

**STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF MARINE PILOTS**

**MINUTES OF MEETING
October 28-29, 1998**

By the authority of AS 08.01.070(2), AS 08.62.030, and in compliance with the provisions of AS 44.62, Article 6, a meeting of the Board of Marine Pilots was held October 28-29, 1998, in Anchorage, Alaska.

10/28/98

Examinations were conducted from 0830 - 1200 as listed below:

Captain Richard Murphy - Iliasik Passage
Captain Michael George - West Coast of Prince of Wales Is.

Start Tape 1, Side A

Agenda Item 1

Call to Order/Roll Call

Chairman Bush called the meeting to order at 1335. The Marine Pilot Coordinator (MPC) conducted roll call. Members present constituting a quorum were:

Mr. Jeff Bush	-	Commissioner's Designee
Captain Pete Garay	-	Pilot Member
Captain Michael Spence	-	Pilot Member
Mr. Bernie Smith	-	Agent/Vessel Manager Member
Ms. Barbara Huff Tuckness	-	Public Member
Mr. Michael White	-	Public Member

Staff present: Peter Christensen, (MPC)

Agenda Item 2

Review/Set Agenda

The agenda was accepted without amendment.

On a motion made by Captain Spence, seconded by Mr. Smith and carried unanimously, it was

RESOLVED to approve the agenda as submitted.

Agenda Item 3 **Review Agenda for Potential Conflicts of Interest and Declarations of Recusal.**

Chairman Bush asked each Board member to review the agenda for any potential conflicts of interest. No conflicts were voiced.

Agenda Item 4 **Investigation/Litigation Update**

The MPC addressed the Proteus litigation and the Skovoth hearing saying that the Proteus suit was still in the discovery phase and that the Board would consider the Hearing Officers proposed recommendation in the Skovoth matter.

The MPC also estimated that since the Board last met, two new investigations had been opened and six investigations were pending closure.

Agenda Item 5 **Review/Approve Past Meeting Minutes**

The Board discussed whether any changes needed to be made to the minutes before their approval.

On a motion made by Mr. Smith, seconded by Captain Spence and carried unanimously, it was

RESOLVED to adopt the July 1998 teleconference minutes as presented.

Agenda Item 6 **Exam Results/License Approval/Endorsements**

The MPC reported to the Board that Captain Murphy took and passed the Extension of Route Examination for Iliasik Passage.

On a motion made by Captain Spence, seconded by Captain Garay and carried unanimously, it was

RESOLVED to grant Captain Murphy an extension of route endorsement for Iliasik Passage.

The MPC reported to the Board that Captain George took and passed the Extension of Route Examination for the West Coast of Prince of Wales Is.

On a motion made by Captain Spence, seconded by Captain Garay and carried unanimously, it was

RESOLVED to grant Captain George an extension of route endorsement for the West Coast of Prince of Wales Is.

The MPC reported to the Board that Captain Brown had applied and submitted the requisite movements to upgrade his license to unlimited under 12 AAC 56.045(b).

On a motion made by Captain Spence, seconded by Captain Garay and carried unanimously, it was

RESOLVED to grant Captain Brown an upgrade of his license tonnage to unlimited.

Agenda Item 7

Public Comment

Mr. Monkman - stated concerns regarding a pilot associations liability resulting from conducting the annual performance monitoring check rides as proposed in the regulations adopted by the Board at it's April 1998 meeting.

1420
End Tape 1, Side A
Begin Tape 1, Side B

Captain Baken - reported that the summer cruise ship season went well, with the proper mix of work and time off. Pilots averaged 100 days work out of 140. He supports the development of agenda items number 9 & 10. Regarding agenda item 12, ACP feels that the fitness of a pilot (physical & mental health) is more important than a mandatory retirement age.

Captain Kellogg – requested an update on the project to develop a standard form to conduct the annual performance monitoring.

Captain O'Hara - expressed some concern over the earlier remarks made by Mr. Monkman regarding pilot association liability. The APA conference stressed the issue of fatigue in accident investigations. The USCG has a formula driven approach for determining fatigue. SWAPA will be ready to implement the electronic quarterly reports.

