the responsibility of the pilot applicant to ensure that the board has a current ~~((mailing))~~ working email address at all times, as outlined in the applicant agreement section of the application submitted to the board. ~~((The mailing address will be considered the primary means of notice by the board. If the pilot applicant cannot personally receive mail at the address provided to the board for any period of time, another person may be designated in writing and notarized to the board as having power of attorney specifically to act on the pilot applicant's behalf regarding such notice.))~~ Notice delivered to the address provided by the pilot applicant will be considered received by the pilot applicant for the purpose of "receipt of notification of the simulator evaluation results" as provided in subsection (2) of this section.

(2) A pilot applicant who ~~((takes))~~ fails a simulator evaluation as provided in this chapter may ~~((request a review of his/her))~~ submit an appeal for review by the board and/or a committee designated by the board and/or by a firm under the contract with the board for development and grading of the simulator evaluation ((results)). This ~~((request))~~ appeal must be ~~((in writing and must be received by the board within five business days))~~ submitted via the Appeal Form within 24 hours of receipt of email notification of the simulator evaluation results. The standard ~~((of review))~~ for reviewing the simulator evaluation results challenged by a pilot applicant is that the ~~((challenged evaluation score))~~ failing decision will not be set aside unless the

pilot applicant proves the challenged score was the result of fraud, coercion, arbitrariness or manifest unfairness.

(3) The procedure for filing (~~a request for review~~) an appeal of the simulator evaluation is as follows:

(a) The pilot applicant must (~~contact the board office for an appointment to appear personally to review his/her simulator evaluation;~~

~~(b) The pilot applicant will be provided a Review Form to complete in the board designated review location in defense of his/her simulator evaluation performance;~~

~~(c) In review of his/her simulator evaluation performance, the pilot applicant must demonstrate that his/her proposed evaluation of the simulator evaluation is correct;~~

~~(d) In review of his/her simulator evaluation performance,)~~ submit an Appeal Form via email to the exam administrator. This form must be submitted within 24 hours of the posting of applicant ID numbers and related pass/fail decision on the board website (<http://pilotage.wa.gov>) and subsequent email notification to applicants of their results. The Appeal Form will be distributed to applicants as a link within the results email;

(b) The pilot applicant must identify which aspect (scenario-based content, logistics of administration, improprieties in development or scoring) of the simulator evaluation process they are appealing;

(c) If there are assertions regarding improprieties in the administration, proctoring, grading, or scoring of the simulation-based exams, these assertions must be documented with sufficient detail naming times, people, places, protested activities, and witnesses to permit the board to conduct an investigation;

(d) If applicable, the pilot applicant must cite ((on the Review Form provided by the board,)) the specific situation(s) presented in the simulator evaluation (i.e., ((crossing, passing)) docking, undocking, meeting situations, ((environmental changes like fog descending)) ship particulars, navigational decisions ((and/or rules-of-the-road interpretations)) and detail ((why the actions he/she took in that situation should receive more credit than that which was given, to demonstrate that his/her score on the simulator evaluation provided by the board is incorrect)) how the situation was not job-related and therefore not a valid measure of piloting skills;

(e) Only the recorded performance and the accompanying completed scoring rubric of the pilot applicant will be considered in any review of the ((simulator evaluation performance. If there are assertions regarding improprieties in the administration, proctoring, grading or scoring of the simulator evaluations, these assertions must be documented in writing with sufficient detail naming times, people, places, protested activities and witnesses to permit the board to conduct an investigation)) appeal;

(f) The pilot applicant will be identified only by number or letter for the purpose of ((this)) the review((;

~~(g) The board will make available to the pilot applicant reviewing his/her simulator evaluation a copy of his/her simulator evaluation performance; and~~

~~(h) At the completion of the review session, the pilot applicant will submit all the Review Forms to the board and return all materials used to review his/her simulator evaluation. The pilot applicant will not be allowed to take any notes or materials from the board designated review location upon leaving)) of the Appeal Form.~~

(4) The procedure for the board's review of the ~~((request for review))~~ appeal of the simulator evaluation filed by the pilot applicant is as follows:

(a) The board, and/or a committee designated by it, and/or a firm under contract with the board for development and grading of the simulator evaluation will review the recording of the simulator evaluation and ~~((Review))~~ the Appeal Form completed by the pilot applicant; and

(b) After completion of such review the pilot applicant will be provided with ~~((written notification of))~~ the decision regarding review of the ~~((Review))~~ Appeal Form ~~((submitted by the pilot applicant))~~ via email. The ~~((written notification))~~ email will show any ~~((adjusted credits and scores for any answers that have been changed))~~ score adjustment for the applicant that was made following such review.

(5) A pilot applicant who is not satisfied with the result of such review of ~~((his/her Review))~~ their individual Appeal Form may request an adjudicative hearing pursuant to RCW 88.16.090 and governed by the provisions of chapter 34.05 RCW to appeal ~~((his/her))~~ the simulator evaluation results. Such hearing must be requested within ~~((thirty))~~ 30 calendar days of receipt of the result of the review of the ~~((Review))~~ Appeal Form by ~~((sending))~~ emailing a ~~((written))~~ request for an adjudicative hearing to the board of pilotage commissioners' office (PilotageInfo@wsdot.wa.gov). The grounds and issues for the adjudicative hearing and any further appeal shall be limited to the following:

(a) Was the ~~((administrative protest))~~ appeal procedure set forth in WAC 363-116-083 (2) through (4) followed?;

(b) Was the examination conducted in accordance with accepted psychometric and industrial/organizational psychology principles as determined by an expert in these fields of study?;

(c) Was the examination "job related" as determined by an expert in these fields of study?; and

(d) Was the examination, scoring, and appeal process validated by an expert in these fields of study?