

Chapter 856 Public Utility Commission, Board of Maritime Pilots

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DIVISION 1

RULES OF PRACTICE AND PROCEDURE

856-001-0000

Notice of Proposed Rule

Prior to the adoption, amendment or repeal of any rules, the Board shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date of the intended action;

(2) By mailing a copy of the notice to persons on the Board's mailing list established pursuant to ORS 183.335(8) at least 28 days before the effective date of the rule;

(3) By mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and

(4) By mailing or furnishing a copy of the notice to:

(a) The Associated Press;

(b) The following groups:

(A) Columbia River Pilots

(B) Columbia River Bar Pilots;

(C) Yaquina Bay Pilots;

(D) Coos Bay Pilots Association;

(E) Columbia River Steamship Operators Association, Inc.;

(F) Capitol Press Room.

Stat. Auth.: ORS 183 & 776

Stats. Implemented: ORS 183.025, 183.335 & 776.135

Hist.: PC 9, f. & ef. 11-12-76; PC 1-1982, f. & ef. 10-7-82; MP 2-1984, f. & ef. 10-4-84; Renumbered from 856-020-0140; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1996, f. & cert. ef. 5-9-96; BMP 4-2008, f. & cert. ef. 1-24-08

856-001-0005

Model Rules of Procedures

The Model Rules of Procedure under the Administrative Procedures Act adopted by the Attorney General, effective January 1, 2008 are hereby adopted as the rules of procedure for the Board of Maritime Pilots, except as specified under OAR chapter 856, division 030, Ratemaking Procedures.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Board of Maritime Pilots.]

Stat. Auth.: ORS 776

Stats. Implemented: ORS 183.341

Hist.: MP 2-1984, f. & ef. 10-4-84; MP 1-1986, f. & ef. 10-6-86; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1996, f. & cert. ef. 5-9-96; BMP 1-2002, f. & cert. ef. 8-29-02; BMP 4-2008, f. & cert. ef. 1-24-08

856-001-0010

Organization

(1) The Board of Maritime Pilots, created by ORS Chapter 776, is responsible for licensing of pilots in the State of Oregon and setting of pilotage rates.

(2) Information can be obtained from the Board's office at 800 N.E. Oregon Street, Suite 507, Portland, OR 97232, telephone 971-673-1530 and fax 971-673-1531.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115

Hist.: MP 2-1984, f. & ef. 10-4-84; MP 3-1988, f. & cert. ef. 11-9-88; MP 2-1992(Temp), f. & cert. ef. 4-29-92

DIVISION 10

GENERAL

856-010-0003

Definitions

(1) "Barge" — A general term for a heavy, flat bottomed, often rectangular vessel used to carry cargo, usually in sheltered and inland waters but also, sometimes at sea; usually pushed or towed by tug. By U.S. Government definition, barges are any non-self propelled vessels other than houseboats and dredges.

(2) “Loaded tanker” — A tanker whose mean draft equals or exceeds 80 percent of its maximum allowable draft, or whose mean draft exceeds 30 feet.

(3) “Ocean-going vessel” — Any ship actively engaged in carrying cargo or passengers for hire in offshore navigation between ports.

(4) “Pilot” — An individual licensed pursuant to ORS Chapter 776 and any individual who had notified the board that the individual is in a pilot trainee status.

(5) “Pilotage” — The act or business of piloting. Also the fee paid for a pilot’s services.

(6) “Piloting” — The act of assisting the master of a vessel in navigating the vessel while it is underway on a pilotage ground.

(7) “Licensed physician” — Means an individual who holds a degree of Doctor of Medicine or Doctor of Osteopathy and has a valid license issued by the Oregon Board of Medical Examiners or the Washington Medical Quality Assurance Commission.

(8) “Ship” — A floating, decked vessel that is self-propelled and regularly carries cargo or passengers for hire or is engaged in military purposes in deep water oceanic navigation. Deep water oceanic navigation is navigation in seas beyond the territorial jurisdiction of the United States.

(9) “Ship turn” — For purposes of OAR 856-010-0010(4), “ship turn” is defined as meaning turning a ship in the Willamette River from a generally upstream orientation to a generally downstream orientation, or from a generally downstream orientation to a generally upstream orientation, which may be made with or without the aid of a tug or towboat.

(10) “Tank barge” — A barge with double bottoms designed to transport liquids.

(11) “Tanker” — A vessel specially constructed for carriage of bulk liquids including, but not limited to, petroleum and its products, chemicals and liquified natural gas.

(12) “Transit” — For purposes of OAR 856-010-0010(4) a “transit” is a complete trip over part of the Columbia and Willamette River pilotage ground, with one end of the trip at Astoria and the other end at Portland or Vancouver harbor. A transit also includes any combination of trip segments between ports or anchorages, which together begin at Astoria and end at Portland or Vancouver harbor, or begin at Portland or Vancouver and end at Astoria.

(13) “Trip” — Any instance of travel by a vessel under the direction of a pilot as required by ORS 776.405 between two points on any of the pilotage grounds defined by 776.025(1) through (4).

(14) “Tug”; “towboat”; “towing vessel” — A strongly built, high-powered vessel of small tonnage specially designed for towing or pushing vessels or for use in berthing large ships.

(15) “Unlimited state-licensed pilot” — An individual who holds an Oregon license to pilot a vessel without any restriction or limitation.

(16) “Upper harbor in Portland” — That portion of the pilotage ground defined by ORS 776.025(2) lying on the Willamette River between the St. Johns Bridge and the Ross Island Bridge.

(17) “Vessel” — Includes every description of water craft, including nondisplacement craft, used or capable of being used as a means of transportation on water, except that, for the purposes of ORS 776.405(1)(a), and the board operations fee authorized by Oregon Laws 2013, Chapter 539, a barge is not a vessel.

(18) “Working pilot” — An unlimited state-licensed pilot who regularly provides piloting services for compensation pursuant to the published tariff.

(19) “Pilot apprentice trainee” — For purposes of OAR 856-010-0014, an individual who does not meet the experience requirements of 856-010-0010(3) and (4), and who has been certified by the Board to enter the Apprentice Training Program.

(20) “Pilot trainee” — For purposes of OAR 856-010-0014 and 856-010-0018, an individual who meets the experience requirements of 856-010-0010(3) and (4)(a).

Stat. Auth.: ORS 776.115

Stats. Implemented: ORS 775.405 & 2013 OL Ch. 539

Hist.: MP 1-1992, f. & cert. ef. 4-29-92; MP 3-1995, f. & cert. ef. 3-16-95; MP 2-1996, f. & cert. ef. 8-1-96; BMP 4-2008, f. & cert. ef. 1-24-08; BMP 3-

2013(Temp), f. 8-12-13, cert. ef. 8-15-13 thru 2-10-14; BMP 1-2014, f. & cert. ef. 1-23-14

856-010-0005

Meetings of the Board

(1) The board shall meet on a regular monthly basis or as often as it is necessary to conduct the business of the board, but not less than once each year. Meetings shall be called by the chair or a majority of the board members and shall be held at such time and place as specified by the chair or a majority of the board members.

(2) A special meeting of the board may be called by the chair or a majority of the board members upon 24 hours notice, in writing by letter or facsimile, or by telephone to the other members of the board.

(3) A special meeting may be called whenever an accident of any importance such as stranding, collision, or the like, shall occur to any vessel, inward or outward bound, while in the charge of a pilot, for the purpose of making the necessary investigation into the cause of such accident.

(4) In the absence of the administrator, the chair may appoint an administrator pro tem, with consent of a majority of the members present at each meeting.

(5) Pilots, when notified in writing by letter or facsimile, shall report in person to the board at any meeting specified in the notice.

Stat. Auth.: ORS 670 & 776

Stats. Implemented: ORS 776.115

Hist.: PC 1, f. 10-29-57, ef. 7-1-57; PC 7, f. 6-13-73, ef. 7-15-73; PC 1-1980, f. & ef. 2-27-80; MP 1-1992, f. & cert. ef. 4-29-92; MP 1-1996, f. & cert. ef. 5-9-96

856-010-0006

Board Operations Fee

(1) The Board operations fee authorized by Oregon Laws 2013, Chapter 539, shall be \$50 effective July 15, 2013. Thereafter, the fee shall be reviewed quarterly and adjusted as needed as provided in subsection (2) of this section, subject to the maximum allowed by ORS Chapter 776.

(2) The amount of the Board operations fee shall be reviewed quarterly, at the first Board meeting following each September 30, December 31, March 31 and June 30. Based upon the Board’s review, the operations fee may be adjusted down or up, subject to the maximum fee amount allowed by Oregon Laws 2013, Chapter 539 and subsection (3) of this section. In reviewing the fee and deciding whether to adjust it, the Board shall consider the total of fees remitted to the Board during the preceding quarter or quarters, the Board’s current and projected budgetary needs, the total of fees projected to be remitted to the Board during the following quarter or quarters, and any other factors deemed relevant by the Board. If the Board concludes that an adjustment to the fee is appropriate, it shall request approval for the recommended adjustment from the Oregon Department of Administrative Services, and if such approval is obtained, shall report the adjustment to the Legislature’s Emergency Board.

(3) The maximum allowed amount for the Board operations fee shall be \$100 until July 1, 2015. The maximum allowed amount shall be adjusted each biennium on July 1, beginning July 1, 2015. The change in the maximum allowed amount shall be proportional to the percentage change in the 24-month period prior to the beginning of the biennium in the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All Items, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(4) The amount of the Board operations fee shall be published in the Oregon Pilotage Tariff for each pilotage ground under the paragraph heading “Board Operations Fee.”

(5) Licensees of the Board shall invoice vessels for the Board operations fee when invoicing vessels for other authorized pilotage fees and charges. For vessels entering or leaving the Columbia River, Board licensees for the Columbia River Bar shall invoice and collect fees from inbound vessels, and licensees for the Columbia and Willamette River pilotage ground shall invoice and collect the fee from outbound vessels. For vessels entering or leaving the Yaquina Bay bar or Coos Bay bar pilotage grounds, the

Board operations fee shall be invoiced and collected by the licensees for such grounds from both inbound and outbound vessels.

(6) On or before the 10th day of each month, Board licensees shall remit to the Board the full amount of all Board operations fees collected from vessels during the preceding calendar month. At the time of remitting the collected fees to the Board, the remission shall be accompanied by a report of the number of vessels invoiced for the fee during the preceding month, the total amount of fees invoiced, the number of vessels from which the fee was collected during the preceding month, the total of Board operations fees collected, and the amount that remains invoiced but uncollected.

Stat. Auth.: ORS 776

Stats. Implemented: 2013 OL Ch. 539

Hist.: BMP 3-2013(Temp), f. 8-12-13, cert. ef. 8-15-13 thru 2-10-14; BMP 1-2014, f. & cert. ef. 1-23-14

856-010-0007

Fee For Copies

(1) The board, through its administrator, will make copies of the board's records and files available during the regular business hours of its office, as provided by ORS 192.410 to 192.505.

(2) The fee for copies will be \$.30 per page, plus postage when mailed.

(3) The fee for copies of tapes will be \$3.00 each, plus postage when mailed. Prepayment for items (2) and (3) may be required prior to mailing.

Stat. Auth.: ORS 192 & 776

Stats. Implemented: ORS 192.410 - 192.440

Hist.: MP 6-1983, f. & ef. 12-15-83; MP 1-1992, f. & cert. ef. 4-29-92; MP 1-1996, f. & cert. ef. 5-9-96

856-010-0008

Trainee and Apprentice Application Requirements

(1) An applicant for selection as an apprentice pursuant to OAR 856-010-0014(1) through (5), or an applicant for selection as a trainee pursuant to 856-010-0014(12) through (14), 856-010-0018, or 856-010-0026, shall provide the following when making application to the Board:

(a) A photocopy of the applicant's most recent U.S. Coast Guard physical examination report form, completed and signed by a physician licensed in the United States, verifying that the applicant meets the physical, medical and mental criteria required to qualify for the federal mariner's license held by the applicant.

