

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

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**RULES AND REGULATIONS COMMITTEE**

September 15, 2010

MEETING MINUTES**1:00 p.m.**

The Board of Pilot Commissioners Pilot Rules and Regulations committee met on September 15, 2010, at 1:00 p.m. at the Board of Pilot Commissioners office, Pier 9, Suite 102, San Francisco, California. Commissioner Wainwright presided over the meeting with committee members Commissioner John Sullivan and Commissioner Johnston present. Members of the public present included Board Counsel Dennis Eagan, Acting Port Agent Captain Bruce Horton, Staff Services Analyst Brian Vu, and Executive Director Allen Garfinkle. Board retired annuitant Terri Toohey participated telephonically.

Agenda:**1. Approval of minutes for the August 24, 2010 meeting.**

It was moved and seconded to approve the minutes. The motion passed unanimously by voice vote.

2. Report on status of formal rulemaking regarding draft regulations on Portable Pilot Units and Commission Investigator Minimum Standards.

Retired annuitant Terri Toohey reported that the status of the Portable Pilot Unit and Investigator Minimum Qualifications regulatory amendment package was complete and ready to be adopted once the August board's minutes were inserted. The Office of Administrative Law has 30 working days upon receipt of the forms.

3. Report on status of Commission Conflict of interest guidelines submitted to the Fair Political Practices Commission (FPPC).

Retired annuitant Terri Toohey reported that Business, Transportation and Housing Deputy General Counsel Gabor Morocz had taken over the oversight of the regulatory amendment package on Commission Conflict of Interest. The package is still with FPPC for approval.

4. Report on status of formal rulemaking regarding the election and term of office for the president and vice-president.

The regulatory amendments extending the term of office for the President and Vice-President of the Board will be presented to the Board in September for adoption. They will then go to the Office of Administrative Law.

5. Report on status of formal rulemaking regarding the frequency of pilot continuing education training.

The regulatory amendments on the frequency of pilot education training did not make the September agenda. As a result, it will be presented to the Board at October's meeting for recommendation and possible adoption.

6. Report on status of formal rulemaking regarding annual pilot and trainee physicals, amending sec. 217.

The formal rulemaking regarding annual pilot and trainee physicals have been submitted to the Office of Administrative Law and will be published on September 17, 2010, with comment period ending Nov. 15

(Note: The Committee Chairman addressed items 7 and 8 in reverse order, but they are presented here in numerical order.)

7. Review draft 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).

There was discussion (continued from the August meeting) concerning the interpretation of Harbors and Navigation code section 1180.6(b) that states "Action required pursuant to subdivision (a) shall be taken by a majority vote of the board." Board Counsel Eagan recommended that the committee clarify what constitutes a majority vote of the Board while revising section 210. Following debate amongst the committee members with Commissioner Wainwright dissenting, the definition of "majority" was drafted as the **majority of members present and voting**. This draft will be presented to the Board at the next monthly meeting.

8. Review draft regulations regarding the manner and content of a notice provided by the Port Agent to the Executive Director of a suspected violation, navigational incident, misconduct, or other rules violation in conformity with Harbors and Navigation Code section 1130(c). Possible motion to recommend to the Board that staff proceed with formal rulemaking.

Acting port agent Bruce Horton requested that the committee put off this matter until the election of a new Port Agent. While there may be additional input from the new Port Agent, the committee moved forward with changes to the language to section 218. It was discussed

and decided that the sentence in new Subparagraph (7) should be: "If the Executive Director is unavailable, the Port Agent shall notify the Assistant director, public member of the Incidental Review Committee, or failing that, the Ex Officio board member designee of the Secretary of the Business, Transportation and Housing Agency."

9. Planning agenda items for next committee meeting.

The next meeting was set for October 13 at 11:30 a.m.

10. Adjournment

There was a motion to adjourn. It was seconded and passed unanimously by voice vote. The meeting adjourned at 2: 38 p.m.

Respectfully submitted,



Brian Vu
Staff Services Analyst