

<p>Meeting Date: August 16, 2018</p>	<p>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun 660 Davis Street, San Francisco, CA 94111</p> <p>JOINT PILOT FITNESS/RULES AND REGULATIONS COMMITTEE MEETING MINUTES</p>	<p>Page 1 of 4</p>
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Committee Members Present:

Knute Michael Miller, Pilot Fitness Committee Chairman and Past Board President
 Captain George Livingstone, Rules and Regulations Committee Chairman and Commissioner
 Dave Connolly, Board Vice President
 Robert Kosnik, MD (arrived at 9:48 a.m.)
 Captain Einar Nyborg, Commissioner
 John Schneider, Commissioner
 Brigadier General (Ret.) Chester L. Ward, MD

Committee Members Absent:

None.

Staff Present:

Allen Garfinkle, Executive Director
 Dennis Eagan, Board Counsel
 Luis Cruz, Associate Governmental Program Analyst

Public Present:

Captain Joseph Long San Francisco Bar Pilots (SFBP) President and Port Agent; Ray Paetzold, SFBP Business Director-General Counsel.

OPEN MEETING

1. Call to order and roll call. (Chairman Miller/Livingstone)

Pilot Fitness Committee (PFC) Chairman Miller called the meeting to order at 9:32 a.m. Associate Governmental Program Analyst Cruz called the roll and confirmed a quorum.

2. Approval of the minutes of last Joint Pilot Fitness/Rules and Regulation Committee meeting held on April 11, 2018. (Chairman Miller/Livingstone)

The Joint Committee members were presented the draft minutes from the meeting held on April 11, 2018. Associate Governmental Program Analyst Cruz requested a minor edits to the draft minutes. There was no further comment or discussion.

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MOTION: Pilot Fitness Committee Chairman Miller moved to approve the draft minutes from the Joint Pilot Fitness/Rules and Regulations Committee meeting held on April 11, 2018, as amended. Commissioner Connolly seconded the motion.

VOTE: YES: Livingstone, Miller, Connolly, Nyborg, Schneider, and Ward.
NO: None.
ABSTAIN: None.

ACTION: The motion was approved.

3. Discussion and review of proposed amendments to the Board fitness regulations in Title 7, California Code of Regulations sections 217-217.45 and related forms. Possible Joint Committee recommendation to the Board to propose amendments to regulations in Title 7, California Code of Regulations sections 217-217.45 and related forms consistent with the Joint Committee findings. (Board Staff)

Board Counsel Eagan presented the latest version of draft amendments to the Board’s fitness regulations, dated August 16, 2018. The proposed amendments the Joint Committee discussed include:

- The title of the U.S. Coast Guard’s CG-719K form has changed, along with its effective date. The form is now titled and referred to as, “Application for Medical Certificate.”
- Insert a new definition for the term “fitness evaluation,” to clarify the distinction between the process of evaluating fitness and “fitness determination” since a fitness determination is the conclusion reached after an evaluation.
- The addition of a new provision to allow an applicant who has accepted a position in the training program 20 days to arrange for the commencement of a medical assessment, rather than 20 days to obtain a medical assessment. In light of the extended period to obtain a medical assessment, there is no need for a provision for the extension of the 20 day period by the Executive Director, which has been deleted.
- Deletion to the reference of the NVIC 04-08 version date in §217.5(d) since the version date is already included in the definition of NVIC 04-08 in §202(q).
- An addition to the regulations that grants the Executive Director the authority to extend the 90-day time period a new trainee has to enter the Pilot Trainee Training Program, by a period not to exceed 30 days. This provision gives trainees a bit more leeway to settle their personal affairs to get ready to enter the program.
- The insertion of a new provision clarifying that the documents a pilot must provide for a medical assessment include all medical waivers issued by the U.S. Coast Guard (USCG), with the exception of waivers previously provided to an examining physician.
- An addition to the proposed regulations further clarifying the Fit for Duty determination time period.

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- An addition to the regulations that defines a process of periodic fitness evaluations of pilots who have received a Not Fit for Duty, with a periodic evaluation completed within 120 days initially, and required every 120 when absent from duty for medical reasons.

Executive Director Garfinkle clarified for Commissioner Connolly that a trainee’s start date is the effective date of their trainee program contract with the Board.

Commissioner Connolly inquired about the reasons why a pilot may be issued a Fit for Duty determination for a period of less than one year. Dr. Kosnik explained that the physicians may identify a medical condition at the time of medical evaluation that has not been previously diagnosed, and that the physicians determined is not inhibiting the pilot from working, but provides a mechanism for the physicians to monitor and further evaluate the condition in periods of less than a year.

Executive Director Garfinkle stated that Board staff’s concerns include the following:

- Being kept up to date with fitness status changes of pilots who have submitted a Notice to Executive Director regarding a change in medical condition. He explained the need to close the communication loop between Board staff and the physicians so that Board staff have the necessary documentation in the pilot’s file.
- Including further documentation on the Board’s Statement of Fitness for Duty form of services performed per each fitness evaluation and determination received. He explained that Board staff often receive a Statement of Fitness for Duty form and it is unclear what medical services were rendered to the pilot or trainee making it difficult to review invoices submitted by the physicians.

The Joint Committee discussed possible modifications to the Board’s Statement of Fitness for Duty form, which included the addition of the pilot’s state license expiration date and check boxes for the type of fitness determination including, “Fit for Duty,” “Fit for Duty Until Date,” and “Not Fit for Duty.” Executive Director Garfinkle stated that the Statement of Fitness for Duty form should not include any explanation of what doctors are concerned about when administering a “fit for duty until...” date, and that that medical information should be kept confidential between the physicians and the pilot.

The Joint Committee briefly discussed California Code of Regulations §217.37, a newly proposed addition to the Board’s regulation concerning periodic re-evaluations of pilots on medical disability leave. Port Agent Long stated his concern that this provision is not used to prolong a period of absence from piloting duties. Board Counsel Eagan clarified that the “last-entered date” for the 120-day period to start tolling is the date that the Medical Review Officer signs the Statement of Fitness for Duty form.

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Board Counsel Eagan stated he would work with Board Staff on proposed modification to the Statement of Fitness for Duty form and the regulations to address any concerns brought up by the Joint Committee members and members of the public.

Commissioner Nyborg noted that the United States Coast Guard often makes revisions to their forms, which are cited within the Board regulations, and inquired if there was a mechanism to allow the Board's regulations to automatically update when USCG forms are revised. Board Counsel Eagan responded stating that historically the Office of Administrative Law has opposed such flexibility in regulations since there may be unintended consequences to new versions of forms.

Executive Director Garfinkle thanked the Joint Committee for their input and efforts.

4. Public comments on matters not on the agenda.

There were no comments from the public.

5. Schedule the next Joint Committee meeting, and proposals for the next Joint Committee meeting agenda.

The Joint Committee did not schedule the next Joint meeting of the Pilot Fitness Committee and the Rules and Regulations Committee.

There were no proposals for the next Joint Committee meeting agenda.

6. Adjournment.

There was no further discussion by the Joint Committee.

MOTION: Dr. Ward moved to adjourn the meeting. Commissioner Nyborg seconded the motion.

VOTE: YES: Livingstone, Miller, Connolly, Kosnik, Nyborg, Schneider, and Ward.

NO: None.

ACTION: The motion was approved and the meeting adjourned at 3:10 p.m.

Submitted by:



Allen Garfinkle, Executive Director