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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 856
PUBLIC UTILITY COMMISSION
OREGON BOARD OF MARITIME PILOTS

FILED

09/25/2024 11:07 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Update to definitions for entering and exiting Coos and Yaquina Bays.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/08/2024 3:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

The definition for Coos Bay was incomplete and there was no definition for entering and exiting the bay for Yaquina Bay.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Rules Committee recommendation from 8/1/2024 and Board Meeting recommendation from 9/18/2024. Both notes are available from the Board Administrator and recordings are available on the board's website.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The amendment to this rule will have no affect on racial equity in this state.

FISCAL AND ECONOMIC IMPACT:

There is no anticipated fiscal or economic impact.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

There is no cost to comply with this rule.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The Board has no authority over any entity other than its licensees.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The rule amendment was recommended by its Rule Review Committee and reviewed by Board counsel.

AMEND: 856-010-0003

RULE SUMMARY: Update of definitions for entering and exiting the bay for Coos Bay and addition of definitions for entering and exiting the bay for Yaquina Bay.

CHANGES TO RULE:

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~~ Medical Board 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, Division 15, "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, Division 15 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 commercial vessel of small tonnage which is engaged in or intending to engage in the service of pulling, pushing or towing alongside or any combination of pulling, pushing or towing alongside.¶¶
- (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 856-015-0025, an individual who does not meet the experience requirements of 856-015-0023, and who has been certified by the Board to enter the Apprentice Training Program.¶
- (20) "Pilot trainee" - For purposes of OAR 856-015-0025 and 856-015-0020, an individual who meets the experience requirements of 856-015-0023.¶
- (21) For the purposes of ORS 776.600(1)(a), the following definitions apply;¶
- (a) "Vessel Assistance" or "Assisting the vessel," means:¶
- (A) Use of a vessel;¶
- (B) Through mechanical means for:¶
- (i) Pushing the vessel being piloted;¶
- (ii) Pulling the vessel being piloted; or ¶
- (iii) Towing alongside the vessel being piloted, when the assist vessel is tethered to the vessel being piloted and helping to guide it; and¶
- (C) With navigational changes, or when maneuvering. ¶
- (b) Financial Interest means:¶
- (A) Income;¶
- (B) Honoraria or other payment for services;¶
- (C) Equity, including but not limited to:¶
- (i) Stock options; and¶
- (ii) Stock, excluding stock in a company that owns boats or equipment assisting ships on the Coos Bay bar pilotage ground or the Yaquina Bay bar pilotage ground and is registered on a national securities exchange; or¶
- (iii) Other security representing ownership interests; and¶
- (D) Royalties.¶
- (c) Entering the Bay means:¶
- (A) Transiting from any point along a line drawn from the seaward extremity of the Coos Bay South Jetty to the seaward extremity of the Coos Bay North Jetty;¶
- ~~(B) to a point inside Coos Bay when and where the first mooring outside the Coos Bay bar pilotage ground as defined in ORS 776.025(3) to a point within the ground; or¶~~
- (B) Transiting from any point outside the Yaquina Bay bar pilotage ground as defined in ORS 776.025(4) to a point within the ground; and¶
- (C) Does not include assisting with securing of line is made fast from the vessel being s or movements entirely within the pilotage ground.¶
- (d) Exiting the Bay means:¶
- ~~(A) Departing from any point inside within the Coos Bay when and where the last mooring line is let go from a terminal or pier to the vessel being piloted;¶~~
- ~~(B) bar pilotage ground as defined in ORS 776.025(3) to a point outside the ground; or¶~~
- (B) Transiting from any point within the Yaquina Bay bar pilotage ground as defined in ORS 776.025(4) to any point along a line drawn from the seaward extremity of the Coos Bay South Jetty to the seaward extremity of the Coos Bay North Jetty outside the ground; and¶
- (C) Does not include assisting with loosening of lines or with movements entirely within the pilotage ground.¶
- (e) Emergency means:¶
- (A) An unforeseen development that imposes an immediate hazard to the safety of the vessel, the passengers, the crew, the cargo, property, or the maritime environment, requiring urgent action to remove or mitigate the hazard; or¶
- (B) A circumstance when a scheduled assist vessel fails to arrive, is impaired, or becomes otherwise unavailable.¶
- (C) The pilot assigned is unexpectedly, physically or mentally incapacitated, less than 24 hours before the vessel is scheduled to be piloted.¶
- (D) Any other unforeseen circumstance or unforeseen set of circumstances that will cause a vessel that is scheduled to arrive or sail within 24 hours to miss a tidal window, and which can be mitigated by using an additional assist vessel.¶
- (22) Distress - For the purposes of ORS 776.115(5)(a), Distress means a situation wherein there is reasonable certainty that a person, a vessel or other craft is threatened by grave and imminent danger and requires immediate assistance.¶
- (23) Detention (Stand-by). Detention is the delay of a pilot for any period of time in excess of that normally required to commence or terminate pilotage services. Detention shall specifically include the detaining of a pilot aboard a vessel or craft after the termination or during interruption of services; and the interval between reporting for duty as ordered and the actual time of commencement of pilotage.¶
- (a) Commencement¶
- (A) When anchoring for any reason whatsoever, when anchor is let go.¶

(B) After arrival at a shore structure or other moorings; when the order is given "finished with engines", or when tugs are dismissed from tow.¶

(C) The time a pilot is ordered to report to the vessel by the person ordering the services and the pilot reports as ordered.¶

(b) Termination¶

(A) When departing from anchorage; the time when anchor is aweigh.¶

(B) When adequate facilities are provided and are ready for the pilot to leave the vessel.¶

(C) The time a pilot gives the first orders relative to commencement of regular pilotage service.¶

(c) Detention shall not include any additional time required to pilot the vessel or craft by reason of any act of God, or any other force majeure acting directly on the vessel itself, but shall include, however, without limitation, delays or additional time occasioned by fog or adverse weather; breakdown of the vessel, its machinery and equipment; impassability of the waterway being traversed; conditions requiring the pilot to reduce speed or engage in unusual maneuvers to delay the arrival of a vessel at berth or anchorage; operating a vessel under reduced boiler capacity (or reduced horsepower); and time lost in standing by or anchoring because the vessel cannot be moored; or for any other reason apart from normal pilotage.¶

(24) Extraordinary Pilotage Services - Means pilotage services that include a trip east of the Glenn L. Jackson Memorial Bridge.

Statutory/Other Authority: ORS 776.115

Statutes/Other Implemented: ORS 776.115