(b) One of the following:

(A) Proof the applicant has been a participant in maritime employer's random drug testing program during the 90 days preceding the date of application; or

(B) Negative results of a test performed within the preceding 30 days for the presence in the applicant of cocaine, opiates, marijuana (THC or its metabolites), amphetamines and PCP (phencyclidine). Testing must be in accordance with the U.S. Coast Guard, Department of Homeland Security guidelines outlined in the Code of Federal Regulations. A positive drug test must be reported to the Board.

(c) A report prepared by the applicant that identifies the following:

(A) Any positive results within the preceding 60 months of any tests for the presence in the applicant of cocaine, opiates, marijuana (THC or its metabolites), amphetamines or PCP (phencyclidine).

(B) Any conviction within the preceding 60 months for any alcohol-related motor vehicle infraction.

(C) A description of any maritime incidents occurring while the applicant was master, operator or otherwise directing the movement of a vessel, that resulted in either a disciplinary proceeding against the applicant's federal license or a civil penalty proceeding by the U.S. Coast Guard, and the final disposition of any such proceedings.

(2) During the selection process, and upon request by the Board, but before commencement of any training, applicants must again submit those items described in subsection (1)(a), (b)(B) and (c) of this section."

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115 & 776.345

Hist.: BMP 2-2009, f. 6-19-09, cert. ef. 6-23-09

856-010-0009

Training Organizations

(1) Upon application made in writing by interested organizations of pilots, the Board shall license training organizations for each pilotage ground. Every organization of pilots licensed by the Board to provide training to apprentices or pilot trainees shall satisfy the requirements of ORS 776.311(1).

(2) It shall be the obligation of each member of every organization of pilots licensed by the Board as a training organization to provide training and interact with apprentices and pilot trainees to a degree sufficient to teach skills and impart information and to evaluate performance as required by the Board.

(3) The Board shall assign apprentices and pilot trainees for training purposes to the training organizations licensed for each ground. If more than one training organization is licensed for a pilotage ground, apprentices and pilot trainees for that ground shall be provided training by all such organizations.

(4) Nothing in this rule requires or prohibits payment of compensation by training organizations to apprentices or pilot trainees.

(5) A training organization license issued by the Board shall be valid for one year from the date of issue. Application for renewal shall be made in writing not less than 60 days prior to expiration.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.311

Hist.: MP 1-1996, f. & cert. ef. 5-9-96

856-010-0010

Original Licensing Requirements

In addition to the qualifications required for licensing of pilots under ORS 776, the applicant shall:

(1) Present an application in writing to the administrator of the board on the form provided by the board for the pilotage ground for which the applicant intends to become licensed. The application shall be filed not less than 30 days prior to appearance before the board for a written examination and may be supplemented at any time until the examination is taken. The board shall consider the application and upon approval, the written examination will be scheduled. The examination shall be proctored by the board's administrator. The examination for each pilotage ground shall be prepared by the board with the assistance of the board's licensed training organization for that pilotage ground. The examination will test for skill and knowledge of those factors identified in ORS 776.035(2) and 776.325(1)(b). The examination will be graded by the board member from the pilotage ground for which the applicant is seeking a license. If requested by the training course monitor, up to two additional pilots selected by the training course monitor and approved by the board may participate with the board member in grading the exam. The examination will be pass/fail.

(2) Accompany the application with a photocopy of a U.S. Coast Guard physical examination report and signed by an Oregon or Washington licensed physician verifying that the applicant meets the physical, medical and mental criteria required to qualify for a federal pilot's license.

(a) If the examining physician determines that the applicant is not competent to perform the duties of a pilot, the applicant is not then medically eligible to receive a license from the board.

(b) If the examining physician determines that the applicant is competent to perform the duties of a pilot, or if the examining physician determines that the applicant's physical, medical or mental condition is in need of further review, then the applicant is then considered medically eligible to receive a license from the board, subject to any later review and conclusion by the U.S. Coast Guard that the applicant is not competent for continued federal licensure as a pilot

(c) If the U.S. Coast Guard undertakes further medical review of an applicant's physical, medical or mental competency, either upon recommendation by the examining physician or otherwise, then the applicant shall report to the board at least every 30 days

regarding the status of such further review. If, at the conclusion of such review process, the U.S. Coast Guard declines to approve the applicant for continued federal licensure as a pilot, the applicant shall immediately notify the board and the board will treat the decision as a suspension of the applicant's federal license. Any license issued by the board shall be automatically suspended as of the date the board receives notice of the U.S. Coast Guard's decision, notwithstanding any appeal that may be taken from such decision. If the Coast Guard concludes its review by issuing a waiver to the applicant, the terms of the waiver shall be immediately reported to the board, and the license issued by the board shall become subject to the terms of the waiver issued by the Coast Guard.

(3) Have actual experience as a pilot handling ships over the pilotage ground for which a state license is sought and state in the application the names of ships piloted, dates, draft, gross tonnage, and length over all, as specified in (but not limited to) (4), (5), (6) and/or (7) in this section, and:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard;

(b) Hold an unlimited federal pilot's endorsement for the ground for which a state license is sought; and

(c) Have served at least two years as Master aboard vessels, or when applying for a license over the Columbia and Willamette River pilotage ground, have completed a program of apprenticeship training which has been approved by the Board.

(4) In addition to the requirements in OAR 856-010-0010(1), (2), (3), to qualify for a Grade "C" license over the Columbia and Willamette River pilotage ground, the applicant shall, prior to taking the board's examination required under section (1) above:

(a) Have served at least 730 active working days as captain of towing vessels on the Columbia River and its tributaries, or have completed a program of apprenticeship training which has been approved by the Board, as specified in OAR 856-010-0014;

(b) Complete at least six trips under the supervision of an unlimited state-licensed pilot while on the bridge of a ship of not less than 500 feet length over-all (L.O.A.) through the bridges in the upper harbor in Portland, up to and including the Broadway Bridge, which shall be made with and without the aid of a tug or towboat, including at least one trip in each direction. The training course monitor may defer satisfaction of the requirement for trips through the Broadway Bridge if insufficient training trip opportunities through that bridge are available, provided that any license issued without fully satisfying this subsection will be restricted to below the Broadway Bridge until the requirements of this subsection are fully satisfied, and provided further than the holder of such a restricted license must complete the requirements at the earliest opportunity training trips through the Broadway Bridge are available;

(c) Complete at least 110 transits while on the bridge of a ship of not less than 500 feet L.O.A. within the 270 days preceding the examination, with at least 70 of these transits made under the supervision of an unlimited state-licensed pilot and at least 80 of the transits completed within 150 days after the first transit is completed;

(d) When combining trip segments to establish a transit, each trip segment may be used only once;

(e) Complete at least six trips under the supervision of an unlimited state-licensed pilot within the 270 days preceding the examination while on the bridge of a ship of not less than 500 feet L.O.A. in a combination of the following directions, with at least three trips in each direction:

(A) From the Willamette River, turning east (upstream) into the Columbia River; and

(B) From the Columbia River upstream of the mouth of the Willamette River, turning south into the Willamette River.

(f) Complete at least 10 trips in either direction between Astoria and Longview or Kalama under the supervision of an unlimited state-licensed pilot.

(g) Complete at least 4 trips from dock to dock or anchor to dock while on ships not less than 500 feet L.O.A. while under the

supervision of an unlimited state-licensed pilot, with each such trip requiring a 180 degree turn before docking.

(h) Train at least 25 additional days as directed by the training course monitor, with assignments chosen at the discretion of the training course monitor that may include, but need not be limited to, shipboard training, electronic navigation training, manned model training, attendance at meetings with maritime-related governmental agencies or exposure to maritime related administrative activities.

(i) Present recommendations from the training course monitor and from at least ten unlimited state-licensed pilots who participated in the training, certifying that the applicant has demonstrated sufficient knowledge and shiphandling skills to pilot ocean-going ships up to 600 feet L.O.A. on the pilotage ground.

(5) When applying for a license on the Coos Bay bar pilotage ground, the applicant shall:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard and shall have served at least two years as Master aboard vessels;

(b) Obtain an unlimited federal pilot's endorsement for the Coos Bay bar pilotage ground;

(c) Complete at least one hundred (100) crossings of the Coos Bay bar while under the supervision of an unlimited state-licensed Coos Bay bar pilot, with at least ten crossings with each unlimited state-licensed Coos Bay bar pilot and with at least 25 of the bar crossings completed during hours of darkness;

(d) Dock and undock at least 25 ships under the supervision of an unlimited state-licensed pilot;

(e) Make at least 25 trips through each of the bridges; and

(f) Submit letters from each of the Coos Bay bar pilots who have supervised the training of the applicant, certifying that the applicant has demonstrated local knowledge of the pilotage ground and shiphandling skills sufficient to pilot ocean-going ships on the pilotage ground.

(6) When applying for a license on the Yaquina Bay bar pilotage ground the applicant shall:

(a) Hold a valid license as Master endorsed for Radar Observer issued by the U.S. Coast Guard and shall have served at least two years as Master aboard vessels;

(b) Obtain an unlimited federal pilot's endorsement for the Yaquina Bay bar pilotage ground;

(c) Complete at least one hundred (100) crossings of the Yaquina Bay bar while under the supervision of an unlimited state-licensed Yaquina Bay bar pilot, or after completing two years of piloting with a state license in Coos Bay, the number of bar crossings at Yaquina Bay may be reduced to 12, with at least one such crossing with each unlimited state-licensed Yaquina Bay bar pilot and with at least twenty-five percent (25%) of the bar crossings completed during the hours of darkness;

(d) Dock and undock at least 25 ships under the supervision of an unlimited state-licensed Yaquina Bay bar pilot, or after completing two years of piloting with a state license in Coos Bay, the number of dockings and undockings may be reduced to 12;

(e) Make at least twenty-five (25) trips through the bridge, or after completing two years of piloting with a state license in Coos Bay, the number of trips may be reduced to 12; and

(f) Submit letters from each of the Yaquina Bay bar pilots who have supervised training of the applicant, certifying that the applicant has demonstrated local knowledge of the pilotage ground and shiphandling skills sufficient to pilot ocean-going ships on the pilotage ground.

(7) When applying for an original license on the Columbia River bar pilotage ground the applicant shall:

(a) Hold a valid license issued by the U.S. Coast Guard as "Unlimited Master any oceans — any tonnage", endorsed for Radar Observer;

(b) Have served at least two years as Master of an offshore merchant ship of 5,000 gross tons or more, certified by Certificates of Discharge or Continuous Discharge Book;

(c) Obtain a federal pilot's endorsement for the Columbia River bar pilotage ground, after which a minimum of one hundred

(100) crossings of the Columbia River bar shall be made under the supervision of an unlimited state-licensed pilot, and make crossings with at least five unlimited state-licensed Columbia River bar pilots;

(d) Be on board a minimum of ten ships docking or undocking from the Astoria Port Docks, Tongue Point, and other facilities;

(e) Make approximately twenty-five percent (25%) of the crossings of the Columbia River bar during the hours of darkness.

