

<p>Meeting Date:</p> <p>June 21, 2023</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>PILOT FITNESS COMMITTEE MEETING MINUTES</p>	<p>Page 1 of 4</p>
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Committee Members Present:

Knute Michael Miller, Committee Chair and Past Board President
 Joanne Hayes-White, Commissioner
 Captain Einar Nyborg, Commissioner and San Francisco Bar Pilot (SFBP)
 Robert Kosnik, MD at the University of California of San Francisco (UCSF)

Committee Members Absent:

None

Staff Present:

Allen Garfinkle, Executive Director
 Matthew Millspaugh, Assistant Director
 Alethea Wong, Staff Services Manager 1
 Dennis Eagan, Board Counsel

Public Present:

Board President Karen Tynan, Commissioner's Robert Carr, Jennifer Schmid; Roma Cristia-Plant (CalSTA Deputy Secretary of Audits and Administration); Captain John Carlier, San Francisco Bar Pilots (SFBP) President and Port Agent; Captain Anne McIntyre, SFBP Business Director; Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; and Anthony Lopez (UCSF Occupational Environmental Medicine resident).

OPEN MEETING

1. Call to order and roll call. (Chair Miller)

Chair Miller called the meeting to order at 1:33 p.m. Staff Services Manager I Wong called the roll and confirmed a quorum.

2. Review and approval of Committee meeting minutes. (Chair Miller)

Committee action to approve the minutes from the meeting held on February 8, 2022.

Approval of February 8, 2022, minutes were deferred to the next Pilot Fitness meeting for review.

3. Public comment on matters on the agenda or not on the agenda. (Chair Miller)

None.

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4. Status report on the pilot and trainee fitness determination process involving the Division of Occupational & Environmental Medicine at the University of California, San Francisco Campus. (Executive Director Garfinkle)

Executive Director Garfinkle stated that the processes are moving smoothly and progressing very well thanks to Dr. Kosnik as well as recognizing two new examining physicians. Commissioner Nyborg agreed citing his recent personal experience at UCSF.

5. Review of public comments received by the Board during the written comment period for the pilot fitness regulations rulemaking that ended on May 31, 2023. Possible recommendation to the Board whether to amend the proposed pilot fitness regulations in response to the public comments, and possible approval of new proposed regulatory amendments. (Chair Miller and Executive Director Garfinkle)

Executive Director Garfinkle acknowledged two written comments. One comment is from Captain Barton requesting that trainees be considered with the regulatory package. The other comment was from Mike Jacob to consider language changes, as well as for the Board to consider his comments regarding the San Jose State University Research Foundation (SJSURF) participation in the Puget Sound Pilot Rate Hearings.

Board Council Eagan requested clarification on edits suggested by Mr. Jacob. Mr. Jacob responded that he felt the use of the phrase “on call” should be better defined. Mr. Jacob wanted the terms “work period” to be very clearly defined.

Regarding the comments received by Captain Barton concerning the inclusion of trainees in the regulations, Executive Director Garfinkle stated that trainees were not studied by the San Jose State Research Foundation, therefore the Committee has no fatigue effects data on trainees nor any information on their work hours since they set their own work hours. Captain Barton commented that there are financial pressures on the trainees to complete the program as soon as possible, which may bias their judgment. He recommends San Jose State Research Foundation evaluate the work and rest intervals of trainees. Chairman Miller agreed that this information would be useful for the Board when deciding whether to monitor the work hours of trainees and how that may be accomplished.

In response to Commissioner Hayes-White inquiry on the downsides to include trainees in the regulations, Commissioner Nyborg responded that the trainee program would be negatively impacted because trainees are self-dispatched and attempts to fit their work cycles into the constraints of the FRMS may impact their ability to join licensed pilots on jobs that are critical to their training. Commissioner Hayes-White stated that this discussion should continue, and to set a foundation requiring trainees to be evaluated under the same set of circumstances and rules as the bar pilots. Executive Director Garfinkle noted that pilot

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fatigue is managed by a software program, whereas trainees are self-dispatched, making it difficult to write regulations to govern the trainees, as there currently is no monitoring system in place. Ms. Cristia-Plant, supports a higher level of scrutiny of trainee work and rest periods, adding that she heard firsthand how tired and stressed trainees were towards the end of their evaluation stage of training. With all the years of past trainees' data on file, she believes that researchers have enough information on trainee habits to analyze trainee fatigue issues. She also suggested perhaps the new Information Technology Modernization Project could include a trainee tracking and monitoring system.

SFBP Business Director, McIntyre noted that many monitoring systems rely on self-reporting. She also reminded the Committee members that the whole purpose of the fatigue mitigation is not to prevent fatigue but rather help manage fatigue with best practices on personnel who are mid-career professionals and have already been well-exposed to fatigue regulations, and are already used to being monitored. Commissioner Nyborg, who has experience as the Chairperson of the PEC, listed all the ways that trainee's activities are already monitored each month (job cards, spreadsheets, etc.), and he reiterated that the PEC's role is to make sure trainees are neither over-worked nor under-worked.

Since no committee member wished to include trainees to the proposed regulations at this juncture, Chairman Miller stated that the committee will report to the Board that all comments received had been considered, and the Committee declined to include trainees at this time. However he feels there is value in getting additional information with the assistance of SJSURF.

Board Counsel Eagan explained the process to create the final statement of reasons. A consensus was reached that the edits that were made in response to the comments were non-substantial and did not require an additional 15-day comment period.

- 6. Review and discussion of the objection made by the Pacific Merchant Shipping Association on May 31, 2023, regarding the San Jose State University Research Foundation (SJSURF) completion of work contemplated in contract #15M900007 between the Board and the SJSURF for the researchers to examine the effects of work and rest periods on the performance of pilots licensed by the State. The remaining contract work includes Phase 4, a post-regulation intervention evaluation. Possible recommendation to the Board to continue with the pilot fatigue study with the San Jose State University Research Foundation as contracted, to cancel or amend the contract with the San Jose State University Research Foundation, or to enter into a new contract with another researcher to conduct the post-regulation intervention evaluation, or to cancel this phase of the pilot fatigue study.**

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Mr. Jacob explained his concerns over the further employ of SJSURF but does not want that issue to impact the Commission from moving forward with expediting the regulations. Executive Director Garfinkle noted the difficulty of state contracting, so it may be particularly challenging (or nearly impossible) to change to a new provider at this point in time. In response to Commissioner Hayes-White question on alternatives, Executive Garfinkle noted the lengthy and difficult contracting process and foreseeable challenges of finding and bringing a new contractor up to speed.

CalSTA Deputy Secretary Cristia-Plant added that one option is for the Board not do a post-regulation implementation study and she also cautioned that the procurement process of finding a new contractor could be at least two years. Currently, less than \$80K is budgeted for post-implementation study component. Commissioner Nyborg favored canceling the post-regulation study to which CalSTA Deputy Secretary Cristia-Plant stated that the SJSURF contract has been extended for three more years, with Dr. Hobbs expecting the regulation to be in place at least a year before he started studying the regulations' impact. That time period would allow for negotiation to evaluate the post-regulations implementation. Commissioner Hayes-White was not in favor of canceling the post-regulation study, but would support extending or modifying the contract, because there is a much to gain from the backend of the study.

7. Public comments on matters not on the agenda. (Chair Miller)

None.

8. Schedule the next Committee meeting, and proposals for items on the next meeting agenda, if applicable. (Chair Miller)

Chair Miller deferred scheduling the next Committee meeting until further notice.

9. Adjournment.

Chair Miller adjourned the meeting at 3:06 p.m.

Submitted by:



Allen Garfinkle
Executive Director