Captain Collins - stated it is going to be difficult to implement a good annual check ride program.

End Tape 1, Side B
Start Tape 2, Side A

Mr. Ken Castner - takes exception with the idea of licensing pilots until failure. We need to have a process for continuing to qualify pilots to retain their license.

Captain MacPherson – in response to some earlier remarks, he reminded the Board (especially the new members) that in the past seven years the Board has initiated many the requirements that marine pilots must fulfill to retain their license.

1509 Recess, Off Record
1531 End Recess, On Record

Agenda Item 8 Update - Simulator Based MP Performance Evaluations

The MPC updated the Board on the status of the contract for the simulator based marine pilot performance evaluations by stating that the selection committee had issued an Intent to Award to RTM Star Center and the Division is currently in negotiation with RTM Star Center for the final contract. When asked if all the proposals were comparable, Chairman Bush noted that all the proposals were good and that RTM Star Center finished first on all five ballots of the selection committee.

Agenda Item 9 Update – Electronic Quarterly Reports

The MPC noted that Alaska Coastwise Pilots have been submitting their quarterly reports in electronic format and the last submission was received via e-mail. The Board discussed the examples of quarterly reports located under Tab 2 of the Board packet. When asked about the transition to the new electronic reporting the MPC stated that he was not aware of any problems at any of the associations.

Agenda Item 10 Update – Examination Database

The MPC stated that the project is proceeding well.

Agenda Item 11 Annual Performance Monitoring Project

Chairman Bush stated that the committee needed to meet to discuss the issues that were brought before the Board in earlier testimony today. The

question of whether to withdraw the draft regulation from the pending regulation project was left undecided. A lengthy discussion regarding the liability issue ensued. Senator Pearce asked the Chair whether the liability that was incurred through a performance monitoring check-ride was any different than the liability an association would face during pilot training. In response to Senator Pearce, Chairman Bush and Mr. Monkman discussed the possible differences between the two. The MPC suggested several days for the next meeting of the committee. The next teleconference meeting of the committee working on this issue was set for 0900 on November 16, 1998. The committee was asked to develop a form, discuss the liability issue and decide whether the pending regulation project should be bifurcated.

Agenda Item 12 **Mandatory Retirement Rule for Pilots**

A proposal to consider implementing mandatory retirement at age 70 was outlined by the MPC. The MPC's proposal included a phase in period so that those pilots currently over 70 years of age would not be immediately forced into retirement. The consensus of comments both from the pilot associations and the Board centered on the need to make better determinations of a pilot's fitness to perform his or her duties as a pilot and not a blanket mandatory retirement regulation. The Board expressed a desire for requiring better physical examinations, especially for those pilots over a certain unspecified age.

End Tape 2, Side A
Start Tape 2, Side B

The Board's informal consensus was to pursue development of a more detailed medical evaluation form and to have the pilot's medical examinations conducted by physicians who are more aware of the physical and mental requirements of piloting. It was noted that the physicians should be fully cognizant of the physical and mental skills a pilot utilizes in performing his or her job. The comments also included implementing a method of referring questionable physicals to a physician selected by the Board for further review.

1631 Recess, Off Record
1634 End Recess, On Record

Mr. Stebing, the Board's Hearing Officer arrived.

Agenda Item 13 **BMP Review of the Hearing Officer's Proposed Decision In re Captain Skovoth**

1635 On a motion made by Captain Spence, seconded by Mr. Smith and carried unanimously, it was

RESOLVED to have the Board enter executive session to discuss and deliberate on the Hearing Officer's proposed decision in the Skovoth matter.

1700 On a motion made by Captain Spence, seconded by Mr. Smith and carried unanimously, it was

RESOLVED to have the Board return to public session

On a motion made by Captain Spence, seconded by Ms. Huff Tuckness and carried unanimously, it was

RESOLVED to accept option #1 of the Hearing Officer's proposed decision in the matter of Michael Skovoth.

