

# State of Alaska

## Board of Marine Pilots



**July 12, 2023 - Board Meeting**  
**Call to Order: 9:00 am**

**Public Meeting Packet**

## Board of Marine Pilots

<b>Name</b>	<b>Appointed</b>	<b>Reappointed</b>	<b>Expires</b>
<b>Cronk, Les (Leslie)</b> (Ketchikan) Agent	3/1/2018	3/1/2022	3/1/2026
<b>Harris, Richard</b> (Juneau) Public	12/18/2017	3/1/2020	3/1/2024
<b>Hasenbank, Lucas</b> (Anchorage) Agent/Manager	3/1/2020		3/1/2024
<b>Tougas, Joe</b> (Seward) Public	3/1/2022		3/1/2026
<b>Cunningham, James</b> (Homer) Pilot	5/25/2022		3/1/2025
<b>Sinclair, Edward</b> (Juneau) Pilot	3/1/2019		3/1/2023
<b>Thayer, Curtis</b> (Anchorage) Commissioner/DCCED/Designee — Chair	2/22/2010	4/11/2019	



## **Board of Marine Pilots, July 2023 Meeting**

Alaska Division of Corporations, Business and Professional Licensing  
Jul 12, 2023, at 9:00 AM AKDT to Jul 12, 2023, at 11:00 AM AKDT  
Zoom (online)

### **Meeting Details:**

<https://us02web.zoom.us/j/84031519568?pwd=MGs4RTI1dXdSOXdTZVIQa0l1TnBPQT09>,

**Call In:** (669)900-6833

**Meeting ID:** 840 3151 9568

**Passcode:** 279355

### **Agenda**

**I. 9:00am - Roll Call/Call to Order**

**II. 9:02am - Review/Approve Agenda**

**III. 9:04am - Ethics Disclosures**

**IV. 9:06am - Review/Approve Minutes**

**A. April 26, 2023**

**V. 9:10am - Public Comment**

**VI. 9:25am - Board Business**

**A. Current Regulation Project: Deputy Marine Pilot Renewal Requirements**

**B. Recommended Regulation Changes**

**VII. 9:45am - Investigative Report**

**A. Executive Session**

**VIII. 10:15am - Deputy Marine Pilot Candidate Interviews**

**IX. 10:45am - Board Action**

**A. Deputy Marine Pilot Candidates**

**X. 10:55am - Schedule Future Meeting Date(s)**

**XI. 11:00am - Adjourn**

State of Alaska  
DEPARTMENT OF LAW

# ETHICS ACT PROCEDURES FOR BOARDS & COMMISSIONS

All board and commission members and staff should be familiar with the Executive Branch Ethics Act procedures outlined below.

## Who Is My Designated Ethics Supervisor (DES)?

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Every board or commission subject to the Ethics Act<sup>1</sup> has several ethics supervisors designated by statute.

- The chair serves as DES for board or commission members.
- The chair serves as DES for the executive director.
- The executive director serves as DES for the staff.
- The governor is the DES for a chair.<sup>2</sup>

## What Do I Have To Disclose?

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The Ethics Act requires members of boards and commissions to disclose:

- Any matter that is a potential conflict of interest with actions that the member may take when serving on the board or commission.
- Any circumstance that may result in a violation of the Ethics Act.
- Any personal or financial interest (or that of an immediate family member) in a state grant, contract, lease or loan that is awarded or administered by the member's board or commission.
- The receipt of certain gifts.

The executive director of the board or commission and its staff, as state employees, must also disclose:

- Compensated outside employment or services.
- Volunteer service, if any compensation, including travel and meals, is paid or there is a potential conflict with state duties.

- For more information regarding the types of matters that may result in violations of the Ethics Act, board or commission members should refer to the guide, *"Ethics Information for Members of Boards and Commissions."* The executive director and staff should refer to the guide, *Ethics Information for Public Employees.* Both guides and disclosure forms may be found on the [Department of Law's ethics website](#).

## How Do I Avoid Violations of the Ethics Act?

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- Make timely disclosures!
- Follow required procedures!
- Provide all information necessary to a correct evaluation of the matter!<sup>3</sup>
- When in doubt, disclose and seek advice!
- Follow the advice of your DES!

## What Are The Disclosure Procedures for Board and Commission Members?

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The procedural requirements for disclosures by members are set out in AS 39.52.220 and 9 AAC 52.120. One goal of these provisions is to help members avoid violations of the Ethics Act. The procedures provide the opportunity for members to seek review of matters in advance of taking action to ensure that actions taken will be consistent with the Act.

### Procedure for declaring actual or potential conflicts.

Members must declare potential conflicts and other matters that may violate the Ethics Act **on the public record** and **in writing to the chair**.

*Disclosure on the public record.* Members must identify actual and potential conflicts orally at the board or commission's public meeting **in advance** of participating in deliberations or taking any official action on the matter.