Stat. Auth.: ORS 776, 670

Stats. Implemented: ORS 776.115 & 670.310

Hist.: PC 1, f. 10-29-57, ef. 7-1-57; PC 7, f. 6-13-73, ef. 7-15-73; MP 2-1984, f. & ef. 10-4-84; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1992, f. & cert. ef. 4-29-92; MP 3-1995, f. & cert. ef. 3-16-95; MP 1-1996, f. & cert. ef. 5-9-96; BMP 2-1999, f. & cert. ef. 6-24-99; BMP 3-2001, f. & cert. ef. 10-30-01; BMP 1-2003, f. & cert. ef. 2-26-03; BMP 3-2006, f. 9-29-06, cert. ef. 10-1-06; BMP 1-2007, f. 1-25-07, cert. ef. 1-26-07; BMP 2-2007, f. & cert. ef. 5-22-07; BMP 4-2008, f. & cert. ef. 1-24-08; BMP 2-2009, f. 6-19-09, cert. ef. 6-23-09; BMP 4-2009, f. & cert. ef. 8-5-09; BMP 4-2011, f. 6-28-11, cert. ef. 6-29-11; BMP 5-2011, f. 6-28-11, cert. ef. 6-29-11; BMP 2-2014(Temp), f. & cert. ef. 5-23-14 thru 11-19-14; BMP 4-2014, f. & cert. ef. 11-26-14

856-010-0011

Restrictions on Licenses

After receiving an original license the following restrictions shall apply:

(1) Columbia and Willamette River Grade “C” and Grade “B” license holders shall not pilot vessels with a draft of 38 feet or greater. Columbia and Willamette River Grade “A” license holders shall not pilot vessels with a draft of 40 feet or greater. Columbia and Willamette River Grade “C”, “B” and “A” license holders shall not pilot tankers.

(2) Columbia and Willamette River license holders shall not pilot any vessel through or above the Broadway Bridge in the upper harbor of Portland until the licensee has completed the requirements of OAR 856-010-0010(4)(b) for the Broadway Bridge.

(3) Except for Columbia River bar pilots who have a minimum of two years’ experience on tankers as Master or pilot, no Columbia River bar pilot shall pilot a loaded tanker during the first two years as a licensee.

(4) Coos Bay bar pilots shall not move any ship exceeding 40,000 gross tons, or exceeding 700 feet in length, or exceeding 106 feet of beam, or any ship exceeding 300 feet in length with the wheelhouse forward of amidships, during the first two years as a licensee.

(5) Coos Bay bar pilots shall not move loaded tankers during the first two years as a licensee, nor shall Coos Bay bar pilots move any ship exceeding 23,000 gross tons through the bridges during the first two years as a licensee.

(6) Yaquina Bay bar pilots shall not move any ship exceeding 23,000 gross tons, or any ship exceeding 300 feet in length with the wheelhouse forward of amidships, during the first two years as a licensee.

(7) Yaquina Bay bar pilots shall not move loaded tankers during the first two years as a licensee.

(8) The Board may, upon application by the licensee, recognize any combination of master’s tanker and pilot’s experience to equal any time period required by this rule.

Stat. Auth.: ORS 670 & 776

Stats. Implemented: ORS 776.115 & 670.310

Hist.: MP 1-1992, f. & cert. ef. 4-29-92; MP 1-1996, f. & cert. ef. 5-9-96; BMP 1-2007, f. 1-25-07, cert. ef. 1-26-07; BMP 4-2011, f. 6-28-11, cert. ef. 6-29-11; BMP 2-2014(Temp), f. & cert. ef. 5-23-14 thru 11-19-14; BMP 4-2014, f. & cert. ef. 11-26-14

856-010-0012

Degrees of Licenses for the Columbia and Willamette River Pilotage Ground

(1) Grade “C” License: The initial license issued by the Board to a pilot for the Columbia and Willamette River pilotage ground shall only authorize the pilot to pilot vessels under 600 feet length over-all (L.O.A.).

(2) To obtain a Grade “B” License while holding a Grade “C” License: In order to obtain authority from the Board to pilot vessels

from and including 600 feet L.O.A. up to 700 feet L.O.A. on the Columbia and Willamette River pilotage ground, an applicant must meet the following requirements:

(a) Complete at least 180 days service on the pilotage ground while holding a Grade “C” license;

(b) Complete at least 30 transits on the pilotage ground piloting ships of between 300 and 600 feet L.O.A.;

(c) Complete at least 25 transits on ships 600 feet L.O.A. or greater under the supervision of a minimum of ten different pilots, at least six of whom have held unlimited state licenses for at least 5 years;

(d) Complete at least 5 trips in either direction between Astoria and either Longview or Kalama on ships 600 feet L.O.A. or greater under the supervision of an unlimited state-licensed pilot;

(e) Make at least 6 trips under the supervision of unlimited state-licensed pilots while on the bridge of ships not less than 500 feet L.O.A., with at least 3 trips in each of the following directions:

(A) From the Willamette River, turning east (upstream) into the Columbia River; and

(B) From the Columbia River upstream of the mouth of the Willamette River, turning south (upstream) into the Willamette River;

(f) Complete at least 2 trips from dock to dock or anchor to dock while on ships not less than 600 feet L.O.A. while under the supervision of an unlimited state-licensed pilot, with each such trip requiring a 180 degree turn before docking;

(g) Present recommendations from the training course monitor and from at least ten pilots holding unlimited state licenses who participated in the training, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels from and including 600 feet L.O.A. up to 700 feet L.O.A.; and

(h) The requirements specified in subsections (b), (c), (d), (e), and (f) of this section must have been met during the 180 days preceding application for authority to pilot vessels from and including 600 feet L.O.A. up to 700 feet L.O.A.; and

(i) When the foregoing requirements are met, the Board shall issue a license to the applicant authorizing the applicant to pilot vessels which are less than 700 feet L.O.A., except that the applicant shall not pilot tankers, or vessels with a draft of 38 feet or greater, on the pilotage ground.

(3) To obtain a Grade “A” License while holding a Grade “B” License: In order to obtain authority from the Board to pilot vessels from and including 700 feet L.O.A. up to 800 feet L.O.A. on the Columbia and Willamette River pilotage ground, an applicant must meet the following requirements:

(a) Complete at least 270 days service on the pilotage ground while holding a Grade “B” license;

(b) Complete at least 40 transits piloting ships of between 300 and 700 feet L.O.A. as a state-licensed pilot;

(c) Complete at least 20 transits on ships 700 feet L.O.A. or greater while under the supervision of at least ten unlimited state-licensed pilots;

(d) Complete 2 trips from dock to dock or from an anchorage to a dock under the supervision of unlimited state-licensed pilots while on ships 700 feet L.O.A. or greater, with each trip including a 180 degree turn before docking;

(e) Make at least 4 trips under the supervision of unlimited state-licensed pilots within the 270 days preceding the application while on the bridge of a ship 700 feet L.O.A. or greater, with trips in each of the following directions:

(A) At least 3 trips from the Willamette River, turning east (upstream) into the Columbia River; and

(B) At least 1 trip from the Columbia River upstream of the mouth of the Willamette River, turning south (upstream) into the Willamette River;

(f) Train at least 5 additional days as directed by the training course monitor, with assignments chosen at the discretion of the training course monitor;

(g) Present recommendations from the training course monitor and from at least ten unlimited pilots who participated in the

training, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels from and including 700 feet L.O.A. up to 800 feet L.O.A. on the pilotage ground;

(h) The requirements specified in subsections (b), (c), (d), (e) and (f) of this section must have been met during the 270 days preceding application for authority to pilot vessels from and including 700 feet L.O.A. up to 800 feet L.O.A.; and

(i) When the foregoing requirements are met, the Board shall issue a license to the applicant authorizing the applicant to pilot vessels which are less than 800 feet L.O.A. on the pilotage ground, except that the applicant shall not pilot tankers, or vessels with a draft of 40 feet or greater.

(4) To obtain an Unlimited License while holding a Grade "A" License: In order to obtain authority from the Board to pilot vessels on the Columbia and Willamette River pilotage ground without any limitation on the length and draft of the vessels, including tankers and vessels with a draft of 40 feet or greater, an applicant must meet the following requirements:

(a) Complete at least 180 days service on the pilotage ground while holding a Grade "A" license;

(b) Complete at least 30 transits on ships of between 300 and 800 feet L.O.A. during the 180 days preceding application for an unlimited license;

(c) Train at least 10 additional days as directed by the training course monitor, with assignments chosen at the discretion of the training course monitor;

(d) While holding a Grade "B" or Grade "A" license, complete at least ten transits on ships greater than 800 feet L.O.A. while under the supervision of ten different unlimited pilots. Five of these transits must be supervised by pilots with not less than five years' experience as unlimited state-licensed pilots;

(e) Present recommendations from the training course monitor and from at least ten unlimited pilots who participated in training, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels 800 feet L.O.A. or greater on the pilotage ground;

(f) While holding a Grade "B" or Grade "A" license, complete at least 12 transits on tankers (including at least nine transits on loaded tankers) while under the supervision of at least six different state-licensed pilots with not less than five years' experience as unlimited state-licensed pilots;

(g) Present recommendations from the training course monitor and from at least six pilots who participated in training on tankers, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot tankers on the pilotage ground and understands the risks and hazards peculiar to piloting tankers on the pilotage ground;

(h) While holding a Grade "B" or a Grade "A" license, complete at least twelve transits on ships with drafts of 40 feet or greater while under the supervision of at least six different state-licensed pilots with not less than five years' experience as unlimited state-licensed pilots;

(i) Present recommendations from the training course monitor and from at least six unlimited pilots who participated in training on vessels with drafts 40 feet or greater, certifying that the applicant has sufficient knowledge and shiphandling skills to pilot vessels with drafts 40 feet or greater;

(j) Provide proof of completion of a United States Coast Guard approved course in automatic radar plotting aids (ARPA).

(k) Submit a license fee, which may be pro-rated, in order to synchronize the annual license renewal with the renewal of an unlimited license.

(l) When the foregoing requirements are met, the Board shall issue an unlimited license to the applicant authorizing the applicant to pilot vessels of any length and draft, including tankers, on the pilotage ground.

(5) Each grade of license will be valid for one year. No license except an unlimited license may be renewed.

Stat. Auth.: ORS 776, 670

Stats. Implemented: ORS 776.115, 670.310

Hist.: MP 2-1985, f. & ef. 6-7-85; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1992, f. & cert. ef. 4-29-92; BMP 3-2001, f. & cert. ef. 10-30-01; BMP 1-2005, f. &

cert. ef. 11-29-05; BMP 1-2007, f. 1-25-07, cert. ef. 1-26-07; BMP 4-2008, f. & cert. ef. 1-24-08; BMP 5-2011, f. 6-28-11, cert. ef. 6-29-11; BMP 2-2014(Temp), f. & cert. ef. 5-23-14 thru 11-19-14; BMP 4-2014, f. & cert. ef. 11-26-14; BMP 2-2015, f. & cert. ef. 6-1-15

856-010-0013

Grounds for Denying Original License Application

The Board may deny an application for a pilot's license, if the Board finds, after notice and hearing, that:

(1) The applicant fails to meet any one or all of the requirements of the physical examination as specified in OAR 856-010-0010 and/or the physical health of the applicant is such that the applicant is not physically capable of competently exercising the license privilege and performing the work involved without creating an unreasonable risk of harm to the applicant or to the person or property of others.

(2) The mental or emotional health of an applicant is such that the applicant is not competent to exercise the license privilege and is unable to perform the work involved without creating an unreasonable risk of harm to the applicant or to the person or property of others.

(3) The applicant has committed a criminal act, the facts and circumstances of which bear a demonstrable relationship to the exercise of the license privilege. Conviction of a crime is not required to deny an application under this provision.

(4) The applicant uses or has used alcohol, drugs, or any other substance in such a manner as to impair the applicant's physical or mental ability to exercise the license privilege without creating an unreasonable risk of harm to the applicant or the person or property of others.

(5) The applicant has engaged in conduct involving dishonesty or misrepresentation, the facts and circumstances of which bear a demonstrable relationship to the exercise of the license privilege.

(6) The applicant has failed to fulfill all the minimum requirements as stated in ORS Chapter 776 and OAR chapter 856.

(7) The applicant has been charged with a drug or alcohol offense during the past five years, the facts and circumstances of which bear a demonstrable relationship to the exercise of the license privilege.