1702 The Board recessed until 0830 tomorrow.
End Tape 2, Side B

October 29, 1998

Start Tape 3, Side A, On Record 0835, Experienced Problems with Tape Recorder, Start of Tape Delayed

Board Members Present Constituting a Quorum:

Chairman Bush – Commissioner's Designee
Captain Spence – Pilot Member
Captain Garay - Pilot Member
Mr. Smith - Vessel Agent/Vessel Manager Member
Ms. Huff - Public Member

Not Present:

Mr. White - Public Member (Indicated he would be late)
Mr. Berto - Vessel Agent (Absent)

Agenda Item 14. Public Comment

Doug MacPherson – Outlined the current regulatory required program for a Deputy Marine Pilot's advancement to an unlimited tonnage license.

On Record 0847

Captain O'Hara – SWAPA has determined that their association's exposure in conducting the annual evaluations of a pilot's performance is not any greater than conducting their training program rides. He went on to express his feelings regarding the requirements for upgrading to 60,000 GT license and asked how soon will the Ass't AG be available to continue his review of the regulations adopted by the Board in April? The MPC stated he didn't know but would attempt to find out when Mr. Truitt would be returning to work.

Captain Kellogg – SEAPA has met with ACP and proposes that a requirement for 10 dockings and 10 undockings be added for movement from 40,000 GT to 60,000 and 60,000 GT to unlimited tonnage. SEAPA is not in favor of allowing the use of simulator movements to substitute for current training requirements.

Captain Baken – Stated that they had met with SEAPA and had agreed to support the 10 docking/10 undocking requirement proposed by Captain Kellogg. ACP endorses the use of simulator movements to substitute for current training requirements, especially when the training requirement can not be met in a year's time due to non-availability of vessel traffic as in 56.028(h). ACP does not endorse a regulation to outline a procedure to handle the emergence of new ports, but they do support a regulation to require pilot associations to develop a procedure in their training programs. Regarding the yacht issue, ACP feels that the Board should notice in appropriate publications the requirement for foreign flag yachts over 300 GT to have a pilot.

Mr. Ken Castner – Regarding his remarks of yesterday, he feels that if a pilot receives an evaluation that indicates he needs remedial training that the associations training committee should take action as well as forwarding the information to the Board when appropriate.

0902 Mr. Smith Departed

Agenda Item 15. Regulation Proposals for Consideration

0907 Mr. Smith
Returned

End Tape 3, Side A
Start Tape 3, Side B

The Board discussed the idea of requiring specific training requirements to be met in order to advance to a 40,000 GT and a 60,000 GT license. The MPC outlined the requirements currently in regulation and the requirements as amended by the Board's adopted regulations regarding advancing from a 40,000 GT endorsement to an unlimited license. After hearing from Captain Dundas regarding the impact upon Region 3 of such a requirement, the Board agreed to have the pilot members of the Board and other pilots meet to develop a requirement that could be brought back to the Board as a proposal.

0940 Mr. White Arrived The Board discussed whether to accept simulator trips to meet specific
0941 Mr. Smith Departed training requirements as well as acceptance of simulator trips to make up
requirements waived under 56.028(h).

On a motion made by Captain Spence, seconded by Mr. White and carried
unanimously, it was

RESOLVED to adopt a regulation change to amend 12 AAC
56.028(h) by extending the first sentence with the following
language: "or simulations of the required movements for up to
50% of the waived requirements."

1004 **Recess**

1038 Back on Record The Board discussed the idea of whether a regulation should be developed
to require a pilot to retain a current federal license at all times. The Board
1053 decided not to propose a regulation at this time.

End Tape 3, Side B

Begin Tape #4, Side A The Board discussed the definition of "movement" for possible further
refinement. The Board directed the MPC to look for situations in the
regulations where the word "movement" could be substituted for current
language in the regulations without creating any substantive change of the
regulation.