- A member must always declare a conflict and may choose to refrain from voting, deliberations or other participation regarding a matter.<sup>4</sup>
- If a member is uncertain whether participation would result in a violation of the Act, the member should disclose the circumstances and seek a determination from the chair.

*Disclosure in writing at a public meeting.* In addition to an oral disclosure at a board or commission meeting, members' disclosures must be made in writing.

- If the meeting is recorded, a tape or transcript of the meeting is preserved **and** there is a method for identifying the declaration in the record, an oral disclosure may serve as the written disclosure.
- Alternatively, the member must note the disclosure on the Notice of Potential Violation disclosure form and the chair must record the determination.

*Confidential disclosure in advance of public meeting.* Potential conflicts may be partially addressed in advance of a board or commission's public meeting based on the published meeting agenda or other board or commission activity.

- A member identifying a conflict or potential conflict submits a Notice of Potential Violation to the chair, as DES, in advance of the public meeting.
- This written disclosure is considered confidential.
- The chair may seek advice from the Attorney General.
- The chair makes a written determination, also confidential, whether the disclosed matter represents a conflict that will result in a violation of the Ethics Act if the member participates in official action addressing the matter.<sup>5</sup>
- If so, the chair directs the member to refrain from participating in the matter that is the subject of the disclosure.
- An oral report of the notice of potential violation and the determination that the member must refrain from participating is put on the record at a public meeting.<sup>6</sup>

*Determinations at the public meeting.* When a potential conflict is declared by a member for the public record, the following procedure must be followed:

- The chair states his or her determination regarding whether the member may participate.
- Any member may then object to the chair's determination.
- If an objection is made, the members present, excluding the member who made the disclosure, vote on the matter.
- *Exception:* A chair's determination that is made consistent with advice provided by the Attorney General may not be overruled.
- If the chair, or the members by majority vote, determines that a violation will exist if the disclosing member continues to participate, the member must refrain from voting, deliberating or participating in the matter.<sup>7</sup>

*If the chair identifies a potential conflict,* the same procedures are followed. If possible, the chair should forward a confidential written notice of potential violation to the Office of the Governor for a determination in advance of the board or commission meeting. If the declaration is first

made at the public meeting during which the matter will be addressed, the members present, except for the chair, vote on the matter. If a majority determines that a violation of the Ethics Act will occur if the chair continues to participate, the chair shall refrain from voting, deliberating or participating in the matter. A written disclosure or copy of the public record regarding the oral disclosure should be forwarded to the Office of the Governor for review by the chair's DES.

## Procedures for Other Member Disclosures

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A member's interest in a state grant, contract, lease or loan and receipt of gifts are disclosed by filling out the appropriate disclosure form and submitting the form to the chair for approval. The disclosure forms are found on the [Department of Law's ethics website](#).

## What Are The Disclosure Procedures for Executive Directors and Staff?

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Ethics disclosures of the executive director or staff are made in writing to the appropriate DES (chair for the executive director and the executive director for staff).

- Disclosure forms are found on the ethics website, noted above.

*Notices of Potential Violations.* Following receipt of a written notice of potential violation, the DES investigates, if necessary, and makes a written determination whether a violation of the Ethics Act could exist or will occur. A DES may seek advice from the Attorney General. If feasible, the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee of the personal or financial interests giving rise to the potential violation.

- These disclosures are not required to be made part of the public record.
- A copy of a determination is provided to the employee.
- Both the notice and determination are confidential.

*Other Disclosures.* The DES also reviews other ethics disclosures and either approves them or determines what action must be taken to avoid a violation of the Act. In addition to the disclosures of certain gifts and interests in the listed state matters, state employees must disclose all outside employment or services for compensation.

- The DES must provide a copy of an approved disclosure or other determination the employee.

## How Are Third Party Reports of Potential Violations or Complaints Handled?

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Any person may report a potential violation of the Ethics Act by a board or commission member or its staff to the appropriate DES or file a complaint alleging actual violations with the Attorney General.

- Notices of potential violations and complaints must be submitted in **writing** and **under oath**.
- Notices of potential violations are investigated by the appropriate DES who makes a written determination whether a violation may exist.<sup>8</sup>
- Complaints are addressed by the Attorney General under separate procedures outlined in the Ethics Act.
- **These matters are confidential**, unless the subject waives confidentiality or the matter results in a public accusation.

## What Are The Procedures for Quarterly Reports?

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Designated ethics supervisors must submit copies of notices of potential violations received and the corresponding determinations to the Attorney General for review by the state ethics attorney as part of the quarterly report required by the Ethics Act.

