

# State of Alaska

## Board of Marine Pilots



November 24, 2021 Teleconference

Public Board Packet

**BOARD OF MARINE PILOTS  
NOVEMBER 24, 2021**

**BOARD ROSTER**

# Roster

## Board of Marine Pilots

NAME	APPOINTED	REAPPOINTED	EXPIRES
<b>Cronk, Les (Leslie)</b> (Ketchikan) Agent	03/01/2018		03/01/2022
<b>Harris, Richard</b> (Juneau) Public	12/18/2017	03/01/2020	03/01/2024
<b>Hasenbank, Lucas</b> (Anchorage) Agent/Manager	03/01/2020		03/01/2024
<b>McLaughlin, Peggy</b> (Dutch Harbor) Public	05/26/2017	03/01/2018	03/01/2022
<b>Sinclair, Edward</b> (Juneau) Pilot	03/01/2019		03/01/2023
<b>Thayer, Curtis</b> (Anchorage) Commissioner/DCCED/Designee — Chair	02/22/2010	04/11/2019	
<b>Vacant</b> () Pilot			03/01/2021

**BOARD OF MARINE PILOTS  
NOVEMBER 24, 2021**

**Meeting Agenda**



State of Alaska  
Department of Commerce, Community & Economic Development  
Division of Corporations, Business, and Professional Licensing Board of  
Marine Pilots

Zoom Meeting Call-In # 669-900-6833  
253-215-8782  
346-248-7799

Meeting ID: 883 4385 3611  
Meeting Passcode: 658185

**TENTATIVE MEETING AGENDA**  
**November 24, 2021**

1. 10:00 am Roll Call/Call to order
2. 10:05 am Review Agenda
3. 10:10 am Review/Approve Minutes
  - A. April 2021
4. 10:20 am Ethics Disclosures
5. 10:30 am CLIA Update – Lalanya Downs, Sr. Director, Community Relations & Public Affairs  
*Review of 2021 season and Look towards 2022*
6. 10:45 am Review of public comment; Regulations Amendments - 12 AAC 56.115; Foreign Pleasure Craft Exemptions & 12 AAC 56.120(a)(39) Pilot stations/pick up points
7. 11:00 am Division Update  
*Current fiscal report*  
*Military licensing*
8. 11:30 am Investigative Report
9. 11:45 am Request for Training Extension
10. 12:00 pm Break for lunch
11. 1:15 pm Association Reports
  - A. Alaska Marine Pilots
  - B. Southeast Alaska Pilots' Association
  - C. Southwest Alaska Pilots' Association
12. 1:45 pm SWAPA By-law Revision
13. 2:00 pm Public Comment – Not public testimony for regulation amendments
14. 2:15 pm Foreign Pleasure Craft Exemptions
  - A. Review of exemptions issued 2021 Season
  - B. Discussion of issues related to 2021 applications (*entering waters before exemption granted, taking charters while holding exemption, etc.*)
15. Adjourn

**BOARD OF MARINE PILOTS  
NOVEMBER 24, 2021**

**April 21, 2021 minutes  
for review/approval**



State of Alaska  
Department of Commerce, Community and  
Economic Development  
Division of Corporations, Business and Professional Licensing

**BOARD OF MARINE PILOTS**

**MINUTES OF MEETING**  
**April 21, 2021**

***These draft minutes were prepared by staff of the Division of Corporations, Business and Professional Licensing. They have not been reviewed or approved by the Board.***

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Marine Pilots was held via video/teleconference January 20, 2021.

**Call to Order/Roll Call April 21, 2021**

The meeting was called to order by Chairman Curtis Thayer, at 10:03 a.m. Those present, constituting a quorum of the Board were:

Curtis Thayer  
Rick Harris  
Captain Edward Sinclair  
Lucas Hasenbank  
Les Cronk

Excused:  
Peggy McLaughlin

Present from the Department of Commerce, Community and Economic Development, Division of Corporations, Business and Professional Licensing, were:

Renee Hoffard, Marine Pilot Coordinator  
Greg Francois, Chief Investigator  
Shauna Muraco, Investigator III  
Melissa Dumas, Administrative Officer

Visitors present included:

Mike Tibbles, Cruise Lines International Association, Alaska (CLIA)  
Captain John Herring, Southeast Alaska Pilots Association (SEAPA)  
Jenni Zielinski, Southwest Alaska Pilots Association (SWAPA)  
Captain Joe Martin, Southwest Alaska Pilots Association (SWAPA)  
Captain Clayton Christy, Alaska Marine Pilots (AMP)  
Jessi Li, Southeast Alaska Pilots Association (SEAPA)  
Lt. Hadley Owen, National Oceanic and Atmospheric Administration (NOAA)  
Captain Robert Dersham, Southeast Alaska Pilots Association (SEAPA)  
Captain Ronald Ward II, Southwest Alaska Pilots Association (SWAPA)  
Drew Green  
Jeff Logan  
Malan Paquette

*Approximately 17 callers joined the call over the course of the meeting.*

### **Agenda Item 2 – Review Agenda**

**Upon a motion duly made by Rick Harris, seconded by Captain Edward Sinclair, and approved via roll call, it was:**

**RESOLVED to approve the agenda written.**

### **Agenda Item 3 – Review of meeting minutes**

The Board reviewed the draft minutes for the January 20, 2021 teleconference.

**Upon a motion duly made by Rick Harris, seconded by Captain Edward Sinclair, and approved via roll call, it was:**

**RESOLVED to approve the January 20, 2021 board meeting minutes as written.**

### **Agenda Item 4 – Ethics Declarations/Recusals**

The board had no ethics declarations or recusals.

### **Agenda Item 5 – Public Comment**

Chair Thayer opened the floor for public comment; at that time there were 14 members of the public in attendance. No comments were made; Chair Thayer closed public comment at 10:07 am.

### **Agenda Item 6 – Cruise Industry Update**

Mike Tibbles of Cruise Lines International Association (CLIA), Alaska joined the meeting to provide an update on the cruise industry. Since the CDC issued the no-sail order in October



2020 the COVID vaccine has been approved for distribution and many Americans have received the vaccine which the industry hopes will be a significant game changer. The industry is working with the CDC and the national administration in efforts to educate on the success of industry protocols which involve a high level comprehensive multi-layered approach to reducing risk. The protocols have proven to be very effective outside of the United States as the industry has seen over 400,000 people cruise since last July across Europe and Asia with very small numbers of cases. The congressional delegation is working hard to address a number of issues which are preventing a return to cruises in the United States. They are working on the CDC issues as well as the passenger vessel service act both of which have legislation in both the House and the Senate. All kinds of individuals that are impacted by this shutdown in the industry are working with their delegations to engage them and encourage them to work with the CDC in the White House as well and promote the restart of cruises. Things on hold waiting to see if there will be some progress, or are there any significant outcomes from all of the efforts that are underway at this point.

Mr. Harris asked if Mr. Tibbles wanted to comment on the three initiatives introduced in Juneau regarding limiting cruise ships and passengers. Mr. Tibbles replied that a lot of locals that work in the industry as well as a lot of local businesses are aware of the issues and are working hard to try to educate the public here on what the potential impacts would be; some of those items are very significant.

#### **Agenda Item 7 – Investigations Report**

Chief Investigator Greg Francois joined the meeting to provide the investigative report for the time period of January 15, 2021 – April 16, 2021; there is 1 investigation remaining as an open case. The one open case is 18 months old but investigation is consulting with a board member on the issue which is about a ship movement which requires further information which may take going to another country to find the captain.

Chief Francois informed the board that an investigator has been assigned the Marine Pilot program. Investigator Shauna Muraco has joined the division with a law enforcement background and will be assuming responsibility of the program investigations workload.

#### **Agenda Item 8 – Annual Report**

MPC Hoffard provided an overview of the annual report that is completed and approved yearly by the board. The purpose of the annual report is to report the accomplishments, activities, and the past and present needs of the licensing program. The board goals for the prior year were met and the board will work to schedule board meeting dates for the upcoming fiscal year for the budget portion of the report. The board anticipates moving back to in-person meetings starting October 2021 in Juneau. MPC Hoffard was directed to set dates with the board via email in the next few weeks and submit the travel request as soon as possible.

#### **Agenda Item 9 – 2021 Yacht Navigation Packet Review**

The board reviewed the documents for the Yacht Navigation packet as required per AS 08.62.180(c). Captain Sinclair asked if the contact information discussed in 2020 had been removed as requested by the board and MPC Hoffard confirmed that it had.

**Upon a motion duly made by Les Cronk, seconded by Lucas Hasenbank, and approved via roll call, it was:**

**RESOLVED to approve the 2021 Yacht Navigation Packet as presented.**

### **Agenda Item 10 – Regulation Amendments**

Chair Thayer asked MPC Hoffard to provide an overview of the draft language presented to the board to amend 12 AAC 56.115, Foreign Pleasure Craft Exemptions and 12 AAC 56.120(a)(29), Pilot stations/pick-up points.

MPC Hoffard presented the draft language:

12 AAC 56.115(B) amended to read “radar, if the vessel is over 125 feet long, the radar must have the means to automatically track the range and bearing of other targets to determine collision risk”

12 AAC 56.115(D) amended to read “a magnetic compass with a deviation table created not later than one year before the date of the application for an exemption, or a Transmitting Heading Device (THD).”

12 AAC 56.115(B) amended to read “a minimum of two VHF transceivers in order to simultaneously monitor Channels 13 and 16.”

12 AAC 56.1159(c) is amended by to read “On vessels over 100 feet in length, the captain or master aboard a pleasure craft seeking a pilotage exemption must hold a current mariner’s license for the vessel’s tonnage. A copy of the mariner's license must be submitted with the application submitted under this section. On a pleasure craft greater than 200 gross tons, the master must hold a valid unlimited radar observer endorsement. Masters that do not hold a valid unlimited radar endorsement must submit proof of radar training completed within the five years immediately preceding the date of the application.”

12 AAC 56.120(a)(39) is amended to read “Togiak – 4.1 miles 140° true from Summit Island; approximate position 58° 46' north latitude, 160° 06' west longitude

**Upon a motion duly made by Rick Harris, seconded by Les Cronk, and approved via roll call, it was:**

**RESOLVED to approve the draft language as presented to be submitted for a regulations project.**

Discussion – The board elected to accept written testimony only and anticipate review of any comments at the October 2021 board meeting. MPC Hoffard was directed to submit the drafts to the division regulations specialist.

## **Agenda Item 11 – Association Reports**

### *AMP:*

Captain Clayton Christy provided the report. AMP has a current roster of 9 full pilots with 1 trainee that just received a Deputy Marine Pilot license and 1 apprentice working towards federal pilotage. Approximately 80% of the roster has been vaccinated at this time. The association had no issues to report; he thanked the board for moving the proposed regulation amendment forward to public comment. The board had no questions for AMP.

Captain Sinclair asked to clarify that the board had indeed moved the regulation proposal forward; Mr. Harris confirmed that was the intention of his motion.

### *SEAPA:*

Captain John Herring provided the association report. Current roster of 38 full pilots, 11 deputy pilots, and 18 trainees. SEAPA is operating under the assumption that there will be no cruise ships this season in consideration of how long it takes to reposition ships and recruit staff. The association held entrance selections and had six successful candidates which is lower than anticipated but not unexpected due to the current status of COVID. Due to the region being so heavily slanted towards cruises there isn't enough traffic in the region to do training so the training program is essentially at a stand-still. They anticipate resuming in earnest in 2022 as the projected schedule is 20% busier than 2018 which was a very busy year. The association may have issues with filling dispatch in 2022 but they are preparing for that as best they can; an additional 10 pilots would put them in fairly good shape. If there is a surge in foreign pleasure craft exemptions the association would hope the board would again permit the yachts to transit without a pilot unless they are doing high-risk transits to reduce the demand for pilots.

Chair Thayer moved to agenda item 12 as the representative for SWAPA was not available.

## **Agenda Item 12 – Division Update**

Administrative Officer, Melissa Dumas provided the division update. Ms. Dumas reviewed the FY201 1<sup>st</sup>-3<sup>rd</sup> quarter fiscal report with the board. For this fiscal year the program has had \$130,950 brought in as revenue with total expenditures of \$63,494. The program started the final quarter of FY2021 with a surplus of \$346,269 which is higher than it has been in previous years but that is due to reduced expenditures for investigations and the lack of travel for board members. Ms. Dumas also provided a brief overview of a couple of bills that may affect the board if approved by the legislature.

Chair Thayer moved back to association reports to hear from SWAPA.

### *SWAPA:*

Captain Joe Martin provided the report. SWAPA presently has 15 full members, VLCC qualified pilots, one of which is enrolled in the transitional retirement program. SWAPA also has 3 Deputy Pilots holding 110,000 Gross Ton licenses, two of whom have completed their winter training maneuvers on VLCC's in Valdez. They will continue their training this summer and will apply to become Full Pilots once they have met those qualifications; they also have 1 Deputy Pilot holding a 95,000 Gross Ton license, who should be upgrading to the 110,000-ton level next month. SWAPA has three Trainees working on hands on maneuvers in the region, and

additionally, one observer working on Federal Pilotage. With the increased roll out of COVID-19 vaccines, they are able to have trainees on a majority of vessels calling in the region. He thanked Captain John Falvey and Captain Tony Karvelas of the Alaska Marine Highway System for working with SEAPA to re-ignite the Pilot Training program on board the ferries; the partnership is very important to SWAPA's training program as it is SEAPA's. SWAPA is again expecting no cruise ship traffic to speak of in 2021. However, interest in returning cruise ships in 2022 is being expressed, and they look forward to their return.

SWAPA proposed amendments to their training program to meet the changes made to regulations 12 AAC 56.028 (j) and 12 AAC 56.033 (b)(2) that are effective May 5, 2021 regarding giving credit for additional maneuvers completed by apprentices.

**Upon a motion duly made by Captain Edward Sinclair, seconded by Lucas Hasenbank, and approved via roll call, it was:**

**RESOLVED to approve the revisions to the Southwest Alaska Pilots Association training program as written.**

**Agenda Item 13 – Correspondence**

Chair Thayer stated that the Alaska Marine Highway System (AMHS) had responded to a letter sent by the pilot associations regarding the pilot observer program; AMHS intends to restart the program on a limited basis due to COVID-19. The letters were provided to the board for their review.

**Good of the order:**

Rick Harris – thanked the associations and AMHS for working to resolve the issue of pilot observers. Mr. Harris has had confirmation hearings with both the House and Senate transportation committees and has been recommended for confirmation to his seat on the board. He inquired if the board would be formally thanking out-going board member Captain Ward for his service and if a replacement had been considered for his seat.

Captain Sinclair – pointed out that Lucas Hasenbank had also had confirmation hearing for his seat on the board and has been recommended for confirmation.

Chair Thayer – thanked Mr. Harris and Mr. Hasenbank for their attendance at their hearings and looks forward to their appointments being confirmed. No appointments have been made to fill the vacant pilot member seat. He thanked Captain Ward for his service to the board and will work with Renee to send a formal thank you.

**Upon a motion duly made by Les Cronk, seconded by Rick Harris, and approved via roll call, it was:**

**RESOLVED to adjourn the meeting.**

Off record at 11:05 pm.

Respectfully Submitted:

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Renee Hoffard  
Marine Pilot Coordinator

Approved:

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Curtis Thayer, Chair  
Alaska Board of Marine Pilots

Date: \_\_\_\_\_

DRAFT

**BOARD OF MARINE PILOTS  
NOVEMBER 24, 2021**

**State of Alaska  
Executive Branch  
Ethics information**



## Alaska Administrative Code Title 9. Chapter 52. Executive Branch Ethics

### 9 AAC 52.010. APPEARANCE OF IMPROPRIETY.

An appearance of impropriety does not establish that an ethical violation exists.

(Eff. 4/24/94, Register 130)

Authority: AS 39.52.110, AS 39.52.950

### 9 AAC 52.020. IMPROPER MOTIVATION.

A public officer may not take or withhold official action on a matter if the action is based on an improper motivation.

(Eff. 4/24/94, Register 130)

Authority: AS 39.52.110, AS 39.52.950

### 9 AAC 52.030. WHEN MEMBERSHIP IS SIGNIFICANT.

(a) If a public officer is required by statute to be a member of a class and the public officer takes or withholds official action in a matter that affects all members of that class, the action is not a violation of the Ethics Act or this chapter unless the officer receives significant financial or personal benefit from the action or takes or withholds the action based on an improper motivation.

(b) A public officer's interest in a matter by reason of the officer's membership in a large organization or class is significant if the officer or an immediate family member of the officer has a significant personal or financial interest in the matter.

(Eff. 4/24/94, Register 130)

Authority: AS 39.52.110, AS 39.52.950

### 9 AAC 52.035. PERSONAL GAIN.

For purposes of AS 39.52.120(a), gain is personal gain if it is

- (1) a benefit to the public officer's personal interest or financial interest; or
- (2) actual or anticipated gain, benefit, profit, or compensation to the public officer or the officer's immediate family member.

(Eff. 12/22/10, Register 196)

Authority: AS 39.52.120, AS 39.52.950

### 9 AAC 52.040. UNWARRANTED BENEFITS OR TREATMENT.

(a) As used in AS 39.52.120 (a), "unwarranted benefits or treatment" includes

- (1) a deviation from normal procedures for the award of a benefit, regardless of whether the procedures were established formally or informally, if the deviation is based on the improper motivation; and

#### LAW RESOURCES

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(2) an award of a benefit if the person receiving the benefit was substantially less qualified, in light of the formal or informal standards set out for the award, than another person who was or reasonably should have been considered for the award if the award is based on an improper motivation.

(b) A public officer may not grant or secure an unwarranted benefit or treatment, regardless of whether the result is in the best interest of the state.

(c) Subject to the requirements of AS 39.52.110, 39.52.120, 39.52.150, and AS 39.90.020, neither the Ethics Act nor this chapter prohibits a public officer from

(1) considering a person who has a relationship with an officer for a state contract or job if the person is considered on an equal basis with other applicants; or

(2) considering an individual's political affiliation or political support in determining whether to appoint the individual to a state board or commission or to hire the individual for an exempt or partially exempt state job.

(3) accepting money to reimburse the public officer for reasonable expenses incurred for professional legal services to defend against a complaint brought under AS 39.52.310 - 39.52.390, if

(A) the public officer is exonerated of a violation of the Ethics Act for which payment is made;

(B) the complaint concerns conduct that occurred during the public officer's employment or service as a public officer;

(C) the public officer executes a written agreement to repay any money requested and paid in advance of exoneration if the public officer is not exonerated of the violation; and

(D) the public officer repays any money paid in advance if the public officer is not exonerated of the violation; or

(4) approving money to reimburse another public officer for reasonable expenses incurred for professional legal services to defend against a complaint brought under AS 39.52.310 - 39.52.390, entering into an agreement to pay those expenses on behalf of another public officer, or authorizing payment to secure those professional legal services on behalf of another public officer, if

(A) the complaint concerns conduct that occurred during the public officer's employment or service as a public officer;

(B) the payment is made by a state agency that has money appropriated that may be lawfully used for the purpose of paying the expenses; and

(C) the public officer whose expenses are paid

(i) has been exonerated of a violation of the Ethics Act for which payment is made; or

(ii) has executed a written agreement to repay any money paid in advance of exoneration, if the public officer is not exonerated of the violation.

(d) For purposes of (c)(3) and (4) of this section,

(1) exoneration of a violation of the Ethics Act

(A) occurs when an allegation in a complaint brought against a public officer under AS 39.52.310 - 39.52.390 is

(i) dismissed under AS 39.52.310(d), 39.52.320, or 39.52.370(d);

(ii) resolved with only preventive action recommended under AS 39.52.330 to avoid a potential violation; or

(iii) dismissed after appeal under AS 39.52.370(f); and

(B) does not include the dismissal or resolution of an allegation in a complaint when corrective action is required under AS 39.52.330;

(2) expenses are reasonable if, based on an evaluation of the complexity of the alleged claim, the attorney's fee or hourly rate, the hours expended, the relationship between the amount of work performed and the significance of the alleged claim, and other relevant factors, the expenses were necessarily incurred to defend against an allegation in a complaint brought under AS 39.52.310 - 39.52.390; those expenses may

(A) include attorney's fees, fees incurred for professional legal services customarily performed by an attorney but delegated to and performed by an investigator, paralegal, or law clerk, and related costs; and

(B) be apportioned by alleged violation if a complaint alleges more than one violation, but only if the public officer provides clear documentation that the expenses paid were limited to the alleged violation for which the public officer is exonerated; and

(3) payment under this section may be made to or on behalf of a current public officer or a former public



officer who was the subject of a pending complaint when the officer left state service or becomes the subject of a complaint after leaving state service.