The Board discussed whether procedures for implementing new ports
should be implemented in regulation. The Board earlier heard Captain
Baken state the steps that were taken in the opening of Calder Inlet as a
new port to date. Captain Kellogg commented before the Board regarding
this issue. Captain Dundas related to the Board how the development of a
pier facility in Kivalina was pursued and AMP's involvement in that
project. Mr. Castner commented that licensing is a cycle not a straight
line

1128 Mr. Smith returned. development and that before a pilot could renew his or her license that
they demonstrate that they have been trained, for the "new ports" that
have come into existence since his or her last renewal. Mr. Paul Fuhs
spoke before the Board regarding congressional actions taken regarding
marine charting. He reported that while there will be some privation of
surveying, NOAA will retain their survey ships and \$14 million dollars
has been appropriated for the national surveying project. Since Alaska has
60% of the U.S. coastline and since it has the largest backlog of surveying
needs, a large portion of the surveying will occur in Alaska. The Board
requested that all pilot associations submit changes to their training
program that

End Tape 4, Side A

Begin Tape 4, Side B include procedures for new port development and initial entry into new
ports.

Agenda Item 16. Changes in SE Alaska Federal Pilotage Program

The MPC explained the changes that were proposed to the Federal pilotage program in SE Alaska. Captain Kellogg described the meeting the Coast Guard held 10/27/98 with the State, SE pilot associations, AMHS, and other interested parties.

1150 **Lunch**

1307 Back on Record

Chairman Bush welcomed Captain Kaare Bakke (of Norwegian Cruise Lines) who was attending his first Marine Pilot Board meeting.

Captain Spence said a short eulogy in memory of retired marine pilot Harold (Barney) Elsensohn.

The pilot associations met during lunch regarding a proposal for requiring dockings and undockings to advance from 40,000 GT to 60,000 GT and to advance from 60,000 GT to an unlimited tonnage license. Captain Garay introduced the proposal. The proposal for Regions 1 & 2 requires 10 dockings and 10 undockings on vessels of over 40,000 GT to advance from 40,000 GT to 60,000 GT. For Region 3 they propose 10 dockings and 10 undockings on vessels of over 30,000 GT to advance from 40,000 GT to 60,000 GT. To advance from 60,000 GT to an unlimited license 10 dockings and 10 undockings on vessels of over 60,000 GT are required.

On a motion made by Mr. Smith, seconded by Captain Spence and carried unanimously, it was

RESOLVED to adopt the following regulation:

In Southeast and Southcentral Alaska, a deputy marine pilot is required to complete 10 dockings and 10 undockings on vessels of over 40,000 GT to advance from a 40,000 GT endorsement to a 60,000 GT endorsement. In Western Alaska, a deputy marine pilot is required to complete 10 dockings and 10 undockings on vessels of over 30,000 GT to advance from a 40,000 GT endorsement to a 60,000 GT endorsement. To advance from a 60,000 GT endorsement to an unlimited endorsement, a deputy marine pilot is required to complete 10 dockings and 10 undockings on vessels of over 60,000 GT.

Agenda Item 17. In Accordance with to 12 AAC 56.080(f), a Marine Pilot cannot be renewed unless if not, what does happen?

The Board clarified that 12 AAC 56.080(f) does not apply to a marine pilot with a 40,000 GT limitation.

The MPC was instructed that the licenses of all marine pilots with tonnage limitations should be amended to read deputy marine pilot upon the renewal of the license.

Following a short discussion, the Board affirmed that only unlimited marine pilots are subject to 56.080(f), and that if an unlimited marine pilot has any exclusions on their Federal and/or State license, they will not be renewed.

The Board then returned to the discussion of whether a pilot should have to have 60 days of piloting experience to move from a 60,000 GT deputy marine pilot endorsement to unlimited marine pilot.

End Tape 4, Side B
Begin Tape 5, Side A

On a motion made by Mr. Smith, seconded by Captain Spence and carried unanimously, it was

RESOLVED to notice the following regulation amending 12 AAC 56.029(3) to read: "show that the applicant has held a valid deputy marine pilot endorsement to pilot vessels of 60,000 gross tons for a period of one year and, on at least 60 days during that year, have performed vessel movements as a deputy marine pilot onboard vessels requiring a state licensed marine pilot;"

The Board agreed with the MPC's suggestion that he draft a regulation to clarify what sort of training or experience will count toward the 60 day experience required to advance from 40,000 GT to 60,000 GT and from 60,000 GT to an unlimited marine pilot license.