- Reports are due in April, July, October and January for the preceding quarter.
- A sample report may be found on the Department of Law's ethics website.
- An executive director may file a quarterly report on behalf of the chair and combine it with his or her own report.
- If a board or commission does not meet during a quarter and there is no other reportable activity, the DES advises the Department of Law Ethics Attorney by e-mail at [ethicsreporting@alaska.gov](mailto:ethicsreporting@alaska.gov) and no other report is required.

If the state ethics attorney disagrees with a reported determination, the attorney will advise the DES of that finding. If the ethics attorney finds that there was a violation, the member who committed the violation is not liable if he or she fully disclosed all relevant facts reasonably necessary to the ethics supervisor's or commission's determination and acted consistent with the determination.

## How Does A DES or Board or Commission Get Ethics Advice?

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A DES or board or commission may make a **written request** to the Attorney General for an opinion regarding the application of the Ethics Act. In practice, the Attorney General, through the state ethics attorney, also provides **advice by phone or e-mail** to designated ethics supervisors, especially when time constraints prevent the preparation of timely written opinions.



- A request for advice and the advisory opinion are confidential.
- The ethics attorney endeavors to provide prompt assistance, although that may not always be possible.
- The DES must make his or her determination addressing the potential violation based on the opinion provided.

It is the obligation of each board or commission member, as well as the staff, to ensure that the public's business is conducted in a manner that is consistent with the standards set out in the Ethics Act. We hope this summary assists you in ensuring that your obligations are met.

<sup>1</sup> The Act covers a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch of state government.

<sup>2</sup> The governor has delegated the DES responsibility to Guy Bell, Administrative Director of the Office of the Governor.

<sup>3</sup> You may supplement the disclosure form with other written explanation as necessary. Your signature on a disclosure certifies that, to the best of your knowledge, the statements made are true, correct and complete. False statements are punishable.

<sup>4</sup> In most, but not all, situations, refraining from participation ensures that a violation of the Ethics Act does not occur. Abstention does not cure a conflict with respect to a significant direct personal or financial interest in a state grant, contract, lease or loan because the Ethics Act prohibition applies whether or not the public officer actually takes official action.

<sup>5</sup> The chair must give a copy of the written determination to the disclosing member. There is a determination form available on the Department of Law's ethics web page. The ethics supervisor may also write a separate memorandum.

<sup>6</sup> In this manner, a member's detailed personal and financial information may be protected from public disclosure.

<sup>7</sup> When a matter of particular sensitivity is raised and the ramifications of continuing without an advisory opinion from the Attorney General may affect the validity of the board or commission's action, the members should consider tabling the matter so that an opinion may be obtained.

<sup>8</sup> The DES provides a copy of the notice to the employee who is the subject of the notice and may seek input from the employee, his or her supervisor and others. The DES may seek advice from the Attorney General. A copy of the DES' written determination is provided to the subject employee and the complaining party. The DES submits a copy of both the notice and the determination to the Attorney General for review as part of the DES' quarterly report. If feasible,

the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee of the personal or financial interests giving rise to the potential violation.

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The Attorney General and Department of Law staff may not provide legal advice to private citizens or organizations. Please contact an attorney if you need legal advice. The [Alaska Lawyer Referral Service](#) or your local bar association may be able to assist you in locating a lawyer.

Alaska Department of Law

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## Ethics Disclosure Form

**CONFIDENTIAL**  
**REQUEST FOR ETHICS DETERMINATION**

TO: \_\_\_\_\_, Designated Ethics Supervisor

\_\_\_\_\_  
*(Identify Your Department, Agency, Public Corporation, Board, Commission)*

I request advice regarding the application of the Executive Branch Ethics Act (AS 39.52.010 - .960) to my situation. The situation involves the following:

I have provided additional information in the attached document(s).

I believe the following provisions of the Ethics Act may apply to my situation:

- AS 39.52.120, Misuse of Official Position
- AS 39.52.130, Improper Gifts
- AS 39.52.140, Improper Use or Disclosure of Information
- AS 39.52.150, Improper Influence in State Grants, Contracts, Leases or Loans
- AS 39.52.160, Improper Representation
- AS 39.52.170, Outside Employment Restricted
- AS 39.52.180, Restrictions on Employment after Leaving State Service
- AS 39.52.190, Aiding a Violation Prohibited

**I understand that I should refrain from taking any official action relating to this matter until I receive your advice.** If the circumstances I described above may result in a violation of AS 39.52.110 - .190, I intend that this request serve as my disclosure of the matter in accordance with AS 39.52.210 or AS 39.52.220.

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Date)*

\_\_\_\_\_  
*(Printed Name)*

\_\_\_\_\_  
*(Division, Board, Commission)*

\_\_\_\_\_  
*(Position Title)*

\_\_\_\_\_  
*(Location)*

*Designated Ethics Supervisor: Provide a copy of your written determination to the employee advising whether action is necessary under AS 39.52.210 or AS 39.52.220, and send a copy of the determination and disclosure to the attorney general with your quarterly report.*

## Ethics Disclosure Form

### Receipt of Gift

TO: \_\_\_\_\_, Designated Ethics Supervisor, \_\_\_\_\_  
(Agency, Public Corporation, Board,  
Commission or Council)

This disclosure reports receipt of a gift with value in excess of \$150.00 by me or my immediate family member, as required by AS 39.52.130(b) or (f).