*(Eff. 4/24/94, Register 130; am 12/22/10, Register 196)*

*Authority: AS 39.52.120, AS 39.52.950*

## **9 AAC 52.045. TRANSPORTATION OF FAMILY MEMBERS OF GOVERNOR AND LIEUTENANT GOVERNOR.**

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(a) The use or authorization of use of state money or other state resources for transportation of a family member of the governor or lieutenant governor does not violate AS 39.52.120(a) or (b)(3) if transportation is provided to an event at which the family member's presence benefits the state. The presence of a family member of the governor or lieutenant governor benefits the state if the family member's presence

(1) is required for official action of the state; or

(2) has a public purpose related to the governor's or lieutenant governor's official duties, including

(A) attending a state-sponsored event that the family of the governor or lieutenant governor customarily attends;

(B) attending an event at which the family member serves as an officially designated representative of the state; or

(C) accompanying, as an invited guest, the governor or lieutenant governor to an event related to issues important to the state when the family member's attendance is appropriate for the event, such as youth- or family-related events.

(b) For purposes of AS 39.52.120(a) and (b)(3) and (a) of this section, transportation of a family member to attend a political or campaign event held for partisan political purposes does not benefit the state.

(c) For purposes of AS 39.52.120(a) and (b)(3), the use or authorization of use of state money or other state resources for transportation of a family member that does not benefit the state is presumed insignificant if the governor or lieutenant governor pays the state the cost of the family member's transportation. Except for transportation by state aircraft for partisan political purposes under AS 39.52.120(f), the agency that authorized or paid for the travel shall determine the cost of the transportation based on either

(1) the actual fare paid; or

(2) the fare for equivalent commercial transportation, if the travel was by state aircraft, vessel, or vehicle.

(d) In this section,

(1) "child" has the meaning given in AS 39.52.960;

(2) "family member" means a spouse or minorchild of the governor or lieutenant governor;

(3) "for partisan political purposes" has the meaning given in AS 39.52.120(b)(6).

*(Eff. 12/22/10, Register 196)*

*Authority: AS 39.52.120, AS 39.52.950*

## **9 AAC 52.050. USE OF STATE TIME, PROPERTY, EQUIPMENT, OR OTHER FACILITIES.**

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(a) Unless the attorney general has issued a general opinion against the use or advised the public officer against the use, a public officer who uses state time, property, equipment, or other facilities to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person does not violate AS 39.52.120(a) or (b)(3) if the officer's designated supervisor determines that the use is insignificant.

(b) For purposes of determining whether a public officer has violated AS 39.52.120(a) or (b)(3), the use of a state cellular telephone to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person is presumed insignificant if

(1) the cellular telephone service plan provides, for a set monthly fee, an allowance of usable minutes or an unlimited number of usable minutes;

(2) the use does not exceed

(A) the greater of 30 minutes or five percent of the allowed minutes under the applicable service plan per

month, for a plan that provides an allowance of usable minutes;

(B) the greater of 30 minutes or five percent of the total minutes used in a month under the applicable service plan, for a plan that provides an unlimited number of usable minutes; and

(3) the public officer reimburses the state in full for use that results in a separate charge; charges for minutes exceeding an allowance of usable minutes are presumed to have been incurred to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person.

(c) For purposes of determining whether a public officer has violated AS 39.52.120(a) or (b)(3), the use of a portable state computer to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person is presumed insignificant if the use

(1) is for electronic mail communications, Internet access, or entertainment;

(2) does not occur during scheduled work hours; and

(3) occurs at no cost to the state.

(d) For purposes of determining whether a public officer has violated AS 39.52.120(a) or (b)(3), the use of a state personal digital assistant to benefit the officer, an immediate family member of the officer, the officer's personal or financial interest, or another person is presumed insignificant if, when the device is used as a

(1) cellular telephone, the use complies with (b) of this section;

(2) computer, the use complies with (c) of this section.

(e) Nothing in this section exempts a public officer from compliance with other state requirements applicable to state computing and information technology resources.

*(Eff. 4/24/94, Register 130; am 12/22/10, Register 196)*

*Authority: AS 39.52.110, AS 39.52.120, AS 39.52.950*

## 9 AAC 52.060. GIFTS.

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(a) As used in the Ethics Act and this chapter, a gift is a transfer or loan of property or provision of services to a public officer for less than full value. Unless rebutted by other evidence, an occasional gift worth \$50 or less is presumed not to be given under circumstances in which it could be reasonably inferred that the gift is intended to influence an officer's performance of official duties, actions, or judgment.

(b) For purposes of AS 39.52.130, travel or lodging of any value received by a public officer in connection with a trip that the public officer takes as part of the officer's official duties is not an improper gift if the monetary value of the travel or lodging is comparable to the cost that the state would have had to pay for the travel or lodging and

(1) the head of the officer's agency determines that the gift is to the state, not to the officer; or

(2) the travel or lodging is incidental transportation by or hospitality at the residence of an individual.

(c) An offer to a state agency by a person or governmental agency other than the state to pay travel expenses for one or more public officers to carry out official responsibilities does not result in a gift to the individual traveling public officer within the meaning of AS 39.52.130 if an authorized supervising public officer approves acceptance of the offer in advance in writing. A payment of expenses exceeding travel expenses or any other gift that a traveling officer receives is subject to the provisions of AS 39.52.130 and (a) and (b) of this section. In this subsection,

(1) "travel expenses" means the costs of transportation, lodging, or meals comparable to what the state would pay for the traveling public officer to carry out the associated official responsibilities; and

(2) "authorized supervising public officer" means

(A) the head of the agency; or

(B) a public officer delegated the authority by the head of the agency to accept offers to pay travel expenses, if the public officer having delegated authority will not participate in the travel.

*(Eff. 4/24/94, Register 130; am 12/22/10, Register 196)*

*Authority: AS 39.52.130, AS 39.52.950*

## 9 AAC 52.070. INFORMATION DISSEMINATED TO THE PUBLIC.

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(a) For purposes of AS 39.52.140, information has been disseminated to the public if it has been distributed to the public through

- (1) a newspaper or other printed publication;
- (2) broadcast media;
- (3) a press release;
- (4) a newsletter;
- (5) a legal notice;
- (6) a nonconfidential court filing;
- (7) a published report;
- (8) an agency's website;
- (9) posting on the Alaska Online Public Notice System established under AS 44.62.175;
- (10) a public speech; or
- (11) public testimony before the legislature or an agency.

(b) Information that is available to the public but that has not been distributed as described in (a) of this section has not been disseminated to the public.

*(Eff. 4/24/94, Register 130; am 12/22/10, Register 196)*

*Authority: AS 39.52.140, AS 39.52.950*

## **9 AAC 52.080. STATE GRANTS, CONTRACTS, LEASES, AND LOANS.**

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(a) For purposes of AS 39.52.150 (b), a state grant, contract, or lease is competitively solicited if the grant, contract, or lease

- (1) is awarded by competitive sealed bidding under AS 36.30.100 - 36.30.190 or competitive sealed proposals under AS 36.30.200 - 36.30.270; or
- (2) is awarded by procedures substantially similar to competitive sealed bidding or competitive sealed proposals and AS 36.30 does not apply to the awarding of the grant, contract, or lease.

(b) If a state grant, contract, lease, or loan is awarded by or for a public corporation, board, or commission within a department but not by or for the office of the commissioner of that department, then an employee of the office of the commissioner in that department is not considered to be employed by the administrative unit awarding the grant, contract, lease, or loan.

(c) For purposes of AS 39.52.150 (b)(1), if the public officer was not employed by the administrative unit at the time a state grant, contract, or lease was competitively solicited, the officer's subsequent employment by that administrative unit does not constitute a violation of AS 39.52.150 unless the officer takes or withholds official action with respect to the administration of the grant, contract, or lease.

(d) For purposes of AS 39.52.150 (c), a loan is not subject to fixed eligibility standards if the award of the loan is subject to review for adequacy of security or other discretionary judgment concerning repayment ability.

*(Eff. 4/24/94, Register 130)*

*Authority: AS 39.52.150, AS 39.52.950*

## **9 AAC 52.090. OUTSIDE EMPLOYMENT OR SERVICE.**

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For purposes of AS 39.52.170, a public employee's outside employment or service, including volunteer service, is incompatible or in conflict with the proper discharge of official duties if the employee's designated supervisor reasonably determines that the outside employment or service

- (1) takes time away from the employee's official duties;
- (2) limits the scope of the employee's official duties; or
- (3) is otherwise incompatible or in conflict with the proper discharge of the employee's official duties.

*(Eff. 4/24/94, Register 130)*

*Authority: AS 39.52.170, AS 39.52.950*

## **9 AAC 52.100. RESTRICTIONS ON EMPLOYMENT AFTER LEAVING STATE SERVICE.**

---

- (a) For purposes of AS 39.52.180 (a), "matter" does not include the general formulation of policy by a public official.
- (b) For purposes of AS 39.52.180 (a), routine processing of documents, general supervision of employees without direct involvement in a matter, or ministerial functions not involving the merits of a matter under consideration by an administrative unit do not constitute personal or substantial participation in a matter by a public officer.

*(Eff. 4/24/94, Register 130)*

*Authority: AS 39.52.180, AS 39.52.950*

## **9 AAC 52.110. ETHICS FILES.**

---

- (a) A designated supervisor shall maintain an ethics file containing Ethics Act reports, advisory opinions, advisory opinion requests, complaints, disclosures, and determinations relevant to that supervisor's agency or administrative unit.
- (b) A designated supervisor shall segregate confidential material from other ethics file material that is available for public inspection.
- (c) An executive director of a board or commission may maintain the ethics file of the chair of the board or commission. The ethics file of the chair of a board or commission may be combined with the ethics file of the designated supervisor of the staff of the board or commission.

*(Eff. 4/24/94, Register 130)*

*Authority: AS 39.52.210, AS 39.52.230, AS 39.52.220, AS 39.52.950*

## **9 AAC 52.120. DECLARATION OF POTENTIAL VIOLATION BY MEMBER OF A BOARD OR COMMISSION.**

---

(a) A declaration by a member of a board or commission of the facts and circumstances about a matter that may result in a violation of AS 39.52.110 - 39.52.190 or this chapter may serve as the disclosure in writing to the designated supervisor required by AS 39.52.220 if

- (1) the declaration is made at a recorded public meeting of each board and commission on which the member serves;
- (2) a tape or transcript of each meeting is preserved in accordance with the records retention schedule of the board or commission; and
- (3) a method for identifying each portion of tape or transcript containing the declaration is used and the identifications are preserved.

(b) A member of a board or commission who takes or withholds an action that violates the Ethics Act or this chapter will not be held liable under the Ethics Act for the action if

- (1) the action is taken or withheld in accordance with a determination by the chair as designated supervisor or the board under the procedures set out in AS 39.52.220;
- (2) the member fully discloses all facts reasonably necessary to the determination of the chair or the board; and
- (3) the attorney general has not advised the member, chair, board, or commission that the action violates the Ethics Act or this chapter.

*(Eff. 4/24/94, Register 130)*

*Authority: AS 39.52.220, AS 39.52.950, AS 39.52.240 (d)*

## **9 AAC 52.130. DESIGNATED SUPERVISOR'S REPORT.**

---

(a) A designated supervisor shall submit the quarterly report described in AS 39.52.260 during the 30 days following the end of each calendar quarter.

(b) An executive director of a board or commission may file a quarterly report on behalf of the chair of the board or commission. The quarterly report filed on behalf of a chair and the quarterly report of a designated

supervisor of the staff of a board or commission may be combined into one report.

(c) If a board or commission does not meet during a calendar quarter, and the designated supervisor of the board or commission notifies the attorney general that no meeting, or activity reportable under the Ethics Act or this chapter, occurred during the calendar quarter, then neither the chair nor the designated supervisor of the staff must file a report for the board or commission for the quarter.

*(Eff. 4/24/94, Register 130; am 12/22/10, Register 196)*

*Authority: AS 39.52.260, AS 39.53.950*

## **9 AAC 52.135. DESIGNATED SUPERVISOR'S DETERMINATION OF VIOLATION.**

---

If, upon review of an ethics disclosure, a designated supervisor determines that a violation of AS 39.52.110 - 39.52.190 may have or has occurred, the designated supervisor shall

(1) in the case of a public employee, refer the matter for investigation and appropriate disciplinary action in accordance with AS 39.52.420 and, following any disciplinary action, to the attorney general for review under AS 39.52.310, unless the significance of the identified violation warrants immediate review by the attorney general; and

(2) in the case of a board or commission member, refer the matter to the attorney general for review under AS 39.52.310.

*(Eff. 12/22/10, Register 196)*

*Authority: AS 39.52.210, AS 39.52.310, AS 39.52.950, AS 39.52.220, AS 39.52.420*

## **9 AAC 52.140. COMPLAINTS.**

---

(a) The attorney general will, in the attorney general's discretion, conduct a preliminary ethics investigation before initiating or accepting a complaint. A preliminary ethics investigation and information discovered in the course of a preliminary ethics investigation is confidential to the same extent as information discovered in an ethics investigation conducted after the acceptance of a complaint.

(b) The attorney general will, in the attorney general's discretion, refer a complaint to the subject's designated supervisor under AS 39.52.310 (e) and, at the same time, accept the complaint for an ethics investigation under AS 39.52.310 (f) and (g).

(c) If the attorney general refers a complaint under AS 39.52.310 (e) and the designated supervisor determines that a violation of the Ethics Act or this chapter has occurred, the designated supervisor shall forward those findings to the attorney general for review under AS 39.52.310 - AS 39.52.350.

(d) If an ethics complaint does not allege a violation of the Ethics Act or this chapter by the governor, lieutenant governor, or attorney general but, in the course of an ethics investigation, evidence of a potential violation by the governor, lieutenant governor, or attorney general is discovered, then the attorney general will refer the matter to the personnel board. The personnel board shall retain independent counsel in the same manner as if the complaint initially alleged those violations.

(e) If a complaint against a public officer alleges more than one violation of the Ethics Act, the attorney general may take action under AS 39.52.310, 39.52.320, 39.52.330, and 39.52.350 regarding each alleged violation separately.

*(Eff. 4/24/94, Register 130; am 12/22/10, Register 196)*

*Authority: AS 39.52.310, AS 39.52.330, AS 39.52.950, AS 39.52.320, AS 39.52.350*

## **9 AAC 52.150. PERSONNEL BOARD NOTIFICATION.**

---

If independent counsel appointed under AS 39.52.310 (c) recommends action under AS 39.52.330, the independent counsel shall notify the personnel board that action to correct or prevent a violation of the Ethics Act or this chapter has been recommended.

*(Eff. 4/24/94, Register 130)*

*Authority: AS 39.52.330, AS 39.52.950*

## **9 AAC 52.160. CONFIDENTIALITY.**

---

(a) The attorney general will keep confidential the information obtained in the course of an ethics investigation

that is not relevant to an accusation or subsequent ethics proceedings.

(b) The attorney general will, in the attorney general's discretion, forward information obtained in the course of an ethics investigation to the subject's designated supervisor or other appropriate superior for potential disciplinary action under AS 39.52.420. Information forwarded under this subsection remains confidential, and the subject's designated supervisor or other appropriate superior may share the information only with a person who needs to know the information to consider potential disciplinary action.

(c) A subject may not partially waive the confidentiality protection of AS 39.52.340 or this chapter.

(d) Nothing in AS 39.52.340 or this section prevents a person from disclosing to a third person information the person learned independent of the investigation conducted by the attorney general, unless prohibited by other laws.

(e) Nothing in this section prevents either the attorney general from withholding or a person from objecting to the release of information or materials in the possession of the attorney general on a legal ground other than one provided by AS 39.52.340.

(f) If, after an ethics investigation, the attorney general does not initiate formal proceedings, then information and material discovered in the course of the ethics investigation, as well as the existence of the ethics investigation, must remain confidential unless disclosure is otherwise permitted under the Ethics Act or this chapter.

(g) If the attorney general determines that a crime may have been committed or may be committed, the attorney general will, in the attorney general's discretion, release information obtained in a confidential ethics matter to an appropriate law enforcement agency.

*(Eff. 4/24/94, Register 130)*

*Authority: AS 39.52.340, AS 39.52.950, AS 39.52.420*

## **9 AAC 52.170. CIVIL PENALTIES FOR MULTIPLE VIOLATIONS.**

---

If one act violates more than one provision of the Ethics Act, a civil penalty may be imposed for each provision violated. A civil penalty may be imposed each time a provision of the Ethics Act is violated.

*(Eff. 4/24/94, Register 130)*

*Authority: AS 39.52.440, AS 39.52.950*

## **9 AAC 52.180. ATTORNEY GENERAL REVIEW OF AGENCY POLICIES.**

---

The attorney general will approve a written policy described in AS 39.52.920 if it is consistent with and furthers the purposes of the Ethics Act and this chapter. As a condition of approval, the attorney general will require that the policy be distributed to employees of the agency and to new employees of the agency upon employment, and require that the policy be centrally posted in the agency's offices.

*(Eff. 4/24/94, Register 130)*

*Authority: AS 39.52.920, AS 39.52.950*

## **9 AAC 52.990. DEFINITIONS.**

---

(a) In AS 39.52.410, "blind trust" means a trust established under AS 39.50.040.

(b) In the Ethics Act and in this chapter

(1) "board or commission" has the meaning given in AS 39.52.960 and does not include an entity created under only a federal statute or other non-state action;

(2) "Ethics Act" means Alaska Executive Branch Ethics Act (AS 39.52);

(3) "executive director" includes an executive secretary to a board or commission under AS 08 or the marine pilot coordinator under AS 08.62.050;

(4) "improper motivation" means a motivation not related to the best interests of the state, and includes giving primary consideration to a person's

(A) kinship or relationship with a public officer;

- (B) financial association with a public officer;
- (C) potential for conferring a future benefit on a public officer; or
- (D) political affiliation;
- (5) "person" has the meaning given in AS 39.52.960 and includes governmental entities;
- (6) repealed 12/22/2010;
- (7) "public employee" has the meaning given in AS 39.52.960 and includes a permanent employee of an agency on non-seasonal leave without pay status, but does not include an individual on layoff status, a seasonal employee of an agency during the period of time that the employee is not employed by the agency, or a temporary employee of an agency during the period of time that the employee is not employed by the agency;
- (8) "state contract" includes employment with the state, regardless of whether that employment is evidenced by a written agreement, but does not include a license or other authorization from the state to do business or to perform a particular activity in the state; and
- (9) "subject" means an individual who either
  - (A) is being investigated for a potential violation of the Ethics Act or this chapter; or
  - (B) is the individual against whom a complaint is filed under the Ethics Act or this chapter.

*(Eff. 4/24/94, Register 130; am 12/22/10, Register 196)*

*Authority: AS 39.52.120, AS 39.52.950, AS 39.52.410, AS 39.52.960*

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**BOARD OF MARINE PILOTS  
NOVEMBER 24, 2021**

**CLIA update  
Lalanya, Downs  
Sr. Director  
Community Relations  
& Public Affairs**



**BOARD OF MARINE PILOTS  
NOVEMBER 24, 2021**

**Review of public  
comment;  
Regulations  
Amendments - 12  
AAC 56.115; Foreign  
Pleasure Craft  
Exemptions & 12 AAC  
56.120(a)(39) Pilot  
stations/pick up  
points**

**Chapter 56. Board of Marine Pilots.**

12 AAC 56.115(a)(2) is amended to read:

(2) ensure that the pleasure craft is equipped with

(A) **an** [A CLASS A OR B] automatic identification system (AIS);

(B) radar; if the vessel is over 125 feet long, the radar must **have the means to automatically track the range and bearings of other targets to determine collision risk** [BE AUTOMATIC RADAR PLOTTING AIDES (ARPA) CAPABLE];

(C) depth sounder with depth alarm;

(D) a magnetic compass with a deviation table created not later than one year before the date of the application for an exemption, **or a Transmitting Heading Device (THD)**; and

(E) **a minimum of two** [ONE OR MORE] VHF **transceivers in order to** [RADIOS CAPABLE OF] simultaneously **monitor** [MONITORING] channels 13 and 16;

12 AAC 56.115(c) is amended to read:

(c) On vessels over 100 feet in length, the captain or master aboard a pleasure craft seeking a pilotage exemption must hold a current mariner's license for the vessel's tonnage. A copy of the mariner's license must be submitted with the application submitted under this section. On a pleasure craft greater than 200 gross tons, the master must hold a valid unlimited radar observer endorsement. **Masters that do not hold a valid unlimited radar endorsement must submit proof of radar training completed within the five years immediately preceding the date of application.**

Register \_\_\_\_\_, \_\_\_\_\_ 2022 **PROFESSIONAL REGULATIONS**

(Eff. 2/12/2005, Register 173; am 7/15/2006, Register 179; am 10/28/2010, Register 196; am 7/4/2012, Register 203; am 1/4/2014, Register 209; am 5/18/2014, Register 210; am 2/22/2017, Register 221; am \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.62.040 AS 08.62.180

12 AAC 56.120(a)(39) is amended to read:

(39) Togiak – 4.1 [1.0] miles 140° [180°] true from Summit Island; approximate position 58° 46' [48'] north latitude, 160° 06' [12'] west longitude;

(Eff. 3/30/86, Register 97; am 8/29/87, Register 103; am 4/12/89, Register 110; am 6/17/90, Register 114; em am 7/2/90 - 10/29/90, Register 115; am 8/17/91, Register 119; am 11/7/93, Register 128; am 11/10/93, Register 128; am 5/29/96, Register 138; am 6/17/96, Register 138; am 1/23/99, Register 149; am 3/21/99, Register 149; am 5/31/2000, Register 154; am 6/24/2012, Register 202; am 8/18/2015, Register 215; am 9/29/2017, Register 223; am \_\_\_/\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.62.040

**From:** [Maiquis, Jun C. \(CED\)](#)  
**To:** [Hoffard, Renee \(CED\)](#)  
**Subject:** MAR Regs Project 12 AAC 56.115 and 12 AAC 56.120 (DOL File#2021200375) - Ready for Board Action!  
**Date:** Tuesday, September 28, 2021 9:22:56 AM  
**Attachments:** [MAR Notice-0821.pdf](#)  
[Final rekeyed version for adoption \(DOL File#2021200375\).doc](#)  
[Certification Order.pdf](#)  
[Affidavit of Board Action.pdf](#)

---

Hi, Renee.