Stat. Auth.: ORS 670 & 776

Stats. Implemented: ORS 670.280, 670.310 & 776.115

Hist.: MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1992, f. & cert. ef. 4-29-92; BMP 3-2011, f. 6-28-11, cert. ef. 6-29-11

856-010-0014

Pilot Trainee Selection and Apprentice Selection and Training Program

(1) Application for a Certificate as a Pilot Apprentice for the Columbia and Willamette River pilotage ground shall be made on a form provided by the Board.

(2) The Board of Maritime Pilots shall certify from among the eligible applicants the best qualified individual or individuals for apprenticeship. Selection shall be in accordance with selection criteria procedures, based upon numerical ranking, promulgated by the Board of Maritime Pilots.

(3) No more than two apprentices shall be in the apprenticeship program at any time. The Board shall accept new apprentices into training at intervals of two years or longer.

(4) Numerical ranking of apprentice applicants shall be based upon a 100-point system, with points for each of the following categories:

(a) Academic: Completion of a four-year course of study and receipt of a degree from an accredited maritime academy will be awarded 25 points.

(b) Previous Maritime Experience: Applicants shall be awarded 45 points based on federal licensure and a minimum of two years of actual experience as an officer in charge of a navigation watch while holding one or more of the following licenses:

(A) Master of Towing Vessels (Inland Waterways);

(B) Master of Towing Vessels (Ocean);

(C) Master, Vessels Greater than 1,600 Tons;

(D) Master, Vessels 1,600 Tons or Less;

(E) Chief or Second Mate on Vessels Greater than 1,600 Tons

(c) Applicants with a First Class Pilot Endorsement for any U.S. inland waterway will be awarded 5 points.

(d) Interview: Every applicant shall be interviewed by the Board of Maritime Pilots. Each person interviewed shall be assigned from 0 to 25 points based upon objective scoring guidelines published by the Board of Maritime Pilots.

(5) The apprentice candidate with the highest point total shall be awarded a Certificate of Apprenticeship by the Board and enter the apprentice training program. Said Certificate shall terminate upon satisfactory completion of the apprentice training program or upon the termination of the apprentice for cause or resignation.

(6) Training and qualification of pilot apprentices are subject to the following provisions:

(a) The term of apprenticeship for every apprentice shall be a minimum of three years.

(b) The apprentice training and qualification program shall include the satisfactory completion of an Apprentice Training Course approved by the Board of Maritime Pilots. The apprentice training and qualification program shall consist of both the approved Apprentice Training Course and the term of apprentice training.

(c) Satisfactory completion of the Apprentice Training Course, as approved by the Board of Maritime Pilots, requires that the apprentice must have satisfactorily completed the following training activities:

(A) 500 vessel movements between Astoria and Portland or Vancouver under the supervision of state licensed pilots; and

(B) 500 vessel movements under the supervision of state licensed pilots between any two points on the pilotage grounds selected by the Course Monitor based upon an evaluation of the apprentice's skills and training needs. Assignments under this subsection may include, but are not necessarily limited to, transits between Astoria and Portland or Vancouver.

(C) Up to 30 days of industry-related training that the Course Monitor, in his or her discretion, may assign based upon the Course Monitor's evaluation of the apprentice's skills and training needs. Each day of training assigned under this subsection shall be substituted for a vessel movement otherwise required under subsection (B) above.

(d) In order to satisfactorily complete this training course, every apprentice must ride with a majority of the pilots, on every route, day and night, ebb and flood tides, and on every size category of vessel calling at the port. The curriculum of the approved course requires that apprentices learn to direct the movement of vessels, apply the proper rules of the nautical road and other maritime procedures, and interface and coordinate with other affected vessels and facilities.

(e) During each vessel movement to which the apprentice is assigned, the apprentice shall accompany the licensed pilot assigned to the vessel. The licensed pilot serves as the expert-master and interacts with the apprentice in observational and mastery learning process. The licensed pilot is obligated to interact with the apprentice to a degree sufficient to teach skills and impart information and to assess the apprentice's progress during periods of "hands on" piloting by the apprentice under supervision by the pilot.

(f) The progress of every apprentice must be marked semi-annually during his or her term of apprentice training by the pilots with whom he or she has received instruction in the areas of: procedures, skillfulness, communications, and attitude.

(g) Every apprentice must receive satisfactory evaluations from the majority of the pilots and the Training Course Monitor during each semiannual progress report period. The Course Monitor shall semiannually advise each apprentice regarding his or her progress and shall also advise the Board of Maritime Pilots.

(h) Failure to make satisfactory progress during the Apprentice Training Course can result in the termination of the apprentice-training program for any apprentice at any point in the program by the Board of Maritime Pilots.

(i) The discovery that any apprentice fails to satisfy the physical requirements for federal licensure shall be just cause for

the termination of any such apprentice, without regard to progress in the Apprentice Training Course.

(j) Upon satisfactory completion of the approved Apprentice Training Course, the apprentice will be awarded a Certificate of Completion by the designated Course Monitor.

(7) Satisfactory completion of the Apprentice Training Program requires that the apprentice obtain a federal First Class Pilot license for the grounds from Astoria to Portland and Vancouver. However, any federal licensure as a federal First Class Pilot obtained by any apprentice before the completion of the apprenticeship training and qualification program shall not terminate nor shorten the three-year minimum term of apprentice training.

(8) No person shall represent himself or herself as an apprentice unless he or she has been approved and certified as an apprentice by the Board of Maritime Pilots. No pilot shall be required to train any uncertified person on board any vessel subject to the jurisdiction of the Board of Maritime Pilots. Any uncertified person posing as an apprentice aboard any vessel subject to the jurisdiction of the Board of Maritime Pilots shall be considered in violation of ORS 776.405.

(9) Upon the successful completion of the minimum three year apprenticeship training and qualification program, including certification by the Course Monitor of satisfactory completion of the Apprentice Training Course, the pilots shall provide the Board of Maritime Pilots with the name and complete training record of every successful apprentice along with their recommendations regarding his or her prospective licensure by the Board.

(10) Nothing shall prohibit the Board of Maritime Pilots from periodically reviewing the progress of any apprentice undergoing training, and reviewing the progress reports on every apprentice that have been submitted by the pilots.

(11) Every person who successfully completes the Apprenticeship Training Course shall begin the regular pilot training program for Class C, Class B, Class A and Unlimited licenses, upon the opening of a position by either the anticipated retirement or resignation of a licensed pilot, or the Board-approved increase in the number of pilots.

(12) If no person has successfully completed the Apprenticeship Training Course at the time a need for a pilot trainee arises, then the Board shall appoint a person who meets the requirements of OAR 856-010-0010(2) and (4)(a), and who has been selected by the Board from qualified applicants pursuant to procedures and criteria set forth in subsections (13), (14), and (15) below.

(13) Applicants for trainee positions under subsection (12) above must submit their applications to the Board of Maritime Pilots on forms provided by the Board. When the board determines that a need for a trainee pursuant to subsection (12) exists, it shall select from among the eligible applicants the best qualified for training. Selection shall be based upon numerical ranking according to the point system set forth in subsection (14) below.

(14) Applicants for trainee positions under subsection (12) above shall be ranked based upon a point system, with points awarded for each of the following categories:

(a) Academic: Graduation from high school or equivalent certification: 10 points. Two or more years at an accredited college or university: five points. Post-graduate or professional degree: five points. Completion of a four-year course of study at an accredited maritime academy: 15 points. Maximum total points under this section are 25.

(b) Previous Maritime Experience and Licensure: First Class Pilot License from Taney point, Oregon to Ryan Point, Washington on the Columbia River, and from Kelley Point, Oregon to the Ross Island Bridge on the Willamette River: 25 points. Federal pilotage endorsement on the Columbia River from Vancouver, Washington to Pasco, Washington: five points. Federal unlimited radar observer endorsement: five points. 1,460 or more active working days as master of towing vessels on the Columbia River and tributaries: five points. Additional certified training in each of the following categories: Bridge Resource Management, Emergency Medical Training, Hazardous Materials, Marine Firefighting, Oil Spill Con-

trol: one point each, up to a maximum of five points. Maximum total points under this section are 45.

(c) Interview: Every applicant with a combined point total of 50 or more from points awarded under subsections (14)(a) and (14)(b), shall be interviewed by three or more members of the Board, provided at least one member is a public member, one member is a pilot member, and one member is a member engaged in the activities of a company that operates commercial ocean-going vessels. Each person interviewed shall be assigned from 0 to 35 points based on the interviewee's poise and confidence, potential as an asset to the pilotage system, recommendations from within the maritime community, knowledge of trade and commerce on the Columbia River System, and such other factors as may be deemed relevant by the Board.

(15) Trainees selected by the Board shall be free to join the organization of pilots of their choosing upon completion of their training. No trainee may join an organization of pilots until after training is complete, except that trainees may associate with an organization of pilots on a provisional, temporary basis that ends upon receipt of an unlimited state pilot's license. Any such provisional, temporary association between trainees and organizations of pilots shall not obligate the trainee to join any particular organization of pilots after training is complete.

Stat. Auth.: ORS 776.115

Stats. Implemented: ORS 776.115 & 776.300

Hist.: MP 3-1995, f. & cert. ef. 3-16-95; MP 4-1995, f. & cert. ef. 8-16-95; BMP 1-1998, f. & cert. ef. 6-15-98; BMP 1-1999, f. & cert. ef. 2-19-99; BMP 1-2002, f. & cert. ef. 8-29-02; BMP 4-2008, f. & cert. ef. 1-24-08; BMP 2-2010, f. & cert. 12-14-10

856-010-0015

Renewal of License

(1) Application for renewal of license shall be made on a form provided by the board, signed by the applicant, accompanied by the physical examination form provided by the board and presented to the administrator of the board at least thirty (30) days prior to expiration of license.

(2) All state-licensed pilots shall be required to have an annual physical examination by an Oregon or Washington licensed physician within ninety (90) days prior to expiration of their license, the physical requirements for which are the same as for the original license as specified in OAR 856-010-0010(2), except for drug testing.

(3) All state-licensed pilots shall, within six months prior to the expiration of their license, submit to a test indicating licensee is 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 Code of Federal Regulations 46, CFR § 16 (2009). Urine specimens are to be analyzed by a laboratory that meets DHHS regulations set forth by the National Institute of Drug Abuse (NIDA); or provide proof to the board that licensee is participating in a US Coast Guard approved random drug testing program;

(4) All applicants for renewal of licenses shall submit a photocopy of their currently applicable United States government license with radar endorsement issued by the United States Coast Guard.

(5) All applicants for renewal of unlimited licenses shall provide certification of meeting the continuing professional development requirements specified in OAR 856-010-0027. Unless waived as provided below in this paragraph, failure to comply with all requirements for renewal of license shall constitute the failure to submit a complete application for renewal and will result in the withholding of the renewal license. A pilot who is unable to complete the requirements within the time allowed due to unexpected, emergency circumstances may request in writing a waiver and the Board may, upon good cause shown, permit a license renewal for one year without the requirements being met, provided that all required certifications must be made by the applicant at the time application for renewal is made the following year.

(6) Each license issued is valid for one year and only the unlimited state license may be renewed.

(7) Notwithstanding subsection (4) of this section, if a pilot has submitted an application for renewal of the pilot's federal license at least 60 days prior to the expiration date of his federal license, but the United States Coast Guard has not completed its renewal process by the expiration date for the federal license and the pilot has, for that reason, no currently applicable federal license at the time of renewing his state license, then the board may issue a provisionally renewed state license. Any pilot to whom a provisionally renewed state license is issued must report to the board every 30 days regarding the status of the pilot's federal license renewal. If the United States Coast Guard completes its processing for the federal license but declines to renew the federal license, the board may treat the refusal to renew the federal license as a suspension or revocation of the federal license.