1. Is the gift connected to my position as a state officer, employee or member of a state board or commission?

Yes  No

2. Can I take or withhold official action that may affect the person or entity that gave me the gift?

Yes  No

(If you answer "No" to both questions, you do not need to report this gift. If the answer to either question is "Yes," or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.)

The gift is \_\_\_\_\_

Identify gift giver by full name, title, and organization or relationship, if any:

Describe event or occasion when gift was received or other circumstance explaining the reason for the gift:

My estimate of its value is \$ \_\_\_\_\_ The date of receipt was \_\_\_\_\_

The gift was received by a member of my family. Who? \_\_\_\_\_

If you checked "Yes" to question 2 above, explain the official action you may take that affects the giver (attach additional page, if necessary):

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Division)

\_\_\_\_\_  
(Position Title)

\_\_\_\_\_  
(Location)

Ethics Supervisor Determination:  Approve  Disapproved

\_\_\_\_\_  
Designated Ethics Supervisor\*

\_\_\_\_\_  
(Date)

\*Designated Ethics Supervisor: Provide a copy of the approval or disapproval to the employee. If action is necessary under AS 39.52.210 or AS 39.52.220, attach a determination stating the reasons and send a copy of the determination and disclosure to the attorney general with your quarterly report.

STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT  
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING

## **BOARD OF MARINE PILOTS**

### **CONDENSED MINUTES OF THE MEETING HELD APRIL 26, 2023**

**By authority of AS 08.01.070(2) and in compliance with the provision of AS 44.62, Article 6, a scheduled meeting of the Board of Marine Pilots was held on April 26, 2023, at the Juneau Yacht Club, 1301 Harbor Way, Juneau, Alaska.**

<b>Date:</b>	April 26, 2023
<b>Time:</b>	9:00 a.m. (9:04 a.m.)
<b>Location:</b>	Alaska Energy Authority Building: 813 W Northern Lights Blvd, Anchorage, AK
<b>Board Members Present:</b>	Chair Curtis Thayer, Captain Edward (Ed) Sinclair (9:17 a.m.), Captain James Cunningham, Les Cronk, Lucas (Luke) Hasenbank, Richard (Rick) Harris, Joseph (Joe) Tougas (online)
<b>Board Members Absent:</b>	None
<b>Division/SOA Staff Present:</b>	Thomas Bay (Marine Pilot Coordinator), Janet Brown (Occupational Licensing Examiner), Jennifer Summers (Senior Investigator)
<b>Present from the Public:</b>	Captain Mark Lundamo (SEAPA), Captain Ron Leighton (SEAPA), Jessie Li (SEAPA), Captain Ian Maury (SWAPA), Jenni Zielinski (SWAPA), Dave Lund (AMP), Tom Rueter (ALAMAR/CLAA), Andrew Mew (ALAMAR/CLAA), Mike Tibbles (ASA), Jeff Logan (SEAPA), Kris Mackie (SEAPA), Stefano Borzoue (Princess/Carnival), Douglas Sturm (SEAPA), Dan Butts (SEAPA), Levi Benedict (SEAPA)

<b>1. Review Agenda</b>		
<b>Brief Discussion:</b>	Luke Hasenbank asked if the board could post the published rates for (FILL IN HERE)	
<b>Motion:</b>	Move to accept the agenda as amended (First: Cronk; Second: Hasenbank).	
<b>Recorded Votes (roll call):</b>	Cronk - Yes	Harris - Yes
	Hasenbank - Yes	Tougas - Yes
	Sinclair - Absent (excused)	Cunningham - Yes
	Thayer - Yes	
<b>2. Review/Approve Minutes: January 25, 2023</b>		
<b>Brief Discussion:</b>	No discussion to amend the meeting minutes.	
<b>Motion:</b>	Move to accept the January 25, 2023, meeting minutes as written (First: Harris; Second: Cunningham).	