The public comment period for the MAR proposed regs project, dealing with pleasure craft exemptions and pilot stations or pickup points (**12 AAC 56.115(a)(2) and (c), and 12 AAC 56.120(a)(39)**), ended on September 27th, and it is now ready for board consideration/action at its meeting on November 24th. There were no public comments received. Attached are the following documents:

- Copy of the public notice and proposed regs – as proposed/publicly noticed;
- Copy of the final rekeyed version for board adoption (DOL File#2021200375) – if no changes to what was public noticed;
- Certification Order for you to sign & date – if adopted; and
- Affidavit of Board Action for you to complete after the meeting.

Please note and remind the board that the comment period for this project closed at **4:30 p.m. on September 27th**; therefore, the board cannot consider any comments received after that deadline.

Let me know if you have questions or see any discrepancies.

Thanks!

Jun

**BOARD OF MARINE PILOTS**  
**NOVEMBER 24, 2021**

**Division Update**  
***Current fiscal report***  
***Military licensing***

Department of Commerce Community, and Economic Development  
Corporations, Business and Professional Licensing

Summary of All Professional Licensing  
Schedule of Revenues and Expenditures

<b>Board of Marine Pilots and Foreign Pleasure Craft</b>	<b>FY 14</b>	<b>FY 15</b>	<b>Biennium</b>	<b>FY 16</b>	<b>FY 17</b>	<b>Biennium</b>	<b>FY 18</b>	<b>FY 19</b>	<b>Biennium</b>	<b>FY 20</b>	<b>FY 21</b>	<b>Biennium</b>
<b>Revenue</b>												
Revenue from License Fees	\$ 48,500	\$ 277,450	\$ 325,950	\$ 65,188	\$ 281,640	\$ 346,828	\$ 91,150	\$ 206,450	\$ 297,600	\$ 86,250	\$ 201,210	\$ 287,460
General Fund Received	-	-	-	-	-	-	-	-	-	\$ -	\$ -	-
Allowable Third Party Reimbursements	-	-	-	-	-	-	-	-	-	\$ -	\$ -	-
<b>TOTAL REVENUE</b>	<b>\$ 48,500</b>	<b>\$ 277,450</b>	<b>\$ 325,950</b>	<b>\$ 65,188</b>	<b>\$ 281,640</b>	<b>\$ 346,828</b>	<b>\$ 91,150</b>	<b>\$ 206,450</b>	<b>\$ 297,600</b>	<b>\$ 86,250</b>	<b>\$ 201,210</b>	<b>\$ 287,460</b>
<b>Expenditures</b>												
Non Investigation Expenditures												
1000 - Personal Services	93,647	79,353	173,000	57,669	38,731	96,400	83,020	78,538	161,558	70,082	52,807	122,889
2000 - Travel	14,262	14,410	28,672	11,698	10,370	22,068	14,158	8,709	22,867	7,442	-	7,442
3000 - Services	4,001	10,416	14,417	6,464	5,294	11,758	3,398	4,919	8,317	3,687	6,437	10,124
4000 - Commodities	108	734	842	541	587	1,128	195	702	897	1,805	-	1,805
5000 - Capital Outlay	-	-	-	-	-	-	-	-	-	-	-	-
Total Non-Investigation Expenditures	112,018	104,913	216,931	76,372	54,982	131,354	100,771	92,868	193,639	83,016	59,244	142,260
Investigation Expenditures												
1000-Personal Services	920	802	1,722	4,398	96	4,494	9,360	14,528	23,888	295	552	847
2000 - Travel	-	-	-	-	-	-	-	1,341	1,341	-	-	-
3023 - Expert Witness	-	-	-	-	3,454	3,454	-	200	200	-	454	454
3088 - Inter-Agency Legal	18,690	1,804	20,494	1,418	241	1,659	795	33	828	-	457	457
3094 - Inter-Agency Hearing/Mediation	-	-	-	-	-	-	-	87	87	-	-	-
3000 - Services other	-	-	-	-	-	-	-	5	5	-	15	15
4000 - Commodities	-	-	-	-	-	-	-	-	-	-	-	-
Total Investigation Expenditures	19,610	2,606	22,216	5,816	3,791	9,607	10,155	16,194	26,349	295	1,478	1,773
<b>Total Direct Expenditures</b>	<b>131,628</b>	<b>107,519</b>	<b>239,147</b>	<b>82,188</b>	<b>58,773</b>	<b>140,961</b>	<b>110,926</b>	<b>109,062</b>	<b>219,988</b>	<b>83,311</b>	<b>60,722</b>	<b>144,033</b>
Indirect Expenditures												
Internal Administrative Costs	2,643	6,000	8,643	6,152	6,628	12,780	13,970	13,964	27,934	9,457	7,152	16,609
Departmental Costs	9,329	10,521	19,850	8,334	8,047	16,381	14,865	16,624	31,489	8,659	7,511	16,170
Statewide Costs	8,218	6,988	15,206	3,670	4,761	8,431	10,324	9,685	20,009	9,272	7,323	16,595
<b>Total Indirect Expenditures</b>	<b>20,190</b>	<b>23,509</b>	<b>43,699</b>	<b>18,156</b>	<b>19,436</b>	<b>37,592</b>	<b>39,159</b>	<b>40,273</b>	<b>79,432</b>	<b>27,388</b>	<b>21,986</b>	<b>49,374</b>
<b>TOTAL EXPENDITURES</b>	<b>\$ 151,818</b>	<b>\$ 131,028</b>	<b>\$ 282,846</b>	<b>\$ 100,344</b>	<b>\$ 78,209</b>	<b>\$ 178,553</b>	<b>\$ 150,085</b>	<b>\$ 149,335</b>	<b>\$ 299,420</b>	<b>\$ 110,699</b>	<b>\$ 82,708</b>	<b>\$ 193,407</b>
<b>Cumulative Surplus (Deficit)</b>												
Beginning Cumulative Surplus (Deficit)	\$ 93,703	\$ (9,615)		\$ 136,807	\$ 101,651		\$ 305,082	\$ 246,147		\$ 303,262	\$ 278,813	
Annual Increase/(Decrease)	(103,318)	146,422		(35,156)	203,431		(58,935)	57,115		(24,449)	118,502	
Ending Cumulative Surplus (Deficit)	\$ (9,615)	\$ 136,807		\$ 101,651	\$ 305,082		\$ 246,147	303,262		\$ 278,813	397,315	
										* No fee changes needed		
<b>Statistical Information</b>												
Number of Licenses for Indirect calculation	90	93		138	154		152	132		124	138	
<b>Additional information:</b>	<ul style="list-style-type: none"> <li>• Fee analysis required if the cumulative is less than zero; fee analysis recommended when the cumulative is less than current year expenditures; no fee increases needed if cumulative is over the current year expenses *</li> <li>• Most recent fee change: Fee reduction FY19</li> <li>• Annual license fee analysis will include consideration of other factors such as board and licensee input, potential investigation load, court cases, multiple license and fee types under one program, and program changes per AS 08.01.065.</li> </ul>											

Appropriation Name (Ex)	(All)
Sub Unit	(All)
PL Task Code	(Multiple Items)

Sum of Budgetary Expenditures Object Name (Ex)	Object Type Name (Ex)		
	1000 - Personal Services	3000 - Services	Grand Total
1011 - Regular Compensation	29,780.79		29,780.79
1014 - Overtime	141.54		141.54
1023 - Leave Taken	3,628.09		3,628.09
1028 - Alaska Supplemental Benefit	2,083.94		2,083.94
1029 - Public Employee's Retirement System Defined Benefits	880.55		880.55
1030 - Public Employee's Retirement System Defined Contribution	1,591.56		1,591.56
1034 - Public Employee's Retirement System Defined Cont Health Reim	883.23		883.23
1035 - Public Employee's Retirement Sys Defined Cont Retiree Medical	381.20		381.20
1037 - Public Employee's Retirement Sys Defined Benefit Unfnd Liab	3,763.10		3,763.10
1039 - Unemployment Insurance	73.59		73.59
1040 - Group Health Insurance	8,275.03		8,275.03
1041 - Basic Life and Travel	7.57		7.57
1042 - Worker's Compensation Insurance	261.34		261.34
1047 - Leave Cash In Employer Charge	664.45		664.45
1048 - Terminal Leave Employer Charge	473.82		473.82
1053 - Medicare Tax	485.19		485.19
1077 - ASEA Legal Trust	4.84		4.84
1079 - ASEA Injury Leave Usage	0.50		0.50
1080 - SU Legal Trst	0.73		0.73
1970 - Personal Services Transfer	(22.04)		(22.04)
3023 - Expert Witness		453.75	453.75
3035 - Long Distance		3.16	3.16
3036 - Local/Equipment Charges		12.24	12.24
3045 - Postage		14.80	14.80
3046 - Advertising		747.29	747.29
3088 - Inter-Agency Legal		5,852.96	5,852.96
3005 - Management/Consulting		-	-
3085 - Inter-Agency Mail		278.67	278.67
<b>Grand Total</b>	<b>53,359.02</b>	<b>7,362.87</b>	<b>60,721.89</b>

**FY 2021 CBPL COST ALLOCATIONS**

Name	Task Code	Direct Revenues	General Fund Received	3rd Party Reimbursement	Total Revenues	Direct Expense	Percentage of board licenses/total licensees:	Division cash receipt transactions % by Personal Services \$	Department certified transactions % by Fiscal Revenue \$	Indirect Expense (Total Non-PCN Allocated)	Percentage of program direct Personal Services:	Total Indirect Expenses	Total Expenses	2021 Annual Surplus (Deficit)
Acupuncture	ACU1	\$ 36,968		\$ -	\$ 36,968	\$ 3,734	\$ 2,929	\$ 227	\$ 1,227	\$ 4,383	1,106	\$ 5,489	\$ 9,223	\$ 27,745
Architects, Engineer	AEL1	\$ 146,310		\$ -	\$ 146,310	\$ 282,663	170,358	\$ 8,151	\$ 3,365	181,874	72,156	254,030	536,693	(390,383)
Athletic Trainers	ATH1	\$ 3,405		\$ -	\$ 3,405	\$ 8,349	1,130	\$ 151	\$ 545	1,826	2,555	4,381	12,730	(9,325)
Audiology and Speech Pathologists	AUD1	\$ 184,965		\$ -	\$ 184,965	\$ 26,607	19,352	\$ 3,798	\$ 2,168	25,318	7,919	33,237	59,844	125,121
Barbers & Hairdressers	BAH1	\$ 389,183		\$ -	\$ 389,183	\$ 281,634	160,440	\$ 20,062	\$ 3,044	183,546	74,255	257,801	539,435	(150,252)
Behavior Analysts	BEV1	\$ 10,060		\$ -	\$ 10,060	\$ 4,966	2,007	\$ 366	\$ 1,359	3,732	1,374	5,106	10,072	(12)
Chiropractors	CHI1	\$ 208,070		\$ -	\$ 208,070	\$ 137,019	8,211	\$ 1,918	\$ 1,757	11,886	33,229	45,115	182,134	25,936
Collection Agencies	COA1	\$ 17,325		\$ -	\$ 17,325	\$ 33,147	16,884	\$ 1,956	\$ 1,221	20,061	9,466	29,527	62,674	(45,349)
Concert Promoters	CPR1	\$ 6,670		\$ -	\$ 6,670	\$ 574	438	\$ 139	\$ 433	1,010	171	1,181	1,755	4,915
Construction Contractors	CON1	\$ 1,477,270		\$ -	\$ 1,477,270	\$ 496,407	211,690	\$ 23,771	\$ 4,084	239,545	87,635	327,180	823,587	653,683
Home Inspectors	HIN1	\$ 8,115		\$ -	\$ 8,115	\$ 6,676	2,629	\$ 542	\$ 849	4,020	2,016	6,036	12,712	(4,597)
Dental	DEN1	\$ 626,646	\$ 227,625	\$ -	\$ 854,271	\$ 225,301	61,307	\$ 8,719	\$ 2,188	72,214	52,317	124,531	349,832	504,439
Dietitians/Nutritionists	DTN1	\$ 6,360		\$ -	\$ 6,360	\$ 13,508	7,150	\$ 606	\$ 921	8,677	789	9,466	22,974	(16,614)
Direct Entry Midwife	MID1	\$ 142,945		\$ -	\$ 142,945	\$ 22,687	1,153	\$ 13	\$ 550	1,716	3,839	5,555	28,242	114,703
Dispensing Opticians	DOP1	\$ 31,870	\$ 107,465	\$ -	\$ 139,335	\$ 15,035	2,699	\$ 530	\$ 724	3,953	4,532	8,485	23,520	115,815
Electrical Administrator	EAD1	\$ 17,276		\$ -	\$ 17,276	\$ 67,402	21,174	\$ 1,666	\$ 1,097	23,937	9,238	33,175	100,577	(83,301)
Euthanasia Services	EUT1	\$ 2,800	\$ 6,200	\$ -	\$ 9,000	\$ 1,833	254	\$ 25	\$ 141	420	561	981	2,814	6,186
Geologists	GEO1	\$ 795		\$ -	\$ 795	\$ 793	300	\$ 227	\$ 270	797	242	1,039	1,832	(1,037)
Guardians/Conservators	GCO1	\$ 11,681	\$ 9,166	\$ -	\$ 20,847	\$ 637	369	\$ 101	\$ 319	789	130	919	1,556	19,291
Guide-Outfitters	GUI1	\$ 458,520		\$ -	\$ 458,520	\$ 405,369	33,352	\$ 12,731	\$ 3,618	49,701	84,929	134,630	539,999	(81,479)
Marine Pilots	MAR1	\$ 124,200		\$ -	\$ 124,200	\$ 51,354	3,183	\$ 442	\$ 1,133	4,758	13,521	18,279	69,633	54,567
Foreign Pleasure Craft	FPC1	\$ 77,010		\$ -	\$ 77,010	\$ 9,368	-	\$ 328	\$ 515	843	2,864	3,707	13,075	63,935
Marital & Family Therapy	MFT1	\$ 106,101	\$ 20,151	\$ -	\$ 126,252	\$ 37,587	3,022	\$ 669	\$ 910	4,601	10,124	14,725	52,312	73,940
Massage Therapists	MAS1	\$ 79,165	\$ 33,654	\$ -	\$ 112,819	\$ 197,556	28,739	\$ 3,772	\$ 1,874	34,385	53,692	88,077	285,633	(172,814)
Mechanical Administrator	MEC1	\$ 15,510		\$ -	\$ 15,510	\$ 56,147	13,309	\$ 1,035	\$ 754	15,098	8,674	23,772	79,919	(64,409)
Medical	MED1	\$ 2,597,830		\$ -	\$ 2,597,830	\$ 899,162	295,417	\$ 25,361	\$ 4,627	325,405	243,855	569,260	1,468,422	1,129,408
Mortuary Science	MOR1	\$ 22,708		\$ -	\$ 22,708	\$ 4,042	3,114	\$ 341	\$ 611	4,066	1,127	5,193	9,235	13,473
Naturopaths	NAT1	\$ 4,355		\$ -	\$ 4,355	\$ 7,091	1,130	\$ 126	\$ 460	1,716	2,034	3,750	10,841	(6,486)
Nurse Aides	NUA1	\$ 190,159		\$ -	\$ 190,159	\$ 226,749	94,590	\$ 9,602	\$ 1,885	106,077	40,678	146,755	373,504	(183,345)
Nursing	NUR1	\$ 4,487,396		\$ -	\$ 4,487,396	\$ 1,448,247	544,196	\$ 33,348	\$ 5,798	583,342	328,279	911,621	2,359,864	2,127,532
Nursing Home Administrators	NHA1	\$ 12,265	\$ 7,411	\$ -	\$ 19,676	\$ 6,051	1,407	\$ 126	\$ 473	2,006	1,384	3,390	9,441	10,235
Optometry	OPT1	\$ 131,950		\$ -	\$ 131,950	\$ 73,836	7,565	\$ 921	\$ 1,363	9,849	21,644	31,493	105,329	26,621
Pawnbrokers	PAW1	\$ 1,300		\$ -	\$ 1,300	\$ 60	507	\$ 50	\$ 110	667	18	685	745	555
Pharmacy	PHA1	\$ 1,121,447		\$ -	\$ 1,121,447	\$ 432,923	159,541	\$ 37,686	\$ 4,695	201,922	118,262	320,184	753,107	368,340
Physical/Occupational Therapy	PHY1	\$ 111,935		\$ -	\$ 111,935	\$ 134,328	43,570	\$ 5,413	\$ 3,184	52,167	39,979	92,146	226,474	(114,539)
Prescription Drug Monitoring Program	PDMP	\$ 191,320		\$ -	\$ 191,320	\$ 1,728	-	\$ -	\$ -	-	-	-	1,728	189,592
Professional Counselors	PCO1	\$ 84,420		\$ -	\$ 84,420	\$ 154,477	25,026	\$ 4,265	\$ 2,751	32,042	45,118	77,160	231,637	(147,217)
Psychology	PSY1	\$ 156,005		\$ -	\$ 156,005	\$ 67,981	9,341	\$ 1,766	\$ 1,473	12,580	19,959	32,539	100,520	55,485
Public Accountancy	CPA1	\$ 164,635		\$ -	\$ 164,635	\$ 212,245	39,649	\$ 2,826	\$ 798	43,273	59,633	102,906	315,151	(150,516)
Real Estate	REC1	\$ 325,590		\$ -	\$ 325,590	\$ 261,752	84,879	\$ 18,989	\$ 1,812	105,680	64,581	170,261	432,013	(106,423)
Real Estate Appraisers	APR1	\$ 207,770		\$ -	\$ 207,770	\$ 104,618	8,534	\$ 3,571	\$ 1,498	13,603	22,600	36,203	140,821	66,949
Social Workers	CSW1	\$ 323,280		\$ -	\$ 323,280	\$ 197,763	27,240	\$ 3,810	\$ 3,903	34,953	39,564	74,517	272,280	51,000
Storage Tank Workers	UST1	\$ 785		\$ -	\$ 785	\$ 5,406	1,315	\$ 76	\$ 422	1,813	1,659	3,472	8,878	(8,093)
Veterinary	VET1	\$ 295,030		\$ -	\$ 295,030	\$ 138,572	26,409	\$ 3,243	\$ 2,157	31,809	38,446	70,255	208,827	86,203
No longer existent board/commission (ie Athletic)														
<b>Totals All Boards</b>		<b>\$ 14,619,400</b>	<b>\$ 411,672</b>	<b>\$ -</b>	<b>\$ 15,031,072</b>	<b>\$ 6,763,380</b>	<b>\$ 2,145,509</b>	<b>\$ 243,465</b>	<b>\$ 73,086</b>	<b>\$ 2,462,060</b>	<b>\$ 1,626,154</b>	<b>\$ 4,088,214</b>	<b>\$ 10,851,594</b>	<b>\$ 4,179,478</b>

