

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

Pier 9, Suite 102, San Francisco, CA 94111

Phone: (415) 397-2253 Fax: (415) 397-9463

E-mail: allen.garfinkle@bopc.ca.govWebsite: www.pilotcommission.org

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**July 20, 2010
RULES AND REGULATIONS
COMMITTEE MEETING MINUTES
9:00 a.m.**

The Board of Pilot Commissioners Rules and Regulations Committee met on July 20, 2010, at 9:17 a.m. at the Board of Pilot Commissioners Office, Pier 9, Suite 102, San Francisco, CA, Commissioner Wainwright presided as the Chair. The other committee member present was John Sullivan. Ex-Officio Member Gabor Morocz was present in a staff capacity by teleconference and Executive Director Allen Garfinkle was also present

Agenda:**1. Approval of minutes for the May 19 and June 14, 2010 meetings.**

The approval of the minutes of the May 19 and June 14, 2010 meetings were moved by Mr. Sullivan and seconded by Mr. Wainwright. The motion passed by a unanimous vote.

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

Mr. Morocz reported that the Portable Pilot Unit and Investigator Minimum Standards regulatory amendment package is still under the public comment period that ends on July 28, 2010. A recommendation from Pilot Sean Gabe has been received; however the comment is not complete as there was no justification language provided for the recommendation. Mr. Wainwright promised that he will put Mr. Gabe in contact with Terri Toohey for getting the necessary parts to complete the comment. No other comments have been received so far.

3. Report on status of Commission Conflict of interest guidelines submitted to the Fair Political Practices Commission and to the Office of Administrative Law.

Mr. Morocz reported that the regulatory amendment package submitted to the Office of Administrative Law and the Fair Political Practices Commission is still under notice periods that expire on August 30 and August 23, respectively. If comments are not received, the COI will be submitted to the Executive Officer of the Fair Political Practices Commission for approval. Approval is expected in late September

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

The regulatory amendments have been submitted to the Office of Administrative Law and the notice will be published on July 23, 2010 with a public comment period ending on September 7, 2010. The notice has been also posted on the Board's website and interested parties have been notified by e-mail and regular mail.

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

The regulatory amendments have been submitted to the Office of Administrative Law and the notice will be published on July 23, 2010 with a public comment period ending on September 7, 2010. The notice has been also posted on the Board's website and interested parties have been notified by e-mail and regular mail.

6. Continue review of issues and draft regulations for cleanup regulatory package implementing the statutory changes on the roles of the Board and Incident Review Committee in informal and formal license disciplinary actions. (Sec. 210)

The committee reviewed the draft language clarified after the June 14 meeting. It was discussed that potential amendments of the guidelines concerning misconduct committed under the influence of drugs should be referred to the IRC Review Committee.

The Committee reviewed Subdivision (i) of Section 210 and discussed the implications of leaving a sentence in stating that disciplinary action by the Board will be decided by a majority vote. Mr. Morocz explained that the provision is not necessary as it appears in Harbors and Navigation Code section 1180.6(b). The proposed regulation would not explain or interpret that rule, it would merely repeat it. After discussion, committee members agreed that the language concerning the board vote should be stricken. With that, the entire Subdivision (i) will be repealed and the subsequent numbering will change.

Upon President Miller's earlier suggestion, now re-numbered Subdivision (i) concerning reconsideration of Board orders was discussed. The suggestion was to change the 30 days restriction on reconsideration in view of the fact that the Board regularly meets once a month. After discussion of the process, the committee members decided to recommend a change of the deadline from 30 days to 60 days. However, the Committee saw no need to change the 10 days extraordinary extension time as that was irrelevant in light of the prior change from 30 days to 60 days.

Finally, the Committee decided to complete the proposed amendments of Section 210 without waiting for other committees to submit proposed changes.

Action: A motion was made by Mr. Sullivan to recommend to the full Board the amendments discussed by the Committee to Section 210 and such motion was seconded by Mr. Wainwright. The motion was carried by a unanimous vote. Staff was instructed to prepare the amendments and present the regulatory amendment package for Board action at the August 2010 Board meeting.

7. Review preliminary draft of amending Sec. 217 (b), annual pilot physicals - in conformity with Harbors and Navigations Code sections 1141 and 1176.

The Committee reviewed the draft language prepared by Ms. Toohey and Mr. Morocz. A discussion on the reasonable time for submitting annual pilot physicals before license expiration has ensued. Mr. Wainwright stated that the pilot organization encourages its members to start the renewal process 90 days before expiration. Members took the view that a renewal physical examination should be completed before expiration of the current license but not too far in advance. Finally, committee members agreed to support the proposal for a 60 day window before license expiration. Proposed language on pilot trainee annual physical examination was also discussed and with a minor revision the proposed language was approved.

A further change in Subdivision (c) of Section 217 was supported by striking the reference to the Administrative Assistant position that was repealed by the Wiggins bill.

Action: A motion was made by Mr. Sullivan to recommend the full Board the amendments discussed by the Committee to Section 217 (b) and (c) and such motion was seconded by Mr. Wainwright. The motion was carried by a unanimous vote. Staff was instructed to prepare the amendments and present the regulatory amendment package for Board action at the August 2010 Board meeting.

8. Review of issues and 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).

The Committee discussed the current status of intended regulations. Mr. Garfinkle stated that he received a template of a Port Agent Notice from Mr. McIsaac. The notification elements in that notice are sufficient; however, a few other facts should also be added.

Committee members decided to have a draft prepared for detailed regulation as to the content of the Port Agents notice. Mr. Garfinkle was instructed to relay the details to Ms. Toohey and Mr. Morocz. Ms Toohey will draft regulatory language that will be presented to the Committee at its

next meeting. Staff was also asked to have the draft language reviewed by Investigator Robert Reynolds.

9. Report on status of rulemaking and/or legislation to provide for annual Executive Director performance review. (Commission regulation sec.210 and 211, HNC 1156)

Committee members discussed the need for some kind of amendment stating that the Executive Director should undergo an annual performance evaluation. With respect to the current regulatory language in Section 210(m) concerning an annual review of the Executive Director's performance as the member of the Incident Review Committee, the Committee decided to strike the provision. Instead, they would propose a statutory change in the appropriate section of the Code requiring an overall annual performance of the Executive Director by the Board.

10. Report on status of various Rules and Regulation Committee agenda items and rulemaking calendar items previously referred to other Commission committees.

The Committee reviewed a list of issues that previously decided to refer to other committees of the Board. It was uncertain as to how these transfers officially occur. It was decided that the list of items will be handed over to the President asking him to take further actions with respect to the other committees.

11. Planning agenda for next committee meeting.

The next meeting was set for August 24, 2010 at 9:00 a.m. with a prior meeting notice posted on August 13, 2010.

12. Adjournment.

There was a motion to adjourn. It was seconded and passed unanimously by voice vote. The meeting adjourned at 11:31 a.m.

Respectfully submitted,



Allen Garfinkle
Executive Director