

**BOARD OF PILOT COMMISSIONERS
FOR THE BAYS OF SAN FRANCISCO, SAN PABLO AND SUISUN**

INITIAL STATEMENT OF REASONS

Hearing Date: July 24, 2007

Subject Matter of Proposed Regulation: **Pilot Disability Retirements**

Section(s) Affected: Title 7, California Code of Regulations, Division 2,
Section 239 (new)

Specific Purpose of each adoption, amendment, or repeal:

The Board licenses and regulates maritime pilots for Monterey Bay and the Bays of San Francisco, San Pablo and Suisun and their tributaries.

Governing legislation has provided a pension plan for retired and disabled pilots and inland pilots and their surviving spouses known as the San Francisco Pilot Pension Plan. (Harbors and Navigation Code Sections 1160 - 1168.)

For a disabled pilot to be eligible for a pension under the plan, the Board must determine, based on competent medical evidence, that the pilot is unable to perform the duties of a pilot as a result of a condition that is of permanent or extended and uncertain duration.

The purpose of the proposed rulemaking is to provide procedures for obtaining a Board determination that a pilot is “disabled” for purposes of entitlement to benefits under the San Francisco Pilot Pension Plan that is consistent with past practice and the Code. Specifically, the purpose is:

1. to provide definitions of the terms “disability” and “disabled,” “date on which the pilot became disabled,” and “last year prior to the pilot’s disability” as those terms are used in Harbors and Navigation Code Sections 1163 and 1164;
2. to require that a request for a disability determination be submitted to the Board in writing and be supported by competent medical opinion setting forth the diagnosis and prognosis in sufficient detail to permit the Board to determine whether the pilot is “disabled” within the meaning of the plan;
- (3) to provide for review of the medical documentation and possible examination of the pilot by a Board physician (the purpose of which is to ensure that an independent opinion as to whether the pilot is disabled has been obtained from a physician who is familiar with the standards for fitness applicable to pilots);

- (4) to provide for a review of the request and supporting documentation and the opinion of the Board physician by the Board's Pension Committee (or other advisory committee appointed pursuant to Section 208 of the Board's regulations) in order to develop recommendations to the Board relative to the pilot's disability and resulting pension benefits; and
- (5) to provide for the Board's determination of the issues including providing guidance to the fiduciary in calculating the pilot's disability benefits if the Board finds the pilot to be disabled.

Factual Basis/Rationale:

The procedures for obtaining a disability determination under the San Francisco Pilot Pension Plan are based upon the procedures initially developed by the Board's Pension Committee and followed in the few instances that a pilot has retired due to a disability (four in the past ten years). These procedures were addressed in various public workshops, resulting in the currently proposed rulemaking.

Underlying Data:

Minutes of committee and Board meetings and correspondence from the Pacific Merchant Shipping Association, San Francisco Bar Pilots and their respective counsel addressing these issues and the related issues of pilot "service" and legislative history for the current pension plan are included in the Board's rulemaking file and available for public inspection.

Business Impact:

The Board has made an initial determination that the proposed rulemaking will not have a significant economic impact on business beyond that inherent in funding the statutory pension plan.

Specific Technologies and Equipment:

The proposed rulemaking does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

The Board, through its committees, held various public workshops to develop the recommendations included in the proposed rulemaking, some of which necessarily involved a balance between differing perspectives and required the building of a consensus.

The Board is aware of no alternatives that would be more effective than, or as effective as and less burdensome than, the proposed regulation.