ABL & Corporations	080801005	\$ 7,430,662	\$ -	\$ -	\$ 7,430,662	\$ 1,102,096	\$ 162,419	\$ 243,465	\$ 7,228	\$ 413,112	\$ 206,865	\$ 619,977	\$ 1,722,073	
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<b>DIVISION INDIRECT EXPENSES</b>	<b>Total</b>	<b>Prof Lic</b>	<b>Corp &amp; Bus Lic</b>
<b>Percentage of program direct Personal Services:</b>			
Business Supplies	85,168	29,383	55,785
Office Equipment	18,652	16,973	1,679
State Vehicles	2,870	2,612	258
Storage and Archives	9,909	9,899	10
Legal Support	88,145	85,849	2,296
Central Mail Services Postage	31,258	11,836	19,422
Software Licensing and Maintenance	70,759	66,578	4,180
Division Administrative Expenses - all other	160,543	160,223	320
Division allocated by percentage of direct personal services:	467,304	383,353	83,950
<b>Percentage of board licenses/total licensees:</b>			
Division supervisors of receipting Personal Services 75%	331,242	302,374	28,868
Receipting Personal Services 40%	251,010	229,135	21,875
Investigations indirect Personal Services	392,649	372,934	19,715
Division Administration Personal Services	421,260	383,355	37,906
Professional License Administration Personal Services	420,998	411,111	9,886
Division allocated by percentage of board licenses/total licensees:	1,817,159	1,698,909	118,250
<b>Receipting transaction % by Personal Services:</b>			
Division supervisors of receipting Personal Services 25%	110,414	55,207	55,207
Receipting Personal Services 60%	376,516	188,258	188,258
Division cash receipt transactions % by Personal Services \$	486,930	243,465	243,465
<b>Total Division Indirect Expenses</b>	<b>2,771,392</b>	<b>2,325,727</b>	<b>445,665</b>
<b>DEPARTMENT INDIRECT EXPENSES</b>			
<b>Percentage of program direct Personal Services:</b>			
Commissioner's Office	168,430	153,272	15,158
Administrative Services - Director's Office	58,529	53,261	5,268
Administrative Services - Human Resources	91,643	83,395	8,248
Administrative Services - Fiscal	90,296	82,169	8,127
Administrative Services - Budget	58,254	53,011	5,243
Administrative Services - Information Technology	79,553	72,393	7,160
Administrative Services - Information Technology - Network & Database	9,875	8,986	889
Administrative Services - Mail	10,456	9,515	941
Administrative Services - Facilities - Maintenance	-	-	-
Department allocated by percentage of direct personal services:	567,036	516,002	51,034
<b>Percentage of board licenses/total licensees:</b>			
Department administrative services support: Fiscal, IT, Procurement	490,769	446,600	44,169
<b>Receipting transaction % by Personal Services:</b>			
Department certified transactions % by Fiscal Revenue \$	80,314	73,086	7,228
<b>Total DEPARTMENT INDIRECT EXPENSES</b>	<b>1,138,119</b>	<b>1,035,688</b>	<b>102,431</b>
<b>STATEWIDE INDIRECT EXPENSES</b>			
<b>Percentage of program direct Personal Services:</b>			
Accounting and Payroll Systems	18,276	16,631	1,645
State Owned Building Rental (Building Leases)	359,593	327,230	32,363
State OIT Server Hosting & Storage	6,720	6,115	605
State OIT SQL	18,531	16,864	1,668
State Software Licensing	-	-	-
Human Resources	57,945	52,730	5,215
IT Non-Telecommunications (Core Cost)	299,874	272,886	26,989
IT Telecommunications	34,440	31,340	3,100
Risk Management	3,300	3,003	297
Statewide allocated by percentage of direct personal services:	798,680	726,799	71,881
<b>FY21 TOTALS BY METHODOLOGY</b>			
Percentage of program direct Personal Services:	1,833,019	1,626,154	206,865
Percentage of board licenses/total licensees:	2,307,928	2,145,509	162,419
Receipting transaction % by Personal Services:	567,244	316,551	250,693
<b>Grand Total</b>	<b>4,708,191</b>	<b>4,088,214</b>	<b>619,977</b>



## MEMORANDUM

TO: Members of professional licensing boards      DATE: September 1, 2021  
FROM: Sara Chambers, Division Director      RE: Military licensing provisions in state law

On January 1, 2022, several augmentations to existing licensing laws pertaining to military personnel and spouses will go into effect. The purpose of this memo is to ensure board members are aware of and understand these requirements so they can adopt regulations and implement processes, if necessary, to comply with these requirements.

Since the earliest military spouse licensing provisions of AS 08.02.063 went into effect in 2011, and military personnel licensing provisions of AS 08.01.064 and AS 08.01.100 went into effect in 2013, only a few boards have executed the legislature's intent. The Board of Examiners in Optometry, the State Physical Therapy and Occupational Therapy Board, and the Board of Dental Examiners have each addressed matters arising from individual applications from military personnel. At the request of a board member who is a military veteran, the Board of Nursing has formed a committee to "crosswalk" military experience and education to align with existing license types and to explore options to bridge education gaps that may exist.

In recent years, the plight of military servicemembers and their spouses has gained national attention among state regulators and military communities within their jurisdictions. The U.S. Department of Defense has shined an unflattering light on how Alaska has handled military licensing transfers—just as Eielson AFB expanded to welcome thousands of new servicemembers and their families. In addition, a 2018 memo from the Secretaries of the Army, Navy, and Air Force sent a clear message about their expectations and the economic pressure they intended to apply on states:

"While focus on the mission is always our priority, the factors military families cite most frequently as drawbacks to military service include military dependent's difficulty assimilating into local school systems following a duty station transfer, the quality of schools available for their children, and the ability of spouses to obtain jobs and sustain careers. With that in mind, we will encourage leadership to consider the quality of schools near bases and whether reciprocity of professional licenses is available for military families when evaluating future basing or mission alternatives."

Various reports on this issue have been published in the last few years: although sources range from the Department of Defense to the National Governors Association to both the Obama and Trump Administrations, the need for military-friendly licensing policies is universally agreed-upon.

The information below and attached should assist boards in review and determination of next steps to reach compliance with the legislature’s statutory expectations. I encourage boards to take the following steps to move forward on this project:

1. Board chairs review and/or assign a member to begin analysis and draft motions to come into compliance. Preparing ahead of time will help the meeting be more productive.
2. Schedule time during the next meeting to review this information and plan the next steps required.
3. Propose and adopt regulations regarding:
  - a. Application processes,
  - b. Practice limitations based on Alaska-specific requirements (such as Arctic engineering),
  - c. What the board deems “substantially equivalent,” if necessary,
  - d. Other relevant matters.

Consistent with AS 08.01.063(g), the division has maintained a military-specific [web page](#), email address, and coordinator since 2014. Later this year, Records and Licensing Supervisor Terry Ryals will take over coordination of all military licensing matters. In addition to his role managing several CBPL programs, he is an Army veteran and advocate for military families. CBPL Information Systems Coordinator Chelsea Childress, is leading the technical implementation of new licensing forms, structures, and workflow related to these changes.

Our team looks forward to assisting your board in the successful roll-out of this legislation.

## Overview of military-related legislative licensing mandates:

Citation	Effect	Effective Date
<a href="#">AS 08.01.063</a>	Requires boards and CBPL to issue temporary licenses to military spouses with substantially equivalent unencumbered licenses*	2022
	Requires boards and CBPL to issue temporary licenses to active duty military personnel with substantially equivalent unencumbered licenses*	2022
	Requires boards and CBPL to issue temporary licenses to military applicants 30 days after completing the license application package**	2022
	Requires CBPL to report on all military licensing regulations, applications, and licenses by March 1 of each year	2022
	Requires CBPL to equip boards to support applicants for these licenses	2022
<a href="#">AS 08.01.064</a>	Requires boards and CBPL to accept military training and education toward licensure	2013
	Requires boards and CBPL to issue an expedited temporary license to military veterans with equivalent licensure or military experience	2013
<a href="#">AS 08.01.100</a>	Allows boards and CBPL to waive fees and continuing education requirements for certain deployed military personnel	2013
* Optional since 2011		
** Prior to 2022, military applications were required to be "expedited" without a specific time frame		

## Military licensing statutes (pending changes as noted become effective January 1, 2022):

**AS 08.01.063. Military courtesy licenses.** (a) Except as provided in (d) of this section, and notwithstanding another provision of law, the department or appropriate board **shall** [MAY] issue a temporary courtesy license to **an active duty member of the armed forces of the United States or** the spouse of an active duty member of the armed forces of the United States if the **active duty member or** spouse **meets the requirements of this section and** applies to the department or appropriate board in the manner prescribed by the department or appropriate board. An application must include evidence satisfactory to the department or appropriate board that the applicant

- (1) is **an active duty member of the armed forces of the United States or is** married to and living with a member of the armed forces of the United States who is on active duty and assigned to a duty station in this state under official active duty military orders;
- (2) holds a current license or certificate in another state, district, or territory of the United States, **or that is recognized by the United States, including a branch of the armed forces of the United States,** with requirements that the department or appropriate board determines are **substantially** equivalent to those established under this title for that occupation;
- (3) if required by the department or appropriate board for obtaining a license in the applicant's profession, has been fingerprinted and has provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400;

(4) has not committed an act in any jurisdiction that would have constituted grounds for the refusal, suspension, or revocation of a license or certificate to practice that occupation under this title at the time the act was committed;

(5) has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing or credentialing entity in another jurisdiction; and

(6) pays any fees required under this title.

**(b) The department or appropriate board shall issue a temporary license under this section to a person who meets the requirements [EXPEDITE THE PROCEDURE FOR ISSUANCE OF A LICENSE] under (a) of this section within 30 days after the department or appropriate board receives the person's completed application for the temporary license.**

(c) A temporary courtesy license issued under this section is valid for 180 days and may be extended at the discretion of the department or appropriate board for one additional 180-day period, on application of the holder of the temporary courtesy license.

(d) This section does not apply to the practice of law or the regulation of attorneys under AS 08.08.

**(e) The department shall prepare an annual report that describes, for the previous fiscal year, information on temporary courtesy licenses issued under this section, including**

**(1) expedited application procedures;**

**(2) progress made toward implementing regulations for the licenses, changes to regulations made to accommodate the needs of military spouses, and any plans for future regulations;**

**(3) the number and type of the licenses that have been issued; and**

**(4) the department's efforts to inform each board authorized to issue a temporary courtesy license under this section and the military community in the state about the licenses.**

**(f) The department shall submit the report prepared under (e) of this section to the Joint Armed Services Committee on or before the first day of March each year. In addition, the department shall consolidate the two most recent reports and submit a biennial report to the legislature on or before the first day of March during the first regular session of each legislature. The department shall deliver a copy of the biennial report to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available.**

**(g) The department shall annually produce and distribute to each board authorized to issue a temporary courtesy license under this section informational materials for the purpose of improving the board's knowledge of the licenses, the application process, and best practices in providing applicant support. The department shall encourage the boards to designate a single employee to serve as the point of contact for public information and inquiries related to temporary courtesy licenses for military spouses.**

**AS 08.01.064. Military education, training, and service credit; temporary license.** (a) Notwithstanding another provision of law, the department or applicable board shall accept military education, training, and service for some or all of the qualifications otherwise required of an applicant for a license or certificate issued under this chapter if

(1) the department or applicable board determines that the military education, training, and service is substantially equivalent to some or all of the qualifications otherwise required of an applicant for a license or certificate issued under this chapter; and

(2) the applicant provides satisfactory evidence of successful completion of the education, training, or service as a member of the armed forces of the United States, the United States Reserves, the National Guard of any state, the Military Reserves of any state, or the Naval Militia of any state.

**(b) If the department issues temporary licenses or certificates as authorized by the department or applicable board under AS 08.01.050(a)(9), the department or applicable board shall issue a temporary license or certificate to a person who**

(1) applies to the department or applicable board in a manner prescribed by the department or board;

(2) meets the requirements in AS 08.01.063(a)(3) - (6); and

(3) while in the armed forces of the United States or any state, as described in (a) of this section,

(A) held a current license or certificate in another state, district, or territory of the United States, practiced in the area of the license or certificate, and maintained the license or certificate in active status before and at the time of application for a license or certificate under this subsection; or

(B) was awarded a degree, diploma, or certificate by a branch of the armed forces of the United States or any state, as described in (a) of this section, that met standards for an equivalent license or a certificate of technical training.

(c) The department or applicable board shall expedite the procedure for issuance of a license or certificate under (b) of this section for an applicant who is on active duty.

(d) A license or certificate issued under (b) of this section is valid for 180 days and may be extended at the discretion of the department or applicable board for one additional 180-day period if the holder of the license or certificate applies for an extension on a form approved by the department or applicable board.

(e) The department or applicable board may adopt regulations necessary to implement this section.

**Sec. 08.01.100. License renewal, lapse, and reinstatement.**

(f) The department may establish and implement a waiver of continuing education requirements for renewal of a license regulated by the department and a board may establish and implement a waiver of continuing education requirements for renewal of a license regulated by the board for the period in which a licensee is engaged in active duty military service in the armed forces of the United States.

(g) A member of the armed forces of the United States on active duty in a combat zone, danger pay post, or qualified hazardous duty area, who is a licensee under this title in good standing at the time of the licensee's active duty order is exempt from any fees or other requirements to maintain that license or good standing while the licensee is in that zone, at that post, or in that area. This exemption is valid for 180 days after returning to the licensee's permanent duty station, if the licensee does not engage in licensed practice for profit in the private sector. The licensee shall pay fees and meet all other requirements for the license period beginning after the exemption ends. In this subsection,

(1) "combat zone" has the meaning given in 26 U.S.C. 112(c)(2) (Internal Revenue Code);

(2) "danger pay post" means a post so designated by the United States Secretary of State in the Department of State Standardized Regulations for purposes of danger pay under 5 U.S.C. 5928;

(3) "qualified hazardous duty area" means an area that, during the applicant's deployment, is treated as if it were a combat zone for purposes of a federal tax exemption under 26 U.S.C. 112 (Internal Revenue Code).

**Centralized regulations pertaining to military licensure for division-managed/non-board programs:**

**12 AAC 02.956. TEMPORARY LICENSE FOR SPOUSES OF MILITARY PERSONNEL.** (a) The department will issue a temporary license to the spouse of an active duty member of the armed forces of the United States who meets the requirements of AS 08.01.063 and this section, authorizing the holder to practice a profession that is regulated by the department under AS 08.01.010 and this title.

(b) An applicant for a temporary license under this section must submit

- (1) a completed application, on a form provided by the department;
- (2) the applicable fees established in 12 AAC 02.105 for a temporary license;
- (3) a copy of the applicant's military dependent identification card and a copy of the spouse's current active duty military orders showing assignment to a duty station in this state;
- (4) verification of licensure from each jurisdiction where the applicant holds or has ever held a license to practice the profession for which the temporary license is requested, one of which must be a current license in good standing and meet the requirements of AS 08.01.063(a)(2); the verifications must meet the requirements of AS 08.01.063(a)(4) and (5); and
- (5) if the profession for which the applicant is seeking a temporary license requires a criminal history background check, a completed fingerprint card and the fee required by the Department of Public Safety to obtain state and national criminal justice information required under AS 08.01.063(a)(3).

(c) The department will expedite the issuance of the license under this section as required by AS 08.01.063(b).

(d) A temporary license issued under this section is valid for 180 days and may be extended for an additional 180-day period by applying on a form provided by the department and submitting the temporary license fee established in 12 AAC 02.105.

*Authority:* AS 08.01.050 AS 08.01.063 AS 08.01.065

**12 AAC 02.957. TEMPORARY LICENSE FOR MILITARY PERSONNEL.** (a) The department will issue a temporary license to a member of the armed forces of the United States who meets the requirements of AS 08.01.064 and this section, authorizing the holder to practice a profession that is regulated by the department under AS 08.01.010 and this title.

(b) An applicant for a temporary license under this section must submit

- (1) a completed application, on a form provided by the department;
- (2) the applicable fees established in 12 AAC 02.105 for a temporary license;
- (3) verification of licensure from each jurisdiction where the applicant holds or has ever held a license to practice the profession for which the temporary license is requested; the verifications must meet the requirements of AS 08.01.063(a)(4) and (5);
- (4) evidence satisfactory to the department of meeting the requirements of AS 08.01.064(b)(3) as follows:
  - (A) verification of a current license or certificate issued by another jurisdiction that provides proof of licensure during the time the applicant provided the practice in the area of the license or certificate while in the military, and proof that the applicant practiced the profession, as described in AS 08.01.064(b)(3)(A); or
  - (B) documentation of receiving education, training, or service as a member of the armed forces and being awarded a degree, diploma, or certificate by a branch of the armed forces of the United States or any state, that meets the requirements of AS 08.01.064(b)(3)(B); and
- (5) if the profession for which the applicant is seeking a temporary license requires a criminal history background check, a completed fingerprint card and the fee required by the Department of Public Safety to obtain state and national criminal justice information required under AS 08.01.063(a)(3).

(c) The department will expedite the issuance of the license under this section for an applicant who is on active duty as required by AS 08.01.064(c)

(d) A temporary license issued under this section is valid for 180 days and may be extended for an additional 180-day period by applying on a form provided by the department and submitting the temporary license fee established in 12 AAC 02.105.

*Authority:* AS 08.01.050 AS 08.01.064 AS 08.01.065

**BOARD OF MARINE PILOTS  
NOVEMBER 24, 2021**

**Investigative Report**



**BOARD OF MARINE PILOTS  
NOVEMBER 24, 2021**

**Request for Training extension;  
Documents not available for  
public review.**

**BOARD OF MARINE PILOTS  
NOVEMBER 24, 2021**

**Association Reports**

***A. Alaska Marine Pilots***

***B. Southeast Alaska Pilot's  
Association***

***C. Southwest Alaska Pilot's  
Association***

**BOARD OF MARINE PILOTS  
NOVEMBER 24, 2021**

**Southwest Alaska Pilots' Association  
By-law Revision**

# SOUTHWEST ALASKA PILOTS ASSOCIATION

P.O. Box 977  
Homer, Alaska 99603

Tel: (907) 235-8783  
Fax: (907) 235-6119

May 12, 2021

Ms. Renee Hoffard  
Marine Pilot Coordinator  
Alaska Board of Marine Pilots  
P.O. Box 110806  
Juneau, Alaska 99811-0806

Dear Renee,

Please find documentation attached regarding amendments to the Southwest Alaska Pilots Association (SWAPA) Bylaws.

1. Proposed changes to SWAPA Bylaws, Article III: Full Membership Fees and Charges. The attached copy shows the current, board approved bylaws with changes tracked. Language added is in blue, underlined font. Language to be removed is in red font and is struck through.
2. A 'clean' version is also attached to show the final, proposed document.

The attached bylaw amendment passed by a 2/3 majority vote of the of SWAPA's voting membership. Additionally, this amendment has been noted on page 14 as with prior amendments and there is a correction to the roman numeral numbering system for amendment no. 40 (XL). These amendments will be incorporated into the existing Bylaws upon acceptance by the Board of Marine Pilots.

We appreciate your assistance in this matter and please do not hesitate to contact me if you have any questions.

Sincerely,



Captain Joe Martin  
President

Encs:

*SWAPA Bylaws-Amended-05/07/21*  
*SWAPA Bylaws-Clean Draft-05/07/21*

**BYLAWS  
OF  
SOUTHWEST ALASKA PILOTS ASSOCIATION**

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**BYLAWS  
OF  
SOUTHWEST ALASKA PILOTS ASSOCIATION**

Note: Throughout this document, all gender-specific terms are to be considered to refer to both the feminine and the masculine form.

**ARTICLE I**

IDENTIFICATION

Section 1. Name. The name of the Association is Southwest Alaska Pilots Association.

Section 2. Principal Office. The principal office of the Association shall be in Homer, Alaska:

Post Office Box 977  
Homer, Alaska 99603

The Association may have such other offices as from time to time are designated by its members or by the Board of Directors.

Section 3. Fiscal Year. The fiscal year of the Association will begin on the 1st day of January of each year, and end on the 31st day of December in the same year.

**ARTICLE II**

MEMBERSHIP

Section 1. Limitation. Membership will be limited as set forth in Article V of the Articles of Association. Membership is further defined in Article VIII, Section 10. The term “member” shall refer to both full member pilots and deputy member pilots.

Section 2. Voting. Voting procedures on applications for membership will be established so as to preserve the secrecy of the ballot.

Section 3. Definition of Affirmative Vote. A two-thirds (2/3) affirmative vote of the voting membership means a total of two-thirds of the total number of eligible members voting in favor of the proposition in question. An affirmative vote of a voting member means a vote in favor of the proposition in question whether at a meeting, by proxy or by mail or email vote.

Section 4. Condition of Membership. All pilots licensed under the Marine Pilot Act to pilot vessels in the region are eligible for membership. There are two levels of membership defined in Article VIII, Section 10. Further, membership shall be conditioned upon the applicant and, as to the corporate applicants, the owner thereof, signing a statement of agreement to abide by the Articles and Bylaws of the Association. The President or his designee may furnish each new member with a letter outlining the procedures to be followed in the conduct of the Association's business. The new member, and, as to corporate members, the owner thereof, shall read, sign one copy and return the signed copy to the Association. The President or his designee will give instructions regarding acceptable personal conduct aboard ship, and diplomacy to be used in membership dealings with shipboard personnel, save that such instruction may not include personal direction over the manner in which the member performs his independent contractual duties as a pilot.