Stat. Auth.: ORS 776, 670

Stats. Implemented: ORS 776.115, 670.310

Hist.: PC 1, f. 10-29-57, ef. 7-1-57; MP 2-1984, f. & ef. 10-4-84; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1992, f. & cert. ef. 4-29-92; MP 1-1995, f. & cert. ef. 5-9-96; BMOP 1-2000, f. & cert. ef. 12-6-00; BMP 4-2006, f. 9-28-06, cert. ef. 10-6-06; BMP 1-2007, f. 1-25-07, cert. ef. 1-26-07; BMP 4-2008, f. & cert. ef. 1-24-08; BMP 1-2009(Temp), f. & cert. ef. 2-10-09 thru 8-7-09; Administrative correction 8-21-09; BMP 5-2009, f. & cert. ef. 8-24-09; BMP 1-2010, f. & cert. ef. 4-27-10; BMP 1-2011, f. 6-28-11, cert. ef. 6-29-11; BMP 7-2011, f. 12-29-11, cert. ef. 12-30-11

856-010-0016

License Fees

The annual license fee for pilots shall be \$2,995.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115 & 776.355

Hist.: MP 1-1991(Temp), f. 6-19-91, cert. ef. 7-1-91; MP 2-1991, f. & cert. ef. 12-27-91; MP 3-1992(Temp), f. 6-26-92, cert. ef. 7-1-92; MP 4-1992, f. 11-13-92, cert. ef. 12-28-92; BMP 3-2007(Temp), f. & cert. ef. 7-26-07 thru 1-21-08; BMP 1-2008, f. & cert. ef. 1-24-08; BMP 6-2009, f. & cert. ef. 8-24-09; BMP 6-2011, f. 10-31-11, cert. ef. 11-1-11; BMP 2-2013, f. & cert. ef. 7-1-13; BMP 3-2015, f. & cert. ef. 7-22-15

856-010-0017

Reduced License Fees

Individuals licensed by this Board as pilots for Yaquina Bay bar pilotage ground, who anticipate less than full-time employment as pilots, may pay a reduced annual license fee of \$50.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.355

Hist.: MP 4-1983, f. & ef. 12-15-83; MP 1-1992, f. & cert. ef. 4-29-92

856-010-0018

Pilot Trainee Selection — Columbia River Bar Pilots

(1) Individuals interested in qualifying as a candidate to train for licensure on the Columbia River Bar pilotage ground shall contact the Board to receive forms and information describing the application, evaluation and selection processes.

(2) Candidates qualified to submit application for Columbia River Bar Pilot Trainee Selection shall first be required to successfully complete a physical agility work-test at a nationally recognized, independent, certified facility designated by the Board. Candidate participation in all further evaluation and selection processes is predicated on successful completion of the physical agility work-test.

(3) Successful completion of a simulator evaluation, administered by a nationally recognized, independent, marine education and training facility designated by the Board. The evaluation is pass/fail.

(4) Trainee selection shall be in accordance with selection criteria and procedures, based upon numerical ranking, promulgated by the Board.

(5) Numerical ranking shall be based upon a point system, with points for providing the following documentation:

(a) Federal license as Master, any ocean, any gross tons (unlimited Master's license) and two years' seetime as Master of an ocean-going merchant ship of no less than 5000 gross tons — 25 points

(b) Signed certification of a 3-day familiarization visit to Astoria — 10 points

(6) Interview: Each applicant shall be offered the opportunity to participate in periodic interviews conducted by the Board. Each person interviewed shall be assigned from 0 to 25 points based upon the following guidelines: potential as an asset to the pilotage system; stress/environment; personal relations; experience; and other factors deemed relevant by the Board. Applicants who do not have the two years' seetime required by (5)(a) may interview if they have one year seetime experience and demonstrate that they are currently employed in a capacity in which they are earning the required seetime experience.

(7) At such times as vacancies may be forecast or occur within the register of pilots, the Board shall offer the highest ranked individual or individuals the opportunity to be selected for training on the Columbia River Bar pursuant to OAR 856-010-0010(7). The individual selected for training must accept or decline the invitation to train within 30 days of notification. Failing to do so will cause their name to go to the bottom of the ranked applicants' list.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115

Hist.: MP 3-1995, f. & cert. ef. 3-16-95; BMP 1-2002, f. & cert. ef. 8-29-02;

BMP 2-2008, f. & cert. ef. 1-24-08

856-010-0019

Surety Bond or Deposit

(1) Each pilot licensed by the Board or on file with the Board as an individual in pilot trainee status shall file with the Board a surety bond in the amount of \$250 in the form provided in this rule and underwritten by a surety company authorized to do business in Oregon.

(2) In lieu of the surety bond, a pilot may deposit \$250 in cash or cashier's check with the Board as surety of the pilot's obligation under ORS Chapter 776. The Board shall deposit the funds according to the regulations of the state treasurer.

(3) If a pilot fails to pay the sum of \$250 into the court in which a suit or action alleging negligence by the pilot has been filed, as required by ORS Chapter 776, the Board shall upon demand make such payment from the funds on deposit, if the pilot has elected such deposit in lieu of presentation of a bond.

(4) Failure to present a bond or maintain on deposit a sum of \$250 as surety shall be grounds for revocation of a pilot's license.

(5) When a pilot surrenders his/her license to the Board, and if no suits or actions are pending against the pilot, the Board shall return the bond or the cash deposit upon receipt of the pilot's written request.

(6) Upon expiration of the pilot's license and if no suits or actions are pending against the pilot, the Board shall return the bond or the cash deposit upon receipt of the pilot's written request.

(7) An acceptable form of a bond is hereby made a part of this rule as shown in **Appendix 1**. Copies of the bond may be obtained from the administrator of the Board.

[ED. NOTE: Appendices referenced are available from the agency]

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.540

Hist.: MP 1-1983(Temp), f. & ef. 10-5-83; MP 3-1983, f. & ef. 12-15-83; MP 1-1984, f. & ef. 4-5-84; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1996, f. & cert. ef. 5-9-96

856-010-0020

Incident Reports; Duties to Report

(1) An incident defined as:

(a) An accidental grounding;

(b) An intentional grounding which creates a hazard to navigation, the environment or to the safety of the vessel;

(c) An unintended collision or allision with any object;

(d) Loss of life related to the operation of the vessel;

(e) Serious physical injury related to the operation of the vessel;

(f) Any occurrence resulting in damage to the vessel or other property which may reasonably be expected to be in excess of \$25,000, excluding the cost of salvage, cleaning, gas-freeing, dry-docking or demurrage; or

(g) Any boarding or unboarding occurrence which places the licensee in peril.

(2) If any incident occurs on a vessel while a licensee or trainee is engaged in the provision of pilotage service for such vessel, the licensee or trainee providing such pilotage service shall file a written report of the incident with the Board. The report shall be filed by the close of business on the fifth calendar day following the incident or within five calendar days after the date upon which the licensee or trainee first became aware of the incident, whichever is later. The report shall be on a form provided by the Board. The report shall include, but not be limited to, the date, time and location of the incident, a detailed narrative description of the nature of the incident and, to the extent known by the licensee or trainee, the cause of the incident and the names and addresses of the witnesses to the incident. In the case of an incident involving loss of life or serious physical injury, the licensee shall immediately notify the Board of the incident.

(3) Any licensee who has reasonable grounds to believe that an incident has occurred and that such incident has not been reported to the Board, shall contact the Board and determine whether a report of the incident has been filed with the Board. If a report of the incident has been filed with the Board, the licensee making the inquiry shall have no further reporting responsibility. If

no report of the incident has been filed, the inquiring licensee shall make a written report to the Board regarding the suspected incident. This report, which may be in any reasonable form, shall include a brief statement containing such information about the suspected incident as is known to the reporting licensee. After filing this report, the reporting licensee shall have no further reporting responsibility.

(4) Any person may file a complaint with the board regarding any suspected violation by Board licensees of the statutes and rules regarding pilotage.

(5) Upon receipt of an incident report filed by an involved licensee or by another licensee or upon receipt of a complaint from any person, the board shall conduct an investigation. The Board, on its own initiative, may conduct an investigation involving any matter within its jurisdiction.

(6) Upon receipt of an incident report from another licensee regarding a licensee of the board or upon receipt of a complaint regarding a licensee of the Board, the Board shall provide the involved licensee with a copy of the report or complaint. When the involved licensee receives from the Board a copy of an incident report filed by another licensee or a copy of a complaint filed with the Board, the involved licensee shall provide the Board with a written statement that includes, but is not limited to, a detailed narrative explanation of the occurrence and a detailed response to the statements in the report. The written statement required by the involved licensee shall be filed with the Board at the close of business on the fifth calendar day following receipt of the report from the Board.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115 & 776.118

Hist.: PC 1, f. 10-29-57, ef. 7-1-57; MP 2-1984, f. & ef. 10-4-84; MP 1-1992, f. & cert. ef. 4-29-92; MP 2-1995, f. & cert. ef. 1-24-95; BMP 3-2008, f. & cert. ef. 1-24-08

856-010-0021

Miscellaneous Reporting Obligations

(1) Any licensee or trainee who has a post-incident, random or reasonable cause drug or alcohol test with results confirmed positive by a medical review officer must report the results in writing to the Board within 72 hours after receiving such results.

(2) Any licensee or trainee who is arrested or cited for any alcohol or drug-related offense must report the arrest or citation in writing to the Board within 72 hours. Additionally, any licensee or trainee arrested or cited for any alcohol or drug-related offense must, within 72 hours, report in writing to the Board the ultimate resolution of the arrest or citation, whether by conviction, diversion, dismissal, acquittal or otherwise.

(3) Any licensee or trainee who is convicted of any crime must report the conviction in writing to the Board within 5 days of receiving notice of such conviction.

(4) Any licensee or trainee who has disciplinary action commenced against him or her, or against his or her license by the U.S. Coast Guard, must report such action in writing to the Board within 5 days of receiving notice of the initiation of such action by the U.S. Coast Guard.

Stat. Auth.: ORS 776 & 670

Stats. Implemented: ORS 776.115, 670.280 & 670.310

Hist.: BMP 3-2011, f. 6-28-11, cert. ef. 6-29-11

856-010-0022

Incident Investigation Procedures

(1) Upon receiving notice that an incident has occurred, the Board member who is a licensee for the pilotage ground where the incident occurred will commence a preliminary investigation as soon as practicable. If the incident involves that Board member, or if that Board member is not available to commence a timely preliminary investigation, then the Board Chair will appoint another Board member to commence the preliminary investigation, in which case the Board Chair will also seek a volunteer from among those who are or have been licensees for the pilotage ground where the incident occurred, to serve as an advisor to the Board member conducting the preliminary investigation.

(2) The Board member conducting the preliminary investigation will, as soon as possible after receiving notice that an incident has occurred, gather sufficient information to form an opinion regarding whether the incident is likely to be a Category I or Category II incident, according to the following criteria:

(a) Category I Incident:

(A) Property damage exceeding \$150,000; or

(B) loss of life or serious personal injury (requiring hospitalization); or

(C) allision with a bridge; or

(D) release of more than 50 gallons of oil or other hazardous substance into the water; or

(E) a pilot may have been acting under the influence of drugs or alcohol or there is evidence of gross negligence or willful misconduct; or

(F) any factor that results in substantial, widespread public interest in the incident.

(b) Category II Incident:

(A) Any incident reportable under Board regulations that does not satisfy any of the criteria in OAR 856-010-0022(2)(a).

(3) As soon as possible after completing the preliminary investigation, the investigating Board member will contact the Board's Chair to make a preliminary report and recommendation regarding classification of the incident as Category I or Category II. Based on the preliminary report, the investigating Board member's recommendation, and such other factors as the Board Chair deems appropriate under the circumstances, the Board Chair will, in his or her discretion, determine whether to classify the incident as Category I or Category II.