<b>Recorded Votes (roll call):</b>	Cronk - Yes	Harris - Yes
	Hasenbank - Yes	Tougas - Yes
	Sinclair - Absent (excused)	Cunningham - Yes
	Thayer - Yes	

### 3. Public Comment

**Brief Discussion:** There was nobody in attendance for public comment.

### 4. CLIA Update – L. Downs, Sr. Director, Community Relations & Public Affairs

**Brief Discussion:** The board asked Mr. Bay if Lanie Downs was available for the Cruise Line International Association Alaska update. Mr. Bay informed the board that Ms. Downs had contacted him by email, prior to the board meeting, letting him know that she would not be attending, but that Rick Erickson was in attendance to answer any questions. Mr. Erickson informed the board that CLIA was expecting about 1.6 million passengers in 2023 and expects all ships to be at 100% capacity or more, which will put them in line to be back to normal pre-COVID numbers. He said that Ketchikan now has four downtown berths and two at Ward Cove. He said that Wrangell is going to have an uptick of passengers compared to the past and that they would also be getting some larger ships. He said that Yokohama fenders were installed in Haines to replace the wood fenders. He said that there would be two berths in Icy Strait and that Sitka can now accommodate two larger, quantum-class, ships, while also having three anchorages downtown, almost doubling the number of passengers allowable in the past. Mr. Erickson reminded the board that there was a rockslide in Skagway in 2022 that hindered the operations of the port, requiring rerouting of ships, but that some ships were able to tender in passengers into the town. He said that, in 2023, the plan was to both tender and do a shuttle service for passengers, depending on where the ship was docked, and that they planned for a successful season for Skagway. Rick Harris asked what the 5-ship agreement that CLIA has with Juneau is, to which Mr. Erickson replied that it was an agreement for future seasons where there would be no more than five ships in Juneau on any given day, excluding Tuesdays when there would be a 6<sup>th</sup> ship that hot-berth's between Norwegian ships on the AJ dock. Also, he added, smaller ships with less than 990 passengers would also be allowed to be a 6<sup>th</sup> ship on 5-boat days. Chair Thayer asked Mr. Erickson if there had been discussions regarding electrification of the docks in Southeast Alaska, to which he replied that there was a lot of interest in the industry to hook up to shore power and suggested that Stefano Borzoue, a Carnival Corporation/Princess Cruises representative at the meeting, might be able to provide more information. Mr. Borzoue informed the board that the Carnival Corporation/Princess Cruises is extremely focused on the carbon indexing reduction program and said that shore power is a major element of achieving their goals. He said that, while they are currently upgrading the Franklin Dock in Juneau, they are in full support of the broader approach to carbon index reduction, explaining that they take it into account when scheduling their itinerary for ships and that they are experimenting with new technology to create better energy use than the current models that ships use. Joe Tougas asked Mr. Erickson if there was a long-term plan for the rockslide mitigation in Skagway, aside from shoveling and lidaring, to which he replied that there was, but that their plan right now is to mitigate the

	slope as well as the dock for the 2023 season, and that they plan on fully mitigating the slope after the season to go back to full operations.
<b>5. Association Reports</b>	
<b>AMP</b>	
<b>Discussion:</b>	The Alaska Marine Pilots (AMP) Association’s president, Captain David Lund, provided AMP’s association update. Captain Lund informed the board that AMP currently has 11 full-time pilots, which includes nine marine pilots and two deputy marine pilots. He said that they also have two trainees. He informed the board that there would not be a herring season for them in 2023, requiring a majority of their tonnage trips to be taken on tankers. He said that, because of the current state of affairs with Russia, they would instead be sending a pilot to Japan to join a ship to begin their cruise ship season. He said that the Red Dog Mine would be starting up on schedule (06/27/23), that one of the cable laying projects they have would be starting up at the end of August and run through September, and that the Dutch Harbor Dredging Project was scheduled to start up Spring 2024. He informed the board that port activity in 2023 started off slower than anticipated, by about 10%, but that they expect it to pick up as the season goes on. Mr. Harris asked how much tourism accounts for their business, to which Captain Lund responded that they are scheduled to have about a 25% decline in pilot days because of the Western Aleutians issue regarding the inability to port from Russia.
<b>SEAPA</b>	
<b>Discussion:</b>	The Southeast Alaska Pilots Association’s (SEAPA’s) president, Captain Mark Lundamo, provided SEAPA’s association report. Captain Lundamo informed the board that SEAPA anticipates a three percent increase in traffic from the 2022 season and that they have 55 total pilots, which includes 39 marine pilots and 16 deputy marine pilots. He said that they also have 13 trainees. Lastly, he informed the board that they would be piloting yachts in the same manner as they did in 2022.
<b>SWAPA</b>	
<b>Discussion:</b>	The Southwest Alaska Pilots Association’s (SWAPA’s) President, Captain Ian Maury, provided SWAPA’s association report. Captain Maury informed the board that SWAPA has 15 VLCC pilots, four deputy marine pilots, three transitional pilots that only work half of the year, and four trainees. He informed the board that their cruise season should be at a slight increase compared to 2022, which was not as much as anticipated, but that the issue was because of a change in the Holland America schedule. He said that they still have not been able to bring a ship into the new port in Anchorage, but that they expected to try it out in the near future. He informed the board that they had ongoing discussions throughout the winter with the US Coast Guard, Marine Exchange, and the Alaska Chadux Network regarding routing conflicts.
<b>6. Association Amendments</b>	
<b>SWAPA Training Program Amendments</b>	
<b>Brief Discussion:</b>	SWAPA’s business manager, Jenni Zielinski, informed the board that they were upping the in-house clearances for deputy marine pilots with 50K GT licenses from 25K GT to 30K GT.

