

WSR 21-04-125
PROPOSED RULES
BOARD OF
PILOTAGE COMMISSIONERS
[Filed February 2, 2021, 9:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-12-071.

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

Rest period.

Hearing Location(s): On March 18, 2021, at 10:00 a.m., virtual public meeting via Microsoft Teams. Please contact BeverJ@wsdot.wa.gov or 206-515-3887 to request a link.

Date of Intended Adoption: March 18, 2021.

Submit Written Comments to: Sheri J. Tonn, 2901 3rd Avenue, Suite 500, Seattle, WA 98121, email BeverJ@wsdot.wa.gov, fax 206-515-3906, by March 10, 2021.

Assistance for Persons with Disabilities: Contact Jolene Hamel, phone 206-515-3904, fax 206-515-3906, email HamelJ@wsdot.wa.gov, by March 15, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed changes to this rule regarding mandatory rest periods for pilots is necessary due to the passage of HB 1647 during the 2019 regular legislative session, which amended RCW 88.16.103 Mandatory rest periods for pilots and became effective July 28, 2019. The existing rule refers to RCW 88.16.103 for explanation of the board of pilotage commissioners' (BPC) regulations regarding rest rules. This new rule will codify that pilots have a mandatory rest period of at least ten hours with an opportunity for eight hours of uninterrupted sleep after the completion of an assignment. In addition, this rule defines multiple assignments within a harbor area. The rule also codifies and defines the existing practice of Puget Sound pilots to receive a mandatory rest period after three consecutive night assignments.

Reasons Supporting Proposal: It is the intent of BPC to align the language of the rule with that of the statute and to further define terms in the statute per the recommendation of BPC's pilot safety committee.

Statutory Authority for Adoption: Chapter 88.16 RCW.

Statute Being Implemented: Chapter 88.16 RCW.

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: BPC's fatigue management committee and pilot safety committee, both comprised of pilots and industry stakeholders, as well as BPC members, provided recommendations for both the agency request legislation that led to the adoption of HB 1647 and the recommendations for the rule language.

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. BPC 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.

February 2, 2021
Jaimie C. Bever
Executive Director

OTS-2907.1

AMENDATORY SECTION (Amending WSR 97-08-042, filed 3/28/97, effective 3/28/97)

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. (~~For purposes of applying this rule an assignment shall begin at the pilot's dispatched departure time if the pilot is on board, regardless of when the ship actually sails. The assignment ends when the pilot leaves the vessel. Travel time shall not be included in an assignment.~~) Pilots shall have a mandatory rest period of at least ten hours with an opportunity for eight hours of uninterrupted sleep after completion of an assignment; excluding 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 any part occurs between 0100 and 0459 hours. After three consecutive night assignments, pilots shall have a mandatory rest period of at least twelve hours, including at least one period between 2000 and 0800 hours.

[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.]