Section 5. Admission. Immediately upon admission to membership, the new member will be entitled to the rights and privileges of Association membership as stated in the Articles and Bylaws of the Association.

Section 6. Membership Status. Members of the Association, and as to the corporate members, the owner thereof through said corporation, shall be obligated to accept pilotage contracts from the ships offered through the Association as required throughout the year. Such pilotage contract and dispatch shall be assigned uniformly to each member in the class of other members with the same license, endorsements, and in-house clearances. A member will be

entitled to vote, pursuant to Article IV, Section 4. A full member will be obligated to pay a full membership fee and associated charges, pursuant to Article III. Members shall be entitled to receive distributions of income pursuant to Article VIII. All members shall be required to maintain their relevant membership status per the terms and conditions of the Bylaws.

Section 7. Filing Requirements Corporate Members. The Secretary of the Association shall be entitled at any time to demand and receive from the corporate member updated documentation with regard to the member's Articles, Bylaws and Certificate of Good Standing.

Section 8. Conversion to Corporate Membership. Any individual member of the Association will be entitled to convert his individual membership to a corporate membership so long as the corporation meets the eligibility requirements of Article V, Section b of the Articles and by filing with the Secretary of the Association a certified copy of its Articles of Incorporation certified as being true and correct by the Commission or Commerce for the State of Alaska, a current certificate of Good Standing for said corporation issued by said Commissioner, and a copy of its bylaws certified as being true and correct and in full force and effect by the Secretary of said Corporation. Upon any such conversion the Board of Directors shall direct the transfer of the individual member's capital account to the substituted corporate member, and the individual full member shall be entitled either to transfer any ownership interests he may hold in Middle Rock Incorporated, Alaska Nautical Services LLC, or Berth II, Incorporated to the substitute corporate full member or to retain the same in his individual ownership.

Section 9. Conversion to Individual Membership. Any corporation member of the Association shall be entitled to convert its corporate membership to an individual membership in the name of the one hundred percent (100%) owner of said corporation, so long as said corporation's membership is in good standing and the owner thereof meets the qualifications set forth in Article V h, of the Articles of Association at the time the request to so convert is made to the Board of Directors.

Section 10. Other Transfer of Membership. Except as otherwise stated in Sections 8 and 9 of this Article, membership in the Association is nontransferable by act of the member, operation of law, or otherwise.

Section 11. The Association and its Members and Trainees to Participate in Drug and Alcohol Testing Program. The Association and its members and trainees will participate in a board (Alaska Board of Marine Pilots) approved random drug or alcohol testing program.

### ARTICLE III

#### FULL MEMBERSHIP FEES AND CHARGES

The membership fee for those who qualify as a full member shall be ten thousand dollars (10,000) which amount will be credited to the full member's investment account, from the full member's individual capital account. The full membership fee may be increased by two-thirds (2/3) affirmative vote of the voting membership. All full members terminating their full membership will have an amount equal to the current full membership fee paid to them in addition to all monies credited to their individual capital account.

As an additional full membership charge, each full member shall be obligated to purchase and own one (1) share in Middle Rock, Inc. together with one (1) share in Berth II, Inc. and one (1) share in Alaska Nautical Services LLC. Only full members will be authorized and eligible to own these shares. The Board of Directors shall, prior to authorizing a ballot for full membership, enter into a purchase agreement with each prospective full member. Such agreement shall include, but not be limited to, (1) a time limit ~~not to exceed three years~~ as defined by the respective entities' Bylaws or Operating Agreement, (2) a specific method by which the above equities shall be purchased, and (3) consent to the non-purchase provision stated below.

Any full member not meeting the terms of their purchasing agreement shall be subject to deductions from the full member's capital account in an amount up to, but not exceeding, the total current value of the non-purchased shares required as a condition of full membership. All deductions are to be made from the full member's semi-monthly draws in the amount of 35% of each draw until such time the original terms of the purchase agreement are met. All full members shall be required to maintain their membership status per the terms and conditions of the Bylaws.

All deductions are to be deposited in an escrow account until such time that the escrow account balance equals the purchase price of any outstanding share required for full membership.

The Officers and/or Directors of Southwest Alaska Pilots Association shall then authorize distribution of the escrow funds in payment for the required shares to fulfill the requirements of full membership.

All full members terminating their membership will sell their shares in Middle Rock, Inc., Berth II, Inc. and Alaska Nautical Services LLC back to the respective corporations. The buy-back price will be the then current share value for their shares.

## ARTICLE IV

### MEETINGS OF THE MEMBERSHIP: MEETINGS AND VOTING

Section 1. Place of Meeting. The meetings of the membership of the Association will be held at the principal office of the Association.

Section 2. Meetings. The Association shall hold at least three regularly scheduled meetings each year. These shall typically be held in the spring, fall and winter. Failure to hold at least three meetings shall not work a forfeiture or dissolution of the Association.

Section 3. Special Meetings. Special meetings of the Association may be called by the President, the Board of Directors, or by any three (3) voting members requesting a special meeting in writing.

Section 4. Voting.

(a) Voting Rights and Voting Members. Each full member will be entitled to one vote. Each full member on the Transitional Retirement Program will have ½ vote.

A corporate voting member may only exercise its voting rights through the owner thereof. At each election of Directors each voting member shall have the right to vote, in person, by proxy, by mail or email for as many persons as there are Directors to be elected.

(b) Quorum. A majority of the voting membership (51% or more), represented in person, by teleconference, or by proxy, shall constitute a quorum at a meeting of the membership. If there is not a quorum by voting members in attendance at a meeting in person, by teleconference or by proxy, no business may be conducted.

(c) Proxies. A voting member may vote either in person or by proxy executed in writing, electronically or telephonically by the voting member, or by his duly authorized Attorney in Fact. Proxy voting shall be limited to those matters submitted to the tentative agenda. The proxy must be received by the President or his designee or the person presiding at the meeting at or before the time of convening the meeting; however, a voting member present at a meeting who was called out by assignment or by other business prior to a vote, will be entitled to have a proxy with another voting member. A proxy may state the agent member's vote on one (1) or more issues, and such proxy shall be valid for one (1) meeting only, and the power to vote a proxy may be revoked by the person giving the proxy at any time prior to actual voting.

(d) Voting Procedure. Voting procedure shall conform to Roberts' Rules of Order, as revised, provided they are consistent with the Articles and Bylaws of this Association.

## ARTICLE V

### THE BOARD OF DIRECTORS

Section 1. Number and Qualification. The business and affairs of the Association will be managed by a Board of seven (7) Directors who must be full members of the Association, and/or, as to a corporate full member, the owner thereof acting on behalf of the Corporation, and who must be residents of the State of Alaska, and/or, as to the corporate full members, organized and existing under the laws of Alaska.

Section 2. Election. In October of each year, a ballot for electing the Association Board of Directors, which lists all Association full members, will be mailed or sent electronically to all Association voting members. Each Association voting member shall vote for seven (7) full members. Ballots shall be returned to the Association office or electronic voting portal to be counted. The seven Association full members who receive the most votes shall serve as the

*Approved by Board of Marine Pilots: October 9, 2020/amended May 7, 2021*



Board of Directors for the ensuing year.

Directors thus elected at such annual membership meeting shall hold office on January 1 and hold office until December 31. Each Director shall hold office for the term for which he is elected, and until his successor shall be elected and qualified. In November of each year, a ballot for electing the Association officers, which lists the Association Board of Directors, shall be mailed or sent electronically to all Association voting members. Each Association voting member shall vote for a President, Vice President, and a Secretary/Treasurer. Ballots will be returned to the Association office or electronic voting portal to be counted. The members of the Board of Directors who receive the most votes shall serve as the President, Vice President, and Secretary/Treasurer.

Section 3. Nominating and Balloting. There shall be no nominations for elections to the Board of Directors. Each voting member will be entitled to vote for seven (7) full members, or as to corporate full members, the individual owners thereof acting on behalf of their respective corporation and the seven (7) full members receiving the highest number of votes in said election will be elected to the Board of Directors. In case of a tie vote for any position, another paper or electronic ballot, limited to the full members tied in the previous ballot, will be immediately submitted to the voting membership for another vote.

Section 4. Term of Office. The term of office of the members of the Board of Directors will be from the 1st day of January immediately following their election until the 31st day of December in the same year, or until their successors are elected and qualified.

Section 5. Vacancies. Any vacancy occurring on the Board of Directors will be filled by two-thirds (2/3) affirmative vote of the voting membership on paper or electronic ballot listing all eligible full members for the vacancy. The full member receiving the highest number of votes will be elected to complete the unexpired term of his predecessor in office.

Section 6. Place of Meetings. Meetings of the Board of Directors of the Association, annual, regular or special, shall be held at the principal office of the Association, or telephonically, or at another such place as may be designated by a majority of the Board of Directors.

Section 7. Meetings. The Board of Directors shall meet as soon as practicable after the scheduled winter meeting of the membership, at the place where such meeting of the membership has been held or telephonically, for the purpose of organization, and consideration of any other business that may properly be brought before the Association.

The Board of Directors shall also meet as required and shall, among other things, review the actions of the President, Vice President, and Secretary taken on behalf of the Association, prepare a report to the membership, as necessary, covering those actions considered by the Board to be of significance to the membership, and determine whether or not any pending or prospective matters of business should then be submitted to the voting membership for determination by ballot, and upon any such determination, make such a submission within such period of times as will enable the Board to have the results of the ballot available at the next regular meeting.

Section 8. Quorum. A majority of the number of Directors fixed by the Code of Bylaws will constitute a quorum for the transaction of business. The act of the majority of the Directors present at a meeting in which a quorum is present will be the act of the Board of Directors.

Section 9. Removal. The entire Board of Directors, or any individual Director, may be removed from office without assigning any cause, by a two-thirds (2/3) affirmative vote of the voting membership at any regular or special meeting of the voting membership. Such removal of one (1) or more of the Directors will be deemed to create a vacancy or vacancies in the Board of Directors.

Section 10. Compensation. Members of the Board of Directors shall serve without compensation.

Section 11. Limitation on Authority. Authority to make major decisions affecting welfare and business of the Association is reserved by the voting membership. A majority vote of the voting membership may annul, amend, or supersede any action of the Board of Directors. The Board of Directors will submit to the voting membership by paper or electronic ballot any issue of major importance, policy, or expenditure that in the exercise of good judgment may be considered a major policy decision affecting the welfare or business of the Association. A two-thirds (2/3) affirmative vote of the voting membership shall decide the issue.

Section 12. Duties. It shall be the duty of the Board of Directors to:

- (a) Call special membership meetings pursuant to Article IV, Section 3 of the Bylaws;
  - (b) Ensure the official count of all ballots and post notices thereof in the principal office;
  - (c) Approve for payment all non-routine statements and accounts of the Association which are in excess of Five Thousand Dollars (\$5,000.);
  - (d) Retain a certified public accountant to audit books and accounts of the Association and advise regarding fiscal matters, assist in coordinating the work of the Office Manager or Business Manager and office clerk(s);
  - (e) Obtain legal counsel for advice regarding legal matters;
  - (f) Employ and discharge, set the salary of, determine the amount of vacation of, and regulate the working hours and working conditions of all employees, subject to the concurrence of the voting membership and in accordance with the Southwest Alaska Pilots Association Policy and Procedure Manual;
  - (g) Investigate all notices of misconduct by or barring of a member, and if deemed necessary, submit the facts to the voting membership;
  - (h) Authorize the President or his designee, subject to the concurrence of the voting membership, to sign leases, charters, mortgages, notes, contracts, or other legal documents that may be necessary in the conduct of the business of the Association;
  - (i) Maintain one or more bank accounts in the conduct of the business of the Association;
  - (j) Tender to the membership the annual fiscal statement prepared by the certified public accountant;
  - (k) Supervise, through the President or his designee, the maintenance of equipment, supplies, property, and the maintenance of full and complete files of the business activity of the Association;
- and
- (l) Meet as required under Article V, Section 7 of these Bylaws to conduct the business affairs of the Association, as enumerated above, or in its sound discretion on all other matters properly coming to its attention concerning the welfare of the Association.

## ARTICLE VI

### THE OFFICERS

Section 1. Officers. The officers of the Association shall consist of a President, Vice President and Secretary-Treasurer. No two (2) or more offices may be held by the same person.

Section 2. Election. Officers of the Association will be elected by the voting members of the Association, from among the Board of Directors, by mail or electronic ballot in November of each year. In the case of a tie vote for any position, another ballot confined to the full members tied in the previous ballot will be immediately submitted to the voting membership for a vote. The President of the Board of Directors shall be the Director receiving at least 50% of the votes from the returned ballots.

Section 3. Term of Office. The term of office of each officer will be one (1) year, and all commence on the 1st day of January immediately following elections, and continue until the 31st day of December of the same year, or until their successors are elected and qualified.

Section 4. Removal. Any officer may be removed from his office by a two-thirds (2/3) affirmative vote of the voting membership at any regular or special meeting.

Section 5. Vacancies. Whenever any vacancies occur in any office by death, resignation or otherwise, the same will be filled by two-thirds (2/3) affirmative vote of the voting membership, pursuant to the procedures stated in Section 2 above, and the officer so elected will hold office until a successor is chosen and qualified.

Section 6. Compensation. Officers of the Association will serve without compensation.

Section 7. Duties of the President. The President shall call a meeting of the Board of Directors when he deems necessary. The President will be an ex officio member of all committees. The President or his designee will preside at all meetings of the membership and the Board of Directors. He or his designee shall, unless the Board of Directors otherwise directs, act as spokesman for the Association in discussions or dealings to which the Association is a party. He will work with the Office Manager or Business Manager to supervise the operation of the pilot office and check all correspondence, both incoming and outgoing. He or his designee will attend, when possible, the conventions or meetings of the American Pilots Association. The President will have the authority to nominate an assistant to perform special duties or to act in his place in the event of his absence. The President or his designee will sign all correspondence dealing with Association policy. The President or his designee will supervise the office staff in operating the dispatch schedule.

Section 8. Duties of the Vice President. In the event of the President's death or inability, the Vice President will perform the duties of the President until the succeeding President is elected, and while so acting, will have all of the powers of and be subject to all the restrictions upon the President. The Vice President will perform all of such other duties as from time to time may be assigned to him by the Board of Directors. In addition, the Vice President will attend all meetings of the membership and of the Board of Directors.

Section 9. Duties of the Secretary-Treasurer. The Secretary-Treasurer will perform other duties as from time to time may be assigned to him by the Board of Directors. In addition, the Secretary-Treasurer will attend all meetings of the membership and of the Board of Directors. He or his designee will keep the minutes of all meetings of the Board of Directors and all general membership and special meetings. The Secretary will assist the President and Office Manager or Business Manager in the efficient operation of the office. The Secretary or his designee will maintain a reading file with a copy of all letters sent and received under the name of Southwest Alaska Pilots Association. The Secretary-Treasurer or his designee will be responsible for the keeping of all financial statements, books, files and maintenance of the Association website. He or his designee shall also be responsible for the signing of all outgoing bills and checks. He shall assist the President and Office Manager or Business Manager in the supervision and operation of the pilot office and be responsible for Association correspondence, ensuring that letters and inquiries are answered in timely fashion.

Section 10. Office Manager or Business Manager. An Office Manager or Business Manager may be hired by the Board of Directors of the Association with two-thirds (2/3) affirmative vote of the voting membership. The Office Manager or Business Manager shall not be a member of the Association. The Office Manager or Business Manager shall work directly under the President, Vice President and Secretary-Treasurer. The Office Manager or Business Manager shall supervise office and accounting, make up the bills, maintain a correspondence file, keep basic financial statements, run an efficient office, and perform any other duties as directed by the President or his designee. The salary of the Office Manager or Business Manager shall be set by the Board of Directors, subject to the concurrence of the voting membership.

## ARTICLE VII

### TERMINATION OF MEMBERSHIP

Section 1. Any member shall, upon retirement or termination of membership by death or expulsion (and/or as to corporate members, upon retirement of the owner thereof from his corporation, or upon termination of the corporate membership by death of the owner thereof, or by expulsion for misconduct of the owner thereof, or by failure of the Corporation to maintain its eligibility for corporate membership), be entitled to receive funds equivalent to this account payable (see Article VIII, Section 5). The amount of the account payable available for such return will be reduced by the amount of any outstanding balance owned by the member under Article VIII of the Bylaws. This right to the account payable shall inure to the benefit of the heirs, successors and assigns of the member. The Association shall cause the payment to be made in one lump sum within thirty (30) days of the date of the retirement or termination of membership, except that if the Association Pool lacks funds in the amount required to be paid, the Association shall be entitled to make the payment in installments of not less than One Thousand Dollars (\$1,000) per month, without interest; the first such payment to commence thirty (30) days from the date of the retirement or termination of membership. If not paid in full within ninety (90) days, interest shall accrue at the current prime rate until fully paid.

Section 2. When all the monies due the terminating member or his or its heirs, successors or assigns have been paid in full, the recipient of such funds shall sign the release described in Section 3 of this Article. However, a

*Approved by Board of Marine Pilots: October 9, 2020/amended May 7, 2021*

terminating member who has accrued pro rata or personal expenses shall have that amount deducted prior to the amount herein referred to.

Section 3. The release required under Section 2 of this Article shall be in the following form:

"In consideration of the sum of \$ \_\_\_\_\_, in hand paid, the undersigned retiring Southwest Alaska Pilots Association member (or his heirs in the case of the death of an individual member) does hereby release or forever discharge the Southwest Alaska Pilots Association, its successors or assigns, from all future claims and demands whatsoever arising out of or in connection with my (or his or its) membership with Southwest Alaska Pilots Association."

## ARTICLE VIII

### DIVISION AND DISTRIBUTION OF INCOME

The income earned by the members of the Association will be divided and distributed pursuant to the following procedure effective January 1, 1993.

Section 1. Monthly Total Gross Income. Each month, the total gross income produced by members of the Association will be determined.

Section 2. Recurring Expenses. Recurring expenses are subtracted from the total gross income.

Section 3. Total Net Income. The result of Sections 1 and 2 above produces total net income.

Section 4. Determination of Member Shares. The formula for determination of member shares shown below applies to all members and is dependent on their membership status as described in Article VIII, Section 10. Incumbent in receiving the following share percentages is the actual ability to pilot in those areas. If a member loses clearance in one or more areas, or if a customer refuses to accept the services of an individual member, the Board of Directors may in its discretion decrease the share percentage of the subject member as set forth in the following table. A member whose share percentage is decreased may have it restored to its former level after removing all limitations. The steps to determine Share percentage under this formula are as follows:

65% share for members holding a 50,000 gross ton license.

70% share for members holding a 95,000 gross ton license.

75% share for members holding a 110,000 gross ton license.

80% share for members holding an unlimited gross ton license, without a VLCC Endorsement and without In-House TAPS clearance.

100% share for full members holding an unlimited tonnage license and a VLCC Endorsement and In-House clearance.

The percentages shown above may vary from year to year and may be amended from time to time by a two-thirds (2/3) affirmative vote of the voting membership.

Section 5. Accounts Payable and Distributions: Each member has an accounts payable which is credited with such member's monthly share as described above. Draws will be made semi-monthly throughout the year. Draws will not be allowed to reduce the Association's general bank account below \$50,000 at any time, nor may they exceed the balance due in such member's account.

Section 6. Non-recurring Expenses. Non-recurring expenses in amounts greater than one thousand dollars, as determined by the Board of Directors, are allocated equally among all members. Non-recurring expenses are expenses which are incurred only once. Expenses which are incurred every year or more than once are considered recurring expenses and will be paid accordingly.

Section 7. Certain Transportation Credits. The membership may agree that certain transportation credits that are not part of the authorized tariff or other special expenses shall be credited to the account of the members.

Section 8. Personal Expenses of Members. The following expense items are personal expenses which may apply to each member and which will be paid by the Southwest Alaska Pilots Association, and then deducted from the accounts of the respective members.

(a) American Pilots Association dues;

Approved by Board of Marine Pilots:

October 9, 2020/amended May 7, 2021

- (b) Dues to Master, Mates and Pilots, Pilot Division;
- (c) Personal hospitalization and major medical insurance premiums;
- (d) License insurance;
- (e) Insurance premiums for civil suit defense policies;
- (f) Disability insurance; and,
- (g) Public Information Officer dues

Each member shall provide the bookkeeping personnel of Southwest Alaska Pilots Association with the specific information for payment of the member's individual insurance plans as outlined in paragraphs (c), (d), (e) and (f) above if applicable.