	She also informed the board that they were removing “Drift River” references from their training program due to the decommissioning of port.	
<b>Motion:</b>	Move to approve SWAPA’s training program amendments as presented (First: Cronk; Second: Hasenbank).	
<b>Recorded Votes (roll call):</b>	Cronk - Yes	Harris - Yes
	Hasenbank - Yes	Tougas - Yes
	Sinclair - Yes	Cunningham - Yes
	Thayer - Yes	
<b>7. Board Business</b>		
<b>Exam Software Update</b>		
<b>Brief Discussion:</b>	Mr. Bay informed the board that the division was in the beginning stages of testing out new exam software to replace the outdated exam software that the board currently has. Chair Thayer asked Mr. Bay if it was possible to have the new software up and running by the end of the year, to which Mr. Bay responded by telling him that the questions needed to be reviewed/updated first and that if there was an updated databank to pull questions from, that their exams could be updated by the end of the year, as long as the new software tested out well. The board decided to create a workgroup that includes captain’s Sinclair and Cunningham and all three associations to update their exam question databank for both the Core Exam and Local Knowledge Exam.	
<b>Motion:</b>	Move to create a workgroup to update the boards’ exam question databank for both the Core Exam and Local Knowledge Exam, that includes Edward Sinclair, James Cunningham, AMP, SEAPA, and SWAPA (First: Harris; Second: Cronk).	
<b>Recorded Votes (roll call):</b>	Cronk - Yes	Harris - Yes
	Hasenbank - Yes	Tougas - Yes
	Sinclair - Yes	Cunningham - Yes
	Thayer - Yes	
<b>Annual Report</b>		
<b>Brief Discussion:</b>	Mr. Bay informed the board that their annual report was due by June 1 <sup>st</sup> . The board informed Mr. Bay that they would review the annual report via OnBoard and have a vote on it prior to the deadline.	
<b>Publish Rates</b>		
<b>Brief Discussion:</b>	Luke Hasenbank asked Mr. Bay if the published rates for each association could be uploaded to the board’s website, so there is a centralized location with all of the rates, to which Mr. Bay said yes. Mr. Hasenbank said that he would get the rates to Mr. Bay so that he could get them uploaded to the board’s website.	
<b>8. Ethics Disclosures</b>		
<b>Brief Discussion:</b>	There were no ethical disclosures by any board members or staff.	



## 9. Investigative Report

### Brief Discussion:

Senior Investigator Jenni Summers introduced herself to the board and informed them that she would be providing them with their Investigative Report for the period of January 04, 2023, thru April 10, 2023, and a training on the investigative process. She informed the board that three cases had closed since their last report and that two were still open. One of the open cases, Case No. 2019-000695, was a complaint from 2019 regarding unlicensed practice or activity. Ms. Summers informed the board that the division is waiting on another agency to finish up with action on their end before they can move forward with anything. Chair Thayer informed Ms. Summers that he had a discussion with Director Sylvan Robb on this matter and told her that the board was consistently getting less and less information regarding open cases. He asked about the second open case, Case No. 2022-000218, which had a "Litigation Initiated" case status, and asked if that meant the board was getting sued, to which Ms. Summers said no and replied that it meant the case was with the AG's office and they were working to get a hearing with the Office of Administrative Hearings. Chair Thayer referred back to the unlicensed practice or activity case from 2019, stating that the case had been open for a very long time, and asked who the other agency is that they were waiting on, to which Ms. Summers said the US Coast Guard. Mr. Thayer reminded Ms. Summers that the board is charged with imposing disciplinary sanctions under AS 08.62.150 and that it appears that the Investigations Unit had been making determinations without consulting the board. He asked if they could discuss the issue during executive session and have more information available to the board so they could follow statute, to which Ms. Summers said they could. Ms. Summers provided the board with a public training on the investigative process. She explained that a reviewing board member determines if there has been a violation after a complaint has been filed. If a violation is confirmed, the reviewing board member recommends the appropriate resolution to the matter. If a license action is recommended, the licensee either agrees to it and the consent agreement is reviewed by the entire board at the next scheduled meeting in executive session or disagrees to it and the litigation process begins with the Office of Administrative Hearings. Captain Sinclair said that he was unaware that he had that much responsibility and that he feels like the recommendation should be a board recommendation rather than a single individual board member's recommendation. Mr. Cronk also suggested a board recommendation should be the first recommendation being offered to a licensee. Chair Thayer asked why a board member was making recommendations when the statute states, "The board shall impose a disciplinary sanction on a person licensed under this chapter..." Ms. Summers explained that the board has the final approval and can deny the recommended consent agreement and follow up with an entirely new one if they desire. Ms. Summers said that the division has a single board member review cases, and not the board, as to not taint the review process and have an unbiased recommendation from that board member. Captain Sinclair asked about the non-disciplinary letter of advisement, which, if issued, the board never sees. He said it is merely provided to the licensee and the board never gets to review it, which gives all the responsibility to the reviewing board member. Chair Thayer said that the process of having a reviewing board member, who is chosen by the division, review cases does not follow statute because the rest of the board does not get a chance to review the cases. He asked where the investigations process was in statute/regulation, to which Ms. Summers said it