(4) Upon the Chair's classification of an incident as Category I, an investigating team will be promptly appointed by the Chair. The investigating team will include:

(a) The Chair or other public member of the Board, to serve as the team leader; and

(b) a shipping industry or port representative member of the Board; and

(c) the pilot member of the Board from the pilotage ground where the incident occurred, unless the incident involves that pilot, in which case the Chair will appoint another pilot member of the Board. If the pilot Board member appointed to the investigating team is not a licensee on the pilotage ground where the incident occurred, then the Board will request a volunteer from among those who are or have been licensees for the pilotage ground where the incident occurred, to serve as an advisor to the investigating team.

(5) Upon the Chair's classification of an incident as Category II, the Board member who conducted the preliminary investigation shall proceed with completion of the investigation. The Chair may, at any time during the course of the investigation, upon receipt of new information, elect to reclassify the incident as a Category I incident requiring the appointment of an investigating team.

(6) The services of a qualified independent investigator, or an expert in a discipline that is relevant and necessary for determining the cause of an incident, should be obtained in the following circumstances:

(a) In any Category I incident, upon request of the Chair, or of two or more members of the investigating team.

(b) In any Category II incident, upon agreement of the Chair and the Board member conducting the investigation.

(7) In order to qualify as an expert for purposes of OAR 856-010-0022(6), a person must have a postgraduate degree, professional training or substantial practical experience in a discipline or subject matter that the Board investigators determine is relevant and necessary for determining the cause of an incident.

(8) The Board will keep and periodically update a list of qualified independent investigators who may be available to provide services. In order to qualify as an independent investigator for the Board, a person must:

(a) Have had at least four years previous experience investigating maritime casualties; or

(b) have served at least two years as pilot or master of vessels greater than 1600 GRT, and had formal training in investigations procedures or extensive actual experience investigating maritime casualties.

(9) The role of an independent investigator is that of an advisor to the investigating team in a Category I incident, or to the investigating Board member in a Category II incident. An independent investigator is to serve as a fact gatherer at the direction of the Board investigators, delivering information to the Board members investigating the incident. Information gathered by an independent investigator may be used by the investigating Board members for their analysis and for use in their preparation of a written report with their recommendations to the Board as a whole.

(10) When the investigation is complete, the investigating Board member or members will prepare a written report for consideration by the Board. The report shall describe the scope of the investigation, the information gathered, and include an assessment of the probable causes of the incident, and recommendations for any further Board action that should be considered. The written report shall also make a recommendation concerning the scope of distribution of the report.

Stat. Auth.: ORS 776, 670

Stats. Implemented: ORS 776.115, 670.310

Hist.: BMP 3-2009, f. & cert. ef. 6-19-09; BMP 1-2011, f. 6-28-11, cert. ef. 6-29-11

856-010-0025

Failure to Report

The license of any pilot who fails, neglects, or refuses to report to the Board, or U.S. Coast Guard, as required by these rules for a period of ten days after the date required may be suspended; and if the pilot fails to report for a period of 30 days, the pilot will be suspended until the pilot has satisfactorily responded to the Board.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115

Hist.: PC 1, f. 10-29-57, ef. 7-1-57; MP 2-1984, f. & ef. 10-4-84; MP 1-1992, f. & cert. ef. 4-29-92

856-010-0026

Pilot Trainee Selection — Coos Bay Bar and Yaquina Bay Bar Pilotage Grounds

(1) Applicants for trainee positions must submit their applications to the Board of Maritime Pilots on forms provided by the Board. When the Board determines that a need for a trainee exists, it shall select from among the eligible applicants the best qualified for training. Selection must be based upon numerical ranking according to the point system set forth below. The person selected shall be appointed for training on both pilotage grounds.

(2) Applicants for trainee positions shall be ranked based upon a point system, with points awarded for each of the following categories:

(a) Academic: Graduation from high school or equivalent certification: 10 points. Two or more years at an accredited college or university: 5 points. Post-graduate or professional degree: 5 points. Completion of a four-year course of study at an accredited maritime academy: 10 points. Maximum total points under this section is 25.

(b) Previous Maritime Experience and Licensure: Federal First Class Pilot License for the Coos Bay Bar or the Yaquina Bay Bar: 10 points. Federal unlimited radar observer endorsement: 5 points. 1,460 or more active working days as master of towing vessels: 20 points. 1,460 or more working days as master of vessels greater than 1600 gross tons: 10 points. 50 or more crossings of the Coos Bay or Yaquina Bay Bar as master of towing vessels or master of vessels greater than 1600 gross tons: 20 points. Unlimited state pilot license for a pilotage ground other than Coos Bay Bar or Yaquina Bay Bar: 10 points. Additional certified training in each of the following categories: Bridge Resource Management, Emergency Medical Training, Hazardous Materials, Marine Firefighting, Oil Spill Control: 1 point each, up to a maximum of 5 points. Maximum total points under this section is 55.

(c) Interview: Every applicant with a combined point total of 35 or more from points awarded under subsections (a) and (b) shall be interviewed by three or more members of the Board, provided at least one member is a public member, one member is a pilot member from the Coos Bay Bar or Yaquina Bay Bar Pilotage Ground, and one member is a member engaged in the activities of a company that operates commercial ocean-going vessels. Each person interviewed shall be assigned from 0 to 35 points based on the interviewee's poise and confidence, potential as an asset to the pilotage system, recommendations from within the maritime community, knowledge of trade and commerce, and such other factors as may be deemed relevant by the Board.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115, 776.300

Hist.: BMP 1-2006, f. & cert. ef. 1-30-06

856-010-0027

Continuing Professional Development and Safety Training

(1) All applications for renewal of an unlimited license after January 1, 2012 shall, within the sixty-three (63) months preceding the expiration date of their license, complete of a minimum of 10 days of continuing professional development training, as provided in paragraphs (a) and (b) below.

(a) Each pilot shall satisfactorily complete a five (5) day manned model course at a Board approved manned model facility.

(b) Each pilot shall satisfactorily complete an additional five (5) days of course work, at least one day of which must be Bridge Resources Management for Pilots. All courses must be conducted at an accredited college, maritime academy, U.S. Coast Guard approved training facility or conducted by an expert in a field related to the subject matter of the course. All courses must cover one or more subject matter topics approved by the Board in advance of the course being taken. The Board shall maintain a list of approved topics, which may include, but are not limited to:

(A) Emergency Shiphhandling for Pilots

(B) Advanced Electronic Navigation Systems

(C) Azipod Controls and Operations with Azipods

(D) Fatigue, Sleep and Medications for Pilots

(E) Legal Aspects of Pilotage, including State Statutes and Regulations for Pilots

(F) Maritime Domain Awareness and Security for Pilots

(G) Crisis Management and Media Response

(H) Pilot Self-Assessment Simulation

(I) Advanced Shiphhandling Simulation

(J) Operation with Tugs for Pilots

(K) Radar Observer (credit limited to one day per reporting period)

(L) Bridge Resources Management for Pilots

(M) Train the Trainer

(2) In addition to satisfying the requirements set forth above, each pilot holding an unlimited license shall complete a minimum of one day of personal safety training during the 12-month period preceding the expiration date of their license. The Board shall maintain a list of pre-approved training, which may include, but are not limited to:

(a) CPR.

(b) Man Overboard (MOB).

(c) Cold Water Survival.

(d) Helicopter Dunker.

(e) Pilot Boat Drills.

(f) Rescue Systems.

(g) STCW — Basic Safety Training.

(3) Each pilot shall, within 30 days after completing any training course required by paragraphs (1)(a) or (1)(b) above, submit to the Board an evaluation of the course, on a form provided by the Board. The requirement to provide a course evaluation goes into effect immediately upon the adoption of this rule.

Stat. Auth.: ORS 776 & 670

Stats. Implemented: ORS 776.115 & 670.310

Hist.: BMP 1-2010, f. & cert. ef. 4-27-10; BMP 7-2011, f. 12-29-11, cert. ef. 12-30-11

856-010-0028

Pilot Exchanges

(1) The recommended area for the exchange between the Bar Pilots and River Pilots is upstream of River Mile 15. Failure to complete the exchange at the recommended location will not, by itself, subject a pilot to discipline by the Board, but in the event of an incident in which it is determined that the exchange took place downstream of River Mile 15, the burden will be on the transferee pilot to show that the place of the exchange was not a contributing factor to the incident. For purposes of this section, pilot “exchange” occurs when the transferor pilot relinquishes the conn and the transferee pilot takes the conn of the vessel.

(2) A pilot exchange shall not be completed until the transferor pilot has communicated all information that is, in the opinion of the transferor pilot, necessary for the transferee pilot to continue with the safe navigation of the vessel, and the transferee pilot shall not accept the conn until satisfied that he or she has received sufficient information to continue with the safe navigation of the vessel.

(3) As soon as practicable after boarding a vessel, the pilot shall conduct an information exchange with the vessel’s master or other officer apparently in charge. The information exchange shall address those subjects that are, in the pilot’s opinion, necessary for safe navigation of the vessel.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115

Hist.: BMP 2-2003, f. & cert. ef. 3-21-03

856-010-0029

Fatigue Mitigation Programs

(1) Pilot organizations shall adopt and maintain fatigue management programs that are based on peer-reviewed science in the fields of occupational or sleep medicine and that, at a minimum:

(a) Limit the number of continuous hours on duty;

(b) Provide off-duty time sufficient for an adequate, continuous sleep opportunity at least once each 24 hour period;

(c) Mitigate cumulative fatigue associated with work during successive circadian low periods; and

(d) Limit the number of successive days on duty.

(2) Pilot organizations shall submit copies of their fatigue management programs and any subsequent modifications of their programs to the Board.

(3) The Board shall establish a regular reporting process for the purpose of tracking the results of the fatigue management programs adopted by the pilot organizations.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115

Hist.: BMP 1-2015, f. 4-2-15, cert. ef. 4-7-15

856-010-0031

Complaint Process

(1) Any person or entity may file a complaint with the Board regarding the conduct of a Board licensee or trainee. Such complaints shall be in writing, and include a detailed explanation of the conduct or events complained of. Anonymous complaints are disfavored, but allowed, provided that an explanation is offered of the reason why the complainant does not wish to be identified. Anonymity may limit the ability of the Board to investigate the complaint, and therefore anonymous complaints should allege facts sufficient to allow the Board, should it choose to investigate as provided in this section, to pursue an investigation without further communications with the complainant.

(2) Each complaint shall be assigned a filing code, and then shall be directed to the Board’s Executive Committee, with a copy provided to the licensee or trainee who’s conduct is the subject of the complaint. The Executive Committee will review each complaint and shall, within 10 days of the date of filing, provide an initial response to the complainant, if identified, and the licensee or trainee, indicating whether a preliminary investigation will be undertaken. Every complaint and the Executive Committee’s initial response will be announced at the next regularly scheduled meeting of the Board.

(3) If the Executive Committee decides that an investigation should be undertaken, the Committee shall determine what resources

will be necessary to complete the preliminary investigation, which may include, but are not limited to, assistance from the Board Administrator, Board Counsel, independent investigators, or subject matter experts. The Executive Committee may proceed with an initial investigation using such resources, provided that the Board may subsequently choose to expand or limit access to such resources.

(4) The Executive Committee shall, at each regularly scheduled meeting of the Board, report on the progress of any preliminary investigation it has in progress.

(5) When the preliminary investigation is complete, the Executive Committee shall report preliminary findings to the Board in writing, and shall include a recommendation to the Board of what further action, if any, appears appropriate under the circumstances, including whether to commence a disciplinary or other action authorized by ORS Chapter 776 or the Board’s regulations. A copy of the Executive Committee’s preliminary findings and recommendations shall be provided to the complainant, if known, and to the licensee or trainee whose conduct was the subject of the preliminary investigation.

(6) Nothing in this section is intended to limit the Board’s authority to initiate and conduct investigations on the Board’s own motion, supported by any basis deemed adequate by the Board.