Section 9. Expenses for Association Business. Members will be entitled to reimbursement for expenses incurred on Association business which have prior approval of the Board of Directors. Travel and per diem expenses will be reimbursed at the same rate as published in the State Pilotage Regulations. Any additional expense must be supported by receipts. However, the Board of Directors may disallow any unreasonable expenditures.

Section 10. Definitions.

I: "Membership" refers to full members and deputy members.

(a) Full Member. A full member of the Association who is licensed by the U.S. Coast Guard and the State of Alaska to pilot in all areas and on vessels of all tonnages in the region in which the Association is recognized by the Alaska Board of Marine Pilots. A full member will have the voting rights specified in Article IV. All full members of the Association as of the date of the adoption of these bylaws will continue to be full members after adoption of these bylaws.

(b) Deputy Member. A member pilot who has a deputy marine pilot license, completing the state approved Southwest Alaska Pilots Association training program to qualify for a marine pilot license.

The term "member" as used in the Bylaws refers to both full and deputy members. The terms in (a) or (b) above may be used specifically as required.

II: OTHER

(a) Contract Pilot. A Pilot who may provide services on an agreed-upon and temporary basis for the Association and who is not a member and has work. A Contract Pilot shall be required to hold the necessary USCG and/or State of Alaska licenses and endorsements required to fulfill any duties required and/or requested of them by the Association in the region in which the Association is recognized by the Alaska Board of Marine Pilots.

(b) Trainee. A pilot who is licensed under the Marine Pilot Act 08.62.093 and is in the process of completing the state approved Southwest Alaska Pilots Association training program to qualify for a marine pilot license.

Section 11. Transitional Retirement Program.

(a) Upon reaching 59-1/2 years of age and ten (10) years as a full member of Southwest Alaska Pilots Association, or a full member upon reaching 59-1/2 years of age with a 2/3 majority vote of the voting membership, or twenty (20) years as a full member of Southwest Alaska Pilots Association, it becomes the pilot's option to work less than six (6) months a year. A transitionally retired pilot on dispatch for six (6) months or more a year will be classified as a full pilot.

(b) The pilot(s) participating in the Transitional Retirement Program shall; work as needed in Valdez and pay only shared expenses while on dispatch.

(c) The pilot's capital account shall remain at \$10,000 minimum to pay for personal expenses including

*Approved by Board of Marine Pilots: October 9, 2020/amended May 7, 2021*

but not limited to; dues, medical, disability and license insurance. Should the \$10,000 minimum be exhausted, the pilot will receive a bill from Southwest Alaska Pilots Association for the deficiency.

(d) A transitionally retired pilot may work any or all of the period between May 1 and September 30 of any calendar year and/or during Winter Ice Guidelines (when Lower Cook Inlet B Condition [LCIBC] is in effect) and be on regular dispatch for this period; not to exceed 153 days. During periods outside the above, dispatch for a transitionally retired pilot shall be at the discretion of Southwest Alaska Pilots Association. A pilot may extend this work schedule for the purpose of accruing sixty (60) shipboard days in a year.

(e) Should a transitional pilot decide to return to full pilot status and be on normal rotation, the returning pilot must pay back shared expenses incurred by member pilots during his absence.

(f) The maximum length of time a pilot can be transitionally retired shall be limited to two (2) biennial license renewal periods (maximum of four (4) calendar years). The voting membership may extend this period for one or more years on an individual pilot basis by a 2/3 affirmative ballot vote.

#### Section 12. Shared Expenses for Member On Qualified Disability Status.

A member who is unable to work due to medical reasons and has either filed and is claiming disability insurance or would otherwise be eligible to claim disability insurance per the terms of the policy held by the Association (disability status) will not be required to pay shared expenses for the period they qualify for disability status. The Board of Directors shall be entitled at any time, before or during a pilot disability period, to request information from member's physician(s) and/or require that the member on disability status be examined or re-examined by a medical doctor of its choosing and, upon the doctor's certification of fitness for duty and/or termination of claim with insurance company, remove the member from disability status. Any member on disability status shall be required to be under the regular care of a physician and shall be required to submit regular proof of continuing disability to be exempt from paying shared expenses.

### ARTICLE IX

#### NOTICE OF MEETING AND BALLOTING PROCEDURES

##### Section 1. Notice of Meeting.

(a) Membership Meetings. The President of the Association will cause a written or printed notice, stating the place, date and hour of the meetings of the membership, to be noticed on the daily dispatch sheet or mailed or emailed to each member not less than seven (7) days prior to the date of the meeting. A tentative agenda shall be forwarded at least four (4) days prior to the meeting. Cut-off time for adding items to the agenda shall be by 1600 hours two days prior to meeting. Special meetings may be held upon call of the President upon notice given by word of mouth, telephone, or email not later than twelve (12) hours before the time set for said meeting. Written or email notices shall be deemed to be delivered when deposited in the United States mail, addressed or emailed to the member at his mail or email address as it appears in the membership books of the Association. Waiver by a member in writing of notice of a membership meeting, signed by him whether before or after the time of such meeting, shall be equivalent to the giving of such notice. Attendance by a member, whether in person or by proxy, of a membership meeting, shall constitute a waiver of notice of such meeting, of which he has not had notice, unless he causes an objection to be recorded with the Secretary at the time of this attendance in person, or within ten (10) days of his attendance of such meeting by proxy.

(b) Board of Directors Meeting. Meetings may be held upon call of the President upon notice given by word of mouth, telephone or email not later than twelve (12) hours before the time set for said meeting. Notice of meetings of the Board of Directors may be waived in writing signed by the person or persons entitled to such notice, whether before or after notice. Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because such meeting is not lawfully convened. Neither the business to be transacted at, nor the purpose of, any meeting of the Board of Directors need be specified in the waiver of notice of any such meeting.

Section 2. Paper or Electronic Ballot. Paper or electronic ballot, where required under these Bylaws, will be conducted as follows:

(a) The ballot will be secret;

(b) The ballot will be mailed or sent electronically to each voting member of the Association, addressed to the voting member at his mailing address or email address as it appears in the membership books of the Association; save that if direct hand delivery to the voting member or delivery to the voting member's mail distribution receptacle in the main office of the Association would be more expeditious than the U.S. mail, such ballots will be so delivered; and

(c) Paper Ballot: The paper ballot will be returned to the principal office of the Association not more than twenty (20) days following the date of its mailing/email dissemination to each voting member. Ballots not returned within this period of time will be considered invalid and will not be counted. A paper ballot will only be valid if at least two-thirds (2/3) of the total voting membership cast ballots.

(d) Electronic Ballot: The electronic ballot will be specifically conducted via an online voting portal and shall be returned to the relevant voting portal not more than fourteen (14) days following the date of its dissemination to each voting member. Ballots not returned within this period of time will be considered invalid and will not be counted. An electronic ballot will only be valid if at least two-thirds (2/3) of the total voting membership cast ballots.

(e) It will be at the discretion of the Board of Directors whether they choose to submit a ballot via (c) or (d) above and the voting members shall be apprised of the decision prior to the distribution of the ballot.

## ARTICLE X

### AMENDMENTS

The power to alter, amend or repeal the Bylaws, or to adopt a new Code of Bylaws, so long as any such alteration, amendment, repeat or adoption of a new code is not in conflict with the Articles of Association, is reserved to the voting membership of the Association. The two-thirds (2/3) affirmative vote of the voting membership is necessary to exercise such reserved power. Any such change to these Bylaws will be subject to approval by the Alaska Board of Marine Pilots.

## ARTICLE XI

### DISCIPLINARY ACTIONS AND GRIEVANCES

Section 1. The Board of Directors will hear all signed and written (a) requests from a master or owner of a vessel showing cause to not dispatch a particular pilot to a particular vessel and (b) complaints directed at an individual member of alleged misconduct that affects his continued service as a Southwest Alaska Pilots Association member, or as a business associate, and will likewise hear all signed and written complaints directed at a corporate member for alleged misconduct of its owner that affects its continued service as a Southwest Alaska Pilots Association member, or as a business associate. The accused member (or, as to a corporate member, the owner thereof) shall be entitled to defend himself before the Board of Directors against any charges. The charged member shall be entitled to select an active member of the Association to assist in the defense before the Board.

The Board of Directors has the authority to (a) make a finding of cause to not dispatch a particular pilot to a particular vessel and (b) suspend a member for a period not to exceed thirty (30) days upon the two-thirds (2/3) affirmative vote of the entire Board of Directors for: Violation by the individual member, or as to a corporate member, by the owner thereof of the Bylaws, Articles or Dispatch Policy. However, the Board may elect to refer suspension in question to the voting membership for the final vote, either by paper or electronic ballot or by voting in any regular or special meeting of the voting membership, in which case a two-thirds (2/3) affirmative vote of the voting membership is necessary to suspend a member. In all cases where the disciplinary action recommended by the Board of Directors exceeds a thirty (30) days' suspension, such action must be submitted to the voting membership necessary to invoke the suspension. In all cases, the member charged with misconduct has the right to appeal the suspension by the Board within five (5) days, any penalty imposed shall be held in abeyance until the matter is determined by the voting membership. An appeal from a decision of the Board shall be decided in full or in part by a two-thirds (2/3) affirmative vote of the voting membership. The member charged does not have the right to vote on his own appeal. The individual or corporate member aggrieved by the appellate decision of the voting membership has the right within thirty (30) days after notice of the voting membership's appellate decision to seek arbitration of the issues on appeal. The Association and aggrieved member will be bound by the arbitration decision.

Section 2. In any disciplinary action taken under this Article wherein the final decision rests with the voting membership, the voting membership shall be fully apprised of all pertinent facts by a written report of the findings by the Board of Directors. However, before findings and recommendations of the Board are submitted to the voting

membership, the same will be served on the person charged. The person charged will have twenty (20) days to prepare a written rebuttal if he desires, which will be transmitted with the findings and the recommendations of the Board.

Section 3. In order to expel a member from this Association, a two-thirds (2/3) affirmative vote of the voting membership is necessary. The decision of the voting membership will be final in all cases of expulsion or suspension, and no further charges may be brought against the member for the same incident complained of originally.

Section 4. Any member of the Association (or, as to a corporate member, the owner or any subcontractor, agent or employee thereof) who pilots any vessel subject to the pilotage laws of the United States or of the State of Alaska in Southwest Alaska without being dispatched by the Association will be subject to the disciplinary provisions of these Bylaws.

The foregoing Bylaws of Southwest Alaska Pilots Association was duly approved by two-thirds (2/3) affirmative vote of the voting membership of the Association on the ninth day of August, 2007 and duly amended in accordance with the dated catalogue of revisions attached to these Bylaws .

President

Secretary/Treasurer

**AMENDMENTS TO THE SOUTHWEST ALASKA PILOTS ASSOCIATION BYLAWS PASSED BY TWO-THIRDS (2/3) MAJORITY VOTE:**

AMENDMENT I 3/18/93: ARTICLE IV, SECTION 4, (a) Voting Rights.

AMENDMENT II 3/18/93: ARTICLE VIII, SECTION 4, Determination of Member Shares. (Grandfather current members)

AMENDMENT III 8/16/93: ARTICLE VIII, SECTION 11, Transitional Retirement Program.

AMENDMENT IV 6/7/94: ARTICLE VIII, SECTION 4, Determination of Member Shares. (Allocation of pay distribution for training pilots)

AMENDMENT V 10/17/95: ARTICLE VIII, SECTION 4, Determination of Member Shares. (Multi-factor for deputy pilots)

AMENDMENT VI 11/28/95: ARTICLE III, MEMBERSHIP FEES AND CHARGES. (Addition of Berth II, Incorporated)

AMENDMENT VII 6/2/98: ARTICLE V, SECTION 12, BOARD OF DIRECTORS DUTIES. (Spending limit)

AMENDMENT VIII 10/12/98: ARTICLE III, MEMBERSHIP FEES AND CHARGES. (Addition of Alaska Nautical Services LLC)



AMENDMENT IX 4/30/99: ARTICLE VIII, DIVISION AND DISTRIBUTION OF INCOME, Section 4. (Replace “Any Gross Tons” with “60,000 ton license”.)

AMENDMENT X 1/25/00: ARTICLE VIII, SECTION 11, TRANSITIONAL RETIREMENT PROGRAM. (Add sentence for pilot deciding to return to full pilot status after being on the program.)

AMENDMENT XI 7/26/00: ARTICLE VIII, SECTION 11, (d), TRANSITIONAL RETIREMENT PROGRAM. (Defines months to be on dispatch.)

AMENDMENT XII 11/6/00: ARTICLE VIII, SECTION 11, (d), TRANSITIONAL RETIREMENT PROGRAM. (Extension of time on dispatch for the purpose of accruing 60 shipboard days in a year.)

AMENDMENT XIII 11/2/01: ARTICLE IV, Section 4, Voting Rights. (Changes voting rights from time on dispatch in previous year to ½ vote for participants of the Transitional Retirement Program.)

AMENDMENT XIV 5/7/02: ARTICLE VIII, Section 4, Determination of Member Shares. (Changes percentages for tonnages.)

AMENDMENT XV 9/30/03: ARTICLE VIII, Section 4, Determination of Member Shares. (Change to give Board of Directors authority to decrease share percentage for pilot or deputy pilot should he lose clearance in one or more areas.)

AMENDMENT XVI 4/9/04: ARTICLE VIII, Section 11, Transitional Retirement Program. (Change to add a maximum length of time a pilot can be on the Program.)

AMENDMENT XVII 7/29/04: ARTICLE VIII, Section 11, (a), Transitional Retirement Program. (Change to add participation in the program upon reaching 59-1/2 with 2/3 majority vote of the membership.)

AMENDMENT XVIII 5/11/05: ARTICLE VII, add Section 4, mandatory retirement age.

AMENDMENT XIX 5/11/05: ARTICLE II, add Section 12, the Association adopts the Alaska Marine Pilots Retirement Program.

AMENDMENT XX 6/26/06: ARTICLE VII, Section 4, the Association voted to strike the 70 year mandatory retirement clause.

AMENDMENT XXI 6/26/06: ARTICLE VIII, Section 11, add paragraph (g) to give the board authority to extend the period for one or more years.

AMENDMENT XXII 8/21/06: ARTICLE VI, Officers, Section 2 adding that the President shall be the Director receiving at least 50% of the votes.

AMENDMENT XXIII 8/21/06: ARTICLE VIII, Section 11 (f) amended to read that the membership, by 2/3 affirmative vote, may extend the transitional retirement period for one or more years.

AMENDMENT XXIV 11/2/06: ARTICLE VIII, Section 4. Determination of Member Shares to increase share percentages for Deputy Pilots.

AMENDMENT XXV 8/9/07: ARTICLE II, Section 12. Delete entire section to remove reference to the Alaska Marine Pilots Retirement Program.

AMENDMENT XXVI 02/25/09: ARTICLE VIII, Section 4. Change 60,000 gross ton license and 80,000 gross ton license to 65,000 and 90,000 gross tons in order to reflect changes to 12 AAC 56.011 sections (3), (7), (8c) and (8d) - tonnage increases implemented by BOMP - January 29, 2009.

AMENDMENT XXVII 06/11/12: ARTICLE VIII Section 11(d). Allow a transitionally retired pilot to work the May 1 to Sept 30 period AND/OR during Winter Ice Guidelines when Lower Cook Inlet B conditions (LCIBC) are in effect (not to exceed 153 days).

AMENDMENT XXVIII 09/20/12: ARTICLE X Section 2(c). Period of time to return a ballot is changed from thirty

(30) days to twenty (20) days.

AMENDMENT XXIX 03/31/18: ARTICLE VIII Section 4. 65% share for members and deputies holding a 25,000 ton license is changed to a 50,000 ton license in order to reflect changes to 12 AAC 56.011 (a) (1) - tonnage increase implemented by BOMP – to take effect April 14, 2018.

AMENDMENT XXX 10/04/19: ARTICLE VIII Section 12. Member on qualified disability status is not required to pay shared expenses for the period they qualify for disability status.

AMENDMENT XXXI 11/13/19: ARTICLE IV, Section 2. Amend wording to clarify requirements for membership meetings.

AMENDMENT XXXII 11/13/19: ARTICLE V, Section 12 (c). Increase approval for payment of all non-routine statements and accounts to \$5,000.00.

AMENDMENT XXXIII 11/14/19. ARTICLE VIII, Section 11 (f). Clarification of maximum time a pilot may be transitionally retired.

AMENDMENT XXXIV 11/14/19. ARTICLE V, Section 3. To allow a non-full-time full member (transitional pilot) to serve on the SWAPA Board of Directors.

AMENDMENT XXXV 11/14/19. ARTICLE II, Section 6 and ARTICLE III. Requirement for a full member to maintain their relevant status.

AMENDMENT XXXVI 11/15/19. ARTICLE VIII, Section 10, sub-section I and Section 10, sub-section II. To both clarify and add definitions for members, contract pilots and trainees.

AMENDMENT XXXVII 11/15/19. ARTICLE II, Sections 4 and 5, ARTICLE V, Section 12 (l) and removal of ARTICLE IX. Removal of references to Operating Rules as not legally required for an Association operating under Bylaws and Articles of Association.

AMENDMENT XXXVIII 01/07/20. VARIOUS. General cleanup of language and terminology in the SWAPA Bylaws to endeavor to ensure consistency and clarity throughout document.

AMENDMENT XXXIX 09/15/20. ARTICLES V, IX AND XI. Amendment to balloting procedures to allow for electronic balloting process in addition to paper ballots.

AMENDMENT ~~XL~~XXXX 09/15/20. ARTICLE VIII Section 4. 70% share for members and deputies holding a 65,000 ton license is changed to a 95,000 ton license and 75% share for members and deputies holding a 90,000 ton license is changed to a 110,000 ton license in order to reflect changes to 12 AAC 56.011 (a) (3) and (a) (7) - tonnage increase implemented by BOMP – to take effect September 19, 2020.

[AMENDMENT XLI 05/07/21: ARTICLE III. Amendment to time limit for full membership purchase agreements.](#)

**BYLAWS  
OF  
SOUTHWEST ALASKA PILOTS ASSOCIATION**

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**BYLAWS  
OF  
SOUTHWEST ALASKA PILOTS ASSOCIATION**

Note: Throughout this document, all gender-specific terms are to be considered to refer to both the feminine and the masculine form.

**ARTICLE I**

IDENTIFICATION

Section 1. Name. The name of the Association is Southwest Alaska Pilots Association.

Section 2. Principal Office. The principal office of the Association shall be in Homer, Alaska:

Post Office Box 977  
Homer, Alaska 99603

The Association may have such other offices as from time to time are designated by its members or by the Board of Directors.

Section 3. Fiscal Year. The fiscal year of the Association will begin on the 1st day of January of each year, and end on the 31st day of December in the same year.

**ARTICLE II**

MEMBERSHIP

Section 1. Limitation. Membership will be limited as set forth in Article V of the Articles of Association. Membership is further defined in Article VIII, Section 10. The term “member” shall refer to both full member pilots and deputy member pilots.

Section 2. Voting. Voting procedures on applications for membership will be established so as to preserve the secrecy of the ballot.

Section 3. Definition of Affirmative Vote. A two-thirds (2/3) affirmative vote of the voting membership means a total of two-thirds of the total number of eligible members voting in favor of the proposition in question. An affirmative vote of a voting member means a vote in favor of the proposition in question whether at a meeting, by proxy or by mail or email vote.

Section 4. Condition of Membership. All pilots licensed under the Marine Pilot Act to pilot vessels in the region are eligible for membership. There are two levels of membership defined in Article VIII, Section 10. Further, membership shall be conditioned upon the applicant and, as to the corporate applicants, the owner thereof, signing a statement of agreement to abide by the Articles and Bylaws of the Association. The President or his designee may furnish each new member with a letter outlining the procedures to be followed in the conduct of the Association's business. The new member, and, as to corporate members, the owner thereof, shall read, sign one copy and return the signed copy to the Association. The President or his designee will give instructions regarding acceptable personal conduct aboard ship, and diplomacy to be used in membership dealings with shipboard personnel, save that such instruction may not include personal direction over the manner in which the member performs his independent contractual duties as a pilot.

Section 5. Admission. Immediately upon admission to membership, the new member will be entitled to the rights and privileges of Association membership as stated in the Articles and Bylaws of the Association.

Section 6. Membership Status. Members of the Association, and as to the corporate members, the owner thereof through said corporation, shall be obligated to accept pilotage contracts from the ships offered through the Association as required throughout the year. Such pilotage contract and dispatch shall be assigned uniformly to each member in the class of other members with the same license, endorsements, and in-house clearances. A member will be

entitled to vote, pursuant to Article IV, Section 4. A full member will be obligated to pay a full membership fee and associated charges, pursuant to Article III. Members shall be entitled to receive distributions of income pursuant to Article VIII. All members shall be required to maintain their relevant membership status per the terms and conditions of the Bylaws.