	<p>was not. He stated that the investigations process, which is not in statute/regulation, is contrary to the board's statutes. He said that, although the investigations process likely works a lot of the time, it does not take into account individual boards and their statutory responsibilities. Ms. Summers replied that all programs go through the same investigative process and have the same language in statute (The board shall...). She said that this conversation was likely one that the board needed to have with upper management and suggested that they speak with Director Sylvan Robb. Chair Thayer agreed, but also suggested that the board meet with the deputy commissioner and a representative from the Department of Law, to explain why the investigations process does not follow statute. He asked if Ms. Summers could provide the board with a 5-year Investigative Report, so they could have a better understanding of what has gone to the board for review and what has not, to which Ms. Summers said she would. She asked if the board still wanted to go into executive session for a more in-depth training on the investigations process, something not available to the general public. The board agreed that they did not agree with the investigations process and decided not to have a more in-depth training until they could speak with upper management.</p>	
<b>10. Schedule Future Meeting Date(s)</b>		
<b>Discussion:</b>	After discussion, the board decided to have their next meeting via teleconference, on July 12, 2023, with the Local Knowledge Exam on July 11 <sup>th</sup> .	
<b>11. Executive Session: Training Program Extension Requests/Deputy Marine Pilot Candidate Interview</b>		
<b>Brief Discussion:</b>	The board decided to discuss applications and conduct candidate interviews in executive session.	
<b>Motion:</b> <b>Off Record: 10:54 a.m.</b>	I, James Cunningham, move that the Alaska State Board of Marine Pilots enter into executive session in accordance with AS 44.62.310(c), and Alaska Constitutional Right to Privacy Provisions, for the purpose of discussing subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion; and matters which by law, municipal charter, or ordinance are required to be confidential. Board staff Thomas Bay and Janet Brown, and public members Mark Lundamo, David Mesdag, Levi Benedict, Dan Butts, and Pieter VanderHoek to remain during the session (First: Cunningham; Second: Sinclair).	
<b>Recorded Votes (roll call):</b>	Cronk - Yes	Harris - Yes
	Hasenbank - Yes	Tougas - Yes
	Sinclair - Yes	Cunningham - Yes
	Thayer - Yes	
<b>Brief Discussion:</b> <b>On Record: 11:56 a.m.</b>	Chair Thayer said no official action was taken during executive session. The board approved deputy marine pilot licensure for captain Pieter VanderHoek.	
<b>Motion:</b>	Move to approve deputy marine pilot license for 50,000 Gross Tons for Region 2 with the exception of Whale Passage and Ouzinkie Narrows for Pieter VanderHoek – Badge #245, License #155940 (First: Cunningham; Second: Hasenbank).	
<b>Recorded Votes (roll call):</b>	Cronk - Yes	Harris - Yes
	Hasenbank - Yes	Tougas - Yes

	Sinclair - Yes	Cunningham - Yes
	Thayer - Yes	
<b>Brief Discussion:</b>	The board approved extension requests from captains Dan Butts and David Mesdag.	
<b>Motion:</b>	Move to approve the extension requests from captains Dan Butts and David Mesdag (First: Cronk; Second: Harris).	
<b>Recorded Votes (roll call):</b>	Cronk - Yes	Harris - Yes
	Hasenbank - Yes	Tougas - Yes
	Sinclair - Yes	Cunningham - Yes
	Thayer - Yes	
<b>12. Adjourn</b>		
<b>Brief Discussion:</b>	With nothing left on the agenda, the board adjourned.	
<b>Motion:</b>	Move to adjourn (First: Harris; Second: Sinclair).	
<b>Recorded Votes (roll call):</b>	Cronk - Yes	Harris - Yes
	Hasenbank - Yes	Tougas - Yes
	Sinclair - Yes	Cunningham - Yes
	Thayer - Yes	
<b>Adjourn:</b>	12:00 p.m.	

Date Final Minutes Approved by the Board: <input type="checkbox"/> Meeting <input type="checkbox"/> OnBoard	
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**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, send a letter with their response(s) 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 opportunity.

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

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted. Complete new sections are not in boldface or underlined.)

