

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE
AND TRIBAL LIAISON



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 856
PUBLIC UTILITY COMMISSION
OREGON BOARD OF MARITIME PILOTS

FILED

09/25/2024 11:20 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Clarification added for federal mariner license requirements.

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.

CONTACT: Kim Oster
503-510-3823
kim.oster@obmp.oregon.gov

800 NE Oregon St #507
Portland, OR 97232

Filed By:
Kim Oster
Rules Coordinator

NEED FOR THE RULE(S)

Clarification needed for the type of federal mariner license required for the pilotage grounds.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Rules committee recommendation from 8/1/2024 and Board Meeting 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 clarification added 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 additional cost to comply with this rule amendment.

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?

This rule amendment was recommended by its Rules Review Committee and reviewed by Board counsel.

AMEND: 856-015-0005

RULE SUMMARY: Clarification added for the type of federal mariner's license that is required by the pilotage grounds.

CHANGES TO RULE:

856-015-0005

Trainee & Apprentice - General Application Requirements ¶¶

(1) An applicant for selection as an apprentice pursuant to OAR 856-015-0025, or an applicant for a trainee license pursuant to 856-015-0020, 856-015-0023, or 856-015-0030, shall provide all the following when making application to the Board:¶¶

(a) A photocopy of the applicant's current and valid federal mariner's license meeting the applicable requirements of the pilotage ground.¶¶

(A) Apprentice applications for the Columbia & Willamette River Pilotage Ground require the license provided in OAR 856-015-0025.¶¶

(B) Trainee applications for the Columbia River Bar Pilotage Ground require the license provided in OAR 856-015-0020(1)(e) and the Columbia & Willamette River Pilotage Ground require the license provided in OAR 856-015-0023(1)(b)(B).¶¶

(b) A photocopy of the "Summary to be Completed by Medical Practitioner" page 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.¶¶

(c) A copy of the current "Medical Certificate" issued by the U.S. Coast Guard. ¶¶

(d) One of the following:¶¶

(A) employer's documentation that the applicant has been a participant in maritime employer's random drug testing program during the 90 days preceding the date of application. If the employer's documentation indicates a positive result on any of the random drug tests taken by the applicant, the Board may disqualify the applicant and deny the application for trainee licensure; or¶¶

(B) 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. If the test results indicate the presence of any of the substances listed in this paragraph, the Board may disqualify the applicant and deny the application for trainee licensure.¶¶

(e) 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); and¶¶

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

(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.¶¶

(D) A description of any of the following maritime incidents that occurred while the applicant was master, operator or otherwise directing the movement of a vessel, but that did not result or have not yet resulted in a disciplinary proceeding against the applicant's federal license or a civil penalty proceeding by the U.S. Coast Guard:¶¶

(i) An accidental grounding;¶¶

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

(iii) An unintended collision or allision with any object;¶¶

(iv) Loss of life related to the operation of the vessel;¶¶

(v) Serious physical injury related to the operation of the vessel; or¶¶

(vi) Any occurrence resulting in damage to the vessel or other property which may reasonably be expected to be in excess of \$75,000, excluding the cost of salvage, cleaning, gas-freeing, drydocking or demurrage.¶¶

(2) The following may result in the Board disqualifying an applicant and denying the application for trainee licensure: A positive result under paragraph (A) of subsection (1)(e) of the rule; a conviction described in paragraph (B) of subsection (1)(e) of this rule; or a maritime incident described in paragraph (C) or (D) of subsection (1)(e) of this rule.¶¶

(3) A failure to provide a complete and truthful report under subsection (1)(e) of this rule shall result in the Board disqualifying an applicant and denying the application for trainee licensure.¶

(4) After being notified of proposed issuance of apprenticeship certification or trainee licensure, but before issuance of apprenticeship certification or trainee licensure and assignment to a training organization, applicants must again submit those items described in subsection (1)(a) to (d) of this section."

Statutory/Other Authority: ORS 776

Statutes/Other Implemented: ORS 776.115, 776.345