Stat. Auth.: ORS 776, 670

Stats. Implemented: ORS 776.115, 670.310

Hist.: BMP 1-2011, f. 6-28-11, cert. ef. 6-29-11

856-010-0035

Disciplinary Actions

(1) Absence from Pilotage Grounds. A pilot must request in writing to the Board on the form provided by the Board permission to be absent from the pilotage ground for a period of more than sixty days. The Board will discipline any pilot who is absent from the pilotage ground for a period of more than 60 days without permission of the Board. A pilot who has been granted permission to be absent from piloting duties for a period of more than 60 days shall, at the end of 180 days, reapply in writing for an extension or shall return to duty. The pilot must notify the Board in writing, ten days prior to returning to the pilotage ground, of the pilot’s intention to return to duty. A pilot who has been absent with permission from piloting duties for more than 180 days shall notify the Board in writing on the form provided by the Board of the pilot’s intention to return to the pilotage ground. The notice shall include a statement of the number of trips under the supervision of an unlimited state-licensed pilot that will be taken to re-familiarize the pilot with the pilotage ground, but in no event shall the returning pilot take fewer than two trips for every 90 days’ absence from the pilotage grounds. The Board may, following receipt of a pilot’s notice of intent to return to the pilotage ground, require more familiarization trips than the returning pilot indicates in the notice provided to the Board.

(2) Suspension, Revocation or Lapse of Federal License. The state license of any pilot whose federal license is suspended or revoked, or whose federal license lapses due to delay in renewal as a consequence of a drug or alcohol-related event, shall be automatically suspended or revoked for the same period. The lapse of a federal license due to delay in renewal as a consequence of a drug or alcohol-related event shall be treated as a suspension for purposes of the paragraph. The state license shall be reinstated upon restoration of the federal license. The pilot so affected may apply to the Board for a review of the case while under suspension. If the review of the case shows that circumstances warrant modification of the pilot’s suspended status, the Board may order the pilot’s state license restored, or it may take any other appropriate action.

(3) Upon suspension, revocation or other disciplinary action taken by the Board against a state-licensed pilot, the U.S. Coast Guard shall be notified by the Board in writing within 24 hours.

(4) Pilots shall not refuse to provide pilotage service unless necessary for their own or public safety. If a representative of the vessel requesting piloting service contests a pilot’s determination concerning safety, then, the vessel’s representative may seek a determination by the Board.

(5) Other Causes for Discipline. See the following administrative rules for other causes for discipline of licensee:

(a) OAR 856-010-0015, failure to comply with requirements for renewal;

(b) OAR 856-010-0019, failure to present surety bond or deposit;

(c) OAR 856-010-0025, failure to report to Board;

(d) OAR 856-010-0025, failure to report incident to U.S. Coast Guard;

(e) OAR 856-010-0035, refusal to provide pilotage service;

(f) OAR 856-010-0045, grounds for pilot discipline.

Stat. Auth.: ORS 670 & 776

Stats. Implemented: ORS 670.280, 670.310 & 776.115

Hist.: PC 1, f. 10-29-57, ef. 7-1-57; MP 5-1983, f. & ef. 12-15-83; MP 2-1984, f. & ef. 10-4-84; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1992, f. & cert. ef. 4-29-92; MP 1-1997(Temp), f. & cert. ef. 9-30-97; BMP 3-2011, f. 6-28-11, cert. ef. 6-29-11

856-010-0041

Preventative, Corrective or Remedial Actions

(1) Notwithstanding any other provision of its regulations, the board may enter into a written agreement with a licensee in lieu of license suspension or revocation proceedings or any other disciplinary alternative. The board may enter into an agreement pursuant to this section if, after the preliminary investigation of an incident or other occurrence is complete, it appears that the licensee, the pilotage system or the public interest will be served by preventative, corrective or remedial action. An agreement between the board and a licensee may include any preventative, corrective or remedial measures including, but not limited to:

(a) Supervised retraining trips for the licensee under the supervision of pilots from the training organization for the pilotage ground;

(b) Completion of computerized simulated ship-handling training, manned model training, radar observer training, or such other training or course work as may be appropriate under the circumstances that is in addition to continuing professional development training required of all licenses;

(c) Counseling relating to the duties and obligations of a pilot; or

(d) Issuance by the board of a letter of warning or concern to the licensee.

(2) An agreement entered into between a licensee and the board pursuant to this section shall not be considered an admission of a violation of statute or rule and the agreement shall not be considered to be a board determination of a violation of statute or rule on the part of the licensee who enters into the agreement. The preventative, corrective or remedial measures contained in such agreement and the licensee's compliance with the agreement may be considered by the board in any subsequent proceeding in which such matters are relevant.

(3) A licensee who enters into an agreement with the board must complete all requirements in the agreement within the time period specified in the agreement. Failure by the licensee to complete any agreed upon remedial or corrective measures shall constitute a separate ground for discipline pursuant to OAR 856-010-0045.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115

Hist.: MP 1-1988(Temp), f. & cert. ef. 2-5-88; MP 2-1988, f. & cert. ef. 5-4-88; MP 1-1992, f. & cert. ef. 4-29-92; MP 1-1996, f. & cert. ef. 5-9-96; BMP 2-2001, f. & cert. ef. 5-21-01; Renumbered from 856-010-0048, BMP 3-2011, f. 6-28-11, cert. ef. 6-29-11

856-010-0045

Grounds for Pilot Discipline

The board may revoke or suspend a pilot's license, impose on the pilot a civil penalty of not more than \$250 for each offense, or issue the pilot a written reprimand if the board finds, after notice and hearing, that:

(1) The physical health of a pilot is such that the pilot is not physically capable of competently exercising the license privilege and performing the work involved without creating an unreasonable risk of harm to the pilot or to the person or property of others.

(2) The mental or emotional health of a pilot is such that the pilot is not competent to exercise the license privilege and is unable to perform the work involved without creating an unreasonable risk of harm to the pilot or to the person or property of others.

(3) The pilot has committed a criminal act, the facts and circumstances of which bear a demonstrable relationship to the exercise of the license privilege. Conviction of a crime is not required to discipline a pilot under this provision.

(4) No pilot may act or attempt to act as a pilot on any pilotage ground:

(a) Within 12 hours after the consumption of any alcoholic beverage;

(b) While under the influence of alcohol; or

(c) While using any drug that affects the pilot's faculties in any way contrary to safety.

(5) The pilot has used alcohol, drugs, medications or controlled substances in a manner that, as the Board determines, casts substantial doubt on the ability of the pilot to exercise the level of sound judgment expected of a pilot, or has used prescription drugs in a manner inconsistent with warnings or instructions provided by the manufacturer or prescribing physician.

(6) The pilot has failed to make a timely report to the board as required by these rules.

(7) The pilot when summoned to testify before the board has failed to appear before the board, or has failed to answer under oath any question touching on any matter connected with the pilot's service or the pilotage ground over which the pilot is licensed as a pilot.

(8) The pilot has been absent from the pilotage ground for a period of sixty (60) days without the express permission of the board.

(9) The pilot's federal license has been suspended, revoked or has lapsed.

(10) The pilot has engaged in conduct involving dishonesty or misrepresentation, the facts and circumstances of which bear a demonstrable relationship to the exercise of the license privilege.

(11) The pilot has failed to exercise the license privilege competently or diligently.

(12) The pilot has violated any provision of ORS 776.015 through 776.991 or any rule of the Board.

(13) The pilot has failed to post or maintain a surety bond or cash deposit.

(14) The pilot has failed to obey a directive issued by an officer of the United States Customs Service, the United States Coast Guard or other law enforcement agency when such a directive could have been complied with safely.

(15) The pilot or trainee has failed to comply with the provisions of an agreement in lieu of discipline, entered into pursuant to OAR 856-010-0041.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.116 & 776.325

Hist.: MP 1-1988(Temp), f. & cert. ef. 2-5-88; MP 2-1988, f. & cert. ef. 5-4-88; MP 1-1992, f. & cert. ef. 4-29-92; MP 1-1996, f. & cert. ef. 5-9-96; BMP 2-2001, f. & cert. ef. 5-21-01; BMP 3-2011, f. 6-28-11, cert. ef. 6-29-11; BMP 3-2014, f. & cert. ef. 8-25-14

856-010-0047

Disciplinary Sanctions

(1) Upon determination by the Board that a pilot is subject to discipline under OAR 856-010-0045, the Board may consider the following factors in determining the appropriate sanction to be imposed:

(a) The nature of the violation;

(b) The facts and circumstances of the violation;

(c) The mental state of the pilot in committing the violation, e.g., whether the violation was intended or unintended;

(d) The extent of the harm or injury caused by the violation or the potential for harm or injury;

(e) Any aggravating or mitigating circumstances.

(2) The Board may consider the following factors as aggravating circumstances when imposing a disciplinary sanction:

(a) Prior disciplinary actions;

RATEMAKING PROCEDURES

856-030-0000

Ratemaking — Substantive Elements

The Board shall for each pilotage ground, establish a rate structure that provides for efficient, economical, and competent pilotage services and fair compensation for pilotage services and expenses:

(1) In determining the number of pilot positions needed and fair compensation for services and expenses, the Board shall consider:

(a) The amount of activity, including number of vessels, number of pilot assignments, size of vessels by gross registered tonnage (GRT), length, and draft;

(b) Any change in the amount of activity since the last rate order;

(c) The public interest in prompt and efficient service;

(d) The professional skills and experience required of a pilot and the difficulty and inconvenience of providing the service, including time necessary to perform the service;

(e) Evidence of compensation for comparable maritime professions, including other state regulated pilotage associations;

(f) Evidence of the economic and market conditions existing both locally and within the region of any pilotage association used for the purpose of comparison;

(g) Total gross and net income for the pilots' group since the last rate order, or as directed by the Board, including sources of income by tariff category; and

(h) Individual amounts paid to pilots since the last rate order, or as directed by the Board, which may be shown as both gross and adjusted gross income, as reported for tax purposes.

(2) For the purposes of subsection (1)(e) above, the Board shall at a minimum consider evidence of the compensation and benefits provided to pilots in pilotage associations serving Puget Sound and San Francisco.

(3) In determining compensation for expenses the Board shall consider evidence of appropriate expenses related to the provision of pilotage services as shown by records of the pilots' group, and verified by an independent audit.

(4) In receiving evidence on any financial or economic issue, the Board or its hearings officer may require parties to submit independently audited or other financial records in order to hold all parties to a comparable standard of proof.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115

Hist.: MP 2-1983, f. & ef. 12-15-83; MP 3-1988, f. & cert. ef. 11-9-88; BMP 3-2003, f. & cert. ef. 5-23-03; BMP 1-2012, f. & cert. ef. 5-29-12

856-030-0001

Capital Improvement Planning

(1) A pilot organization that intends to seek funding through pilotage rates at the next available ratemaking opportunity for reimbursement of the cost of a proposed major capital improvement is encouraged to notify the Board as soon as practicable. A "major capital improvement" is a change in an asset used for or in support of transportation, offices, accommodations, computing or communications that, if funded, would require an increase in revenue produced by rates of five (5) percent or more in the next rate case.

(2) If a pilot organization notifies the Board of a proposed major capital improvement, the Board shall make time on its agenda for one or more of its regularly scheduled meetings for the presentation of information by the pilot organization and discussion of the proposed major capital improvement. The Board may, in addition, appoint a subcommittee of its members to meet with the organization of pilots and other interested parties to evaluate the proposed major capital improvement.

(3) A pilot organization choosing not to utilize the opportunity for Board planning participation provided by this section shall, when filing its pre-petition notice as required by section 856-030-0005, explain its reasons for not doing so.

