



PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: December 16, 2025

TIME: 11:21 AM

WSR 26-01-107

Agency: Board of Pilotage Commissioners

☐ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☐ **Continuance of WSR** _____

☒ **Preproposal Statement of Inquiry was filed as WSR 25-18-097 ; or**

☐ **Expedited Rule Making--Proposed notice was filed as WSR** _____; or

☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

☐ **Proposal is exempt under RCW** _____.

Title of rule and other identifying information: (describe subject) WAC 363-116-083 Written Examination protest and appeal procedures; 363-116-084 Simulator evaluation protest and appeal procedures

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
February 19, 2026	11:00am	2901 3 rd Avenue, 1 st Floor Agate Seattle, WA 98121	And via MS Teams

Date of intended adoption: February 19, 2026 (Note: This is **NOT** the effective date)

Submit written comments to:

Name Jaimie C. Bever

Address 2901 3rd Avenue, Suite 500, Seattle, WA 98121

Email Jaimie.Bever@wsdot.wa.gov

Fax

Other

Beginning (date and time) November 24, 2025

By (date and time) January 7, 2026

Assistance for persons with disabilities:

Contact Jolene Hamel

Phone 206-515-3904

Fax

TTY

Email Jolene.Hamel@wsdot.wa.gov

Other

By (date) January 7, 2026

Purpose of the proposal and its anticipated effects, including any changes in existing rules: In preparation for the 2026 Washington State Marine Pilot Exam, the BPC is updating the WACs concerning the appeal and protest process for both the written exam and simulator evaluation to reflect updated practices developed during the 2024 exam process.

Reasons supporting proposal: The proposed changes will clarify and simplify the protest and appeals process for pilot applicants, the exam consultants, and the BPC. They will also align with the current psychometrically validated pilot exam process.

Statutory authority for adoption: Chapter 88.16 RCW, Pilotage Act

Statute being implemented: Chapter 88.16 RCW, Pilotage Act

Is rule necessary because of a:

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Both the BPC Pilot Exam Committee (PEC) and the BPC's exam psychometrician have recommended these changes to accurately reflect the protest and appeal process that corresponds to the psychometric validation of the current pilot exam process. The changes were also reviewed by the BPC's Assistant Attorney General.

Name of proponent: (person or organization) Board of Pilotage Commissioners

Type of proponent: ☐ Private. ☐ Public. ☒ Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Jaimie C. Bever	Seattle, WA	206-515-3887
Implementation Commissioners	Board of Pilotage	Seattle, WA	206-515-3904
Enforcement Commissioners	Board of Pilotage	Seattle, WA	206-515-3904

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)?

☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

☐ Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

☒ No: Please explain: The BPC is not a listed agency in RCW 34.05.328(5)(a)(i)

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570](#)(2) because it was adopted by a referendum.

☒ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(3). Check all that apply:

- ☐ [RCW 34.05.310](#) (4)(b)
(Internal government operations)
- ☐ [RCW 34.05.310](#) (4)(c)
(Incorporation by reference)
- ☐ [RCW 34.05.310](#) (4)(d)
(Correct or clarify language)

- ☒ [RCW 34.05.310](#) (4)(e)
(Dictated by statute)
- ☐ [RCW 34.05.310](#) (4)(f)
(Set or adjust fees)
- ☐ [RCW 34.05.310](#) (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(4). (Does not affect small businesses).

☐ This rule proposal, or portions of the proposal, is exempt under RCW ____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- ☒ The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.
- ☐ The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- ☐ The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- ☐ No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- ☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

Date: December 16, 2025

Name: Jaimie C. Bever

Title: Executive Director

Signature:



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

dicative hearing and any further ~~((appeal))~~ challenge shall be limited to the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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