Section 7. Filing Requirements Corporate Members. The Secretary of the Association shall be entitled at any time to demand and receive from the corporate member updated documentation with regard to the member's Articles, Bylaws and Certificate of Good Standing.

Section 8. Conversion to Corporate Membership. Any individual member of the Association will be entitled to convert his individual membership to a corporate membership so long as the corporation meets the eligibility requirements of Article V, Section b of the Articles and by filing with the Secretary of the Association a certified copy of its Articles of Incorporation certified as being true and correct by the Commission or Commerce for the State of Alaska, a current certificate of Good Standing for said corporation issued by said Commissioner, and a copy of its bylaws certified as being true and correct and in full force and effect by the Secretary of said Corporation. Upon any such conversion the Board of Directors shall direct the transfer of the individual member's capital account to the substituted corporate member, and the individual full member shall be entitled either to transfer any ownership interests he may hold in Middle Rock Incorporated, Alaska Nautical Services LLC, or Berth II, Incorporated to the substitute corporate full member or to retain the same in his individual ownership.

Section 9. Conversion to Individual Membership. Any corporation member of the Association shall be entitled to convert its corporate membership to an individual membership in the name of the one hundred percent (100%) owner of said corporation, so long as said corporation's membership is in good standing and the owner thereof meets the qualifications set forth in Article V h, of the Articles of Association at the time the request to so convert is made to the Board of Directors.

Section 10. Other Transfer of Membership. Except as otherwise stated in Sections 8 and 9 of this Article, membership in the Association is nontransferable by act of the member, operation of law, or otherwise.

Section 11. The Association and its Members and Trainees to Participate in Drug and Alcohol Testing Program. The Association and its members and trainees will participate in a board (Alaska Board of Marine Pilots) approved random drug or alcohol testing program.

### ARTICLE III

#### FULL MEMBERSHIP FEES AND CHARGES

The membership fee for those who qualify as a full member shall be ten thousand dollars (10,000) which amount will be credited to the full member's investment account, from the full member's individual capital account. The full membership fee may be increased by two-thirds (2/3) affirmative vote of the voting membership. All full members terminating their full membership will have an amount equal to the current full membership fee paid to them in addition to all monies credited to their individual capital account.

As an additional full membership charge, each full member shall be obligated to purchase and own one (1) share in Middle Rock, Inc. together with one (1) share in Berth II, Inc. and one (1) share in Alaska Nautical Services LLC. Only full members will be authorized and eligible to own these shares. The Board of Directors shall, prior to authorizing a ballot for full membership, enter into a purchase agreement with each prospective full member. Such agreement shall include, but not be limited to, (1) a time limit as defined by the respective entities' Bylaws or Operating Agreement, (2) a specific method by which the above equities shall be purchased, and (3) consent to the non-purchase provision stated below.

Any full member not meeting the terms of their purchasing agreement shall be subject to deductions from the full member's capital account in an amount up to, but not exceeding, the total current value of the non-purchased shares required as a condition of full membership. All deductions are to be made from the full member's semi-monthly draws in the amount of 35% of each draw until such time the original terms of the purchase agreement are met. All full members shall be required to maintain their membership status per the terms and conditions of the Bylaws.

All deductions are to be deposited in an escrow account until such time that the escrow account balance equals the purchase price of any outstanding share required for full membership.

The Officers and/or Directors of Southwest Alaska Pilots Association shall then authorize distribution of the escrow funds in payment for the required shares to fulfill the requirements of full membership.

All full members terminating their membership will sell their shares in Middle Rock, Inc., Berth II, Inc. and Alaska Nautical Services LLC back to the respective corporations. The buy-back price will be the then current share value for their shares.

## ARTICLE IV

### MEETINGS OF THE MEMBERSHIP: MEETINGS AND VOTING

Section 1. Place of Meeting. The meetings of the membership of the Association will be held at the principal office of the Association.

Section 2. Meetings. The Association shall hold at least three regularly scheduled meetings each year. These shall typically be held in the spring, fall and winter. Failure to hold at least three meetings shall not work a forfeiture or dissolution of the Association.

Section 3. Special Meetings. Special meetings of the Association may be called by the President, the Board of Directors, or by any three (3) voting members requesting a special meeting in writing.

Section 4. Voting.

(a) Voting Rights and Voting Members. Each full member will be entitled to one vote. Each full member on the Transitional Retirement Program will have ½ vote.

A corporate voting member may only exercise its voting rights through the owner thereof. At each election of Directors each voting member shall have the right to vote, in person, by proxy, by mail or email for as many persons as there are Directors to be elected.

(b) Quorum. A majority of the voting membership (51% or more), represented in person, by teleconference, or by proxy, shall constitute a quorum at a meeting of the membership. If there is not a quorum by voting members in attendance at a meeting in person, by teleconference or by proxy, no business may be conducted.

(c) Proxies. A voting member may vote either in person or by proxy executed in writing, electronically or telephonically by the voting member, or by his duly authorized Attorney in Fact. Proxy voting shall be limited to those matters submitted to the tentative agenda. The proxy must be received by the President or his designee or the person presiding at the meeting at or before the time of convening the meeting; however, a voting member present at a meeting who was called out by assignment or by other business prior to a vote, will be entitled to have a proxy with another voting member. A proxy may state the agent member's vote on one (1) or more issues, and such proxy shall be valid for one (1) meeting only, and the power to vote a proxy may be revoked by the person giving the proxy at any time prior to actual voting.

(d) Voting Procedure. Voting procedure shall conform to Roberts' Rules of Order, as revised, provided they are consistent with the Articles and Bylaws of this Association.

## ARTICLE V

### THE BOARD OF DIRECTORS

Section 1. Number and Qualification. The business and affairs of the Association will be managed by a Board of seven (7) Directors who must be full members of the Association, and/or, as to a corporate full member, the owner thereof acting on behalf of the Corporation, and who must be residents of the State of Alaska, and/or, as to the corporate full members, organized and existing under the laws of Alaska.

Section 2. Election. In October of each year, a ballot for electing the Association Board of Directors, which lists all Association full members, will be mailed or sent electronically to all Association voting members. Each Association voting member shall vote for seven (7) full members. Ballots shall be returned to the Association office or electronic voting portal to be counted. The seven Association full members who receive the most votes shall serve as the

*Approved by Board of Marine Pilots: October 9, 2020/amended May 7, 2021*

Board of Directors for the ensuing year.

Directors thus elected at such annual membership meeting shall hold office on January 1 and hold office until December 31. Each Director shall hold office for the term for which he is elected, and until his successor shall be elected and qualified. In November of each year, a ballot for electing the Association officers, which lists the Association Board of Directors, shall be mailed or sent electronically to all Association voting members. Each Association voting member shall vote for a President, Vice President, and a Secretary/Treasurer. Ballots will be returned to the Association office or electronic voting portal to be counted. The members of the Board of Directors who receive the most votes shall serve as the President, Vice President, and Secretary/Treasurer.

Section 3. Nominating and Balloting. There shall be no nominations for elections to the Board of Directors. Each voting member will be entitled to vote for seven (7) full members, or as to corporate full members, the individual owners thereof acting on behalf of their respective corporation and the seven (7) full members receiving the highest number of votes in said election will be elected to the Board of Directors. In case of a tie vote for any position, another paper or electronic ballot, limited to the full members tied in the previous ballot, will be immediately submitted to the voting membership for another vote.

Section 4. Term of Office. The term of office of the members of the Board of Directors will be from the 1st day of January immediately following their election until the 31st day of December in the same year, or until their successors are elected and qualified.

Section 5. Vacancies. Any vacancy occurring on the Board of Directors will be filled by two-thirds (2/3) affirmative vote of the voting membership on paper or electronic ballot listing all eligible full members for the vacancy. The full member receiving the highest number of votes will be elected to complete the unexpired term of his predecessor in office.

Section 6. Place of Meetings. Meetings of the Board of Directors of the Association, annual, regular or special, shall be held at the principal office of the Association, or telephonically, or at another such place as may be designated by a majority of the Board of Directors.

Section 7. Meetings. The Board of Directors shall meet as soon as practicable after the scheduled winter meeting of the membership, at the place where such meeting of the membership has been held or telephonically, for the purpose of organization, and consideration of any other business that may properly be brought before the Association.

The Board of Directors shall also meet as required and shall, among other things, review the actions of the President, Vice President, and Secretary taken on behalf of the Association, prepare a report to the membership, as necessary, covering those actions considered by the Board to be of significance to the membership, and determine whether or not any pending or prospective matters of business should then be submitted to the voting membership for determination by ballot, and upon any such determination, make such a submission within such period of times as will enable the Board to have the results of the ballot available at the next regular meeting.

Section 8. Quorum. A majority of the number of Directors fixed by the Code of Bylaws will constitute a quorum for the transaction of business. The act of the majority of the Directors present at a meeting in which a quorum is present will be the act of the Board of Directors.

Section 9. Removal. The entire Board of Directors, or any individual Director, may be removed from office without assigning any cause, by a two-thirds (2/3) affirmative vote of the voting membership at any regular or special meeting of the voting membership. Such removal of one (1) or more of the Directors will be deemed to create a vacancy or vacancies in the Board of Directors.

Section 10. Compensation. Members of the Board of Directors shall serve without compensation.

Section 11. Limitation on Authority. Authority to make major decisions affecting welfare and business of the Association is reserved by the voting membership. A majority vote of the voting membership may annul, amend, or supersede any action of the Board of Directors. The Board of Directors will submit to the voting membership by paper or electronic ballot any issue of major importance, policy, or expenditure that in the exercise of good judgment may be considered a major policy decision affecting the welfare or business of the Association. A two-thirds (2/3) affirmative vote of the voting membership shall decide the issue.

Section 12. Duties. It shall be the duty of the Board of Directors to:

- (a) Call special membership meetings pursuant to Article IV, Section 3 of the Bylaws;
  - (b) Ensure the official count of all ballots and post notices thereof in the principal office;
  - (c) Approve for payment all non-routine statements and accounts of the Association which are in excess of Five Thousand Dollars (\$5,000.);
  - (d) Retain a certified public accountant to audit books and accounts of the Association and advise regarding fiscal matters, assist in coordinating the work of the Office Manager or Business Manager and office clerk(s);
  - (e) Obtain legal counsel for advice regarding legal matters;
  - (f) Employ and discharge, set the salary of, determine the amount of vacation of, and regulate the working hours and working conditions of all employees, subject to the concurrence of the voting membership and in accordance with the Southwest Alaska Pilots Association Policy and Procedure Manual;
  - (g) Investigate all notices of misconduct by or barring of a member, and if deemed necessary, submit the facts to the voting membership;
  - (h) Authorize the President or his designee, subject to the concurrence of the voting membership, to sign leases, charters, mortgages, notes, contracts, or other legal documents that may be necessary in the conduct of the business of the Association;
  - (i) Maintain one or more bank accounts in the conduct of the business of the Association;
  - (j) Tender to the membership the annual fiscal statement prepared by the certified public accountant;
  - (k) Supervise, through the President or his designee, the maintenance of equipment, supplies, property, and the maintenance of full and complete files of the business activity of the Association;
- and
- (l) Meet as required under Article V, Section 7 of these Bylaws to conduct the business affairs of the Association, as enumerated above, or in its sound discretion on all other matters properly coming to its attention concerning the welfare of the Association.

## ARTICLE VI

### THE OFFICERS

Section 1. Officers. The officers of the Association shall consist of a President, Vice President and Secretary-Treasurer. No two (2) or more offices may be held by the same person.

Section 2. Election. Officers of the Association will be elected by the voting members of the Association, from among the Board of Directors, by mail or electronic ballot in November of each year. In the case of a tie vote for any position, another ballot confined to the full members tied in the previous ballot will be immediately submitted to the voting membership for a vote. The President of the Board of Directors shall be the Director receiving at least 50% of the votes from the returned ballots.

Section 3. Term of Office. The term of office of each officer will be one (1) year, and all commence on the 1st day of January immediately following elections, and continue until the 31st day of December of the same year, or until their successors are elected and qualified.

Section 4. Removal. Any officer may be removed from his office by a two-thirds (2/3) affirmative vote of the voting membership at any regular or special meeting.

Section 5. Vacancies. Whenever any vacancies occur in any office by death, resignation or otherwise, the same will be filled by two-thirds (2/3) affirmative vote of the voting membership, pursuant to the procedures stated in Section 2 above, and the officer so elected will hold office until a successor is chosen and qualified.



Section 6. Compensation. Officers of the Association will serve without compensation.

Section 7. Duties of the President. The President shall call a meeting of the Board of Directors when he deems necessary. The President will be an ex officio member of all committees. The President or his designee will preside at all meetings of the membership and the Board of Directors. He or his designee shall, unless the Board of Directors otherwise directs, act as spokesman for the Association in discussions or dealings to which the Association is a party. He will work with the Office Manager or Business Manager to supervise the operation of the pilot office and check all correspondence, both incoming and outgoing. He or his designee will attend, when possible, the conventions or meetings of the American Pilots Association. The President will have the authority to nominate an assistant to perform special duties or to act in his place in the event of his absence. The President or his designee will sign all correspondence dealing with Association policy. The President or his designee will supervise the office staff in operating the dispatch schedule.

Section 8. Duties of the Vice President. In the event of the President's death or inability, the Vice President will perform the duties of the President until the succeeding President is elected, and while so acting, will have all of the powers of and be subject to all the restrictions upon the President. The Vice President will perform all of such other duties as from time to time may be assigned to him by the Board of Directors. In addition, the Vice President will attend all meetings of the membership and of the Board of Directors.

Section 9. Duties of the Secretary-Treasurer. The Secretary-Treasurer will perform other duties as from time to time may be assigned to him by the Board of Directors. In addition, the Secretary-Treasurer will attend all meetings of the membership and of the Board of Directors. He or his designee will keep the minutes of all meetings of the Board of Directors and all general membership and special meetings. The Secretary will assist the President and Office Manager or Business Manager in the efficient operation of the office. The Secretary or his designee will maintain a reading file with a copy of all letters sent and received under the name of Southwest Alaska Pilots Association. The Secretary-Treasurer or his designee will be responsible for the keeping of all financial statements, books, files and maintenance of the Association website. He or his designee shall also be responsible for the signing of all outgoing bills and checks. He shall assist the President and Office Manager or Business Manager in the supervision and operation of the pilot office and be responsible for Association correspondence, ensuring that letters and inquiries are answered in timely fashion.

Section 10. Office Manager or Business Manager. An Office Manager or Business Manager may be hired by the Board of Directors of the Association with two-thirds (2/3) affirmative vote of the voting membership. The Office Manager or Business Manager shall not be a member of the Association. The Office Manager or Business Manager shall work directly under the President, Vice President and Secretary-Treasurer. The Office Manager or Business Manager shall supervise office and accounting, make up the bills, maintain a correspondence file, keep basic financial statements, run an efficient office, and perform any other duties as directed by the President or his designee. The salary of the Office Manager or Business Manager shall be set by the Board of Directors, subject to the concurrence of the voting membership.

## ARTICLE VII

### TERMINATION OF MEMBERSHIP

Section 1. Any member shall, upon retirement or termination of membership by death or expulsion (and/or as to corporate members, upon retirement of the owner thereof from his corporation, or upon termination of the corporate membership by death of the owner thereof, or by expulsion for misconduct of the owner thereof, or by failure of the Corporation to maintain its eligibility for corporate membership), be entitled to receive funds equivalent to this account payable (see Article VIII, Section 5). The amount of the account payable available for such return will be reduced by the amount of any outstanding balance owned by the member under Article VIII of the Bylaws. This right to the account payable shall inure to the benefit of the heirs, successors and assigns of the member. The Association shall cause the payment to be made in one lump sum within thirty (30) days of the date of the retirement or termination of membership, except that if the Association Pool lacks funds in the amount required to be paid, the Association shall be entitled to make the payment in installments of not less than One Thousand Dollars (\$1,000) per month, without interest; the first such payment to commence thirty (30) days from the date of the retirement or termination of membership. If not paid in full within ninety (90) days, interest shall accrue at the current prime rate until fully paid.

Section 2. When all the monies due the terminating member or his or its heirs, successors or assigns have been paid in full, the recipient of such funds shall sign the release described in Section 3 of this Article. However, a  
*Approved by Board of Marine Pilots: October 9, 2020/amended May 7, 2021*

terminating member who has accrued pro rata or personal expenses shall have that amount deducted prior to the amount herein referred to.

Section 3. The release required under Section 2 of this Article shall be in the following form:

"In consideration of the sum of \$ \_\_\_\_\_, in hand paid, the undersigned retiring Southwest Alaska Pilots Association member (or his heirs in the case of the death of an individual member) does hereby release or forever discharge the Southwest Alaska Pilots Association, its successors or assigns, from all future claims and demands whatsoever arising out of or in connection with my (or his or its) membership with Southwest Alaska Pilots Association."

## ARTICLE VIII

### DIVISION AND DISTRIBUTION OF INCOME

The income earned by the members of the Association will be divided and distributed pursuant to the following procedure effective January 1, 1993.

Section 1. Monthly Total Gross Income. Each month, the total gross income produced by members of the Association will be determined.

Section 2. Recurring Expenses. Recurring expenses are subtracted from the total gross income.

Section 3. Total Net Income. The result of Sections 1 and 2 above produces total net income.

Section 4. Determination of Member Shares. The formula for determination of member shares shown below applies to all members and is dependent on their membership status as described in Article VIII, Section 10. Incumbent in receiving the following share percentages is the actual ability to pilot in those areas. If a member loses clearance in one or more areas, or if a customer refuses to accept the services of an individual member, the Board of Directors may in its discretion decrease the share percentage of the subject member as set forth in the following table. A member whose share percentage is decreased may have it restored to its former level after removing all limitations. The steps to determine Share percentage under this formula are as follows:

65% share for members holding a 50,000 gross ton license.

70% share for members holding a 95,000 gross ton license.

75% share for members holding a 110,000 gross ton license.

80% share for members holding an unlimited gross ton license, without a VLCC Endorsement and without In-House TAPS clearance.

100% share for full members holding an unlimited tonnage license and a VLCC Endorsement and In-House clearance.

The percentages shown above may vary from year to year and may be amended from time to time by a two-thirds (2/3) affirmative vote of the voting membership.

Section 5. Accounts Payable and Distributions: Each member has an accounts payable which is credited with such member's monthly share as described above. Draws will be made semi-monthly throughout the year. Draws will not be allowed to reduce the Association's general bank account below \$50,000 at any time, nor may they exceed the balance due in such member's account.

Section 6. Non-recurring Expenses. Non-recurring expenses in amounts greater than one thousand dollars, as determined by the Board of Directors, are allocated equally among all members. Non-recurring expenses are expenses which are incurred only once. Expenses which are incurred every year or more than once are considered recurring expenses and will be paid accordingly.

Section 7. Certain Transportation Credits. The membership may agree that certain transportation credits that are not part of the authorized tariff or other special expenses shall be credited to the account of the members.

Section 8. Personal Expenses of Members. The following expense items are personal expenses which may apply to each member and which will be paid by the Southwest Alaska Pilots Association, and then deducted from the accounts of the respective members.

(a) American Pilots Association dues;

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- (b) Dues to Master, Mates and Pilots, Pilot Division;
- (c) Personal hospitalization and major medical insurance premiums;
- (d) License insurance;
- (e) Insurance premiums for civil suit defense policies;
- (f) Disability insurance; and,
- (g) Public Information Officer dues

Each member shall provide the bookkeeping personnel of Southwest Alaska Pilots Association with the specific information for payment of the member's individual insurance plans as outlined in paragraphs (c), (d), (e) and (f) above if applicable.

Section 9. Expenses for Association Business. Members will be entitled to reimbursement for expenses incurred on Association business which have prior approval of the Board of Directors. Travel and per diem expenses will be reimbursed at the same rate as published in the State Pilotage Regulations. Any additional expense must be supported by receipts. However, the Board of Directors may disallow any unreasonable expenditures.

Section 10. Definitions.

I: "Membership" refers to full members and deputy members.

(a) Full Member. A full member of the Association who is licensed by the U.S. Coast Guard and the State of Alaska to pilot in all areas and on vessels of all tonnages in the region in which the Association is recognized by the Alaska Board of Marine Pilots. A full member will have the voting rights specified in Article IV. All full members of the Association as of the date of the adoption of these bylaws will continue to be full members after adoption of these bylaws.

(b) Deputy Member. A member pilot who has a deputy marine pilot license, completing the state approved Southwest Alaska Pilots Association training program to qualify for a marine pilot license.

The term "member" as used in the Bylaws refers to both full and deputy members. The terms in (a) or (b) above may be used specifically as required.

