

WSR 22-09-077
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS
[Filed April 20, 2022, 7:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-06-007.

Title of Rule and Other Identifying Information: WAC 363-116-081
Rest period.

Hearing Location(s): On June 21, 2022, at 12:00 p.m., virtual via Microsoft Teams. Contact the board of pilotage commissioners (BPC) to request video link at 206-515-3904 or at PilotageInfo@wsdot.wa.gov.

Date of Intended Adoption: June 21, 2022.

Submit Written Comments to: Jaimie C. Bever, Executive Director, 2901 3rd Avenue, Suite 500, Seattle, WA 98121, email BeverJ@wsdot.wa.gov, fax 206-515-3906, by June 14, 2022.

Assistance for Persons with Disabilities: Contact Jolene Hamel, phone 206-515-3904, email HamelJ@wsdot.wa.gov [HamelJ@wsdot.wa.gov], by June 12, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making will amend the types of pilotage assignments subject to the requirement for 10 hours rest with the opportunity for eight hours of sleep after completion of an assignment. Puget Sound pilots (PSP) recently approved several measures to increase dispatching efficiency and pilot availability while observing state mandated rest rules. One of those measures is to allow a pilot to be dispatched to multiple assignments, as long as the combined duration of the assignments does not exceed 13 hours. The board adopted these changes via emergency rule at the March 17, 2022, regular monthly meeting. This rule-making initiative is to consider and codify that change.

Reasons Supporting Proposal: Currently, there is a pilot shortage in both the Puget Sound and Grays Harbor Pilotage Districts. PSPs adopted the measures listed above in order to enhance pilot availability, improve on-watch productivity, reduce need for "call-back" pilots, and adhere to expert recommended work/rest best practices.

Statutory Authority for Adoption: Chapter 88.16 RCW, Pilotage Act.

Statute Being Implemented: Chapter 88.16 RCW, Pilotage Act.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Discussions regarding proposed amendments to this rule will occur at regular session BPC meetings as well as the BPC's pilot safety committee (PSC) meetings, with the initial language recommendation coming from PSC. Public comments are welcome and encouraged. Upon review and consideration of recommended revisions, a public hearing will be scheduled pursuant to formal notice requirements.

Name of Proponent: BPC, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: BPC, 2901 3rd Avenue, Seattle, WA 98121, 206-515-3904.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to the adoption of these rules. BCP is not a listed agency in RCW 34.05.328 (5) (a) (i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

April 20, 2022
Jaimie C. Bever
Executive Director

OTS-3692.1

AMENDATORY SECTION (Amending WSR 21-07-088, filed 3/19/21, effective 4/19/21)

WAC 363-116-081 Rest period. (1) Pilots shall observe rest period requirements as set out in RCW 88.16.103 as now or hereafter amended. Pilots shall have a mandatory rest period of at least ~~((ten))~~ 10 hours with an opportunity for eight hours of uninterrupted sleep after completion of an assignment ~~((; excluding))~~ or multiple assignments ~~((within a harbor area, provided the combined total duration of assignment time does not exceed thirteen hours))~~.

(2) An assignment is a billable pilotage service, including cancellations and ship movements, regardless of duration.

(3) An assignment begins at call time and ends at check-in time and includes preparation time and travel time to and from the ship in addition to bridge time. Call time allows one to two hours of preparation before the start of travel time to the ship. Check-in time occurs when travel time from the ship is completed. In the Puget Sound Pilotage district travel times are documented in the Puget Sound pilots operating rules and may be reviewed by the board from time to time.

~~(4) When there are multiple assignments ((within a harbor area (multiple harbor shifts)), call time is before the first harbor shift and check-in time occurs when the travel time has been completed after the final harbor shift. Harbor area geographic definitions outlined by the utilities and transportation commission are used to distinguish harbor shifts from other ship moves.~~

~~(5) Pilots shall not complete more than three consecutive night assignments, a night assignment being one in which), the combined total duration of the assignments shall not exceed 13 hours. The total duration of multiple assignments shall be measured from the call time before the first assignment to check-in time after the final assignment.~~

(5) An assignment is a night assignment if any part occurs between 0100 and 0459 hours. After three consecutive nights with night assignments, pilots shall have a mandatory rest period of at least ~~((twelve))~~ 12 hours, including at least one period between 2000 and 0800 hours.

[Statutory Authority: Chapter 88.16 RCW. WSR 21-07-088, § 363-116-081, filed 3/19/21, effective 4/19/21. WSR 97-08-042, recodified as §

363-116-081, filed 3/28/97, effective 3/28/97. Statutory Authority:
RCW 88.16.035. WSR 79-05-023 (Order 79-2, Resolution No. 79-2), §
296-116-081, filed 4/17/79; Order 73-6, § 296-116-081, filed 5/11/73.]