Agenda Item 18. Proposed Reg Requiring Simulator Based Evaluations of Pilots

The MPC elicited discussion on whether the Board would like to begin a regulation project to require pilots to receive a performance evaluation of their piloting skills in a simulator-based environment. He also suggested that in order to test and evaluate the program developed through our contract with RTM Star Center, the Board may want to consider requiring

all (or at least a large percentage of) licensed pilots to attend the program during the program's first three years of availability.

After a short discussion, the Board decided to continue discussion of this item at a later date. The associations were invited to submit ideas on how the continuing education regulation should be written that will require the simulator based pilot performance evaluations.

Agenda Item 19. Regulation to Implement Procedures for Setting Pilotage Rates

The MPC suggested that the Board should develop regulations specifying the process and procedures for initiating and conducting a rate hearing. The Board asked anyone with input on this idea to please forward their input to the MPC.

Agenda Item 20. Proposed Change to Region 2 Requirements

Captain Stone of SWAPA outlined the proposed regulation and the reasons why it is needed.

After some discussion, the Board amended the proposed regulation to read as follows:

12 AAC 56.031

(b) Southcentral Alaska Region

(4) Valdez Trans-Alaska Pipeline System Trade – satisfy the requirements for Cook Inlet in (2) of this subsection and complete a total of 20 supervised dockings and 20 supervised undockings at the available operational berths [five dockings and five undockings at each dock] at the Alyeska Terminal. [;] T[t]he dockings and undockings at the Alyeska Terminal must

(A) include four [one] dockings and four [one] undockings [at each dock] at night; and

(B) be performed within the period beginning October 1 and ending April 1.

On a motion made by Mr. Smith, seconded by Captain Spence and carried unanimously, it was

RESOLVED to notice SWAPA's draft regulation as amended by the Board.

Agenda Item 21. Nat'l Maritime Safety Incident Reporting System (NMSIRS)

The MPC informed everyone of the upcoming third meeting of the committee working on the Coast Guard initiative to establish a National Maritime Safety Incident Reporting System (NMSIRS).

Agenda Item 22. Yachts – Possible Solutions

End Tape 5, Side A
Begin Tape 5, Side B

Captain Spence introduced a possible solution to the problem the Board has experienced with foreign flag yachts of over 300 GT. He feels that the yacht owners would not deliberately or knowingly violate the act if they were informed of the law beforehand. Therefore, he suggested that the Board publicize the law's requirements by sending a summary of the laws to a list of publishers for inclusion in their periodicals. The Board instructed the MPC to send a letter of notification to the list of periodicals provided by Captain Spence. Chairman Bush also suggested that a pamphlet be developed for distribution

Agenda Item 23. Business Items

The MPC presented reports of the Board's legal costs. A report of the Board's budget was not available for presentation. The MPC also introduced the fee set for this biennium's. The renewal fee will be set at \$2,000. The MPC explained that the actual cost of operating the Board averaged out to a cost of \$3,200 per marine pilot. Chairman Bush explained to the Board and assembled public why the renewal fee was \$2,000 rather than the \$3,200 per pilot that the preceding biennium actually cost.

The MPC noted that two associations had noticed changes to their rates and that they were included in the Board packet under Tab 7. He also quickly reviewed the other information contained in the Board Correspondence section under Tab 8.

The Board agreed to set October 27 - 28, 1999 (Wed – Thur) as the October 1999 meeting date.

The MPC noted that the Board's next meeting with examinations would be January 27-28, 1999 in Anchorage at the Hotel Captain Cook and that the deadline to submit applications for examination is November 27, 1998.

Both Ms. Huff and Mr. Smith noted that they may not be able to attend the next meeting due to other commitments on those dates in Juneau.

Motion to Adjourn

On a motion made by Mr. Smith, seconded by Captain Spence and carried unanimously, it was

RESOLVED to adjourn the meeting.

Tape Off

Respectfully submitted:

Peter D. Christensen,
Marine Pilot Coordinator

Approved this _____ day of _____, 1999.

Jeffrey W. Bush,
Deputy Commissioner