12 AAC 56.080(e) is amended to read:

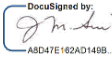

(e) To renew a deputy marine pilot license, a deputy marine pilot **shall** [must] meet the requirements of (b) and (c) of this section, except that **a deputy marine pilot licensed for less than one year before the beginning of a renewal period is not required to** [THE DEPUTY MARINE PILOT MUST] meet the requirements of (c) of this section [FOR EACH COMPLETE CALENDAR YEAR THAT THE DEPUTY MARINE PILOT HELD A DEPUTY MARINE PILOT LICENSE].

(Eff. 6/11/71, Register 38; am 6/19/74, Register 50; am 6/12/78, Register 66; am 7/24/83, Register 87; am 8/29/87, Register 103; am 5/14/93, Register 126; am 11/7/93, Register 128; am 4/7/95, Register 134; am 3/21/99, Register 149; am 5/31/2000, Register 154; am 2/12/2005, Register 173; am 7/15/2006, Register 179; am 9/12/2006, Register 179; am 5/26/2007, Register 182; am 1/29/2009, Register 189; am 6/11/2010, Register 194; am 11/20/2022, Register 244; am \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.62.040 AS 08.62.100 AS 08.62.120



**MEMORANDUM**

DATE: June 26, 2023  
 TO: Board of Marine Pilots  
 THRU: Erika Prieksat, Chief Investigator   
 FROM: Michele Hearn, Investigator   
 RE: Investigative Report for the July 11, 2023 Meeting

The following information was compiled as an investigative report to the Board for the period of April 11, 2023 thru June 26, 2023; this report includes cases, complaints, and intake matters handled since the last report.

Matters opened by the Paralegals in Anchorage and Juneau, regarding continuing education audits and license action resulting from those matters are covered in this report.

**OPEN - 5**

<u>Case Number</u>	<u>Violation Type</u>	<u>Case Status</u>	<u>Status Date</u>
<b>MARINE PILOT</b>			
2023-000407	Unlicensed practice or activity	Intake	05/15/2023
2023-000487	Marine Pilot Incident Report	Intake	05/31/2023
2023-000605	Marine Pilot Incident Report	Intake	06/19/2023
2019-000695	Unlicensed practice or activity	Complaint	10/18/2019
2022-000218	Contested license denial	Litigation Initiated	03/08/2022

**Closed - 1**

<u>Case #</u>	<u>Violation Type</u>	<u>Case Status</u>	<u>Closed</u>	<u>Closure</u>
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**MARINE PILOT**

***END OF REPORT***

DRAFT

**EXECUTIVE SESSION MOTION**

I, \_\_\_\_\_, move that the Alaska State Board of Marine Pilots enter into executive session in accordance with AS 44.62.310(c), and Alaska Constitutional Right to Privacy Provisions, for the purpose of discussing \_\_\_\_\_

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Board staff member(s) \_\_\_\_\_ to remain during the session.

Off record: \_\_\_\_\_  
On record: \_\_\_\_\_

Authority: AS 44.62.310(c), Government meetings public

The following subjects may be considered in executive session:

- matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the public entity;
- **subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;**
- **matters which by law, municipal charter, or ordinance are required to be confidential;**
- matters involving consideration of government records that by law are not subject to public disclosure.



# State of Alaska 2023 HOLIDAY CALENDAR

## State Holidays

Date	Holiday
01/01/2023	New Year's Day (observed 01/02/2023)
01/16/2023	MLK Jr.'s Birthday
02/20/2023	Presidents' Day
03/27/2023	Seward's Day
05/29/2023	Memorial Day
07/04/2023	Independence Day
09/04/2023	Labor Day
10/18/2023	Alaska Day
11/11/2023	Veterans' Day (observed 11/10/2023)
11/23/2023	Thanksgiving Day
12/25/2023	Christmas Day

Please refer to appropriate collective bargaining unit agreement for more information regarding holidays.

 Holiday



## JANUARY

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

## JULY

S	M	T	W	T	F	S
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9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

## FEBRUARY

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19	20	21	22	23	24	25
26	27	28				

## AUGUST

S	M	T	W	T	F	S
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20	21	22	23	24	25	26
27	28	29	30	31		

## MARCH

S	M	T	W	T	F	S
			1	2	3	4
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19	20	21	22	23	24	25
26	27	28	29	30	31	

## SEPTEMBER

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17	18	19	20	21	22	23
24	25	26	27	28	29	30

## APRIL

S	M	T	W	T	F	S
						1
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16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

## OCTOBER

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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

## MAY

S	M	T	W	T	F	S
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7	8	9	10	11	12	13
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21	22	23	24	25	26	27
28	29	30	31			

## NOVEMBER

S	M	T	W	T	F	S
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

## JUNE

S	M	T	W	T	F	S
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4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

## DECEMBER

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						