II: OTHER

(a) Contract Pilot. A Pilot who may provide services on an agreed-upon and temporary basis for the Association and who is not a member and has work. A Contract Pilot shall be required to hold the necessary USCG and/or State of Alaska licenses and endorsements required to fulfill any duties required and/or requested of them by the Association in the region in which the Association is recognized by the Alaska Board of Marine Pilots.

(b) Trainee. A pilot who is licensed under the Marine Pilot Act 08.62.093 and is in the process of completing the state approved Southwest Alaska Pilots Association training program to qualify for a marine pilot license.

Section 11. Transitional Retirement Program.

(a) Upon reaching 59-1/2 years of age and ten (10) years as a full member of Southwest Alaska Pilots Association, or a full member upon reaching 59-1/2 years of age with a 2/3 majority vote of the voting membership, or twenty (20) years as a full member of Southwest Alaska Pilots Association, it becomes the pilot's option to work less than six (6) months a year. A transitionally retired pilot on dispatch for six (6) months or more a year will be classified as a full pilot.

(b) The pilot(s) participating in the Transitional Retirement Program shall; work as needed in Valdez and pay only shared expenses while on dispatch.

(c) The pilot's capital account shall remain at \$10,000 minimum to pay for personal expenses including

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but not limited to; dues, medical, disability and license insurance. Should the \$10,000 minimum be exhausted, the pilot will receive a bill from Southwest Alaska Pilots Association for the deficiency.

(d) A transitionally retired pilot may work any or all of the period between May 1 and September 30 of any calendar year and/or during Winter Ice Guidelines (when Lower Cook Inlet B Condition [LCIBC] is in effect) and be on regular dispatch for this period; not to exceed 153 days. During periods outside the above, dispatch for a transitionally retired pilot shall be at the discretion of Southwest Alaska Pilots Association. A pilot may extend this work schedule for the purpose of accruing sixty (60) shipboard days in a year.

(e) Should a transitional pilot decide to return to full pilot status and be on normal rotation, the returning pilot must pay back shared expenses incurred by member pilots during his absence.

(f) The maximum length of time a pilot can be transitionally retired shall be limited to two (2) biennial license renewal periods (maximum of four (4) calendar years). The voting membership may extend this period for one or more years on an individual pilot basis by a 2/3 affirmative ballot vote.

#### Section 12. Shared Expenses for Member On Qualified Disability Status.

A member who is unable to work due to medical reasons and has either filed and is claiming disability insurance or would otherwise be eligible to claim disability insurance per the terms of the policy held by the Association (disability status) will not be required to pay shared expenses for the period they qualify for disability status. The Board of Directors shall be entitled at any time, before or during a pilot disability period, to request information from member's physician(s) and/or require that the member on disability status be examined or re-examined by a medical doctor of its choosing and, upon the doctor's certification of fitness for duty and/or termination of claim with insurance company, remove the member from disability status. Any member on disability status shall be required to be under the regular care of a physician and shall be required to submit regular proof of continuing disability to be exempt from paying shared expenses.

### ARTICLE IX

#### NOTICE OF MEETING AND BALLOTING PROCEDURES

##### Section 1. Notice of Meeting.

(a) Membership Meetings. The President of the Association will cause a written or printed notice, stating the place, date and hour of the meetings of the membership, to be noticed on the daily dispatch sheet or mailed or emailed to each member not less than seven (7) days prior to the date of the meeting. A tentative agenda shall be forwarded at least four (4) days prior to the meeting. Cut-off time for adding items to the agenda shall be by 1600 hours two days prior to meeting. Special meetings may be held upon call of the President upon notice given by word of mouth, telephone, or email not later than twelve (12) hours before the time set for said meeting. Written or email notices shall be deemed to be delivered when deposited in the United States mail, addressed or emailed to the member at his mail or email address as it appears in the membership books of the Association. Waiver by a member in writing of notice of a membership meeting, signed by him whether before or after the time of such meeting, shall be equivalent to the giving of such notice. Attendance by a member, whether in person or by proxy, of a membership meeting, shall constitute a waiver of notice of such meeting, of which he has not had notice, unless he causes an objection to be recorded with the Secretary at the time of this attendance in person, or within ten (10) days of his attendance of such meeting by proxy.

(b) Board of Directors Meeting. Meetings may be held upon call of the President upon notice given by word of mouth, telephone or email not later than twelve (12) hours before the time set for said meeting. Notice of meetings of the Board of Directors may be waived in writing signed by the person or persons entitled to such notice, whether before or after notice. Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because such meeting is not lawfully convened. Neither the business to be transacted at, nor the purpose of, any meeting of the Board of Directors need be specified in the waiver of notice of any such meeting.

Section 2. Paper or Electronic Ballot. Paper or electronic ballot, where required under these Bylaws, will be conducted as follows:

(a) The ballot will be secret;

(b) The ballot will be mailed or sent electronically to each voting member of the Association, addressed to the voting member at his mailing address or email address as it appears in the membership books of the Association; save that if direct hand delivery to the voting member or delivery to the voting member's mail distribution receptacle in the main office of the Association would be more expeditious than the U.S. mail, such ballots will be so delivered; and

(c) Paper Ballot: The paper ballot will be returned to the principal office of the Association not more than twenty (20) days following the date of its mailing/email dissemination to each voting member. Ballots not returned within this period of time will be considered invalid and will not be counted. A paper ballot will only be valid if at least two-thirds (2/3) of the total voting membership cast ballots.

(d) Electronic Ballot: The electronic ballot will be specifically conducted via an online voting portal and shall be returned to the relevant voting portal not more than fourteen (14) days following the date of its dissemination to each voting member. Ballots not returned within this period of time will be considered invalid and will not be counted. An electronic ballot will only be valid if at least two-thirds (2/3) of the total voting membership cast ballots.

(e) It will be at the discretion of the Board of Directors whether they choose to submit a ballot via (c) or (d) above and the voting members shall be apprised of the decision prior to the distribution of the ballot.

## ARTICLE X

### AMENDMENTS

The power to alter, amend or repeal the Bylaws, or to adopt a new Code of Bylaws, so long as any such alteration, amendment, repeat or adoption of a new code is not in conflict with the Articles of Association, is reserved to the voting membership of the Association. The two-thirds (2/3) affirmative vote of the voting membership is necessary to exercise such reserved power. Any such change to these Bylaws will be subject to approval by the Alaska Board of Marine Pilots.

## ARTICLE XI

### DISCIPLINARY ACTIONS AND GRIEVANCES

Section 1. The Board of Directors will hear all signed and written (a) requests from a master or owner of a vessel showing cause to not dispatch a particular pilot to a particular vessel and (b) complaints directed at an individual member of alleged misconduct that affects his continued service as a Southwest Alaska Pilots Association member, or as a business associate, and will likewise hear all signed and written complaints directed at a corporate member for alleged misconduct of its owner that affects its continued service as a Southwest Alaska Pilots Association member, or as a business associate. The accused member (or, as to a corporate member, the owner thereof) shall be entitled to defend himself before the Board of Directors against any charges. The charged member shall be entitled to select an active member of the Association to assist in the defense before the Board.

The Board of Directors has the authority to (a) make a finding of cause to not dispatch a particular pilot to a particular vessel and (b) suspend a member for a period not to exceed thirty (30) days upon the two-thirds (2/3) affirmative vote of the entire Board of Directors for: Violation by the individual member, or as to a corporate member, by the owner thereof of the Bylaws, Articles or Dispatch Policy. However, the Board may elect to refer suspension in question to the voting membership for the final vote, either by paper or electronic ballot or by voting in any regular or special meeting of the voting membership, in which case a two-thirds (2/3) affirmative vote of the voting membership is necessary to suspend a member. In all cases where the disciplinary action recommended by the Board of Directors exceeds a thirty (30) days' suspension, such action must be submitted to the voting membership necessary to invoke the suspension. In all cases, the member charged with misconduct has the right to appeal the suspension by the Board within five (5) days, any penalty imposed shall be held in abeyance until the matter is determined by the voting membership. An appeal from a decision of the Board shall be decided in full or in part by a two-thirds (2/3) affirmative vote of the voting membership. The member charged does not have the right to vote on his own appeal. The individual or corporate member aggrieved by the appellate decision of the voting membership has the right within thirty (30) days after notice of the voting membership's appellate decision to seek arbitration of the issues on appeal. The Association and aggrieved member will be bound by the arbitration decision.

Section 2. In any disciplinary action taken under this Article wherein the final decision rests with the voting membership, the voting membership shall be fully apprised of all pertinent facts by a written report of the findings by the Board of Directors. However, before findings and recommendations of the Board are submitted to the voting

membership, the same will be served on the person charged. The person charged will have twenty (20) days to prepare a written rebuttal if he desires, which will be transmitted with the findings and the recommendations of the Board.

Section 3. In order to expel a member from this Association, a two-thirds (2/3) affirmative vote of the voting membership is necessary. The decision of the voting membership will be final in all cases of expulsion or suspension, and no further charges may be brought against the member for the same incident complained of originally.

Section 4. Any member of the Association (or, as to a corporate member, the owner or any subcontractor, agent or employee thereof) who pilots any vessel subject to the pilotage laws of the United States or of the State of Alaska in Southwest Alaska without being dispatched by the Association will be subject to the disciplinary provisions of these Bylaws.

The foregoing Bylaws of Southwest Alaska Pilots Association was duly approved by two-thirds (2/3) affirmative vote of the voting membership of the Association on the ninth day of August, 2007 and duly amended in accordance with the dated catalogue of revisions attached to these Bylaws .

President

Secretary/Treasurer

**AMENDMENTS TO THE SOUTHWEST ALASKA PILOTS ASSOCIATION BYLAWS PASSED BY TWO-THIRDS (2/3) MAJORITY VOTE:**

AMENDMENT I 3/18/93: ARTICLE IV, SECTION 4, (a) Voting Rights.

AMENDMENT II 3/18/93: ARTICLE VIII, SECTION 4, Determination of Member Shares. (Grandfather current members)

AMENDMENT III 8/16/93: ARTICLE VIII, SECTION 11, Transitional Retirement Program.

AMENDMENT IV 6/7/94: ARTICLE VIII, SECTION 4, Determination of Member Shares. (Allocation of pay distribution for training pilots)

AMENDMENT V 10/17/95: ARTICLE VIII, SECTION 4, Determination of Member Shares. (Multi-factor for deputy pilots)

AMENDMENT VI 11/28/95: ARTICLE III, MEMBERSHIP FEES AND CHARGES. (Addition of Berth II, Incorporated)

AMENDMENT VII 6/2/98: ARTICLE V, SECTION 12, BOARD OF DIRECTORS DUTIES. (Spending limit)

AMENDMENT VIII 10/12/98: ARTICLE III, MEMBERSHIP FEES AND CHARGES. (Addition of Alaska Nautical Services LLC)

AMENDMENT IX 4/30/99: ARTICLE VIII, DIVISION AND DISTRIBUTION OF INCOME, Section 4. (Replace “Any Gross Tons” with “60,000 ton license”.)

AMENDMENT X 1/25/00: ARTICLE VIII, SECTION 11, TRANSITIONAL RETIREMENT PROGRAM. (Add sentence for pilot deciding to return to full pilot status after being on the program.)

AMENDMENT XI 7/26/00: ARTICLE VIII, SECTION 11, (d), TRANSITIONAL RETIREMENT PROGRAM. (Defines months to be on dispatch.)

AMENDMENT XII 11/6/00: ARTICLE VIII, SECTION 11, (d), TRANSITIONAL RETIREMENT PROGRAM. (Extension of time on dispatch for the purpose of accruing 60 shipboard days in a year.)

AMENDMENT XIII 11/2/01: ARTICLE IV, Section 4, Voting Rights. (Changes voting rights from time on dispatch in previous year to ½ vote for participants of the Transitional Retirement Program.)

AMENDMENT XIV 5/7/02: ARTICLE VIII, Section 4, Determination of Member Shares. (Changes percentages for tonnages.)

AMENDMENT XV 9/30/03: ARTICLE VIII, Section 4, Determination of Member Shares. (Change to give Board of Directors authority to decrease share percentage for pilot or deputy pilot should he lose clearance in one or more areas.)

AMENDMENT XVI 4/9/04: ARTICLE VIII, Section 11, Transitional Retirement Program. (Change to add a maximum length of time a pilot can be on the Program.)

AMENDMENT XVII 7/29/04: ARTICLE VIII, Section 11, (a), Transitional Retirement Program. (Change to add participation in the program upon reaching 59-1/2 with 2/3 majority vote of the membership.)

AMENDMENT XVIII 5/11/05: ARTICLE VII, add Section 4, mandatory retirement age.

AMENDMENT XIX 5/11/05: ARTICLE II, add Section 12, the Association adopts the Alaska Marine Pilots Retirement Program.

AMENDMENT XX 6/26/06: ARTICLE VII, Section 4, the Association voted to strike the 70 year mandatory retirement clause.

AMENDMENT XXI 6/26/06: ARTICLE VIII, Section 11, add paragraph (g) to give the board authority to extend the period for one or more years.

AMENDMENT XXII 8/21/06: ARTICLE VI, Officers, Section 2 adding that the President shall be the Director receiving at least 50% of the votes.

AMENDMENT XXIII 8/21/06: ARTICLE VIII, Section 11 (f) amended to read that the membership, by 2/3 affirmative vote, may extend the transitional retirement period for one or more years.

AMENDMENT XXIV 11/2/06: ARTICLE VIII, Section 4. Determination of Member Shares to increase share percentages for Deputy Pilots.

AMENDMENT XXV 8/9/07: ARTICLE II, Section 12. Delete entire section to remove reference to the Alaska Marine Pilots Retirement Program.

AMENDMENT XXVI 02/25/09: ARTICLE VIII, Section 4. Change 60,000 gross ton license and 80,000 gross ton license to 65,000 and 90,000 gross tons in order to reflect changes to 12 AAC 56.011 sections (3), (7), (8c) and (8d) - tonnage increases implemented by BOMP - January 29, 2009.

AMENDMENT XXVII 06/11/12: ARTICLE VIII Section 11(d). Allow a transitionally retired pilot to work the May 1 to Sept 30 period AND/OR during Winter Ice Guidelines when Lower Cook Inlet B conditions (LCIBC) are in effect (not to exceed 153 days).

AMENDMENT XXVIII 09/20/12: ARTICLE X Section 2(c). Period of time to return a ballot is changed from thirty

*Approved by Board of Marine Pilots: October 9, 2020/amended May 7, 2021*

(30) days to twenty (20) days.

AMENDMENT XXIX 03/31/18: ARTICLE VIII Section 4. 65% share for members and deputies holding a 25,000 ton license is changed to a 50,000 ton license in order to reflect changes to 12 AAC 56.011 (a) (1) - tonnage increase implemented by BOMP – to take effect April 14, 2018.

AMENDMENT XXX 10/04/19: ARTICLE VIII Section 12. Member on qualified disability status is not required to pay shared expenses for the period they qualify for disability status.

AMENDMENT XXXI 11/13/19: ARTICLE IV, Section 2. Amend wording to clarify requirements for membership meetings.

AMENDMENT XXXII 11/13/19: ARTICLE V, Section 12 (c). Increase approval for payment of all non-routine statements and accounts to \$5,000.00.

AMENDMENT XXXIII 11/14/19. ARTICLE VIII, Section 11 (f). Clarification of maximum time a pilot may be transitionally retired.

AMENDMENT XXXIV 11/14/19. ARTICLE V, Section 3. To allow a non-full-time full member (transitional pilot) to serve on the SWAPA Board of Directors.

AMENDMENT XXXV 11/14/19. ARTICLE II, Section 6 and ARTICLE III. Requirement for a full member to maintain their relevant status.

AMENDMENT XXXVI 11/15/19. ARTICLE VIII, Section 10, sub-section I and Section 10, sub-section II. To both clarify and add definitions for members, contract pilots and trainees.

AMENDMENT XXXVII 11/15/19. ARTICLE II, Sections 4 and 5, ARTICLE V, Section 12 (1) and removal of ARTICLE IX. Removal of references to Operating Rules as not legally required for an Association operating under Bylaws and Articles of Association.

AMENDMENT XXXVIII 01/07/20. VARIOUS. General cleanup of language and terminology in the SWAPA Bylaws to endeavor to ensure consistency and clarity throughout document.

AMENDMENT XXXIX 09/15/20. ARTICLES V, IX AND XI. Amendment to balloting procedures to allow for electronic balloting process in addition to paper ballots.

AMENDMENT XL 09/15/20. ARTICLE VIII Section 4. 70% share for members and deputies holding a 65,000 ton license is changed to a 95,000 ton license and 75% share for members and deputies holding a 90,000 ton license is changed to a 110,000 ton license in order to reflect changes to 12 AAC 56.011 (a) (3) and (a) (7) - tonnage increase implemented by BOMP – to take effect September 19, 2020.

AMENDMENT XLI 05/07/21: ARTICLE III. Amendment to time limit for full membership purchase agreements.



**BOARD OF MARINE PILOTS  
NOVEMBER 24, 2021**

**Public Comment**

**State of Alaska**  
**Department of Commerce, Community &**  
**Economic Development Division of Corporations,**  
**Business, and Professional Licensing**  
**Board of Marine Pilots**



**Public Comment**

The board chair shall open public comment. The time allotted for comment will be divided between all individuals signed in to give comment. The group will be told how much time each person will have to speak; board staff will keep track of the time and notify the individual when they need to wrap up their comment(s).

This is not the time for the board to respond to the comments. The board can choose to respond to any comments at the end of the comment period; they can choose to send a letter with their responses to the individual; or they can choose to not respond.

Please be mindful of the time limit so that all who choose to speak will be given the same opportunities.

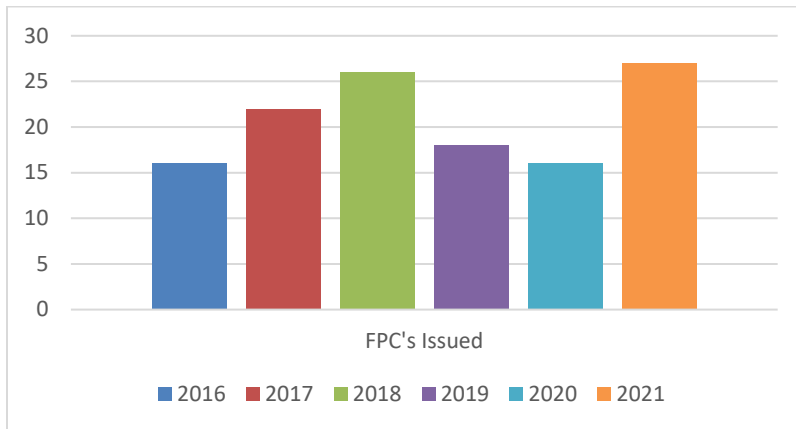
**BOARD OF MARINE PILOTS  
NOVEMBER 24, 2021**

**2021 Foreign Pleasure Craft Exemptions  
Review**



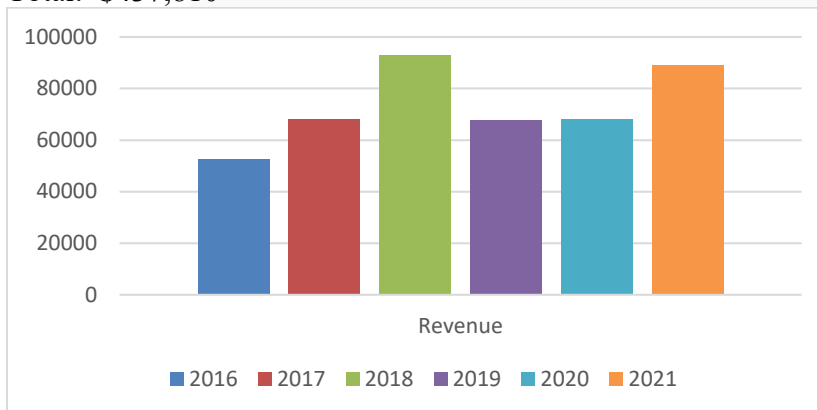
Foreign Pleasure Craft Exemptions Issued by year

2016 – 16  
2017 – 22  
2018 – 26  
2019 – 18  
2020 – 16  
2021 - 27  
Total = 125



Revenue for each year:

2016 - \$52,700  
2017 - \$67,950  
2018 - \$92,650  
2019 - \$67,650  
2020 - \$68,050  
2021 - \$88,810  
Total: \$437,810





Foreign Pleasure Craft Exemptions - Issues noted in 2021 season

1. Vessels were entering AK waters before the exemption was granted; less than 30 days after applying; potential violation of Sec 08.61.180(b)
2. Vessels were taking charters after receiving the exemption but vessels for hire are not permitted to hold the exemption
3. Do vessels that are exactly 175 foot qualify for exemption; statute states "less than 175 feet."

Board members may have additional issues to discuss with the group.