

**Board of Pilot Commissioners for the Bays
of San Francisco, San Pablo, and Suisun**

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RULES AND REGULATIONS COMMITTEE
March 3, 2011
MEETING MINUTES
1:00 p.m.

The Board of Pilot Commissioners Pilot Rules and Regulations committee met on March 3, 2011 at the Board of Pilot Commissioners office, Pier 9, Suite 102, San Francisco, California. Commissioner Wainwright presided over the meeting with committee member Commissioner Johnston and Capt. Cronin present. Present in the audience included San Francisco Bar Pilot's (SFBP) Business Director John Cinderey, Pacific Merchant Shipping Association (PMSA) Vice President Michael Jacob, SFBP Counsel Kevin Davis, Ray Paetzold, Port Agent Bruce Horton, SFBP Pilots Steve Roberts, Greg Tylawsky, William Greig, Board President Knute Michael Miller, Board Counsel Dennis Eagan, Executive Director Allen Garfinkle, Staff Services Analyst Brian Vu and Office Technician Kelly Dolcini. Business, Transportation and Housing (BT&H) Secretary Bonner was represented by BT&H Deputy General Counsel Morocz telephonically from Sacramento.

Open Meeting:

1. Call to Order and Roll Call.

Chairman Wainwright called the meeting into order at 1:13 p.m. Commissioner Johnston and Capt. Cronin were present, constituting a quorum.

2. Approve minutes of December 14, 2010 meeting.

Commissioner Johnston made a motion to approve the December 14, 2010 minutes. Capt. Cronin seconded the motion which passed unanimously on a voice vote.

Commissioner Johnston made a motion to approve the November 12, 2010 minutes. Capt. Cronin seconded the motion which passed unanimously on a voice vote.

Chairman Wainwright stated that he would defer agenda items 3 and 6, and address the remaining items in turn.

4. **Report on status of formal rulemaking regarding the election and term of office for commission president and vice president.**
5. **Report on status of formal rulemaking regarding the frequency of pilot continuing education training.**
7. **Report on status of regulation changing length of manned model training from six to five days Section 215(b)(1).**

Chairman Wainwright reported that agenda items 4, 5, and 7 have been approved by the Office of Administrative Law and will be in code soon.

General Counsel Morocz stated that he would check on the status of these items.

8. **Report on status of regulations for cleanup regulatory package implementing the statutory changes on the roles of the Board and its Incident Review Committee in informal and formal license disciplinary actions (section 210).**

Chairman Wainwright stated that this will be filed with the Office of Administrative Law (OAL) next week for final review.

9. **Report on the status of draft regulation regarding the manner and content of a notice provided by the Port Agent to the Executive Director of a suspected violation, navigational accident, misconduct, or other rules violation in conformity with Harbors and Navigation Code sec. 1130(c).**

Chairman Wainwright inquired of Deputy Counsel Morocz on the status of this item. He replied that Terri Toohey was waiting on the minutes, however would check to be certain.

10. **Report on the status of staff progress drafting alternative legislative language concerning pilot boarding ladder deficiencies to address Pilot Safety Committee recommendations.**

The Rules and Regulations Committee directed staff to draft alternative legislative language concerning plot boarding ladder deficiencies.

PMSA Vice-President Jacob stated that he liked the direction the legislation was going, however, would like to talk to the pilots before making any public statements.

Deputy Counsel Morocz stated that Executive Director Garfinkle did the best he could with the antiquated language however suggested striking it entirely and re-writing it in less archaic form.

Executive Director Garfinkle stated that he had corresponded with PMSA Vice-President Jacob. In their exchange, PMSA Vice-President Jacob stated his approval for the direction but also preferred different language.

Board President Miller recommended the Committee put this item on the Board agenda for next month.

11. Report on status of Commission Investigator Minimum Standards (sec. 211.5) which were revised to address Office of Administrative Law concerns.

Chairman Wainwright stated that this was in OAL and believed it was in public notice.

Chairman Wainwright returned the remaining agenda items, beginning with item 6.

6. Discussion of amending section 215 (c) on Pilot and Inland Training to include procedures to provide the Executive Director with authority to extend time to complete mandated training. Possible Committee action to recommend to full board to adopt initial draft regulation and direct staff to initiate formal rulemaking process.

Chairman Wainwright stated that he did not want to spend time drafting language today due to time constraints and this Committee's focus on agenda item 3. The fundamental question is: "may the Board extend latitude to the Executive Director to extend time to complete mandated training". If so, should we?

Board Counsel Eagan stated that it was a matter of regulation.

Chairman Wainwright recommended that the committee put it on the agenda for the next meeting.

- 3. Discussion of potential draft regulations to implement and interpret the provisions of Harbors and Navigation Code Section 1190(a)(1)(c):**
- a) Discussion of threshold questions related to 1190(a)(1)(c) and identified in Staff letters of October 20, 2010 and November 12, 2010.**
 - b) Discussion of K.Q. Davis' December 1, 2010 letter to Committee Chairman.**
 - c) Discussion and drafting of initial regulation language to interpret the provisions of 1190(a)(1)(c).**
 - d) Possible motion to recommend to full board to adopt initial draft regulation and direct staff to initiate formal rulemaking procedures.**

Commissioner Wainwright gave a brief summary of the events thus far. The pilots petitioned for relief under 1190(a)(1)(c). The Board received arguments on both sides of this matter, but following that SFBP withdrew its petition. The Board then directed this committee to draft regulation for practical operation of 1190(a)(1)(c). Chairman Wainwright