- (b) Dishonest or selfish motive;
 - (c) A series of violations;
 - (d) Multiple violations;
 - (e) Failure to cooperate with the Board in the investigation and the disciplinary proceeding;
 - (f) Submission of false testimony or evidence in the disciplinary proceeding;
 - (g) Refusal to acknowledge the wrongful nature of the misconduct;
 - (h) Substantial experience in pilotage;
 - (i) Indifference to making restitution;
 - (j) Any other aggravating circumstances.
 - (3) The Board may consider the following factors as mitigating circumstances when imposing a disciplinary sanction:
 - (a) Absence of prior disciplinary actions;
 - (b) Absence of a dishonest or selfish motive;
 - (c) Personal or emotional problems;
 - (d) Timely good faith efforts to make restitution or to rectify the consequences of the misconduct;
 - (e) Full and free disclosure to the Board in the investigation and the disciplinary proceeding;
 - (f) Inexperience in pilotage;
 - (g) Physical or mental impairment;
 - (h) Single act of misconduct or previous misconduct remote in time from present offense;
 - (i) Interim rehabilitation efforts between the time of the misconduct and Board proceeding;
 - (j) Imposition of other penalties or sanctions by other authorities;
 - (k) Remorse;
 - (l) Any other mitigating circumstances.
 - (4) The Board considers the following factors as being neither aggravating nor mitigating circumstances:
 - (a) Absence of complaint regarding the violation;
 - (b) Attempt by complainant to withdraw complaint;
 - (c) Forced or compelled restitution;
 - (d) Complainant's recommendation regarding sanction.
- Stat. Auth.: ORS 776
 Stats. Implemented: ORS 776.115
 Hist.: MP 1-1992, f. & cert. ef. 4-29-92

856-010-0050

Pilot Organization Bylaws

Any pilot or organized group of pilots operating under the authority of ORS Chapter 776 and OAR chapter 856 shall maintain on file with the Board a current copy of their respective group's bylaws and amendments. Hereafter, they shall file with the Board each new amendment adopted by their respective groups in order that the Board may be kept informed of pilot groups' acts and activities.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115

Hist.: MP 1-1992, f. & cert. ef. 4-29-92

856-010-0060

Compulsory Pilotage Vessel Exemptions

(1) On the Columbia River Bar, Coos Bay Bar and Yaquina Bay Bar pilotage grounds, the following vessels are exempt from compulsory pilotage:

(a) Foreign fishing vessels not more than 100 feet or 250 gross tons international,

(b) Recreational vessels not more than 100 feet in length.

(2) On the Columbia-Willamette River pilotage grounds, there are no vessel exemptions east (upstream) of longitude 123 degrees, 44 minutes, 00 seconds west.

Stat. Auth.: ORS 776.115(7)

Stats. Implemented: ORS 776.405(1)(C)

Hist.: BMP 2-2006, f. 9-29-06, cert. ef. 10-1-06

(4) Major capital improvement expenses shall be submitted to the process provided by this section unless the proponent shows that compliance was prevented by reasons beyond its control and which the proponent could not have reasonably anticipated, or other circumstances make exclusion of the request for major capital improvement funding unjust.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115

Hist.: BMP 3-2003, f. & cert. ef. 5-23-03

856-030-0002

Pre-Petition Notice and Dispute Resolution Process

(1) Any party intending to request a change in pilotage rates must, at least 90 days prior to petitioning the Board, file a notice of intent to petition with the Board, with a copy served on each pilot association, any association representing the interests of vessel owners or operators and any other party that participated in the most recent past rate proceedings. The notice shall contain an explanation of the proposed change, including a description of each new cost item not previously approved by the Board in a rate proceeding, any increase in a cost item previously approved by the Board where the increase is greater than five (5) percent over the amount expended during the prior calendar year, and any requested change in pilot compensation and benefits.

(2) Within 20 days after receipt of the first-filed notice of intent to petition, any other pilot association, any association representing the interests of vessel owners or operators, any other party that participated in the most recent past rate proceedings, shall file their response to the notice, including a description of any intended opposition, or notice of intent to petition for a change on another pilotage ground.

(3) Upon receipt of a notice of intent to petition pursuant to paragraph (1) above, the Board's members representing the public shall be formed as a rate subcommittee.

(4) The Board's rate subcommittee shall, within 45 days of the first filing of a notice of intent to petition, hold a meeting with the party filing the notice and with all respondents thereto. The purpose of the meeting shall be to clarify the issues and begin exploration of possible means of narrowing and simplifying the issues. The rate subcommittee shall encourage the interested parties to utilize mediation or other alternative dispute resolution processes to narrow and simplify issues as much as possible.

(5) Prior to filing of a petition, the rate subcommittee may convene or participate in such additional meetings with interested parties as it deems in the best interests of the Board and the public. The rate subcommittee may, if requested by the interested parties, participate in any mediation or other alternative dispute resolution process that is arranged by the interested parties.

(6) The Board may, in its discretion, waive any or all of the provisions of this rule.

Stat. Auth.: ORS 776 & 183

Stats. Implemented: ORS 776.115, 776.183, 183.415

Hist.: BMP 3-2003, f. & cert. ef. 5-23-03; BMP 5-2008, f. & cert. ef. 4-28-08

856-030-0010

Ratemaking — Petitions, Filing and Response

When the Board is petitioned to act under ORS 776.115(5) or acts upon its own motion, the following procedure shall be followed:

(1) An interested person may petition the Board requesting a hearing. The petition is deemed filed when received by the Board at its office. Before the petition can be accepted as filed, the person must deposit \$1,000 with the Board to defray the expenses of the hearing. Deposits are also required with petitions filed for other pilotage grounds as provided in subsection (3)(a) of this rule.

(2) The petition must be in writing, signed by petitioner or petitioner's agent and containing a detailed statement of:

(a) The action requested of the Board, with a detailed listing of all cost items and any requested changes in compensation and benefits;

(b) Enough detailed facts to show petitioner's interest in the factors shown in ORS 776.115(5)(b) and in OAR 856-030-0000 if applicable;

(c) The extent to which the parties have been able to narrow or simplify issues pursuant to OAR 856-030-0003 prior to the petition being filed.

(d) The name and address of petitioner and of any other persons petitioner knows who may be interested in the proceeding; and a statement as to whether a copy of the petition has been served upon them.

(3) Upon receipt of the petition, the Board will mail a true copy of the petition and a copy of any applicable rules of practice to all parties named in the petition unless they have been previously served by petitioner. The Board will include in its mailing those who the Board believes have interest in the proceeding, including pilots' groups and owner/operator associations on all pilotage grounds. The mailing will be by certified or registered mail and will be deemed served on the date of mailing to the last known address of the person being served:

(a) The Board will advise all parties that they have 30 days to file with the Board and the petitioner a petition for another ground, a counter-petition or answer, or other applicable pleading or response. For good cause shown, the Board may extend the time for filing responses for a period not to exceed an additional 20 days. If representatives of pilotage grounds other than those of petitioner wish a rate change, they must file a petition or answer within the time period set by this;

(b) The responses filed by interested parties, whether counter-petitions or responses, must address the factors in ORS 776.115(5)(b) and in OAR 856-030-0000 and all related issues raised in the petition.

(4)(a) Within 45 days of the filing of a petition under this rule, the Board shall appoint a hearings officer and delegate to the hearings officer its powers to subpoena, swear witnesses and otherwise conduct a contested case hearing as required under ORS Chapters 183 and 776;

(b) The hearings officer will set the hearing for a date and time most convenient to the parties concerned, but not later than 90 days after the filing of the petition.

(5) Pre-hearing Conferences, Exhibits and Testimony:

(a) In order to make a more effective use of hearing time in formal proceedings and to expedite the orderly conduct and disposition of the proceedings, the hearings officer shall arrange for conferences between the parties to consider:

(A) Simplifying and clarifying the issues and eliminating irrelevant or immaterial issues;

(B) Obtaining stipulations as to facts, authenticity of documents, admissibility of evidence, and other matters;

(C) Such other aids to the orderly conduct and disposition of the proceeding as may be possible.

(b) Conferences may be called before the hearing, or the hearing may be recessed for a conference. The presiding officer shall state on the record the results of such a conference;

(c) Exhibits and testimony. The hearings officer shall require the parties to file proposed written testimony and exhibits with the Board before the date set for hearing, reserving rights of cross-examination. Any objections to the pre-filed testimony and exhibits shall be resolved prior to the hearing.

(6) Intervention. Any person with a material interest may by written petition seek permission to intervene in any proceeding before the Board. The petition shall contain:

(a) The name and address of the party intervening and the party's attorney, if any;

(b) Sufficient facts to show clearly the interest of the proposed intervention and how any action taken by the Board will affect that interest;

(c) The position of the party in the proceeding. Intervention shall not broaden the issues in the proceeding nor shall intervention delay the hearing or unfairly prejudice the other parties.

(7) Notwithstanding the provisions of this section, the Board shall, absent emergency circumstances, refuse to accept any petition to change pilotage rates for any pilotage ground if less than 16 months have elapsed since the effective date of the last rate order for that or any other pilotage ground. The burden shall be on

a petitioner wishing to shorten this period to demonstrate emergency circumstances affecting the public interest. In the event the Board determines there are emergency circumstances affecting the public interest that require an immediate rate proceeding, the Board shall issue an order setting forth its justifications for accepting the petition. The order shall be mailed to the petitioner and to other persons upon whom a copy of the petition was served.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 183.413 - 183.470, 776.115, 776.125 & 776.135

Hist.: PC 6, f. 6-2-72, ef. 6-15-72; MP 2-1983, f. & ef. 12-15-83; MP 2-1984, f. & ef. 10-4-84; Renumbered from 856-020-0115; MP 3-1988, f. & cert. ef. 11-9-88; MP 1-1996, f. & cert. ef. 5-9-96; BMP 3-2003, f. & cert. ef. 5-23-03

856-030-0015

Conduct of the Hearing

(1) The hearing shall be conducted in accordance with ORS 183.425 to 183.464 and the Attorney General's Model Rules.

(2) If the hearings officer believes that additional evidence or written argument is necessary to complete the record, the officer may allow additional time for the presentation of further evidence on specific issues designated by the officer or for submission of written arguments. No further evidence or argument shall be received without notice to all parties or later than 10 days after the oral hearing. Any party presenting such evidence or argument shall provide copies to all parties.

(3) The hearings officer shall submit the officer's proposed order to the Board and to all parties within 30 days after the close of the hearing.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 183.425 & 776.115

Hist.: PC 6, f. 6-2-72, ef. 6-15-72; PC 9, f. & ef. 11-12-76; MP 2-1983, f. & ef. 12-15-83; MP 2-1984, f. & ef. 10-4-84; Renumbered from 856-020-0120; MP 1-1996, f. & cert. ef. 5-9-96; BMP 3-2003, f. & cert. ef. 5-23-03

856-030-0020

Proposed Orders

(1) In any case heard under division 030, Ratemaking Procedures, the hearings officer shall prepare and serve on all members of the Board, and on all parties to the hearing, a proposed order which includes recommended findings of fact and conclusions of law.

(2) The parties affected by the order shall have 15 days from the date of the proposed order to present their objections or alternative proposed orders to the Board.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 183.464 & 776.115

Hist.: PC 6, f. 6-2-72, ef. 6-15-72; MP 2-1983, f. & ef. 12-15-83; MP 2-1984, f. & ef. 10-4-84; Renumbered from 856-020-0125; MP 3-1988, f. & cert. ef. 11-9-88; BMP 3-2003, f. & cert. ef. 5-23-03

856-030-0025

Final Orders

(1) Every final order entered in a proceeding under division 30, Ratemaking Procedures, shall be in writing and shall be accompanied by findings of fact and conclusions of law, and by a citation of the statutes under which the order may be appealed.

(2) The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the order.

(3) The Board shall adopt the final order at its next or second meeting after the time for response has run. On a proceeding held under OAR 856-030-0010, the final order shall be adopted within 240 days of the date of the filing of a valid petition and deposit of the required sum of money, and shall be effective on the date adopted or the second anniversary date of the previous rate order, whichever is later.

(4) The Board shall determine the costs of the proceedings and assess such costs equitably among the parties involved as part