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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**

07/25/2024 11:18 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Updated rule to add Statue reference to (12) .

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/23/2024 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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Filed By:  
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**NEED FOR THE RULE(S)**

To provide clarification to pilots and trainees regarding the requirement for a surety bond or cash deposit.

**DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE**

Rules committee recommendation 6/5/2024 and Board meeting 7/18/2024. Both written 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:**

The amendment to this rule does not change the fiscal or economic impact already required; only provides the related statute.

**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).*

The amendment to this rule does not change the cost of compliance already required; only provides the related statute.

**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.

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

The rule amendment was recommended by its Rules Review Committee and reviewed by Board Counsel.

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AMEND: 856-019-0045

RULE SUMMARY: Reference to Statute added to (12).

CHANGES TO RULE:

856-019-0045

#### Grounds for Pilot and Trainee Discipline ¶¶

This rule describes or references the actions and circumstances that constitute failure to achieve or maintain competency as a pilot or trainee, or that otherwise constitute a danger to public health and safety.¶¶

(1) If, after notice and an opportunity for hearing, the Board finds any violation of subsections (2) through (13) of this rule, the Board may impose any of all of the following disciplinary measures for each violation:¶¶

(a) Revocation or suspension of a pilot's or trainee's license;¶¶

(b) Refusal to renew a pilot's or trainee's license;¶¶

(c) Pilot or trainee reprimand;¶¶

(d) Refusal to issue a pilot's license to a trainee; and¶¶

(e) Assess civil penalties of not more than \$250 per violation.¶¶

(2) A pilot refuses to provide pilotage services required under ORS 776.405, for a reason other than the safety of:¶¶

(a) The pilot;¶¶

(b) Others;¶¶

(c) The vessel; or¶¶

(d) The environment.¶¶

(3) A pilot is convicted of a crime: ¶¶

(a) That occurred while the pilot or trainee was piloting a vessel; or¶¶

(b) The facts and circumstances of which demonstrate the pilot's or trainee's lack of fitness to hold a pilot's license or trainee's license.¶¶

(4) A pilot violates a provision of OAR 856-025-0015(1) or 2(a) to (c)(D) (requirements for absence from and return to pilotage ground).¶¶

(5) A pilot has failed to timely make any report to the board as required by these rules.¶¶

(6) A pilot or trainee fails to cooperate with the Board in any investigation or request for information. However, the following do not constitute a failure to cooperate: rejecting Board or committee offers of settlement; exercising a legal right; or asserting attorney-client privilege.¶¶

(7) A pilot or trainee engages in conduct:¶¶

(a) Involving dishonesty or misrepresentation in relation to the Board; or¶¶

(b) Under circumstances that demonstrate the pilot's lack of fitness to hold a pilot's license.¶¶

(8) A pilot demonstrates incompetence in piloting a vessel. Incompetence, for the purpose of this rule, is demonstrated by a lack of basic knowledge or preparation.¶¶

(9) A pilot demonstrates negligence in piloting a vessel. Negligence, for the purpose of this rule, occurs when a pilot fails to exercise the standard of care of a maritime pilot:¶¶

(a) Who is reasonable, prudent, careful and skillful;¶¶

(b) In the same community or similar community; and¶¶

(c) Under the same or similar circumstances.¶¶

(10) A pilot or trainee demonstrates gross negligence in piloting a vessel. Gross negligence, for the purpose of this rule, occurs when a pilot:¶¶

(a) Behaves recklessly;¶¶

(b) Demonstrates a willful disregard for the general standards of the profession; or¶¶

(c) Demonstrates a willful disregard for the rights of others.¶¶

(11) A pilot or trainee violates any provision of ORS 776.015 to 776.991 or rules adopted thereunder.¶¶

(12) A pilot or trainee has failed to post or maintain the surety bond or cash deposit as required under ORS 776.540.¶¶

(13) The pilot or trainee has failed to comply with a final order of the Board.

Statutory/Other Authority: ORS 776  
Statutes/Other Implemented: ORS 776.116, 776.325